



The Feasibility of Criminalization of Refusing to Save a Suicide in Jurisprudence and Criminal law of Iran

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The Feasibility of Criminalization of Refusing to Save a Suicide in Jurisprudence and Criminal law of Iran

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Abstract

Although the “suicide” and the mere fact of committing it, following the established and accepted principles of criminal law, like the principle of “the legality of crime and punishment”, does not have a criminal description and does not warrant punishment. However, the investigation and feasibility of criminalization in the “realm” of this behavior, such as the “refusal to help a suicide who has been survived” or “someone at risk of suicide”, will not be in conflict with the principles and frameworks in the field of criminalization- in particular, when the attention of Iranian legislator is towards ethics, the necessity of social correlation and, most importantly, the preservation of human dignity in addressing the crime entitled “refusing to help the injured and eliminating the soul dangers” with a few years old is as a kind of criminal act in the form of nonfeasance. In particular, since in the considered single article that is towards the victim in order to determine a task for abandoner is limited to the dangers arising from committing various offenses by people other than the victim, and the use of the single article includes those who are victimized by their fault and even if they express regret and ask for help or infer to a change of decision, in the case the person at the risk of committing suicide, commit crime in the form of suicide by someone else, the necessity of criminalizing the innocent person’s behavior is completely rational and at the same time consistent with the judicial fairness and equity. Therefore, in this article and with the assumption that the refusal to assist such people is crime, the elements and then the various punishments are addressed after the structural analysis of the crime.

Keywords: suicide, refusal, help, nonfeasance, danger, duty



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Introduction

In some cases, criminal behavior is negative (privative) and in the form of refusing to do a duty that the law has determined its fulfillment for certain people; because the “material element” as one of the triple pillars of the realization of all crimes, is the manifestation of a criminal act in the real universe that can be assessed in both the act form (conducting a prohibited behavior by the legislator) and in the nonfeasance form.

Among this, the refusal to provide assistance to injured people and those exposed to various types of life-threatening dangers has been accepted under certain conditions as a form of criminal behavior through nonfeasance in our criminal system. Because where it is said that the preservation of human’s life is considered as a divine and holy blessing, any behavior (whether act or nonfeasance) that would cause harm to human life, will be subject to severe legislative punishment. Undoubtedly, the law of punishment for refusing to assist injured people and eliminating dangers of life as one of the legal documents - that has survived until this time and has not yet joined the desuetude laws- indicate the unequivocal support of the legislator from the “principle of non-aggression to human life” and the preservation of this kind of human dignity.

Given the fact that in the mentioned law the origin of danger is not identified that is the person himself or another, the fundamental question that is created in the mind is the feasibility of criminalization of refusing to help those at the risk of the danger of suicide; the present article is trying to answer it, because suicide is forbidden in Islam and is unlawful and many Quran, legal, and rational evidence show its unlawfulness. Therefore, in the light of the principles governing the present law, the issue of refusing to help and save a person who intends to end his life with his own will is discussed.

Undoubtedly, one of the goals of the criminal law is to create desire and willingness of individuals to behave courteously and socially accepted, which can withstand criminal responsibility in the form of various forms and, at the same time, numerous penalties in such a manner that could encourage people to act. In other words, if the ruling power wants a maximum unity and solidarity between the inhabitants of the society under their own sovereignty and, as an incentive help the community to achieve mutual cooperation, it can legislate acts in the form of laws (criminal laws) and in the cases of predetermined tasks and functions. In this case, the community achieves positive results and can prevent from uncontrollability and inattention of individuals to the interests and aspirations of other human beings (Sanei, 1995, p. 258). On the other hand, nonfeasance (as the material base of some criminal behaviors) in such cases occurs when other people carry out this duty and this is the fault of those who easily benefit from the system and democracy advantages (Fletcher, 2005, p. 101).

Although, due to some controversy over criminalization or non-criminalization of such acts that arise from nonfeasance, some European countries and some of the states of the United States



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have either turned to minimal criminalization, or that they have not determined any laws on the necessity of providing assistance to the injured or people at risk as part of such criminal behavior. However, our legislator has complied with the maximum criminalization viewpoint, considering the realities of the Iranian community and the amount of people's willingness and desire to participate in voluntary activities, as well as membership in rescue teams and groups, and the issue that since ancient times, the general duty of caring the health of the injured or individuals who are at risk is common and a kind of religious duty, and yet considered human duty.

Legal element

As we all know, for the sake of the fulfillment of all crimes, the simultaneous presence of three "legal", "material", and "psychological or spiritual" elements is necessary; we refer to these three elements as trivial elements. The present clause is not an exception to this general law and the existence of these elements is necessary in order to impose the criminal liability on the perpetrator or perpetrators and subsequent punishments for people who refuse to help the injured or individuals at risk of suicide. The legal basis of this offense is mentioned in a single article entitled "The law on punishment for refusal to help the injured and elimination of human dangers", adopted in 1975. This single article states that, "anyone who observes a person or people at risk of human danger and could prevent from the danger or its exacerbation by immediate action or assistance of others, or promptly notifying the authorities, without risking himself or another person, and despite the help or the necessity of this act, prevent to provide assistance, will be condemned to imprisonment for up to one year or a fine up to fifty thousand riyals".¹

In these cases, if the perpetrator is one of those who could make effective contributions as it is demanded, he will be condemned to three months to two years imprisonment or a fine of 10,000 to a hundred thousand riyals.

The authorities of health centers, whether public or private, who refuse to accept the injured people and refuse to treat them or give them first aid, will be condemned to the maximum sentence. The way of the payment of expenses of such patients and other related issues is in accordance with the bylaw approved by the Cabinet of Ministers.

2. Whenever people who, in accordance with their duty or law, are in a position to help the injured people or people at risk of death, refrain from necessary actions and helping them, will be condemned to six months to three years imprisonment.

¹ Based on the legislative changes that took place after the Islamic Revolution, the present division was abolished and the penalties were divided according to the degree of severity and severity based on the Islamic norms and regulations, and according to Article 19 of the Islamic Penal Code (approved in July 2013) Eight degrees are explained and described.



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3. The government is required to create and provide emergency treatment centers (emergency services) and means of transport for the injured and patients who need urgent assistance.

4. Disciplinary officers should not protest against those who are not accused themselves and have transferred the injured people to the law enforcement agencies or health centers.

It should be noted that although regarding the regulation of the mentioned bylaw in clause 1 of this article in 1986-5-1, its executive bylaw was approved by the Cabinet of Ministers in 7 articles and 3 notes, but in the case of non-aggression to those who are involved in the assistance, despite the provision of clause 3 of the single article, the legislator, due to some problems and failures that were arisen from the lack of exact and comprehensive execution of the law, inevitably introduced a law in 2001 titled "The law on prohibiting the arrest of those who transfer the injured people to the health centers". In this single article it has been stated that: "from the date of the ratification of this law, arrest of those who transfer the injured people to the health centers or to the disciplinary forces of Islamic Republic of Iran is prohibited by the above-mentioned authorities unless the person himself or other people consider him to be culprit or other evidence suggest that he is accused".

Moreover, in the clause (c) of the article 53 of the Penal Code of the Armed Forces (adopted on 2003-12-30), this offense is foreseen for military perpetrators. According to this article, "any military who perpetrate the following crime, during the duty, in any case will be condemned to six months to three years imprisonment:

A. If he tortures the patient physically or mentally;

B. If he takes over the property of the injured, patient, or a dead person;

C. If he refrains to help those who are injured or are at risk of danger while helping is of his duties."

Note- In the above cases, if the case is considered to be an example of retaliation or blood money or the property has been seized, the perpetrator is condemned to retaliation, the payment of blood money, or reclamation of the property.

Material element

In the material element, the most of criminal behaviors is in the form of action - the action which the legislator has claimed it to be a criminal offense and deserve punishment, such as robbery, deliberate beatings, adultery etc. On the contrary, there are some criminal behaviors that their material base is nonfeasance. In such crimes, the legislator specifies a duty for people, and if such people refuse to do so, they will be subject to charges and punishments- such as the offense under article 597 of the Islamic Penal Code (Punishment for 1996) on the crime of refusing of judicial



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authorities to handle complaints and claims brought under the legal conditions, or the crime of abandonment of donation (non-payment of alimony), article 53 of the law on family protection (adopted on 2012).²

Although “refraining from helping a suicide or a person at risk of it”, despite other legal conditions, can form the offender’s offense, first of all it should be noted that the nonfeasance is of two kinds: first, nonfeasance which, along with other conditions, caused the death of the person and it was not the duty of the abandoner (action), and the other nonfeasance which, along with other conditions, caused the death of the person and it was the duty of the abandoner (Shakeri & Moradi, 2008, p. 109).

1. Nonfeasance with no effect on death: in this case, the person's death occurred for a special reason. It means that the person could avoid the victim's death but he didn't. Assume that someone is drawing and person A is watching. Even if person A avoids rescuing him with the intention of murder, he is not responsible for his death because neither he was responsible for his rescue nor he played any role in that event (Shakeri-Moradi, 2008, p. 109). So, if anyone sees a person dying and doesn’t do anything to rescue, he will have no liability (Hosseini Ameli, volume 10:343). Nonfeasance Of course in this assumption some of jurists believe in discretionary punishment so that if someone is watching murder and avoids any help to the victim even with murder intention, he is only going to be discretionarily punished (Hosseini Shirazi, p. 54). So of jurists believed in punishing the person because his action is unethical and against public expediency. Therefore it is reasonable and fair due to the fact that one of goals of criminal law and punishment is to promote social behavior. In this case, forcing criminal responsibility encourages people to act properly (Shakeri-Moradi 2008, p. 109).

2. Nonfeasance which is the duty of responsible: this kind of nonfeasance may lead to death so that if the person did the considered action, the event wouldn’t have happened. It is obvious that the responsibility of person to carry out the action may be according to law, contract or custom.

Legal duty- the cases in which the person is responsible as human duty and general obligation or legal duty without intentionally accepting the responsibility, legist in law and legislator in jury and violation and infraction considers punishment. According to article 1168 of civil law: "taking care of children is the right and duty of parents". It means each father and mother is responsible for keeping and taking care of their children. If a parent sees his/her child committing suicide but he/she doesn't avoid rescuing him/her and the child dies, will the parent be responsible for the child's death? To answer this question, some of the legists believe that in contrast to specific duty of milking child which avoiding it may lead to death, the duty of parents in taking care of children is a general duty with no contrast with the 'right' in article above. So, if child's death is due to the

² Obviously, the origin of such assignments can be both the rule of law (legal) and the accepted norms of society and ethics accepted in it (ethics).



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forbearance of each one of parents, they have to be punished according to article 295 of Islamic penalty code. According to the mentioned article "when someone abandons his/her duty or responsibility and due to that a crime is committed, as he is able to do the duty, the crime will be attributed to him and equal to intentional, quasi-intentional or simple mistake, for example, a mother or nanny responsible for milking stops milking or a doctor or nurse abandon their legal duty. We can see that the subject is not only about suicide and avoiding help to suicidal and discretionary punishment in law, avoiding help the injuries but also about murder and its rules. In contrast some of the crime legists believe that the questioned case is not consistent with article 295 of Islamic penalty code because the mentioned article is responsible for specific, case and direct commitments and doesn't include general duties. Based on this, "ankal" doctor can't be included in this article but emergency doctor or therapist is included.³

Contractual duties- in these cases, the person is responsible for taking care and protecting others' lives such as a lifeguard in a swimming pool to rescue people swimming there.⁴ In fact, in addition to occupational and legal commitment in written or oral contract or some medical action such visiting or hospitalizing the person takes responsibility for protecting and curing the patient [also called specific commitment]. (Sarikhani-Aghababaii Bani, 2011, p. 84).

Custom duties- when custom considers someone as responsible for other's survival and protection. For example person A keeps person B in a room and has person C to give food and drink and protects person B. Person C may intentionally avoids giving food or protecting him. In custom, he is responsible for any injuries of person B.

The action in present study which faces crime performance is not essentially physical but also oral and moral. The example is to speak and relaxing the disappointed person about to commit suicide.

Considering avoidance to help a person injured in committing suicide (mainly unsuccessful) as a crime, this crime will be as an "absolute" crime in results and an "immediate" crime in continuity. It means that it is not essential anything to happen while avoiding to help the suicidal or in danger person or physical face much serious risks but only forbearance is enough. What is important here is to consider the danger about to happen and the accused person is capable of avoiding it. if person A avoids person B from committing suicide, it will have no contrast with crime to person C who didn't avoid the duty before disturbance of person A. although after

³ An "Oncologist" or "Listening to the Bell" is a medical device that is available and available on the phone over the course of ankly period.

⁴ From a legal point of view, when a legal obligation to conduct a verdict is imposed on the defendant, he accepts responsibility or is in a position that others reasonably expect from his actions (Mir Mohammad Sadeghi, Hossein, and Analysis Foundations of Criminal Law (translation), Shahid Beheshti University Jihad Publications, Tehran, Second Edition, 1995).



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committing, if the victim didn't improve or even got worse, the accused person has no commitment because the legal duty is to help not the result (Yazdian Jafari, 2014. p. 128).⁵

It has to be considered that some of western legists believe that avoidance or negative action has a reason itself especially in cases when interruption may avoid the event and in this case the person is capable of being punished at least as "abettor". Because if someone can prevent the other from committing suicide but he/she doesn't, actually he/she facilitates the suicide. In this case, the result is indirectly because of his forbearance and if there is a primary intention of incorporation, the penalty will be equal to positive action.

Moral element

According to general principles of penalty code, avoiding help the injuries and physical risks, avoiding help the suicidal with vital symptoms of in danger of suicide seems no reason for being absolute crime, despite some believe in its absoluteness and don't consider the actions effectiveness according to the law (Aghaiinia, 2013, p. 44).

There is no hesitation in accepting the bad faith i.e. not helping the suicidal or in danger of suicide according to its "intentional" nature. So, it is essential that the elements of such intention to be considered. In the first place, it is essential the accused person of forbearance (avoiding to help) is aware of crime in case of an alive independent human with right to live and in second place, aware of being in danger. As a result, if for example, it is imagined that a person lying in hospital or hotel corridor is dead or even it is anything but human, there will be no enough bad faith for considering psychological element of crime. Also, being aware of such person will have no danger (potentially). About the second part for bad faith it has to be said that, informing accused person can be directly such as observation or indirectly like informed by other people for example a doctor informed by telephone that his patient is in bad conditions. However, our legist used the word "observation" for informing but it seems that the reasonable interpretation is that any informing will be enough if it makes the risk dimensions clear. What the legist used the word "observation" refers to the law in 1350s when the telephone was not common, so it is natural to say "observation". But now, even the picture of event can be sent via telephone and telecommunication and it is unlikely to not consider it as a crime (Yazdian Jafari, 2014, p. 135).

⁵ Of course, some jurists in order to establish a relationship between causality and citation between Tibak's behavior and the criminal outcome believe that the result should be the crime of refusing to commit suicide in law, and according to this condition, the prevention of suicide A child by a father or a woman's suicide does not regard the husband as a criminal responsibility because the principle of suicide is not a crime from the point of view of law, so that it can not be prevented.



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It is obvious that if someone interrupts someone committing suicide for help and the person dies, as the action was helpful there will be no liability because the nature of this action is according to support related to good faith.

Avoiding help from Islamic point of view

As helping religious brothers when they need help (especially when they are in danger) is a truthful action, it can be said that The Holy Quran frequently ordered to help.⁶

This Holy book is one of the main resources of law, encourages the people to help their brothers when they are in danger and avoid losing their life by action or speech. It also considers killing an innocent person equal to killing all human and rescuing a man as rescuing all human.⁷ If they confirm others actions by silence, they will deal with its consequences.⁸ Some of the interpreters stated in second verse of holy Maedeh sura: It has to be considered that virtuousness and hatred were both mentioned in which the former pointed the positive actions and the latter has negative aspects and points avoiding illegal actions. So corporation should be both in inviting to good and fighting bad.⁹ Based on this interpretation, if someone is in danger in public, based on this verse everyone is responsible for saving the victim (Ghafari Farsani, 2008, p. 102).

Despite of Holy Quran, there are plenty of sayings in prophet Mohamad and other Leaders that emphasize on helping people when they are in danger as mentioned below.

The famous saying of Prophet as : all of you are guards and responsible for the thing you are protecting". (Almajlesi 1403, volume 72, p. 38). "the believers are brothers, if some of them help the others, I will help them on the Last Judgment" (Horemeli, 1401, V11, p. 579). The person in danger needs others to help and rescue him. If they do so, the Prophet promised to help them on the Last Judgment. This saying also mentioned the brotherhood and dependence of Muslims (Ghafari Farsani, 2008, p. 105).

In religious texts, obvious similies are mentioned for understanding this point. For example, the Prophet considers a society as the passengers of a ship that their welling is guaranteed by well-being of ship and no one can be indifferent to the security and well-being of ship (Sahih Bokhari, 1414, V:2, P:882).

Imam Ali ordered to help the needful in some of his lectures and sayings. For example he says "be aware absit omen you ignore your poor relatives"(Dashti, 2008. p. 69) and "the atonement of big

⁶ Surah al-Mobarakeh "Forghan"; Verse 4 / Surah al-Mobarakeh "Kahf"; Verse 18.

⁷ Mobarakeh Surah "Ma'edeh"; verse 32. (According to this verse, the one who rescues and rescues the soul from the danger of death is like restoring all human beings and saving death, and vice versa, the person who killed the innocent person It's like being killed by all human beings, whether it's a positive verb or a slave.

⁸ Mobarakeh Surahs A'raf, verses 164 and 165, Ma'edeh, 63, 78, and 79, and Hood, 116 and 117.

⁹ "Cooperate with you in the path of goodness and piety, and never cooperate in the cause of sin and transgression." Verse 36 of the Sura al-Mobarakeh "Nisa" can also be read in this regard.



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sins are helping and relaxing the victims" (Dashti, 2008, p. 629) and in another sayings "a friend is not a friend unless he protect his brother in 3 places: in trouble, in his absence and death" (Dashti, 2008, p. 657).

Imam Sadeq says "if a believer stops the other from what he needs while he was able to give him, the God will ashamed him on the Last Judgment and makes him blind in two eyes and hanging two arms on his shoulder and tells this is the one betrayed the God and his Prophet and keeps him in Fire" (Horemeli 1401, Volume 11, p. 599). Or, "if anyone helps kill a free muslim even with half a word, he will provoked while written between his two eyes "disappointed from God" (Sheikh Tusi, 2008, Volume 7, p. 208).

In Osoul Kafi, there is section titled "va man Esteana behi akhihe falam yaenho" including some points with the translations as below:

- 1- Imam Baqir (AS) said: Someone who does not help his Muslim brother. And He does not act to fulfill his brother's needs. He helps someone to be guilty and not reward.
- 2- Imam Sadiq (AS) said: Any man from our Shiites who want help from his brothers, He does not help it with power, God forces him that help one of our enemies. And for this reason, God will torment him on the Day of Resurrection.
- 3- Imam Sadiq (AS) said: A person who doesn't helps his brother and his efforts and sympathy and cooperation with him, He helps someone to be guilty and not reward.
- 4- Ali ibn Ja'far from his brother Musa ibn Ja'far (as) has hadith and says he heard that he said: If a man from faith brothers ask someone for help. And he does not help. Although he could help. (Al-Kalini Al-Razi, 1387 AH, pp. 72-71)

In Imamieh's jurisprudence, the issue of the salvation of the lives of vulnerable people has been mainly addressed in the form of two examples (etaam ol-moztarr) and (eltegat ol-git)¹⁰. In these two assumptions, the famous comment of the jurists on the necessity of helping under circumstances rarely refers to the responsibility of the perpetrator. Of course, some of the scholars such as Shahid Sani and the late Saheb Javaher have believed that there was no guarantee of the owner of the food. (Ghaffari Farsani, 2008, p. 274).

Ayatullah Montazeri (R) memorization of a respected jurist, a duty, and the imam of Islam, and the imam of Islam. The Taizir Ra Raya ruling on the novels of a document based on the Danish version of Daland's book, Praise be to God, was published on the front page of the book. (Ghaffari Farsani, 1387, p. 249)

¹⁰ Imam Khomeini (Volume 3): If you see a child who is missing and his guardian can not manage himself, he will reap the benefits of his own so-called childhood. They say, it is desirable and it is Mustahab to take him and take with him, but it was obligatory ...



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Despite this, there are controversy among jurists about refusing to help the injured person:

1. Opinion of opponents

Some, including the late Ayatullah Khoyi, consider abandonment as a non-existent and an non-existential outcome. He does not consider the criminal act as a documentary to the verb in the question of leaving the verb conjugate to the verb, and writes: (The existing one is created from the present and follows it and is not based on anything). (Khoyi, 1422 AH, p. 42, p. 7). Others, in concurring with this viewpoint, have contradicted the causal relation in this type of murder, in this case, due to the damage in the relation of causality, the attribution of murder to the verb of the place of doubt Is. (Najafi 1404 AH, Q 41, p. 153).

1. Opinion of Proponents

Some Sunni jurists believe that death may be a positive (verb) or supra (debauchery). On the basis of this view, leaving the verb can also cause murder, in the sense that someone arrests a person at a local location and deliberately refuses to supply him with water and food, and in the absence of his act, he died. (Odeh, 1403, p. 89).

Other jurists, including the Saheb Javaher, say: (Quitter is responsible only if it is the cause of the crime, that is to say, the punishment is punishable by punishment and not by the punishment: But all of the insurance is not subject to the guarantee if it is damaged). The concept of this sentence is that Tark is the guarantor if it is the cause of the loss. (Najafi, 1404 AH, Q 43, p. 150)

Leaving a verb alone, however, is forbidden and causes divine punishment. However, it is not a guarantee that it will be forbidden against prohibiting and disposing of (food), which is guaranteed, because the guaranty is granted only to the verb, not the abandonment of the verb, as the Saheb Javaher Have expressed. (Madani Kashani, 1408 AH, p. 150)

For example, some of the fatwa of the authorities of the present day can be attested to; for example, Ayatollah Seyed Abdolkarim Mousavi Ardebili (RA), in response to a complaint about the deaths caused by the abandonment of the act, such as the refusal of the nurse to deliver the medication to the patient at the time Specifically: (In all cases, if the quitter has an obligation and responsibility, and death can be documented in the light of the fact that he has been referred to him and he has not performed his duty, in addition to the sin, he is also the guarantor. (Abbasi - Ahmadi - Elah Bedashti, 1392, p. 47).

The late Ayatollah Golpayegani, in response to a complaint about how the watch was responsible for the death of the stone worker as a result of the strike, said: in the assumption that if the watch has not been in danger, the guarantor is not the guarantor and so The partners are busy with the



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trust in the watch and the duty they have been entrusted with guarding and He has been carelessly guarded. He is the guarantor. (Golpayegani, Volume 3, p. 289)

In the case of some opponents of the jurisprudence who have misunderstood the existence of the causative entity in this murder, it is worth commenting on the fact that the verb is left to the point where the accused has no duty in relation to the victim but where the quitter person is responsible. This idea is a matter of doubt, because there is such a relationship in terms of custom. The custom here is the killer of quitter. (Shakeri and Moradi Cundlaty, 2009, p. 117)

Prohibition of denial and duty to salvation

(Vice versa) is a lexical meaning in the sense of the unknown and the ugly phenomenon, the promise, and the current, which is contrary to the grace of God and is nasty and ugly (Sadeghi, 2001, p. 5), and in the term refers to all acts and attributes of malice that are religious and Their intellect does not recognize them and they are abusive. (Hashem, 1374, p. 208). Therefore, it is to prevent others from doing verbs or possessing qualities which are considered by the (wisdom) and (in the wisdom of them) to be blamed and ugly. (Sa'ed, 1386, p. 83). As a result of denying, the prohibition of evil is a bad deed, which actually identifies the nature of sin and crime and divides it into action (verb) and the abandonment of action (verb).

In the Hadith of Imam Ali (PBUH), we read in a sermon: "Former people were killed and destroyed because they committed sins, and their scientists remained silent and did not forbid them not to deny. At that time, disasters and Divine punishment descends upon them, so you, people, do not despise what you are celebrating, and do not forgive them, as well as the theme in Nahj al-Balaghah at the end of the sermon (Qandam) (Sermon 192): (Allah Almighty did not turn away the people of the ages of the past from their mercy, except because they abandoned the notion of good and forbidding those who did evil, for the sake of guilty and scholars For the sake of forbidding the denial, and curse his mercy).

Thus, whenever Manri [from which he can be construed as "guilty" in law and in the law as "crime"), another Muslim is taking place or imminent and in particular threatens his life with any Muslim. The universe or the noot is to prevent the perpetrator from committing that crime and prevent the crime [or sin] (neg), and even confront the guilty, if necessary, and save the victim from his clutches. . In other words, in accordance with this special institution established by the religion of Islam in order to maximize social co-operation and create sensitivity to the preservation of social life and its survival, and to instill this common sense among the people of a community whose destiny is tied to each other Each member must not only hand down good deeds but also order others to do good deeds and to do them. In addition, it is not only necessary to refrain from committing malicious acts, but also to prevent others from doing so (Kobra); since helping another, especially when necessary, is a good deed (Soghri) It follows that each person must not only be



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able to help others, especially when they are in need, and especially when their lives are in danger, but also to help others to preserve each other's life. (Ghaffari Farsani, 2008, p. 109)

Since the system of the Islamic Republic [Iran] (our policy is the same as ours), one can, with a view based on the doctrines of criminal politics, acknowledge that the category of crime and sin has been mixed together with the existence of a general and absolute relationship. Between these two options, the prevailing options that are religiously considered guilty are also criminally descriptive. On this basis, identifying the options that are considered guilty [including suicide and attempting to commit it] and ordering non-occurrence or, in other words, preventing it from obtaining it [in cases where there is no danger to humans] can be effective in contributing to the occurrence of the crime and the prevention of it and, as a result, the reduction of sin into the concept of crime and crime in a meaningful sense. (Sa'ed, 1386, p. 94)¹¹

Nevertheless, the detaining of a person who has committed suicide as a proposition of value and at the same time a manifestation of the criminal policy of Islam, which is also accepted by all, should not be possible if all the conditions are met in this Islamic institution. A tactful tone of action in the face of a normative violation called human dignity. Thus, according to the legal requirement, the assistance of both types and the refusal to refuse to commit suicide will also be obligatory, that is, subject to this religious principle, and it will have the same first verdict and, of course, interference with suicide with the aim of preventing it. It is obligatory and in case of refusal, the defendant will abstain.

The rule of wickedness and the duty to salvation

According to this rule, not only should not harm others, but should also prevent others from entering harm. In fact, the rule states that, firstly, divine rules are imposed on people and, secondly, the inclusion of rules and regulations, whether positive or negative, in certain cases causes some harm to others, those rules are high. To be (Researcher of the groom, 1380, p. 166). The obligation of the observer to dispose of the damage from the other causes the loss of the damage. The copper should be ruled out.¹²(Ghaffari Farsani, 2008, p. 112)

Legal requirements for the crime of refusing to commit suicide

possibility and ability to help

¹¹ (Because) Some of the cases that according to some jurisprudents are inappropriate can be considered as violations of law and offenses. (Haji Deh Abadi, Mohammad Ali, Immortality and Prohibition, and Criminal Policy, Jurisprudence and Law, First Year, Summer 2004, p. 106)

¹² Of course, it should also be noted that the supervisor's duty is where the disposal of losses from the other does not result in his own loss.



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Regarding the use of the word (able) in the unified article, it seems that if the person is obliged to help and otherwise has a criminal responsibility that has the ability and ability to do so.

In order to realize the practical help, the accused person's ability must be considered, and this ability is both physically and mentally, the accused first, have the physical readiness necessary to help, and secondly, mentally in favorable conditions for help. Be With these interpretations, if a type of community does not have the ability to help, then the accused will be responsible for the particular abilities that it has, and if it does not, it will be responsible (ibid., 1393, p. 128).

Existence of a person at the risk of suicide or suicide (unsuccessful)

Obviously, where the word comes from (person), it is a human being and a person who has the ability to survive. Indeed, for human life, two stages (births) and (death) are like the parentheses that embrace the beginning and the end of his life, and whatever comes out of these two brackets as a human being, it will not be the true meaning of human life. But can the fetus be joined to the above statement? Refusing to help the embryo at risk. If it does not help mother, there is no disagreement about the crime (ibid., 1393, p. 129). But if the mother died of suicide and still the fetus is still alive? In response, it should be said that if the embryo has stages from the stages of development and development, the spirit has been blown up in its body, it can be the subject of this crime, otherwise, because in the rules of the criminal ruler, the criterion of blowing up the soul To determine different and different punishments, the Diya has considered Diya to be the perfect Diya to destroy the embryo.¹³

After birth, the child is also protected by the law as an adult. However, according to some, the refusal to provide assistance to the child in Iran's criminal justice system has a special document (Yazdian Jafari, 1393, p. 130).

In explaining the concept of (danger), it should also be said that the purpose is the real danger that the body of the body threatens against.¹⁴ The perinternate has used the term (John) in this regard. The meaning of the term (John) includes all the risks to the victim's body, not the dangers that merely threaten his life. Thus, if the refusal to provide for potential assistance does not lead to suicidal death, it is possible to cause one of the waste to be discovered. The offense of the subject matter has been fulfilled. The mention of the word (injured) in the term "danger of life" in the Penal Code of the Armed Forces also confirms this claim.

Failure to quitter to intervene in creating a dangerous situation

Regarding the origin of the risk, it does not differ from the fact that it is caused by an illness (acute or chronic), an incident or a criminal offense of a third party, and even the victim itself, which is

¹³ Section C, Article 716, of the Islamic Penal Code (approved in 1392).

¹⁴ The meaning of "real" is that the probable risks arising from assumptions or imaginations are not enough (Equal, Jean, Crimes Against Persons, Volume I, Translation: Majid Adib, First Edition, Tehran, Publishing, 2007).



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explicitly included in the single article in relation to the refusal to provide assistance. More than ever, it will showcase Mechhar. The use of the term (error) for a third party or victim does not mean that if a hazard is deliberately created, it can not be helped. Only if assistance is required in this case involves a crime against the risk factor, the conditions for the legitimate defense must be respected (ibid., 1393, p. 131).¹⁵

It should be noted that in none of the above cases, the defendant was not accused of causing and presenting a dangerous situation, and in danger of being subjected to harmful interference. However, if a person (a) was stabbed with multiple knives B) put him in jeopardy and refuse to include him after the victim's help in ending the suffering of the injuries, and, as the case may be, He is sentenced to death for the crime of murder or theft.

Exceptionally, the legislator considered the exacerbation of punishment in the event of an accident (inadvertently) and in the event of accidents. The abandonment and refusal of assistance by the perpetrator of the damage, according to Article 719 of the Islamic Penal Code (imprisonment of 1375), have been regarded as an exacerbation of punishment (Yazdani Jafari, 1393, p. 132). In other words, in light of the abovementioned clause, which obliges drivers to rescue the victims of driving accidents from the inclusion of a single article, even if the victim attempts to suicide himself on the road, the driver is obligated to save such an injury. In particular, if the victim accidentally loses his consciousness.

No risk for yourself or another

That is, the quitter who has the ability to help a person who is injured or at risk of suicide, but it is dangerous for him (Tark). However, in this single article, indifference to (saving and thus preserving) the lives of others is a disgrace and disorientation, but what prevents the achievement of a meaningful crime is the danger to the accused and even to others. Of course, it should be noted that according to the aforementioned statements in the single article, the danger to the accused or others can prevent the commission of a crime is a threat with or close to the nature of life and does not include any milder risks such as financial risk (ibid., 1393, p. 133). However, according to some elements, the appearance of a single substance involves any financial, moral, and honorable risk, provided that this danger is significant (Hosni, 2009, p. 6).

It seems that what made it possible to include such a condition in the unitary article of the Humor is not to give preference to another's life, since the existing legal protection is inevitable until the defendant's body and soul are at stake in the verb's tune, otherwise The preference (preferred preference) will be that it is void and lacking rational and logical reason.

If the assistance of the accused involves a criminal offense against a third party, such as to eliminate the risk, it is necessary to destroy and destroy other property, it will be from the instances

¹⁵ Refer to Note 1 of Article 156 of the Islamic Penal Code (approved in 1392).



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of the justified factor (law enforcement of Ohm) because the verb or the verb is committed, each Which leads to the fulfillment of a criminal offense (on the one hand, the crime of abandoning assistance and, on the other hand, the crime of the destruction of other property), and if the defendant chooses the destruction of property, his action pursuant to article 158 (b) of the Islamic Penal Code (dated 1392) Will be justified (Yazdin Hafari, 1393, p. 134).

Punishment

With all other terms and conditions in accordance with the principles mentioned in the single article and the abandonment of the areas, the punishment of the verb in the form of refusing to commit suicide may be a simple punishment or a series of punishments that are described below:

The simple punishment of this crime is to imprison one year or a fine of up to fifty thousand Rials. Given the non-compliance with the minimum sentence of imprisonment, a documentary evidence of the law of collecting some government revenues and its consumption in certain cases, the probability of imprisonment of less than ninety-one days will not exist, and in cases where the judge wants to be less than those 91 days) should inevitably have to turn it into a fine. On the other hand, in accordance with Article 67 of the Islamic Penal Code (approved in 1392), the court (may), instead of imprisonment, impose the sentences for substituting the imprisonment referred to in Article 64 of the same law. In the case of a cash penalty, it should be noted that while reviewing the rate of inflation over the past several years in the country, a revision of the amount of the rial of this type of punishment is necessary and, at the same time, indispensable.

Given the classification of sentences in the Islamic Penal Code, and in Article 19 of the Penal Code, this crime is punishable by a sixth degree. Also, by virtue of Article 23 of the Penal Code, the court (may) sentenced a person who has been sentenced to such a degree by refusing to provide assistance to a suicidal person or at risk of suicide, in accordance with the conditions laid down by law, proportionate to the crime. Committing and attributing to one or more of the penalties (supplementary) fifteen penalties in this article.

The Iranian legislator, in the face of exacerbated punishment, has foreseen three conditions for this crime;¹⁶

- 1- ***Possibility of effective assistance in accordance with the requirements of the profession and occupation of the perpetrator:*** In this case, Tark's punishment increased from ten to one hundred thousand rials for imprisonment from three months to two years, or a cash penalty. The main reason for the intensification of the punishment is that the legislator, on the basis of the community and the rule of law, holds such additional expectations for

¹⁶ The qualifications are all three types of "personal qualities", which means that in such cases, if they are to prosecute the criminal conduct of the accused, partner, or prosecutor, their punishment will not be exacerbated.



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assistance and assistance, for example, a nurse or a rescuer who is witnessing another's life (although at that moment (Not doing his duty) (as he refuses to help) does a much worse and more dissuasive practice than ordinary people and, as a result, deserves more severe criminal punishment.

- 2- ***The responsibility of the perpetrators in the treatment centers:*** If the offender has a responsibility in health centers (whether public or private) but refuses to accept a person injured or at risk of injury, the maximum sentence will be two years' imprisonment or a fine equivalent to fifty thousand rials.
- 3- ***The existence of a contractual or legal duty to assist the victim:*** Regarding the relation between this clause and the two preceding clauses, it should be said that in the first qualification, although the perpetrator is professional, it does not seem to have a duty in that situation, and in the case of the second quality, although due to responsibility, assumes the existence of a duty, but oversees the authorities The particular thing that is present at the scene of the incident but refuses to help is different. In the latter case, he has to be convicted with the third state, not the second (Yazdiyan Jafari, 1393, p. 139).¹⁷

Conclusion and Recommendations

Not only paying attention to the crime of refusing to help a suicidal person or at risk of suicide does not have any research and research record, but the crime of refusing to provide assistance to injured persons, despite its highly regulated history, is so comprehensive and sufficient to the point of view. The attention of the members of the pen in the field of criminal law and criminology has not been addressed. Considering the present excerpt, it will be important that, although the criminalization of suicide and, consequently, the punishment of an immortal body, has no punitive and deterrent effect, serious consideration is given to issues such as (human dignity) (works Positive solidarity and social unity), (strengthening the sense of altruism), (increasing the spirit of collectivism), and (co-operative) and, more importantly, (a comprehensive effort to reduce the rate of suicide rates (at least unsuccessful) as a discredited and opposed event With the accepted norms of the society) makes it possible to take a serious and profound look at this crime because it can be used to rely on the same components. Save the lives of people at risk, even in the case that the source must have been created, he said. Based on this source as well as the rules of the custom, we can assign the said assignment to the penal code and determine the violators of the criminal and legal proceedings.

In the single article, the lesson of the danger that must be noticed is that the consequent liability for the crime is not limited to the dangers of the commission of crimes, and the use of a single article does not even cover the cases in which the victim is at risk due to his fault. It covers.

¹⁷ In this case, in addition to the additional punishment, there is also the possibility of issuing a sanction for social exclusion documented in Article 25 of the Islamic Penal Code (cp. 1392).



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However, some undermine the connection between the obsessive passivity and the harm done to the conviction that the victim should make a deliberate sacrifice for the victim because if the victim Awareness of the results of the act deliberately for himself, creating a danger, should not oblige others to interfere with his liberty and demands, and forced him to be condemned to the jurisprudence, but the necessity of accepting this behavior in the form of expressing remorse and regret and seeking assistance or inference The change, too, is completely rational and also in the sense that he was abusive in committing a crime in the form of suicide by someone else. At the same time, it is consistent with fairness and justice.

Of course, it should be noted that the present law enforcement agents, like other penal codes, had to follow a moderate course, while taking into account public persuasion in order to help those who were injured or in exile Damage (serious), every day, does not expose the countless people to the excuse and the privilege of departing from the lines drawn by the prosecution and as a result of punishment because the criminal laws, and in particular the single article, can somewhat remove the existing vacuum and shortcomings Is tangible in this field, and obviously, while paying attention to the obvious and hidden aspects of suicide, especially from the mental-psychological point of view The strengthening of other cultural, familial, social, and ... structures around the person was dangerous in this regard.

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