

The Counterfeit of Coin and the Forgery of Banknote

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ABSTRACT

One of the important issues of fraud and criminal rights in addition to the essential aspects of the terms of any crime against public tranquility, Learn how knowledge and information and the specifications necessary for all individuals is useful. Moreover, crime and punishment legal principle that the crime of forging the legal terms are defined to meet everyone know how things will apply as a fraud and is punished for committing this act of committing the acts be avoided. Obviously, this problem can be clear what laws counterfeit coins and bills to the heart of the Penal Code and Public Opinion Criminal Code, helped the cause and ignored uncertainties remain in the heart of counterfeit coins and bills will be Considering that the gold coins mint Rating Act 1337 with the government and another person does the right coins. Purpose of making counterfeit coin is that committed some of the metals with the main coins are used and provide necessary equipment and tools, such as molding equipment and hand punch to throw coins building.

KEYWORDS: coin, forgery, banknote.

INTRODUCTION

A disciplined society needs registry of documents. When everything is registered in books, people must feel relaxed. In such a society, transactions are done through banknote and money. a society in which people doubt about registry of transactions and originality of banknotes and coins is full of anxiety. Therefore, the philosophy behind realization and study of forgery crime is to maintain trust in documents and banknotes and coins. Now this question can be raised that how regulations and laws deal with forgery and forgers. It is obvious that investigation of this question helps with clarifying regulations related to coin forgery from public opinion criminal code and Islamic Penal Code point of view and ignoring this question may result in many ambiguous aspects in this regard.

Most penal laws purely mention and count the methods and styles of forgery and punishment type, without presenting a comprehensive definition of forgery and its aspects. One of the reasons for complexity of definition of forgery crime is lack of related legislation and absence of penal rules. Moreover, the definition must be so flexible that it includes all new and diverse methods of forgery (Soleimanpour, 2009).

Moreover, no comprehensive definition has been presented for counterfeit of coin and forgery of banknote by commentators and law experts. Therefore, investigation of coin and banknote forgery seems to be of great importance.

Main goals of the present research are as follows:

1. Determination of the background of forgery and its punishment in past law
2. Determination of forgery punishment and elements in Islamic Penal Code
3. Determination of forgery punishment and elements in Islamic Penal Code
4. Determination of forgery in Supreme Bureau Verdicts
5. Determination of differences between spiritual and material forgery
6. Similarities and differences of coin and banknote forgery and other kinds of forgery

Research background

In the past civilizations, people and governments measured and valued their wealth with precious metals like gold and as an investigation committee showed in England in a report, such metals were used for measurement of wealth in Rome and Bizans Empires. In this very period, manipulation of coin-removal of a part of the precious metal from coin-was considered as unacceptable. Therefore, antiquity of coin counterfeiting can be traced back to coin rise.

In Islam, background of minting coins goes back to 1300 years ago when the first Islamic Dinar was minted in Saudi Arabia and then it became common money throughout Islam World. The background of minting coin in England goes back to the first century B.C. and the first regulations which banned forgery were imposed in 1292.

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In the regulations of the years 1238 and 1300, a quality standard was imposed for gold and silver which is still common in some countries. In 1350, according to "treason against government law", intentional forgery of stamp and coin was regarded as a kind of treason against king and was punished by beheading, execution removal of forger's guts.

From the fifth Henry, sellers were made to use signs for determination of products quality and violation of this rule was punished by paying a fine twice as much of the price to the king and the deceived person. Although this caused compensation of damage for those who were deceived but these signs were also forged at that time. From 1503, some pictures and signs were devised for carving on coins in order to determine their originality.

During eighth Henry governing, execution was imposed for forgery. During the First Elizabeth government, forgers were punished by being tortured in public. Furthermore, such convicts were imprisoned and damage to damaged individuals was paid from their assets.

The Sixth Edward in 1548 condemned Sir William Sherington to execution on forging common coins (which were called Teston) valued 12000 pounds (which was a considerable amount at that time). Assets of such convicts were confiscated and their blood was called "waste" and this had some negative impacts on their future generations. In 1688, it was imposed that each person who dealt material used in minting coins or carries them would be made to pay all that materials as well as confiscation of 500 pounds of his/her assets (some part was given to the King and some was given to the person who had informed).

Moreover, an R letter was formed on his/her right cheek with cast iron and he/she was imprisoned until paying 500 pounds.

From 1720 till 1900, various regulations were imposed on forgers and most of them considered severe penalties for such people.

In 1772, forgery of signs which were used for determination of metals purity was punished by sending convicts to American colonies for 14 years and forgery of banknotes and bank documents was punished by execution.

At the late eighteenth century, tolls and taxes were increased by First George. This involved making stamps and stamps for sticking on products and forging them was followed by execution. Development of regulations on coin forgery in new manners was continued and now "forgery Act" approved in 1913 and "coining Act" approved in 1936 were replaced by "forgery and counterfeit of coin Act" passed in 1981 which is based on the regulations of the early 13th century and its second part deals with counterfeit of coin and banknote.

Today, coin counterfeit has become a very complex crime due to the advancements in science and technology and it is not a primary crime anymore which is done by criminal and international bands. This diversity of activity has made it difficult to follow and seize criminals (Taylor, 2008).

Therefore, "international convention of fighting against fake currencies" was concluded in 1929 and was approved by some countries including England (1959). After this convention approval, conflict of countries with counterfeit and forgery (which is usually called white crime) was facilitated; a phenomenon which resulted in emergence of documents insurance which is now a 10-billion-dollar work throughout the world, while this type of insurance cost was once considered as unnecessary.

Research theoretical background

Forgery

Article 97 of public opinion criminal code describes forgery as:

"forgery and deception means making a writing or document or other thing in an unreal form or making a stamp or copying one's signature for deceiving, carving or scratching or attaching or removal or blacking out or postponing a date in a document or fake attachment of a writing to another writing or use of someone else's stamp without his/her permission and things like that." The most comprehensive definition of forgery is: "making everything like a document in one of the ways predicted in law in an unreal form and to someone else's disadvantage". The phrase "making everything like a document" indicates the width of the topic. The second sentence depicts the reflected instances of the crime in law. The phrase "in an unreal form" indicates lack of reality. The phrase "to someone else's disadvantage" also indicates the final influence of forgery crime.

Definition of forgery in Islamic Penal Code

Islamic Penal Code also does not present any definition for forgery like the previous laws and only mentions forgery instances. Article 523 Islamic Penal Code states:

"Forgery and deception mean making a writing or document or other thing in an unreal form or making a stamp or copying one's signature for deceiving, carving or scratching or attaching or removal or blacking out or postponing a date in a document or fake attachment of a writing to another writing or use of someone else's stamp without his/her permission and things like that."

Defects of forgery definition in Islamic Penal Code

Forgery crime is one of the crimes which are against public tranquility and public tranquility means public trust. Therefore, forgery crime causes damage to public trust.

The condition of being considered as crime is being against public discipline. A legislator who is so fussy about public discipline has not defined forgery crime. This is while a good legislator is one who defines forgery crime and counts its constituting elements such that a judge does not face any problem in matching cases with forgery crime.

Naturally, absence of a definition for forgery crime does not mean that its definition cannot be extracted from related articles. There are some other defects in definition of forgery in Islamic Penal Code.

Islamic Penal Code was revised in 1996 and fifth chapter titled: punishments and deterrent punishments were added to it. Articles 523 to 542 of Islamic Penal Code deal with forgery and deception.

Criminology in banknote forgery

A healthy and calm life dictates that for example, currency is immune of fraud and writings and documents are immune of forgery and deception.

The phrase "coin" includes money which is minted out of precious metals like gold, silver, copper, bronze, nickel or an alloy of these metals (like silver and copper) with a particular purity and specified weight.

Coin minting license is owned by government according to Gold Coin Act (passed in April 1958). Other natural or legal persons are not allowed to mint coin.

Coin use is prevalent because it makes transactions easier and helps with avoiding product-to-product transactions.

Public tranquility depends on the fact that currency is immune of fraud and it is not manipulated.

Coin forgery has been common from coin minting age, but it is now a dangerous and complicated crime. Coin forgery was formerly done by alchemists. In recent centuries, coin minters used various methods and sciences with more skill due to advancements in physics and chemistry. Forgers' activity domain is so vast that Interpol also fights this crime and coin forgers who are active internationally are being chased by Interpol (Golduziyan, 2005).

Different types of damage

Damage can be classified into material, spiritual, individual and social as follows:

1. Material damage

Damage to others' body and assets is called material damage. Forgery crime often involves material damage and someone receives damage in forgery crime (Pad, 2010).

For example, a forged document puts a person in a necessity and obligation situation to which he/she has not expressed his/her satisfaction he/she might become obliged to fulfill that commitment or paying that debt (Peimani, 2000).

This material damage might go to the person to whom the document belongs or another person. In both cases, forgery has taken place (Soleimanpour, 2009).

If someone forges a document and receives money from a debtor, this action includes the definition in article 97 of public opinion criminal Code (article 523 Islamic Penal Code) (verdict number 371-26/2/16, second branch of Supreme Bureau).

2. Spiritual damage

Spiritual damage means spiritual hurts and disgrace and damage to one's credibility which is arisen from another person's illegal act (Mosallae, 2003). Support for spiritualities in a society dictates that spiritual damages of forgery be considered. Prevention from degradation of public trust in validity of documents which is the philosophy of criminology of forgery also ranks among spiritual affairs (Zeraat, 2002).

Writing a letter with another person's signature in order to make the owner of signature criminal and using such a writing is one of the definite items of the articles 97 and 106 in public opinion criminal code (article 523 Islamic Penal Code) (verdicts number 1236-27/19/11 and 52-16/1/1317, second branch of Supreme Bureau)

For instance, someone types a night letter and distributes it tomorrow which includes contents against government and attributes the night letter to a particular person and puts his signature at the end of the night letter. In this case, spiritual damage is possible because the signature owner might be placed under legal prosecution and he might be disgraced. This spiritual damage is potential if he is not arrested and it will become actual if he is arrested (Golduziyan, 2005).

If a civil servant forges physician's prescription in order to use leave, although his leave is without payment, his action is regarded as forgery, because forgery damage involves material and non-material damage. If in this case there has been no damage to government the treasury, the fact of using time which must have spent to government benefit through making an unreal writing is considered as forgery and use of this time is a crime (verdict number 1721-26/6/21, second branch of supreme Bureau).

3. *Social and public damage*

If the result of forgery crime is material and non-material damage to government and society, this kind of damage is considered as social and public damage, such as forgery of tax bills or forging formal documents (Soleimanpour, 2009).

Public and social damage can be regarded as damage to public trust and government (in general meaning) because social life necessities involve relationships and presence and health of such relationships involve setting documents which indicate intention of one population or two different intention or one-sided admission which in part improves mutual public trust in society and is resulted from dealt documents. It is obvious that forgery in documents damages to public trust which is the very base of social life and Islamic Penal Code is responsible for fighting such damage. Government is also damaged in forgeries which involve government writings (Sepahvand, 1997).

Therefore, in cases which do not involve damage to any particular person, crime has been committed in case of presence of public or social damage and forger can be punished (Bradley, 1999).

Forgery in leave sheet of a soldier or civil servant is an example of social damage because of the fact that the document is public. Forging public documents result in unreliability in public documents and damage to government is regarded as social damage (Mortazavi, 2006).

People do not need to get damaged by forgery and as it was said, government might get damaged. Therefore, if government tax man receives a particular amount from taxpayers and issues receipt enters a smaller amount than what he has really received and takes the remainder to his benefit, forgery has taken place because department of Finance is damaged by this, although taxpayer does not get damaged (verdict number 1255-6/6/1318)

Articles 527 and 541 of Islamic Penal Code are instances of social and public damage.

4. *Individual and private damage*

In private writings, damage experienced by individuals is at the first rank of importance and criteria for determination of punishment for forging these documents are realization of damage. In formal and public documents, respect to formal documents and respect to government is the base of punishment and not individuals' private damage and individuals' damage is at the lowest rank of importance (Soleimanpour, 2009).

Benefits which are damaged in forgery are two types:

1. Direct benefits
2. Indirect benefits

Direct benefits are benefits which are damaged immediately after crime. Indirect benefits are individuals' and government benefits. Therefore, personal and private damages are in fact a kind of damage to indirect benefits.

Forgery in public opinion criminal code

Article 97 of public opinion criminal code describes forgery crime as:

"forgery means making a writing or document or other thing in an unreal form or making a stamp or copying one's signature for deceiving, carving or scratching or attaching or removal or blacking out or postponing a date in a document or fake attachment of a writing to another writing or use of someone else's stamp without his/her permission and things like that."

Article 97 of public opinion criminal code has not defined forgery and deception crime and only has counted several instances and practical ways of committing this crime (Pad, 2010).

Minting counterfeit gold and silver coin

Article 518 of "punishments law" which is the legal element of this crime states:

"Everyone who mints any type of internal or external golden or silver coin such as Bahar Azadi coin, coins of former Iranian governments, Lira and similar coins out of other currencies which are common or imports them illegally or deals them or spreads counterfeit coins will be sentenced to 1 to 10 years of jail."

As it can be seen, this article supports internal and external and silver and golden coins but this support depends on the fact that these coins "are dealt". This condition implies three understandings:

First, it means that the mentioned coins must be transactable or people tend to pay money for them. This understanding does not seem to be true in author's opinion, because having the capability of being dealt is obvious for all these coins because of valuation of the metal used in them and therefore, such a rule cannot be a good criterion for separation of some of these coins from other coins.

Second is that this condition implies being common. This understanding also does not seem to be true because golden and silver coins are never used as common coins-which are usually of low value- in any country. Furthermore, the article itself has included former Iranian governments' coins, which are not definitely common in Iran.

This characteristic is true for Bahar Azadi coins or Pahlavi Coins (which are the meaning of legislator but he does not tend to call that regime's name) and when we refer to each jeweler or even ordinary people, these

coins are bought and sold with several hundreds of Rials lower or higher, without any attempt to determine their prices.

On the other hands, very old golden and silver coins (such as those related to Nader Shah or Naser-Eddin Shah) lack such a characteristic and it is necessary to refer to someone who deals antiques for determination of their price. Therefore, counterfeiting such coins and selling them under the name of original coin can be legally prosecuted under the name of fraud, and not coin counterfeiting.

Importing counterfeit or fake coin

This crime has been referred to in articles 518, 519 and 520 and it can be punished exactly as minting or manipulating or spread of counterfeit coin.

Importer of such counterfeit or manipulated coin can be punished, whether he/she is the minter or manipulation of the coins or not, or minting has taken place abroad.

Use of the imported coin is not a condition for commitment of a crime; even the importer does not intend to sell or spread the imported coin he/she has committed a crime due to intentional importing and he/she will be punished.

It does not seem that importing only means carrying at the time of entering a country but it can be imported in the form of posting and things like that.

Another point is that importing coin does not mean necessarily passing customs but when someone imports a coin inside a country (by land, sea or air), he/she has committed a crime although customs officer discovers counterfeit coin or does not allow it in.

It must be mentioned that in some countries, exporting counterfeit coin is also regarded as crime. For example, according to the 21st section of "coin forgery and counterfeit Act" in England, exporting forged banknote and fake coin from England is regarded a crime" (Mir Mohammad Sadeghi, 2008).

Punishments of crimes related to counterfeit coin

Firstly-punishment

1. Punishment of minting or simulating any kind of golden and silver coin, whether internal or external or importing them and spread of them involves sentence to imprisonment from 1 to 10 years (article 518, Islamic Penal Code).
2. Punishment of manipulation in gold or silver Iranian or foreign coins and also spread and import of them involves sentence to 1 to 3 years of jail as well as confiscation of assets that the convict has earned in this way. Confiscation of assets is done to government benefit (article 519, Islamic Penal Code).
3. Punishment of minting and simulating internal or external coin made of metals other than gold and silver is imprisonment from 1 to three years and confiscation of assets which the convict has earned in this way (article 520, Islamic Penal Code).
4. In addition to the mentioned penalties, all of the assets earned by articles 518, 519 and 520 are confiscated to government benefit (article 522, Islamic Penal Code).

Secondly-commutation or exemption from punishment

When people who have committed forgery crime notify and admit to officers and guide officers through discovery of crime will receive punishment exemption or reduction in punishment according to judiciary officers' opinion unless they give up completely, they will receive exemption from punishments (Article 521, Islamic Penal Code) (Golduziyan, 2005).

General issues in forgery of bank documents

Considering the fact that banknotes are used widely and forged banknotes can damage to a large number of people in the short term and banknote forgers are considered criminals. In this case, two articles are present in the fifth chapter in "punishments law". The fifth clause of article 525 imposes 1 to 10 years of imprisonment for "forging common internal or foreign banknotes, bank documents like checks and other bank documents" and article 526 also verifies it.

"every person who forges or imports common internal or foreign banknotes or checks or other documents or Treasury documents in order to disrupt monetary and economic systems or political or social security or use such forged documents intentionally, he/she will be sentenced to 5 to 20 years of imprisonment if he/she is not known as *Comatant* and *Harlot*.

As it can be observed in comparison of these two articles, the main difference between these two articles is that presence of the particular intention of "disruption in monetary or bank or economic systems or disruption to political or social security" is necessary, while there is no such a condition in the fifth clause of article 525. However, the article 526 predicts two cases. One is a case in which the accused is recognized as *Comatant* (whose conditions are not clear) and the next one is a case in which the accused is not discovered *Comatant*. We can receive help from "banknote forgers punishment intensification Act" passed by State Expediency Council in

1989. In this unit article, punishment of those who forge internal common banknote as an accomplice or willingly and knowingly distribute and use them, will be executed if one of the two conditions hold and if any of the conditions do not exist, the punishment mentioned in "punishments law" will be present. These two conditions are: "intention to fight the Regime" or "membership in band". Therefore, it may be concluded from these three rules that forgery of external common banknote and other bank documents and securities will be punished by sentence to imprisonment from 5 to 20 years if it is intended to "disrupt in monetary system or economic cycle or upsetting political and social security"(on condition that it does not mean toppling Regime). In case of not proving this intention, the convict will be sentenced to 1 to 10 years of imprisonment according to the fifth clause of article 525. "the Act of punishment of disruptors in economic system" also can be helpful in this case. In the first clause of the first article of this Act refers to causing disruption in monetary or currency system of Iran through forging internal or foreign banknote and mentions that its punishment is execution if the intention of the convict(s) was fighting against Iranian Regime. Otherwise, its punishment is 5 to 20 years of imprisonment.

The Act of intensification of punishment of the forgers of banknote, and importers, distributors and consumers of forged banknote passed by State Expediency Council in 1990.

Single article: everyone who forges common internal banknote and acts as an accomplice in forgery, or distribute or consume forged banknote intentionally, will be executed if he/she is a member of a band or intends to fight Islamic Republic of Iran. Furthermore, one who is knowingly taking part in forgery and is aware of import of forged banknote will be executed unless he/she is not a member of band and does not aim to fight Islamic Republic. Convicts will receive punishments mentioned in article 21 of Islamic Penal Code passed in 1983 (article 525 Islamic Penal Code) in cases other than those which involve execution.

note: in all above cases, an equivalent of assets gained through forgery or distribution or import or consumption is confiscated from the convict's assets as well as the mentioned punishments.

Forgery and deception in verdicts of Supreme Bureau

Verdict number 194-7056-1/6/16

Copying and faking in some cases like forging banknote or forging Lion-Sun shape and famous things are all instances of forgery. Therefore, if someone forges a bank document and receives some money with that, forgery has been committed although no similarity exists between forged document signature and forged signature and real signature.

CONCLUSION AND DISCUSSION

Law professors know that respect to freedom and human has developed a lot and today, considerable changes in different aspects of life has resulted in emergence of new techniques in forging coin and banknote and reflection arrestment of some forgers in television and other media invites people to become more vigilant.

However, as transactions become more and more complicated, governments should concentrate on such organized crimes in regional, national and international level. Banks should also pay attention to coin and banknote forgery and governments should try to maintain trust within society by punishing forgers. Possibly, currencies like dollar and euro which are used internationally are not prone to forgery like Iranian currency (Rial). French legislation system which is considered as one of the most complete systems all over the world sets heavy obstacles ahead of forgers and it is hoped that Islamic Council Parliament and Supreme Bureau try to take long positive steps in punishing coin and banknote forgers in order to increase trust in society and it is recommended that counterfeiting coins and forgery of bank note be reflected in media and the press.

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