

Case Study

Comparative Study of Property Destruction Crime Case Study: Iranian and British Law

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Abstract: Destruction of property means the deliberate destruction or incomplete destruction of material property belonging to others, which is punishable by law. In Islamic law, according to the rule of loss, the sentence is punishable by indemnity (civil liability), and the act of damaging another's punishment is punishable by damaging the property of another. In the criminal law of Iran, the crime in addition to the common elements of all crimes has its own specific elements, not only in the Islamic Penal Code, but also in the various laws and regulations that the legislator has prescribed to prevent the deliberate loss of some property. , There is .

In British law, the Criminal Destruction Act of 1971 also includes one major offense, one misdemeanor offense, and two minor offenses. To another, without legal excuse.

Conduct of destruction shall be subject to the above provisions if it is to occur in a material positive manner and shall be subject to criminal offenses such as property, documents, buildings and antiquities, including matters prohibited by law to the It explicitly provided that the said offense shall not only have the property not to be committed by the offender, but shall result in the loss or defective operation of the offense, causing the owner to have a material loss, otherwise due to the consequence of the offense, The offender's offenses do not have a criminal character, so as soon as the causal relationship between the offender and the outcome (loss) is realized, He is a convicted felon, no matter what the offender used, but the use of certain means intensifies his punishment.

In British law, the possibility of a crime of destruction by the act of abandonment is accepted. In British law, like Iran, property must belong to another, but in one case, the destruction of one's own property is also considered a crime, and in the UK the use of some means of destruction will increase the punishment.

The psychological element of the crime of property destruction is intentional, except in specific cases, and it is necessary that the specific, general nature of the offense and the dispossession of the property belong separately to the other. Finally, the commencement of the crime if it does not fall under the heading of other criminal offenses is not a crime and cannot be pursued.

In the United Kingdom the psychological element of criminal damage in English law is direct or indirect or objective negligence defined by the House of Lords. The punishment for the offense also varies for each individual case.

Keywords: destruction, property, objects, damage, loss

1. Introduction

Destruction is one of the oldest crimes because of the importance that human beings give to their property and prevent their property from being destroyed in vain.

This crime is of particular importance in today's world for the same reasons as it used to be, and it has always been one of the most important criminal matters. It has also been added that accurate identification of the crime requires investigating new property as well as new methods of destruction in today's world that did not exist in the past in order to prevent such destruction and to maintain the safety of the community.

Another important aspect of investigating this crime is that it can in some cases be considered a crime against national security and should be prevented by examining the ways in which it is committed.

2. Historical record of mass destruction

2.1 Historical Background of Destruction Crime in Iran

Destruction is one of the crimes of property and property of individuals that has long been and has been common among people and human societies. In Roman law the seizure and rape

of property was known as *Fortum*, but it was a general title and included other crimes.

Regarding the crime of destruction and its historical record, it has no history because since humans have lived together in very small groups and have each owned what they have earned, Even a single piece of rock for hunting, breaking that rock was considered non-destructive. The earliest regulations in this regard are some of the articles scattered on the cylinder-like stone scattered throughout the Hammurabi Law Society.

The Holy Qur'an, which is the source of Islamic law, has been regarded as one of the major sins of killing and destroying people's property. The authentic materials of Islam, which can be said to be the material of human beings and satisfy human needs in a material and spiritual way, according to which lawmakers and The commentators legislate are divided into five so-called Five interests, which One of them relates to "expediency of property". In Islamic law, the crime of destruction, in addition to the punishment, will be a punishment for committing it.

2.2 Historical record of demolition crime in England

In British law, punishment for criminal damage is essentially a crime in Camden. In the past, this crime was largely linked to the protection of individuals' property and food, with minor penalties for damaging their property, and responsibility primarily for paying damages over time, specific rules for Conflicts were presented in various situations such that these laws required specific changes, in particular to increase urbanization during the industrial revolution, some of the laws that created criminal harm crimes were of the specific type of property contained in Articles 8 and 8. 7 were introduced in 1872, one of which was the so-called Peel. This law and a number of subsequent laws were reflected in the Criminal Damage Act of 1861, but the 1971 Act defines some offenses related to property rights as criminal offenses and some of them repeatedly.

The law introduces a new concept, including preliminary laws that include the heaviest crimes of property theft and damage compensation with the intention of endangering the lives of people, and the penalties typically vary from fixed to life in prison. And the court may order the victim or the victim to pay a fine.

The remaining valid provisions of the 1861 Act which are applicable in England and Wales include:

Article 35: Deletion, destruction or damage to rails Damage to the railway This section considers the existence of a sanction for the destruction, disruption, demolition, damage or destruction necessary for the maximum punishment of life imprisonment.

Second - Article 36 is the same as Article 35, except that it does not require any sanction, and the maximum penalty is two years in prison. The major difference between these two parts is in the psychological element of crime. Specific age is defined as a condition containing a psychological element rather than negligence or negligence.

Third - Article 58: This Article provides that it is not necessary to prove the perpetrator's security against the owner of the damaged property.

3. The legal pillar of destruction

3.1 In Iran

In the former General Penal Code, the legislator in Chapter Six of Chapter Three of the Title had opened under the heading "Destruction of Buildings and Works" and in Chapter Twelve another separate title was "in the destruction and destruction of property and animals." In these debates, the legislature spoke of destruction, extortion, waste, shaking, theft and illegal expropriation of property.

Islamic Legislator in Islamic Penal Code - Tabriz Section 1362 in the chapter on "Extermination and Destruction of Wastes and Animals" dedicates articles 126 to 133 to other crimes such as articles 10, 11, 12, 33, 35, 37, 46, 47 in relation to the crime of destruction.

The legal element of the crime of destruction in Iran must be dealt with in two parts, the first of which is the general section, which includes the articles mentioned in Chapter Twenty-five of the fifth book of the Islamic Penal Code, from Articles 675 to 689 of the Law, and is entitled, Destruction and destruction

of property and animals and includes immovable and movable property, animals, trees, farms, agricultural and industrial products and publicly-owned equipment and installations, forests, offices, deeds and other government documents, and other special cases. Provided for in specific provisions in Islamic Penal Code and other laws, such as breaking the seal and seal (Article 543), Some or all writings or documents or papers or government offices (Article 544) break the prison door and destroy it (Article 547) as well as the destruction of railroad facilities and equipment, sabotage of aircraft and disruption of water and electricity and gas facilities And telecommunications, deforestation and rangelands of the country and the like that can be investigated under certain headings.

3.2 In England

The Intentional Damage Act in conjunction with the Sanction Act of 1861 was the Victorian era law that provided extensive and detailed property protections, much of which is now reflected in the 1971 Criminal Damage Act. The remaining valid provisions of the 1861 Act, which are enforceable in England and Wales, are:

Article 35: Deletion, destruction or damage to rails Damage to the railway This section considers the existence of a sanction for the destruction, disruption, demolition, damage or destruction necessary for the maximum punishment of life imprisonment.

Second - Article 36 is the same as Article 35, except that it does not require any sanction, and the maximum penalty is two years in prison. The major difference between these two parts is in the psychological element of crime. Specific age is defined as a condition containing a psychological element rather than negligence or negligence.

Third - Article 58: This Article provides that it is not necessary to prove the perpetrator's security against the owner of the damaged property.

The Penal Code Destruction Act of 1971 includes one major offense, one felony offense and two minor offenses, the primary offense under paragraph (1) Article (1) is the intentional destruction or destruction of, or the negligence of, any property belonging to another. , Without legal excuse. 5

According to note (1) Article (1) of the Penal Destruction Act of 1971, a person who causes, destroys or destroys other property without legal justification, or intends to destroy or destroy such property or fails to care in relation to the crime, Damaged or missing, he will be charged with a crime.

While the Intentional Damage Act in conjunction with the Sanctions Act of 1861 has in many detail supported various types of property, the Criminal Destruction Act of 1971 provides a broad definition for each type of property. Subject to Article (1) of this Law, a person who, without legal cause, intends to destroy any property owned by another and endeavors to do so, without regard to its being in danger of being destroyed or damaged by his actions, He is charged with property destruction. Criminal damages to property include criminal offenses, the abuse of property, and the destruction and destruction of property. A person commits a criminal

offense when he or she inflicts damages on the property with the intent to cause damage to the property and to have no right to do so or for any other reasonable cause.

In the United Kingdom, as in Iranian law, certain laws have been dealt with on various occasions, such as the Wildlife and Rural Area Act of 1981, or the Evil Damage Act of 1861.

4. Criminal Response to Destruction in Iranian and British Law

Generally speaking, punishment for destruction in English law can be said to apply to English law in England and Wales in 1971, and also in Northern Ireland through the Criminal Injury Act of 1977, which recognizes certain types of minor harm such as slogans on the wall. The defendant could be treated as a prosecution alternative with fixed sentencing warnings. Non-custodial offenses involving assessed damages of less than £ 5,000 can only be tried by a magistrate or magistrate with a maximum penalty of 3 months in jail and a fine of £ 2,500 if the damaged property is worth more than £ 500. That is, the defendant can appeal the jury verdict, but if faced with a similar ruling, he could be sentenced to up to six months in prison and £ 5,000 in cash. When the value of the property in question is unclear, the court may explain Determine the value of the commodity and may also give the defendant partial trial by In England, courts through Articles 130 to 133 of the Criminal Court's Power and Influence Act of 2000 have the power to order payment of a fine by the convicted defendant and a minimum of £ 5,000 which is applicable to the Magistrate and the Royal Crown Court. It is unlimited.

In addition to specific laws and regulations regarding the destruction of property, objects and facilities, industrial plants, oil and gas reservoirs, major docks and refineries and the like, the law governs the destruction of certain other properties in particular and in the form of Specific and immovable property are regarded as ordinary fires or demolitions in Chapter Twenty-Five of the Penal Code, and for each of them a specific punishment commensurate with the type of property and the manner of destruction and the importance of the subject and conditions governing the action. It is considered.

The types of destruction that are categorized as fire, explosive destruction and non-fire destruction are discussed in this chapter, the forms of killing, mowing, cutting, grazing, drying, poisoning. Burning, burning, destroying, disabling, looting and robbing, contaminating drinking water, dumping poisoned rivers, rubbish on the streets and the like have been justified in this section of the law, each with its own punishment. And in all cases mentioned in this chapter whenever fire, destruction, and other acts leading to murder or defect or injury or injury to human beings. In addition to the penalties imposed, the offender may be sentenced to death or payment of blood money or damages. The punishments for the destruction of the above forms in terms of the severity and severity of the offenses committed include execution, hanging, simultaneous right and left amputation, exile, long-term imprisonment, short-term imprisonment, cash imprisonment, lashing. And finally the payment of damages. The most severe of these punishments, which is war crimes, is applicable to those who

attempt to oppose the Islamic State in accordance with Articles 675 and 687, as well as a community of more than three people, with the power to overthrow plunder and loot. And waste any other property, property or other products if they have been destroyed in their acts of corruption or intent to commit a crime, and they shall be sentenced to militant.

5. Summary and Conclusion

A. Historical studies suggest that crime is the destruction of property by a few crimes against property and property that have been more or less justified in the past centuries and reflect the belief in the protection and protection of the property of others.

Legislators today seek to protect relationships, property rights and public order by enacting legal regulations. For this reason, Iran's penal law has broad provisions in various criminal laws and Islamic penal code, thus destroying property belonging to The government or the public or private individuals are prohibited and the punishment will require the commission of these acts. In the English law, the Criminal Destruction Act of 1971 also covers the crime of destruction, but it should be noted that in the law of England there must be a special attention to judicial procedure and not just to the law.

B. Although the legislator has used a variety of terms such as waste, damage and destruction in the discussion of property destruction, it does not make any difference in the scope of the crime, which is to say, in fact, what constitutes the crime, any defect or failure is objectively That is, in the customary sense, the destruction of property. The use of different words is due to a variety of topics and does not interfere with the principle of crime. But in British law, opinions are slightly different from those of Iran, and some disagree. Some believe in the difference between law and order.

C. A comprehensive definition of destruction (destruction means the deliberate destruction or loss of property belonging to the other).

D. Destruction and loss of property means any or all of the same or other damages belonging to another in a manner that is tangible and intangible, so immaterial property such as the right to claim and the right to compensation for which objective damage cannot be possible. There is a similar view in British law.

E. Based on the views of the Council of Guardians as well as the theories of the Appeals Commission of the former Supreme Judicial Council, it was established that the provisions of the specific subject matter were valid and capable of being cited and enacted prior to the Islamic Revolution.

F. The conduct committed in the material element of the said crime is, in principle, a positive material act. Exceptionally, in some cases, the legislator has departed from the above principle and cited the abandonment of the act as committing conduct on a material basis for the crime of property destruction.

G. The property of the subject of the crime shall not belong to the perpetrator, in that case it does not matter whether the owner is known or unknown or the property belongs to the government or the public or to private persons, in addition to

the relationship of ownership, Ownership is the same. In British law, if one damages one's own property, one's own damages will also be charged.

H. The result of the operation is a loss of property. It is a criterion for the detection of faulty entry or custom devastation, as if a part of the house was destroyed or a field burned. That is to say, conventionally, the property is defective or defective and the owner of the property has suffered losses as a result of the destruction.

I. The instrument has no role in the realization of the mass destruction. Destructive operations take place by any means, the crime is realized. Suppose the perpetrator can use explosives or mechanical devices or fire to destroy another shop. But the role of the device in the amount of the punishment of the perpetrator is well-known, in that the use of the particular device intensifies the punishment of the perpetrator.

J- The provisions of the Criminal Code concerning the destruction of property shall be applied, the said crime being an intentional crime. Because the element of criminal intent is deliberate and a condition for the realization of the psychological element, the legislator has, in some cases, deviated from the foregoing principle and has found and punished the deliberate destruction of property. In England too, the psychological element of criminal law in England is direct, indirect or objective negligence.

K- Since the crime of destruction of property is one of the serious offenses to the result, therefore the occurrence of damage and loss is a condition of the commission of the crime and it is necessary that the perpetrator, in addition to the intent to commit the act (intentional crime), intend to cause harm (specific intent) to Also the owner.

L. The knowledge of the perpetrator of the property is an indispensable prerequisite for the commission of the offense and is regarded as a subject committing factors of criminal liability, namely, whether the perpetrator of the same property belonging to another assumed to have lost or lost his property. Of course, he will have no criminal responsibility.

M. The commencement of the offense of destruction may be conceivable under Note 2 of Article 675 of the Islamic Penal Code.

N- The issue of cooperation (assistance and participation) in the commission of a criminal offense of property destruction is subject to the general provisions of the Islamic Penal Code (Articles 42 and 726 of the Islamic Penal Code) and, in some cases, such as Article 4 of the Criminal Code of the Criminal Code, the Deputy These crimes are specifically foreseen. It is also related to note 4 of Article 54 of the Law on the Protection and Use of Forests and Rangelands.

6. Reference

1. A.j.Ash worth , reshaping the criminal Law,ed 1978
2. Barker.D and pad field .c , Law made simple , (Tehran.majd.ed2008)
3. card,cross and jones, criminal Law(London : Butter Worths , 13th.ed 1995)
4. Eftekhari.G , Law Text , (Tehran: Ganjedanesh.ed2003)

5. ELizabet A .martin , ox ford Dictionary of Law , ed 2002
6. Elliot .e and Quinn .f , criminal Law (Tehran :Jamal Alhagh.ed2006)
7. Garofalo(R).La criminology,5ed., Paris , Alcan ,1905
8. Rassat (M-L).,Droit penal,paris .puf,1987
9. smith and Hogan ,criminal Law(London: Butter wrths,7th ed.1992)
10. Williams.G.Text book of criminal Law (London:stevens.2nd.1983)
11. Willham jhon ,Brown: GCSE Law,(sweet and max well)ed 2005

• Terms and Conditions :

12. criminal Damage Act 1971.
13. Listed Buildings And Conserration Areas Act 1990.
14. The computer misuse Act 1990.
15. The Ancient Monuments And Archeological Areas Act 1979.
16. The Submarine Telegraph Act 1885.
17. The Post Office Act 1953.
18. The Electric Lighting Act 1882.
19. Town And Country Planning Act 1990.
20. Wild Life And Coun Eryside Act 1981.

• Websites

21. www.en.wikipedia.org/wiki/criminaldamagein_Law English Law
22. Legislast ion.gov.uk
23. Opsi.gov.uk
24. www.sarbaz.edalat.blogfa.com
25. www.vekalat.org
26. Akhundi, Mahmood, The Criminal Procedure Code, First, Publication of the Ministry of Culture and Islamic Guidance, 1989.
27. Ardebili, Mohammad Ali, Public Penal Law, Volume II, Publication of Meyan, 2004.
28. Afrasiabi, De Mohammad Ismail, Public Penal Law, Volume II, Ferdowsi Publications, 1995.
29. Emami, Seyyed Hassan, Civil Rights, First, Islamia Bookstore, 1993.