

Corruption on Earth in Iranian Law

Abbas Ganjeh Ajirlou¹, Saleh Farhadi², Dr. Mahamad Ali Jahed³

¹Department of Law, Ardabil Branch, Islamic Azad University, Ardabil, Iran

²Student of ph.D Law, Faculty of Political Science and Law, Kharazmi University of Tehran, Tehran, Iran

³Department of Law, Ardabil Branch, Member of the faculty at Islamic Azad University, Ardabil, Iran

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ABSTRACT

Some crimes which have been introduced into Iranian law from Islamic jurisprudence are penalties. Mmm and corruption on earth are examples of penalties. Fighter with god is derived from Harb and Harb means warrior and combatant. Efsad (=corruption) is derived from Corruption on earth which means destruction, intrigue, destruction and ... some experts believe that corruption on earth and War with god are different crimes and some oppose this belief. It seems as if Iranian Legislator has considered these two crimes as independent from each other because the difference between War with god and corruption on earth has been mentioned in various laws like: economic disruptors law, fight against illegal drugs law, smugglers' law and ...

KEYWORDS: corruption on earth, War with god, verse 33 of Sura Maedeh

INTRODUCTION

War with god and corruption on earth are examples of penalties and have been extracted from Islamic jurisprudence and verse 33 of Sura Maedeh. Almighty God says in this verse:

Certainly, reward of people who war with god and his prophet and corruption on the earth or will be killed or will be hanged or their hands and feet will be cut off from back or will be exile, that's punishment to them in the world and other world (hereafter) and in other world is great punishment to them.

Verily, those who fight against god and his Prophet (using weapon and threat and robbery) and act corruption will receive punishments like execution or being killed or their legs and hands will be cut off opposite to each other or they will be exiled from their land. This is a humiliating punishment for them in this world and there will be a more severe punishment in the hereafter." Article 183 of IPC has mentioned War with god and corruption on earth crimes: "everyone who uses weapon in order to create terror and fear and takes freedom and security of people will be punished as Fighter with god and corruptor on earth." According to the mentioned article and verse 33 of Sura Maedeh, some believe that War with god and corruption on earth are two independent crimes and some believe in the opposite.

Literal meaning of corruption on earth

In Persian, corruption means perishing, destruction, obliteration, and also failure and intrigue and riot and evil and dysfunction. (Moeen, 2011). In Mohit-Fi-Loghat and Al-Ein books we read: "corruption is the opposite of goodness" (Saheb Ebn Ebad, 1993).

Seyyed Ali Akbar Gharshi in his book titled "Quran lexicon" believes that: "corruption means destruction and it is also opposite of goodness." (Gharshi, 1991).

Relationship between corruption on earth and War with god

Some experts believe that verse 33 of Sura Maedeh is binding. This idea is more acceptable considering verse 32 of Sura Maedeh in which Almighty God says:

That's why we wrote on the bani Israel, indeed that anyone kills someone without that himself be hilled or corruption out on the earth, it seems kills everyone and anyone resuscitate that is seems resuscitate every one and we brought our verses and signs with clear reasons, so after that many of them are waste contractors on the earth. Because this verse prescribes murder for corruptor on earth. Therefore, War with god and corruption on earth are two separate titles and War with god is an example of corruption on earth. However, because War with god actions is special cases of corruption on earth, its punishment has been mentioned in verse 33 of Sura Maedeh. Therefore, there are other kinds of corruption on earth which are not War with god because according to Arabic Grammar, the two crimes (War with god and corruption on earth) are different but War with god is a kind of corruption on earth because corruptor punishment has been mentioned in verse 32. Quran Interpretation books also translated (While Acting corruption on the Ground) as polytheism or banditry or adultery and other similar crimes which receive execution punishment. Jurisprudents also have used crimes like kidnapping, shroud

*Corresponding Author: Abbas Ganjeh Ajirlou, Department of Law, Ardabil Branch, Islamic Azad University, Ardabil, Iran. E-mail: Abbasganj999@yahoo.com Tel: (+98)451-7228020

theft, receiving money through fake message, setting one's house on fire, addiction to killing Dhimmi an Obaid as examples of corruption on earth (Habibzadeh, 1991).

Ayettolah Makarem Shirazi recently announced in his interpretations that War with god and corruption on earth are not the same but they are different crimes. (Makarem Shirazi, 2006).

Feiz Kashani has considered War with god and corruption on earth two different names. He has not mentioned anything in this case in paraphrasing verse 33 of Sura Maedeh but he has considered banditry which is an example of War with god as independent in paraphrasing verse 32 of Sura Maedeh (Feiz Kashani, 1983).

Mehdi Nanakar believes that corruption on earth and War with god are different and Arabic Grammer style in verse 33 of Sura Maedeh shows that these two are different. In other words, the verse is binding and not emphasis but corruptor has been mentioned in the previous verse and its punishment has been mentioned completely in the next verse along with War with god. This shows that War with god is a kind of corruption on earth and it is a complete and obvious example of corruption on earth (Nanakar, 1998).

In contrast, some experts believe that the mentioned verse has referred to only War with god and the sentence (they try to corruption on the earth) is used for emphasis and commitment of War with god needs commitment of both War with god and corruption on earth and this is while the word (Alzyn) must have been repeated if two names were intended. In other words, this group believes that War with god is any kind of corruption which takes place on the ground, i.e. any kind of disruption in social security via frightening which takes place by using weapon and threat and murder (Habibzadeh, 1991).

Imam Khomeini in Tahrir-al-vasileh has also such a belief. He believes that the four punishments for War with god are allowed if War with god is committed as an aspect of corruption. That is to say, corruption on earth intention is also necessary as well as intention of frightening people by weapon in order to give somebody War with god punishment. (Imam Khomeini, 2004).

Ayatollah Makarem Shirazi in his book states that War with god and corruption on earth are not independent and verse 33 of Sura Maedeh belongs to War with god and corruption on earth is not an independent crime (Makarem Shirazi, 2002).

Doctor Shambiaty, a famous lawyer, believes that "Moharebeh" and "corruption on earth" are the same and in order to give punishment mentioned in article 183 of IPC (which is based on verse 33 of Sura Maedeh), both War with god and corruption on earth must take place at the same time. In other words, each of them is a part of cause and the four punishments are causative therefore their field is cause and causative. A part of a cause does not result in punishment but only when War with god and corruption on earth take place with each other, punishment will follow (Shambiaty, 2009).

Legal examples of corruption on earth

As Iran is an Islamic country, most laws have been extracted from Islamic jurisprudence. Because corruption on earth is an independent crime from War with god in Iranian law, we want to investigate whether there is such a crime in jurisprudence or not. In other words, the question is that whether the Legislator has stepped beyond jurisprudence in extraction of corruption on earth crime or not?

jurisprudence¹ have not presented an independent discussion for corruption on earth in their books and only some of them have referred to special crimes titled corruption on earth, like shroud theft, setting one's house on fire, addiction to killing Dhimmi andhowever, Iranian Legislator has mentioned some examples of corruption on earth and this shows that The Legislator has stepped beyond jurisprudence in extraction of corruption on earth crime. In the following sentences, examples of corruption on earth in Iranian law will be investigated.

The law of Fight against illegal drugs

Article 6 of the mentioned law, passed in 1988 states that:

One who commits the crimes mentioned in clauses 1, 2, 3 of articles 4 and 5 for the second time is 1.5 times as much as the mentioned punishment in each clause and for the third time is twice as much as the mentioned punishment in each clause and in the next times, it is respectively 2.5, 3.5 and ... times as much as the mentioned punishment in each clause. Whipping punishment whipping punishment is at most 74 whippings for the second time onwards.

In the mentioned cases, if the sum of illegal drugs becomes more than 5 kilograms as a result of repetition of crime, the criminal is corruptor on earth and will be sentenced to execution. Execution will be put into action in the convict's living place and in public if it is expedient."Article 9 of this law states: "the punishment for the crimes mentioned in clauses 1 to 5 of article 8 for the second time is 1.5 times as much as the mentioned punishment in each clause and for the third time it will be twice as much as the punishment mentioned in each clause. Whipping punishment for the second time is 1.5 times as much as the mentioned punishment in each clause and for the third time it is twice as much as the mentioned punishment in each clause. Whipping punishment is at most 74 lashes from the second time onwards. In the fourth time, if the sum of discovered illegal drugs reaches 30 grams, the convict will be convicted as corruptor on earth and will be executed.

Execution will be put into action in the convict's living place and in public if it is expedient. if the sum of cumulative illegal drugs does not reach 30 grams in the fourth time, the convict will be sentenced to 20 to 30 million Rials cash fine, 10 to 15 years in jail and 74 lashes"

As it can be observed, the legislator has considered corruption on earth as an independent crime in view of the above laws. Although the title "corruptor on earth" was eliminated from the article 6 in amendment 1997/8/11 of Fighting against illegal drugs law, corruptor on earth was not eliminated from article 9.

The law of intensification of bribery, embezzlement and fraud convicts

Article 4 of the above law passed in 1988/6/12 states:

"those who act bribery, embezzlement and fraud by formation or leadership of networks will be sentenced to cash fine equal to the sum of assets obtained and permanent dismissal from public service and imprisonment from 15 years to jail for life as well as confiscation of all movable and immovable assets obtained from the crime and refunding of the mentioned assets, and in case they are recognized as corruptor on earth, they will receive corruptor on earth punishment". This article states that if the mentioned actions are recognized as corruption on earth, the convict will be corruptor on earth and determination of the fact of being corruption on earth has been submitted to judge, it is not obvious that using which criteria will judge be able to distinguish the crime as corruption on earth (Nanakar, 1998).

In addition, the Legislator does not mean War with god by "they are recognized as corruptor on earth" because the elements of the mentioned crimes in the article do not have any kind of similarity with War with god crime elements. Therefore, the Legislator believes that when the above financial crimes were committed widely and in order to disruption in Islamic Government economic system, intriguing and demolishing regime bases, the convict is an example of corruptor on earth and can be executed (Bay, Hosseinali, what is corruption on earth? Who is corruptor on earth? (Accessible at <http://bpdanesh.ir/detailnews.asp>, 2011).

Economic disruptors' law

Articles 1 and 2 of this law passed in 1990/10/12 states: 1-commitment of each of the items mentioned below is a crime and the convict will receive punishments mentioned in this very law.

- a) disruption in national monetary and currency system through foreign currency smuggling or minting forged coin or distribution of fake banknote or importing and distribution of them, including internal, foreign and things like that.
- b) Disruption in distribution of public requirements through hoarding and expensive selling of public requirements and abundant pre-sale of agricultural crops and other necessary products in order to monopolize or reduce supply.
- c) disruption in national production system through abuse of unallowable technical equipment and raw material sale in free market or violation of commitments or mass bribery in production or receiving production licenses in cases which result in disruption in national production policies and things like that.
- d) Any kind of action intended to export cultural heritage or national wealth even it is failed is considered as smuggling and all of the things intended to be exported are regarded as smuggled things and will be confiscated by the government.
- e) Receiving huge amounts of money in the form of receiving legal and real persons deposit under the name of Mozarabeh and things like that results in public assets waste or disruption in economic system.
- f) Band activities intended to disrupt in national export system in any form such as cheating in depositing currency contract or its return and deception in export products pricing and... .
- g) Establishment, starting an agency and increasing members in a firm, institute, company or group in order to get income resulted from increasing members such that new members attract other people for getting benefit and this human chain is developed (attachment 14 Dey 2005, Formal Paper number 17761, date: 2006/2/14).

Note- judges can consider the level of damage and the amounts of abuse and the effects of corruption in order to recognize the fact of being large.

Note-cases opened before the ratification of this law will be dealt with according to previous related laws. (Attachment 14 day 2005, Formal Paper number 17761 dates: 2005/11/25).

Article 2. Each of the actions mentioned in article 1 will be regarded as corruption on earth if they are intended to damage IRI or intended to turn against it and the convict will be sentenced to execution. Otherwise, he/she will be sentenced to 5 to 20 years in jail and court will confiscate all properties obtained through the committed crime.

Article 2 of economic disruptors' law refers to corruption on earth without defining it. It has not also mentioned the criteria for distinguishing the fact that the crime can be considered as corruption on earth or not.

Armed Forces Crimes Punishment Law

Some crimes have been regarded as War with god in this law (passed in 2003/12/30). The mentioned crimes do not match Moharebeh crime. It is said that such a development and generalization is not justifiable for War with god concept unless we say:

1. The legislator has followed jurisprudents' opinions who consider "disruption in public security" as War with god.
2. Or we regard the mentioned crimes convicts as examples of corruptor on earth. The first possibility has been rejected with the argument that even if the convict does not intend to turn against government, he/she is Fighter with god because he/she has endangered public security.

Therefore, if a member of military forces uses his weapon in order to disruption in public security and create terror, his/her action must be regarded as an example of War with god. And if his/her action is intended to disrupt in government, the action will be regarded as "corruption on earth" (Bay, 2011).

Again, the problem of the previous laws can be mentioned for this law too because no criterion has been mentioned for matching the actions with corruption on earth.

Islamic Penal Code (IPC)

In penalties and nemesis law passed in 1982, article 201 presented to Security Council defines corruptor on earth as:

Article 201: every person or group who does an action which endangers Islamic society system health on a piece of the ground is corruptor on earth.

Security Council commented on the presented article in 1982/4/9:

"Article 201 must be eliminated and its examples must be mentioned clearly, like establishment of corruption centers and cabaret and things like illegal drugs sale and distribution which result in society corruption"

As it can be observed, the definition presented to Security Council is very general. It seems that Security Council has eliminated this article for this reason and not because corruption on earth is not independent of War with god because Security Council mentions that examples of corruption on earth must be clearly mentioned after elimination of article 201. This is because it is not possible to allow judges to have a wide authority for interpretation of penal laws. In contrast, private law texts are flexible and judges use this flexibility to solve problems and deal with cases considering social and economic situations. One of the reasons for rejection of the article 201 is possibly prohibition of wide interpretation of penal laws. Therefore, corruption on earth remained undefined after the final ratification of the law in 1982 and in amendment presented in 1991 also corruption on earth was not defined by the Legislator but in bill IPC presented to parliament in 2007, some examples of corruption on earth were mentioned. In other words, corruptor on earth is a person mentioned in miscellaneous laws like the law of intensification of banknote forgers' punishment, the law of intensification of hoarders and expensive-sellers punishment, the law of visual and audio affairs insiders' punishment, smugglers' punishment law and the law of fight against human smuggling (Golduziyan, 2005).

Conclusion

Corruption on earth is one of the crimes which have entered Iranian law from Islamic jurisprudence and verse 33 of Sura Maedeh. Because this crime has been accompanied by War with god, some experts believe that there is no independent crime titled corruption on earth. Iranian Legislator has considered this crime as independent from War with god by mentioning a few examples. These examples include: economic disruptors law, fight against illegal drugs law, the law of intensification of banknote forgers law, the law of intensification of hoarders and expensive-sellers punishment, the law of visual and audio affairs insiders punishment, smugglers' punishment law, IPC, the law of armed forces crimes punishment, the law of intensification of punishment for bribery, embezzlement and fraud convicts and the law of fight against human smuggling.

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