

## Reviews Tricky-Based Crimes from the Perspective of Criminology

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**Abstract:** The tricky-based crimes are recognized with two main characteristics include lies and usurp but in the structure of the crime these two characteristics have not the same importance. The lie is the essence of tricky crimes. Because with the help of lie it can be possible to distinguish tricky crimes from aggressive crimes, yet in reverse usurp is not specific to crimes along with fraud and deception and its effects can be found in some aggressive crimes. From the other hand, in the most crimes along with tricky and fraud, the starting crime is criminalized like complete crime. For example about fraud the mere provide a hypocritical request to get a discount would be punishable regardless of the outcome. This indicate that the lie what position it has among these crimes. The tricky crimes can be analyzed from different perspectives in the view of criminology. Because a collection of factors such as economic situations, unemployment, economic system type or even the current culture have involved in perpetration of these crimes. Researchers, in the micro levels focusing on opportunistic situational factors, the offender's economic statue or psychological characteristics of perpetrators. According this, and despite cognitive cause analysis, some of the criminologists explain the fraud crime with opportunity theory. This theory is reckless toward personality role in idea to criminal action and explains the rate of fraud in the current statue by significant growth of fraud opportunities. The purpose of this research especially is depicting the basic lines of the crimes based on tricky from the views of criminology. On this basis it has been studied the concept of crimes based on tricky, the history of these crimes, criminological theories, typology of tricky crimes and finally their positions in public crimes.

[Hajar Sameri, Abdolhossein Rezaei Rad. **Reviews Tricky-Based Crimes from the Perspective of Criminology.** *Stem Cell* 2016;7(3):13-17]. ISSN: 1945-4570 (print); ISSN: 1945-4732 (online). <http://www.sciencepub.net/stem>. 3. doi:[10.7537/marsscj070316.03](https://doi.org/10.7537/marsscj070316.03).

**Keywords:** Crime, Guilty, Tricky, Criminology, Fraud, Economy

### 1. Introduction

Trickery in meaning is a criminal behavior which is done with the purpose of misleading a real or legal person for the goal of obtaining a financial privilege. This action is criminalized as fraud in some criminal law. Of course there are some types of trickery in marriage which their purpose is not financial, essentially. Trickery in other meaning is a tool for crime perpetrate in the field of business, economic and business affairs, these types of criminals divided into three categories:1-violating honesty in business relationships,2-violating the regulations of free competition, 3-violating the law and regulations of economic and tax.

As we know that the aggressive affairs and based on fraud which damages the fundamental values of a society, constitute a hard core of criminal titles.

Criminalization that constitute a specific criminal law of a society.

In fact prohibiting violence and fraud is one of the basic features of civilization. This prohibition is raised in major works of political philosophy. Also Hobz in his description from the condition of human kind wrote that human to take over his fellows hadn't been a tool despite of violence and fraud. From the other hand the end of governance is peace and defense

others even the transition to prohibit the use of this device with personal goals.

This idea is also familiar to experts of the history of civilization. For example Will Durant in his book *History of civilization* regarding the formation of civilization have wrote: we aren't take our law from the nature a nature which it only knows trickery and force at law, the law of rights is privilege that a society guarantees for individuals in public interest.

Difference books and articles has been published about violence subject. Psychiatrists, psychologists, biologists, historians, sociologists, economists and criminologists has paid attention to dictatorship, war, revolution and almost forty years ago studied violence. Therefore all forms of criminal violence has been studied and thereby the public theory of violence has developed and presented. The violence term has an entry both in the dictionary of Sociology and Psychology.

But the literature of fraud is not so. in fact not only, there is no entry about "trickery", "craft", "deception" in the dictionary of Sociology and Psychology yet there is no book or a manuscript about that.

There is no doubt that widespread academic activities have been carried out in connection with the

crime business and corruption, but the mentioned crimes constitute only the incomplete and partial components. Although these categories constitute an important parts of crimes but they are not comprehensible about crimes that known with describing trickery, deception and craft.

Given that economic status and the ravages of recent years in the field of economy which has been caused to money laundering and losing significant costs of government property and the inalienable rights of citizens and crime and trickery has the most role in economy, this necessity has come to a scientific research has done in this field.

## 2. The general approach of the concept of crimes based on trickery

Generally the crime based on trickery are known with two characteristics of lie and usurpation, but these two features have no the same importance in the structure of this crime. The lie is the essence of tricky crimes, because by the help of lie the trickery crimes can be distinguished from aggressive crimes. But in reverse the usurpation is not specific to crimes along with trickery and fraud and in some aggressive crimes its effects can be found. From the other hand in most crimes with trickery and fraud starting the crime also criminalized similar to complete crime. For example about fraud, only the mere hypocritically offering the request for obtaining a discount regardless of outcome is punishable. This shows that what a position has a lie in this kind of crimes. Therefore we examine two key concepts of tricky violent crimes.

### Duplicity

By refer to dictionaries and Islamic and encyclopedia and traditions and narrations we can see that the duplicity and deception words are words that have long history, in the Holy Quran this word and its derivatives has come more than 350 time in different verses and concepts. In fact, the word hypocrisy and its derivatives, approximately six times are mentioned. The concepts and meanings of the word briefly includes:

Naming, finding, revealing, starting, attribute something to another something, greatness and avert, transforming, appointment, suppose, creation, placement, converting, making from one state to another, create an object from another, and the development of it and everything will be fabricated in which the original claim 'everything that a person invent by himself/herself' (Nazemol Atebba). Citing what it claims to be original. Many of these concepts can also be seen in many verses of the Holy Quran. Among the mentioned concepts only some meanings such as creation, changing, creating and transforming are consistent with concept and instances of crime in

subject of article 523.the meanings of trickery include fraud, scams, swindle and it have been repeated in Holy Quran.

Trickery means decorating the lie in the Nahjolbalaghe it is applied equal to gimmick.in the Holy Quran the word "الزور" which trickery is from its roots has applied in some verses such as "الزور قول اجتنبوا و الاوثان من الرجس فاجتنبوا"<sup>1</sup>

Avoid lying words, false statement, and false testimony, obscene or false statements «قول واجتنبوا» and «الزور لايشهدون والذين جاؤ فقد و ظلماً و القول من منكرا ليقولون انهم زورا» surely these people speak evil and falsehood and lie. And «الزور لايشهدون والذين جاؤ فقد و ظلماً و القول من منكرا ليقولون انهم زورا» surely these people speak evil and falsehood and lie. In addition to the above, a number of meanings, synonyms, and similar words are with the meaning of deception word which according to the most important subjects and explain this word and that they are oral represent it can stated orally:

Fraudulent act and the alleged perjury by false or untrue to achieve illegitimate goals.

## 3. The basic characteristics of crimes based on trickery

The main features of criminal offences include:1- Special unequal situation between the offender and his victim a situation which is the condition of the crime. 2- Misuse of this situation to the detriment of the victim by the perpetrator, an abuse that completes the crime perpetration. The purpose of unequal situation includes certain unequal in the situation between perpetrator and his victim whether natural or acquired. Of course every kind of unequal is not essential ,but this unequal must be considerable in other words this concept is more qualitative than quantitative and its more focus on its importance. Although this situation is necessary for crime perpetration, but it is not enough. From the other hand here is necessary that abuse or at least starting abuse be acceptable that is, a using that isn't consistent with applying right. By realizing this last condition what potential it had before, becomes actually. Advanced and delayed are two controversial characteristics according to types of crimes in some cases creating unequal special situation is spontaneous with its abuse an example about this is a killer that during a struggle with the victim take out a murder tool which exists randomly in the place and kills the person who had fight with him in such cases abuse is an unequal situation. But there are some assumptions that unequal situations fronts and formers over abusing whether casual or permanently. The example

<sup>1</sup> Haj, verses30, so avoids the evilness of idols and avoid from lie testimony.

of this assumption are individuals with poor self or unaware or foolish people who are more vulnerable in their relationships with community members or in the difference scope we can refer to economic law, means companies which are enjoying the better position in the market.

This basic features which in analyzing criminology of all crimes whether aggressive or on the basis of trickery, they appear with special contents in comparison with trickery crimes due to the nature of fraud. Thus firstly we pay attention with subject specific situation of inequality based on crimes of deception, A) then discuss how the manifestation misuse of state in this type of crime. Of course the detailed content and the issues under deliberation we refer to examples of punishment Code. Although our goal is to analyze the issue from the perspective of criminal law is not specific.

#### **4. Typology of deception-based crimes Measures typology**

The study of different description of crimes base on trickery whether crimes of business, generally or as partially and case has provided a way for separation and division of different trickery crimes. For example we can refer to distinguish between crimes. But other types of these classification exists in the criminology literature.

In this basis one of the criminologists distinguishes among three trickery crimes. 1-the crimes that perpetrated by people as actual person such as fraud tax, fraud toward insurance. 2-crimes of employees of the company against company breach of trust, bribery... 3-perpetrated crimes of companies which they divided into two sub-groups: the casual illegal actions and illegal actions which recognize the main activity of the company such as a fake company that is founded for issuing fake factors or money laundering. Basically these crimes are based on the positions of perpetrates in social-economic.

Another author in turn provided a quad division from trickery crimes: 1- Fraud, deception and false introduced is one of the species scams in France. 2- Using a post in an organization to deal with the acquisition of its resources. 3- Bribery of a post within the organization in order to guide and transfer financial resources toward a person outside the organization. 4- Violation of administrative regulations relating to professional conduct in business and the use of state resources,...

Another classification which is on the basis of a type of victimization, has distinguished between crimes of "related to job and profession" and "organizational" crimes. The meaning of first class crimes, are crimes that are perpetrated by a person or a group of people with an exclusive goal of obtaining

a personal privilege. The victim of this crime are companies, government agencies or state (for example tax fraud or embezzlement...) the second class crimes are perpetrated by peoples who are located in trustful positions (such as violating market rules, bribery...).

Undoubtedly this kind of typology is attractive and beneficial but is more descriptive. Thus it is better to for offering a realistic and logical typology of these crimes refer to trickery concept analyzing.

Before we noticed that the trickery must be distinguished from being clever and skill which is neural from the purpose of moral. According this two kind of trickery can be imagined: one of them as manipulation and distortion in the distribution of skills between participants in a competition such as the crime of abuse from secret information. Other type includes moving the results and confirm the preset as a result of electoral fraud. In the following analysis of the concept of deception, emphasized that in the face of an unequal status indicator, such as violence, abuse committed hypocrisy of the situation is unequal.

Applying this analysis, the misuse of unequal status, criminal deception can be distinguished between two modes: on one hand there are cases a perpetrated fraud enjoys of a law power of decision making or review actions and according this, from the beginning placed parties in the unequal situation and abuses this power (bribery)... from the other hand assumptions that the perpetrator is not enjoys law power and fraud and trickery is done as doing a material action of wrongful use of the situation (abusing from the position in the market, fraud, breach the trust...).

#### **The typology of perpetrators**

Simultaneously with the duplicity of crime analysis in previous seasons it was obtained different typologies from perpetrators of these crimes such as recommended big and small fraudsters of Pynatl. Winner and losers of Miss Rinal. Except for these cases of other species in the criminological literature is proposed: for example Mikaeel Mikobi has distinguished between Pischevar, fighting and gambling in France has offered different subdivisions from forgers. Undoubtedly it is better to in relation with perpetrators refer to Miss Bilind typology of liars individuals that is, skilled liars, beginners and amateur, because the crimes based on fraud or glamorous lie are explained.

#### **Hypocrisy-based crimes and public crimes**

Enrique Ferry at the end of the nineteenth century on the basis of statistical analysis of crime data from the first quarter of this century concluded that he can somehow extract the rule of transient from aggressive forms of delinquency (the crimes based on

hand wrestling) to tricky forms (intellectual delinquency).although the similar phenomenon had been occurred in the seventeenth and eighteenth centuries under the influence of customs.

Interpreting trends related to changing both forms of delinquency beyond their meet is difficult. It is clearly noticeable the significant increase in the opportunities of crime perpetration in the many territories which Kohen and Felson referred to it in the form of opportunity theory helps to explain this phenomenon. But there is a probability that the source common and the root of violence and lie which is for struggle stay, also can open a new method for understanding this current phenomenon and its transformational trends.

Violence in criminal law is searchable from two points. Firstly people, themselves do violence both against each other or against government, from the other hand the performance of affiliated institutions to the state may be resulted to violence against people of the society.

## 5. Discussion

The based on hypocrisy is known with two fundamental characteristics, lie and usurpation, but these two characteristics in the body of this crime are not important like each other. Lie is the essence of trickery crimes. Because by helping lie the trickery crimes and aggressive crimes can be distinguished. But in reverse, the usurpation is not specific to crimes along with fraud and duplicity. And in some aggressive crimes can find its effects. From the other hand in most crimes along with duplicity and cheating the starting crime is criminalized similar to complete crime and deep analysis of criminology is the subject of concept of crimes based on requires pay attention to two subjects, in one hand the special characteristics of crimes based on duplicity and on the other hand its boundaries with other categories of criminology-criminological categories or related not-criminological. Historians of criminal law habitually, starting the dates of these crimes with the history of origins of social control of violence. As this debate, namely social control violence, as an introduction to history book criminal law and criminal justice "Krebs" a French writer. This kind of focus on social control violence, in the works of historians "pure" can also be seen. This group in their researches, specially prefer to pay attention to criminology and sociology issues.

There is no comprehensive description in relation with all crimes based on duplicity. But some of these crimes are to some issues of systematic criminology.in order to clarifying these explanations, three important and special crimes, that is fraud, breach of trust and bankruptcy selected and they are expressed in terms of theoretical offered analysis.

Duplicity crimes due to their extent have some limitations. The internal limitations with other criminal offences and external limitations with only civil resources or administrative responsibilities. But if the existence of these limitations is clear, but its borders are sometimes vague and it is difficult to draw. When you get into the system of criminal offenses, naturally the issue of determine limitation of duplicity crimes compare to aggressive crimes is raised. But this issue also about crimes which know their criminal teachings namely with preventing crimes or even in relation with such that known as side or secondary criminal law against independent criminal law or technical criminal law against traditional criminal law.

The lie linked with mankind so deeply that in every era philosophers and moralists have searched its how and why. From Greek philosophers to contemporary writers –such as Saint Augustine, Grvsyvs, Diderot... each of them in turn discussed the concept of lie, its relationship with language and fact, and its social and moral influence. Of course, the famous conflict in this regard between the two theological views: One inspired by the ideas of Saint Augustine, prohibits any false. And other is Protestant teachings that distinguishes between two states that is when others have or not have the right over truth. Various explanations based on duplicity whether crimes of business generally and or case crimes provided way to distinguish and distribution he duplicity crimes. Jurists by providing these materials which are witness of safety from duplicity, some of sayings of jurists indicates this view that invalidity occurs when except document threes is no other reason which proves the accuracy contained in the document otherwise the document is correct in other words although the document is not valid in the perspective of jurisprudence, yet it is valid due to other reasons, such as witness, evidence or judge at the sign 282 of Baghara verses, expressed with two witness. And in the narrations of Imams also with witness or existence the useful evidence the document is valid. Therefore despite the lack of sufficient attention of legal documents we can say that the reason of discredit which exists in jurisprudential law researches is resulting from concern about existence duplicity in the writings. With this ground testimony on the document is a kind of protecting document from duplicity and distorting that. Which in those days there was no a tool to measuring and testing it .in their view the witness was as a tool for recognizing the authenticity of the document or in other words in the document was to recognize the duplicity and hypocrisy in the document.

Another tip which has been considered in Islamic teaching is oral expression along with writing

which in this field the content of the sign46 of Nis verses and the sign 79 of Baghare verses especially signs 181 and 182 of Baghare have investigated in this regard we can conclude that considering that the testimony was the only method for prove and confirm documents in the verse and narration oral expression more focused than written cases.

Generally we can say that, although in the interpretation and j jurisprudential discussions specifically punishment hadn't determined for duplicity but concerns about the texts and documents and citing documents can be a significant support for criminalization and determine punishment for forgers and those who attack to peace and tranquility of citizens.

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8/5/2016