Study of the psychological element of the offense in the Penal Code

Mahshid Mahtabi (M.A)¹, Ghobad Naderi (M.A)², Hamid Mhtabi (M.A)³

^{1.} Department of law, Payame noor University, Iran Email: MahshidMahtabi@yahoo.com

Abstract: T Hurry third constituent element, the mental element of the crime. In other words, to accomplish a crime, the legal Brdvnsr Vampy there was also necessary mental element is necessary. It matched the occurrence of any act, criminal Vkhlaf is known, is not punishable unless it is proven to be guilty of criminal liability. . The essential elements of the crime, there are two factors will need to fulfill his criminal intention, the intention to commit a criminal act that the person wants to do. Wayne asked the Drjraym with criminal intent or deliberate criminal Drjraym inadvertent error to be the pillars of the psychological element. Drjrm company has to realize there's Nsrzrvrt Drama criminal offense without its participation would not be achieved .as a result of criminal acts committed crime, he raised the specter asked to participate Drirm (intentional) realized. Mental element (ill) is one of the constituent elements of crime among legal experts in both broad and narrow sense used to Mental element of the crime of deliberately limited means, including optional charges or crimes committed by the offender is considered a factor in unintentional crimes, including fraud and negligence is optional, But the psychological element in a broad sense to include criminal liability is also in the narrow sense. In other words, to accomplish a crime, the legal Brdvnsr Vampy there was also necessary mental element is necessary. It matched the occurrence of any act, criminal Vkhlaf is known, is not punishable unless it is proven to be guilty of criminal liability. These essential elements of the crime, there are two factors will need to fulfill his criminal intention, the intention to commit it person wants to do a criminal act. [Mahshid Mahtabi, Ghobad Naderi, Alireza Shakarbigi, Study of the psychological element of the offense in the Penal Code, Rep Opinion 2014;6(2):41-47]. (ISSN: 1553-9873). http://www.sciencepub.net/report. 6

Key words: mental element of the crime, punish offenders

1. Introduction

Crime committed by one person always takes place will always result in mass action, not a criminal act may thus Drartkab with others involved in the crime are In which case sometimes formed directly Dinars inherent nature of crime and crime intervention will help the offense Drartkab And when the perpetrator indirect but effective manner to help make it happen and helping deliver The first fact is that if, under the terms Drirm company, also Mann Very intervention as a "partner in crime" would be for the person alleged to be guilty and punished him against doing it in addition legal element, based on the prediction of criminal behavior in criminal law and a material element of the crime, including acts occurring outside of the will of the act is committed by In between the action and the person managing the relationship between psychological (or between intentional) is present in it an element of moral (mental or spiritual) call. (Goldouzian, 1384, p 179) fulfill the psychological element of the offense just Median unique and subject to the fulfillment of the will may attempt to issue or the issuance Czech Czech recklessness and negligence caused him, but spent writing and submitted Czech Balmily another psychological element to realize it is presumed legally competent That. (Walled, 1388, p.272) What this paper briefly discusses the

investigation and about the "psychological element of crime" is hoped that this research brief, upon the path to steps, whatever the longer widespread, more in line with deep insight more genuine Islamic jurisprudence is derived from the Islamic penal code, it is.

Literature

- 1 mental element of murder in the religions of ancient Iran, prophet Karamu, Persian date Aban 1390.
- 2 mental element types Vampy murder murder, Hussein Marley, Ordibehesht 1391.

Materials and Methods

Research methods or strategies on how to plan and conduct research is concerned. Vyaftn this means proper method of how to apply research in the field of study. Research methodology to analyze the logic of the interpretation of the results is Hasrvkar, research techniques the actual research methods including questionnaires, interviews, observations, along with the participation of with regard to content, expressed as a library Shdhbh method used (identified resources Nzrvfysh vector) is.

First Speech Punishment, crime, crime First topic: definition

Punishment or penalty means that if someone acts contrary to public morality or social custom and habit Unconstitutional because it is bad practice to do so

² Department of law, Payame noor University, Iran

³ Department of law, Khoramabad branch, Islamic Azad University, Khoramabad, Iran

should be punished punishment and reward or punish the act of seeing himself and others to be chastised And they do not have the harsh taste of the action and thereby understand what is bad practice. In law, for every act of evil and contrary to what the legislature has said it is evil and contrary it also stated that punitive punishment, punishment and crime, call it bad practice to say simple folk acts that are prohibited.

And who should do it and is a danger to society and even to destroy peace I give people at risk and beyond For social interaction with other people and with the people of my community and the people and government of the people and the government is not even the threat of international relations And the cultural and social ties and economic relations ... The risk that if it did not take any action which it considers contrary to its legislative And as the words expressed do crime and crime legislation to punish and punishment of the same legislation It is anticipated that the most obvious way to prevent crime and punishment contrary to this prediction. (Ardabil, 1384, p 160).

Second

Definition of the crime

Article 2 of the Penal Code provides that "Any act or omission that the law is a crime for which capital punishment is determined." Qualifying offense as provided by article above is purely due to perform an act. Omissions in the Islamic Penal Code, the offense is true. (Mosheim, 1375, p 23) "Criminal act or refrain from action contrary to the public order and peace which is the same as the punishment for of Conduct violations and crimes are different from those generally associated with criminal penalties based on the CSP has been. (Ibid.) «Navy Book and the Sunni criminal offense and the opposition commandments which ruin person practical cause or community. Any criminal offense or give the legislator has stated that it is, but the deposits. (Georgia, 1355, pp. 126) is defined as a person with a criminal offense shall proceed according to law, crime, punishment for one's own offending and the offender intended to condemn the penalty prescribed.

The third topic: The elements of the offense

Basically any type of crime is occurring in different elements that qualify it as a pillar material, spiritual and legal name we like. Each of these elements is the case in certain crimes that achieve each of these elements depending on the offense. These terms may be formed with the realization of the three elements of particular crimes or the office with one or two elements of the offense. Therefore, taking the forms of crime generally requires that three elements must be collected is not necessarily true meaning of its mass is achieved. (Shambayati, 1380, pp. 229-228) Accordingly, for each element and the element of the offense in question is a special feature which is as

follows:

Paragraph 1 - the material

Since a crime is actually required to achieve a verb after passing thought the person or group of criminal acts constitute Jam is the material and physical. In fact, the person or group making the maps and their decisions are doing the same in the sense that the material contains certain crimes are premeditated. For obtaining a true mass, the material must necessarily be realized. The question that arises is whether the material element of the crime of all crimes is true?

Unlike the spiritual element in response to said Ali al-Qaida and is generally crimes with the intent of offending is Material element of the offense does not apply in this case and whether or not the criterion is not the intent of the crime that deliberately or inadvertently, done a material element of the. "Of the material basis for a civil offense continues Loss or damage to the personal loss that is entered while sometimes coupled with damage, but the criminal offense is traceable. For example, illegal weapons, which may cause damage to the panhandle of stray and not another but lawmakers criminal offense known and traceable. "(Ibid.)

Section 2 - the legal

The second pillar of the legal elements of the crime trilogy is based on the violation took place, according to the degree of a person or a group committed is punishable by law Criminal offenses and accurately measures by the legislator , determined , and each has its own unique elements.

Section 3 - mental element

There is a physical act that the law considers it a crime to crime and punishment is not enough to establish guilt. Offenders should be done mentally or on offense and first-degree criminal intent is or enforcement action in one way or another, and without the intention to do an act Mengzi the crime of his head that he deserves to be responsible Hazy recognition. (Ibid.).

Four topics: the definition of criminal

The word means the offender is guilty of sinning both in terms of who the perpetrator is or contrary to the meaning of particular crimes or crimes ¬ to ¬ offender or offenders say. Legal punishment, crime and punishment only studied classical ¬ and the matter was criminal negligence, while in modern criminal law and the ability to assess the operating characteristics of the crime are taken into consideration And even the laws of some countries for consideration and action regarding offender characteristics thought to be dealt with according to the criminal penalties.

French criminal law, crime investigator at the side of the obligation to file the charges — "criminal personality profile" that is prepared by experts and contain testing of medical and psychiatric form Vibrostimulators the Generally depends on the

offender is convicted of committing a crime because the offender requires, Acts of crime that law nor any act detrimental to their limit. (Amid, 1386, p 618)

Chapter Two: the mental element of the offense The first debate: a review of the mental element of the offense

In order to analyze the mental element, the definition of the word, and its definition is expressed.

Section 1: Definition of the word fluency

Mental element has two Vazhhnsrvrvanytrkyb. Vazhhnsrra dictionary defines as: "the core foundation of the objects have different temperaments that are formed . "(Shambayati, 1380, p 230) Vazhhrvanydr dictionary it is written" mean dark psychological psychotherapy rational soul is meant to be dark and heartless hearts.

Section 2: Definition of the term 'mental

Basic elements that constitute the mental element of the offense that is based on the type of crime, criminal responsibility and punishment is determined.

Second topic

Science and Information

The order stated that the legislator knowingly filed and words of knowledge and information is shared? The purpose of it is spent on science and information partners committed acts of crime or the criminal intent of each of the partners should also be aware of each other Unit of colluding with the former drummer for researchers to apply the same result as what is considered Drjrm Mtqyn the mental element is that each of the partners at The nature of an unlawful or criminal act that is committed to it, have been informed. Otherwise, if someone else Drartkab material element of the crime itself "essence" of the person or persons To others without the intervention of a criminal nature that is aware of, concerning his participation in the crime (not the world) will not be realized. For example, if someone thought of moving house, his friend can help him. He is involved in removing the property from the house because of his lack of criminal acts that theft is not a partner in crime. Sane the perpetrators of the criminal act Branch doctor insisted he be punished as accomplices and information should be aware that their actions Azmahyt adds In addition, the knowledge and information needs "while committing the offense" is the offense, or a person without knowing the mass of the notice of intention to work after the expiry of his colleagues, his action cannot be punished as Drirm Company.

The third debate: Viridian criminal intent

Another factor that wills Nsrrvany is one of the founding partners Drmsharkt Drartkab Vthqq all crimes, including the crime is necessary. So as to fulfill the company, just knowledge and information of each of the partners of the criminal nature of his act is not enough, moreover, must also have criminal intent

Varadhan.'s Wish to participate in a occurrence of a crime So if one of the partners in crime enforcement operations resulting Ajar reluctant to participate because he lacked criminal intent is not Drjrm company. Well if someone strongly push forward the action so this last person to be fist third party to the hit the Vera injured because the practice is illegal in principle, take place without the will to commit a crime is not recognized as the second person does not create responsibilities for . So there will need to participate Drvqv crime, according to some theories, the assumption that the company Drjrm has a few people collaborate deliberately Viridian. (Bade, 1367, pp. 42-41).

Section 1: Company Drjraym intentional and unintentional

That said, given the nature Drirm partnership, a partner in the crime is sufficient criminal intent Conspiracy requires an agreement between the partners that the company is not going to unity. Meanwhile here is a controversial issue, the issue is whether the intentional and non-intentional complicity in these crimes, if the partnership is achievable? Considering the previous discussion it appears that if no specific intention of the company, partnership or non-deliberate manner Mdvhm the Katy' is achievable. Drjrm for participating in the murder, if Mad herald The other one is trespassing, intentional homicide against one another Katy' ratio would be provided between the acts committed by both partners Vishay self-causation or the causal relationship is established. As can be seen, partners or specific intent to share knowledge and information they requirement to realize the company is not murder. May act as both deliberate manners Valmont done. Means both are intentionally committed a crime. Therefore, the partners intend to commit a criminal offense may have Vided may have. The terms of the psychological element in common, sometimes independent and sometimes.

Section 2: Company intentional and non-intentional crimes in the Penal Code

Composition of the legislature with Article 42 of the Penal Code, the crime of intentional and unintentional track company (SEM) is adopted. Top of Poems About Drjraym deliberately refers to the person or persons who knowingly Vanda Dygrdryky punishment of the crime of murder or crime deterrent punishments to participate in a documentary to be all of them, whether individual action alone will not be sufficient for the crime work due Vkhvah they are equal to, or different from Drjrm partner is an independent agency that a crime will be punished, and punished him.

Thus, the current law by substituting instead Science and Information Vanda knowingly ignored the previous rules, regardless of the partner, but not a sufficient condition for the realization of the desire result of the criminal enterprise known Drjrm is intentional. They went on the other hand, the legislator with the composition of the following statements, the Company adopted the Driraym unintentional crimes unintentionally (SEM) that caused the error is two or more, the penalty will be independent, each of them subject penalties Critical that legislators in Article 42 of the Penal Code that: the legislative, the company assigned to crime deterrent punishments are fines or jail time So now, whether intentional or participation Vkhvah partnership Driraym in unintentionally, compared to just allocate the above mentioned in article - is considered realizable, however, suggests that the nature of participation in the crime, according to one lawmaker has filed a general rule Many offered within a comprehensive substance Intervals so that the materials of criminal law, and was a graduate of a word Sty a general principle, all companies would specify a different Driraym

The fourth topic: the legal effect of the psychological element in the narrow sense If we consider the narrower the mental element, such as a minor or insane person lacks the power to detect the mental element of the offense can be But because these people informed and valid judgment will not be known without criminal liability. (Sanei, 1372, p 174)

Section Five: the legal effect of the psychological element in a broad sense

According to the mental element in a broad sense, it can be inferred: only qualified individuals can commit crimes and criminal responsibility, since the power to detect such minor or insane person lacks criminal capacity, have no mental element, as a result they unconstitutional act is not a crime. With the provisions of our Criminal Code, including Article 221 and Clause 295 material and 306 BC. M.. Islamist appears in our criminal justice system and the components of the mental element of the psychological element in the theory of meaning limit corresponded Such as minors and insane persons Darden no responsibility can be "intentional" in the crime, but because they are lacking in judgment, "intentionally" to indicate his "error" is, wisdom, maturity and responsibility of the constituent elements of considered criminal, minor and insane criminal responsibility and punishment of moderating factors.

Sixth topic: psychological elements of Egyptian and American perspectives

Section 1: Definition of the mental element of the Egyptian legal perspective

Some lawyers, Egypt and Lebanon in defining the mental element, meaning it is widely expressed Vmtqdnd: Mental element is a material element of the offense, knowingly and intentionally by someone who has actually criminal liability is to subjective relation to

criminal liability qualify as a "crime" is, in other words "mental element" when it is clear that the offenses committed by a person is autonomous and has the ability to do that is to act as a mental element of an offense committed when the agent has the power and authority to issue clean. The accuracy of this approach is deduced followers this broad approach to the mental element of the offense intended, because the subject will also be criminal offense or criminal intent or guilty of crime have the power to be she has also acted to be a psychological element. (Goldouzian, 1372, pp. 96-95).

Section 2: Definition of the mental element of the legal views of America

Legal experts in America, Rvanyra elements are defined as: "the mental element is criminal or reprehensible thought, will, evil, wicked and corrupt motives, or to express culpable mental Asphalt» Hmchnynnsr Rvanydr legal dictionary means an element of criminal responsibility, think reprehensible, illegal or criminal purpose and has been used for criminal intent.

Looks Lawyers in America also means Jrmra mental Mfhvmnsr limited use thus incapable persons, including minors and insane criminal offense being able to have a criminal intent However, lack of clean power and detection of criminal liability and penalties shall be exempted from criminal responsibility or diminished benefit commutation. (Ibid.)

Section 1: Definition of ill realization perspective

This school of thought, will include a determination that the offender is under the influence of motive and mainspring of the crime should be punished when they commit anti-social purpose is Khdavy.

Section 2: Definition of ill classical perspective

Ill-defined legal experts to write a classical perspective "Mktbsv'nyt will consider this act is guilty of a known material, with the knowledge that the act was committed, the criminal laws are violated and molested ... criminal intent is always the same for any particular crime. That is attempted murder in all cases where the offense takes place, the conscious intention to kill the other., But the motive may vary depending on the perpetrators of the crime committed Conditions., One for revenge, another third because of anger and murder are influenced by greed and money and friendship. Criminal intent is to kill all the people concerned in the crime but their motive is different

Section 3: Grades ill

Types and degrees of ill can be divided as follows:

- * Ill ill general and specific.
- * Simple forethought ill.
- * Ill determinant and possibly ill.
- * Ill determinant and quasi-intentional (ibid.

Section 4: ill ill general and specific

Legal scholars agree: general ill person will commit a criminal act consciously shed. Despite this ill, for the crime of intentional realized, it is not always necessary, but in some crimes, in addition to general ill, it is necessary that certain ill there will also be

This means that the intent to commit a criminal act must be intended by the legislature to fulfill other essential crime known to happen . For example, in the mass assaults there ill have enough in common and do not harm the assailant intended to be the murder the intention and the intention of re going to kill there is a need to commit a crime guilty of deliberate killer is responsible.

Section 5: Simple and ill ill with forethought (retrospectively determined)

That a person is ill with forethought to plan other words, before the offense was committed prior to the crime., Some legal experts believe that this particular In some judicial systems, I'll be coupled with the decision to retrospectively impose tougher penalties are. Retrospectively decide that a person is ill with pre-crime plan, and about the conditions for crime plan to implement the idea of himself. Treated retrospectively Criminal Law decision factors for mass Mshddh know...

Iran's penal laws on Zmynhsv'nyt with explicit rules retrospectively to "unforeseen.'s Punitive Egypt, Britain and Amrykasbq Tsmymaz specific elements constituting the crime of aggravated murder and murder is punishable by murder," coupled with Tsmymtqsym is no Tsmymvqtl retrospectively retrospectively, to the extent that the sentencing judge is obliged to commit "murder with retrospectively to take more punishment Doctor Langroodi the definition Vazhhsbq decision wrote: "The (criminal) decisions about the scheme before committing a crime against the victim to ill than decision retrospectively retrospectively to say after the prior offense (not significant precedence precedence join mass) as the ambush murder case retrospectively decision. "According to the material can be inferred: Tsmymvtsmym Nag-hanvpysh retrospectively projected to make the death penalty is prescribed; term Hays Tsmymdr Mash sitting in Mind Article 232 of the Penal Code is defined. Guilty of simple murder Article 234 of the Egyptian Penal Code, to commit a crime punishable by hard labor or temporary priest is ordained; In case of simple murder during another crime actually committed the crime, the perpetrator is sentenced to death;

But in the case of simple murder during the commission of the crime to be committed misdemeanors another priest will be sentenced to death or hard labor. There are specific elements that constitute a crime and private affair. And certain crimes, including murder, is limited to the amount of

people in serious criminal offense will show **Section 6: ill determinant and possible ill**

Moniz determinant ill means having criminal intent in committing the offense, and the possible ill intent action that may bring disastrous results. Lawyers in terms of achieving the result Bhsv'nyt determinant ill or potentially ill Yam deliberately Mnjzv possible to divide Sanei doctor about it he writes: "If we look at the issue, calling the result of a criminal act, it is possible determinant ill to be shared. Ill determinant in the outcome of a criminal act committed by a criminal act certainly calls.

As someone who is shooting with intent to kill another. If the offender has the intent to commit the act, as well as to predict the outcome of their

Section 7: ill determinant and quasi-intentional

Another Bndyhaymddr share the results of Nsv'nyt Jazmvshbh intentionally or unintentionally, is more than I meant.

Legal scholars writing in this particular case "in terms of realizing the outcome of criminal acts committed willingly (or injury and material damage) and semi-major determinant can be divided into ill As already mentioned, the ill determinant, and Dogmatic uncompromisingly committed a criminal act called for the creation of criminal outcome., But the pseudo committed intentionally, concluded its practice and predicts the intention and the will to commit to pay

Section 8: Comparison of the pseudo-potential Mdvsv'nvt

Quasi-intentional or premeditated crimes allegedly committed in excess of the plan will have a specific criminal offense has the same cause of action Thus obtained shall be subject to far more than expected., For example, but the subject is going to assault and battery of a person beaten to death impacts in case of intentional or bad faith in the potential offender to any no criminal intention but the occurrence of anticipated or suspect something has gone

Eight topics: review of criminal fault

Mental element "unintentional crime of" criminal error "is formed, there is a critical error unintentional criminal offense, but the nature of the crime Inadvertent errors are not the same at all. Whenever someone commits a crime without criminal intent, if his act of instances of criminal fault, such as recklessness, imprudence, lack of skill, lack of compliance with governmental regulations or neglect be combined military and the state "criminal error" is called. lawyers in the description of the general criminal law and criminal law, former believe the presence of all criminal offenses, unintentional error are necessary

Section 1: Types of error in the Iranian penal code

The amendment to Article 336 BC. M... Islamic

items "recklessness, imprudence, lack of skill, lack of compliance with state" as instances of criminal fault or the fault is recognized. Former legislator to set the criminal law under the headings of the four types of errors imprudence imprudence, lack of skill, lack of compliance has become Dvltynam systems, as well as the adoption of violating Penal expensive oil only two types of errors that no Malatya and negligence has.

Section 2: recklessness

Caution means that prudence and farseeing. Therefore imprudent person who has no respect and forecasts, the conventional practice is committed to the detrimental consequences arise. References distinguish recklessness, custom and habit

Section 3: recklessness

The recklessness of neglect and lack of care in practice. Many scientists recklessness recklessness as to have omissions. Others have forgotten or abandoned caution recklessness .feet (the child) is born, all the instances of recklessness is

Section 4: Lack of Skills

It is a lack of physical or intellectual ability or someone without qualifications needed to do the work that it does damage to another comes in. Like the person who is driving without dominating or attempting to drive a person without skill in archery shooting him instead of hitting the target, causing the man to hit Engineer or architect without having the skills, to build houses, and strength of noncompliance pursuant landing homes and killing people, or a worker who has no skill in throwing bricks thereby multiply Jury all due skills are responsible Legal experts in the field believe that action at the doctor injected himself for not being able to read the Latin script, and certainly did not know or failure to act in a timely manner, which should be injected into the drug. And yet attempted to inject or otherwise, is itself a kind of recklessness that resulted in injury or death to a person, the offense of unintentional injury or death makes.

Section 5: Non-compliance with state

One instance of non-compliance with regulations and state is a criminal offense, legislators have decided to maintain public order and public health Violation of the military and government regulations that cause harm to others, is also committed an error in the subject puts the responsibility and punishment. Might be someone who does not respect state system, in terms of skills but the state would be enough offense in this case is still in charge.

Section 6: Failing

Keywords: procrastination, failure, negligence, carelessness or negligence; synonymous words are Ghfltmy. Former general criminal law negligence action was not mentioned. But oil price passed the Penal Code for disrupting criminal recklessness Vghflt the two types of error mentioned in the article neglect

to follow Clause has been interpreted Keywords: procrastination, failure, negligence, carelessness or negligence; synonymous words are Ghfltmy. Former general criminal law negligence action was not mentioned. But oil price passed the Penal Code for disrupting criminal recklessness Vghflt the two types of error mentioned in the article neglect to follow Clause has been interpreted

Nine topics: the relationship between the psychological elements and responsibilities

Legal experts believe this regard: "The punishments based on fault occurs, the person will commit a criminal intent to commit a crime, in addition to the criminal charge of crime is also known in some cases to apply Shvdqanvngzar the three elements that together constitute a criminal offense has been completed. Attributable to commit material and he knows it does not charge. Than one of the three elements of the legal, physical and mental health, there is crime carried out in full, but lawmakers in different directions to take charge of the child does not and the crime attributed to him, not day Also in some kind of crazy insane person may be willing to commit and criminal intent, but because of certain psychological state legislators do not believe in responsibility and punishment In all these cases the person committing the perfect crime, but it is no fault of the legislator, the crime alleged he does not know and the penalty is not responsible for. Given the issues mentioned above can be formulated as follows to complete the mental element.

Discussion

In this paper, our opinion is that the three elements of the crime, legal, psychological and material form is a legal element of the crime detection criterion is committed behavior. Narmada and Rvanydr fulfill any crime imperative Darter specific elements of the crime is in addition to the general elements that would distinguish it from all other crimes are crimes. Mental element of the crime of the relationship between crime and mental or psychological phenomena Mjrmanhchnanchh mental relationship with the subject of crime, coupled with the determination of criminal intention, the offense is intentional. Mentally active relationship with the criminal phenomenon, coupled Backstav Kyfrybashd, called unintentional offense be. Therefore the mental element of the crime is intentional Tic behavior with intent Mirmanhyny whenever criminal behavior is coupled with ill criminal offense is intentional. Mental element unintentionally crimes include: determination of fault or error with the criminal act or omission. Therefore be concluded that the theory of mental element of the offense of criminal responsibility is the fulfillment outside.

Correspondence to:

Mahshid Mahtabi(M.A)

Department of law, Payame noor University, Iran Email: MahshidMahtabi@yahoo.com

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