



Crime of destruction of public and state-owned properties in Iranian law

Zabih-Alah Khansha¹, Samad Tavakolie Zanghir^{2*}

¹Department of Materials Engineering, Najafabad Branch, Islamic Azad University, Najafabad, Iran

²Faculty of Engineering, Shahrekord University, Shahrekord, Iran

ARTICLE INFO

Article history:

Received 06 Sep 2017

Received in revised form 08 Oct 2017

Accepted 19 Oct 2017

Keywords:

Crime,

Destruction,

Public properties,

State-owned properties,

Punishment,

Iran's penal code

ABSTRACT

Objective: Destruction of properties means deliberate removing or defecting material property owned by others that can be punished according to legal regulations. So, this research was conducted with the aim of analyzing the crime of destruction of public and state-owned properties by descriptive – library method. **Methodology:** The data were collected by taking notes from legal sources and these results were obtained after analyzing: in Islamic law based on the principle of waste, verdict is squanderer to redress the civil liability damage and whereas damage to the property of others is an illegal action that the committed act of destruction is punishable by imprisonment. **Results:** The crime of destruction of public and state-owned properties in addition to the common elements, all crimes have specific elements in Iranian criminal law. Its legal element not only is predicted in Islamic penal law of punishments: wasting and destruction and burning property and documents; Articles 675, 677, 680, 681 and 683; destruction of historical, cultural and religious properties Articles 558, 560 and 564; wasting and burning and destruction of public properties and documents, Articles 543 to 546 and 682, and destruction of facilities and establishments and public properties used Articles 687 and 688, but also in different regulations of Article 7 of the law of punishing offence related to railway; Article 1 to 4 of the Penal Code for violating water, electricity, gas establishments and telecommunications; Article 40 of the constitution, Article 12 of the Penal Code of smuggling weapons and ammunition and Article 4 of Regulations of Act enacted 2012 the Council of Ministers; Article 1 of the law of conservation and protection of natural resources and forest reserves approved in 1992. **Conclusion:** In accordance with Article 286, if destruction is to deal with the Islamic Republic, it will have the enemy punishments.

1. Introduction

Of cases that legislators in various countries have criminalized it is the crime of destruction of public and state-owned properties. For example, in English law, according to section (1) "the destruction of criminal law" approved in 1971, penalty of destruction or damage to properties belonging to others non-intentionally or intentionally is a maximum of ten years in prison and the penalty of burning is a maximum of life imprisonment (Mir Mohammadi Sadeghi, 2001) in this field, legislator of Iran is not quiet and somehow has criminalized this crimes. One of the things that may happen in the crime is the destruction of state-owned properties. As we know public properties that are at the disposal of the government have been exploited to impose with public interest approach and the purpose of this productivity is prosperity, welfare and social security. When these properties are molested, they are supported by the government or related authorities and in some cases, committed is sentenced to legal penalties or compensation. If the person in addition to the destruction of public properties destroys state-owned properties, based on the law will be punished. In this regard, according to Article 40 of the constitution, no one can perform any action for injury to others or violation to public interests. In addition, according to Article 22 of the constitution of dignity, life, property, rights, residence, and occupation of the individuals are inviolate, except in cases that law to be determined (Katouzian, 1992).

* Corresponding author: Samad.TavakolieZanghir@gmail.com

DOI: <https://doi.org/10.24200/jsshr.vol5iss04pp9-12>

Article 44 of the constitution also has cited to some examples of public ownerships that in the economy can be a source of productivity. This sector is one of the parts of the economic system of the Islamic Republic of Iran that has a special place and it is referred to the public sector ... public sector (including all major industries, mother industries, foreign trade, major minerals of banking, insurance, power supply, dams and large-scale irrigation networks, radio and television, post, telegraph, telephone, aviation, shipping, roads and railroads, etc. these are at the disposal of government as public ownership). Destruction not only creates civil liability for compensation, but also in terms of the law says it is a crime and is punishable (Safai and Imami, 2002). Therefore, there is a crime named destruction if the offense is committed, the offender will be punished. Therefore, law enforcement and judicial authorities are obliged to deal with the aggressors to public and state-owned properties in the way and manner that is specified by law. Now it must be considered how the view of Iranian legislator is to such crime and by what mechanisms has fought or prevented crime of destruction of public and state-owned properties. Accordingly, this article analyzes the crime of destruction of private and state-owned properties in laws in Iran (Katouzian, 2003).

2. Materials and methods

2.1 The definition of concepts and terms

2.1.1 Crime

Crime is literally synonymous with sin, transgression, iniquity and transgression (Dehkhoda, 1998; Ibn Manzur, 1984). And the plurality of it is crimes (Amid, 1996).

Legally, crime is a behavior whether the act or omission for which the penalty is determined by law (Article 2 of the Penal Code Act of 2013).

2.1.2 Destruction

Destruction means being havoc, destroy, disrupt, corrupt or to be not used the property (Katouzian, 2008).

In terms, it means the intentional damage to property or object belongs to others that lead to impairment or loss of it (Walidi, 1997; Habibzade, 1994).

2.1.3 Public and state-owned property

Public property: in accordance with Article 23 of the Civil Code, the use of properties that not has a special owner, in accordance with the relevant laws to them. In fact, in contrast to the properties that are the property of individuals, there are properties that are not the property of individuals. These properties are in fact common and public, including properties that State or other public establishments are known for its occupants.

State-owned property: in the view of Katouzian, (2009), state-owned properties in the general sense can be divided into two categories;

1. The properties that are state property: public institutions have the ownership rights like other individuals on these properties. Although the rules have limited the state captures in these objects somewhat, but the state right on state-owned properties is like the right of ownership of individuals on other properties (Najafi, 1983).

2. The public properties and commons: that is ready for direct use of all people or assigned to protect the public interests and the government can handle it for the authority on public, such as bridges, museums, public places. In fact, only this category of objects not has certain ownership and other state-owned properties have certain owner. For example, commercial ships, properties that governments are allocated to form banks and private companies, and leaving without an heir, and forests and uncultivated lands around the city is considered the state property (Katouzian, 2009).

2.2 Crime of destruction in Iranian law

2.2.1 Islamic Penal Code enacted 2013

Basically, any type of crime occurred has different elements as the material, spiritual and legal elements. Each of these elements are formed in its own crimes that acquiring each of these elements depends on the type of crime. In this respect, it may be formed a particular crime with the realization of all three elements or that the crime to be occurred by establishing one or two elements. So for establishing crimes not requires generally this issue that necessarily, all three elements must be added to the crime to be achieved in real meaning. Based on this, any discussed element for the crime of destruction of properties has a special feature which is as follows:

2.2.2 Legal element

1-destruction in order to deal with the government: "Whoever widely, committed crimes against the physical integrity of persons, offenses against internal or external security, publishing lies, disturbing the country's economic system, burning and destruction, distributing microbial and toxins and dangerous materials or setting up centers of corruption or complicity in them in a way that causes severe disruption of public order, insecurity or major damage to the physical integrity of individuals or public and state-owned properties, or the spread of corruption or prostitution largely, he is considered a corruptor and sentenced to death "(Islamic Penal Law Article 286).

2-wasting and destruction and burning properties and documents and animals: Whoever intentionally burns building or ship or aircraft or factory or warehouse and in general any residential area or mine or forest or a place for settlement or harvest or any type of crop or trees or gardens or farms owned by others, he is sentenced to prison from two to five years (Islamic Penal Law Article 675).

Note 1- if above actions are to deal with the Islamic government, they will have enemy punishments.

Note 2- the punishments of starting above offenses will be six months to two years in prison.

"Everyone who destroys movable or immovable objects owned by others, damages them in any manner, wholly or partly is sentenced to imprisonment from six months to three years "(Article 677 Islamic Penal Law).

Anyone who deliberately and without the need kills the licit meat animal belonging to another or animals that hunting them has been banned by the government or poisons or kills or defects them will be sentenced from ninety one day to six months imprisonment or a fine of one million to five hundred thousand Rials to three million Rials"(Article 679 Islamic Penal Law).

"Whoever contrary to regulations and without legal authorization acts to hunt or catch animals and wild animals protected will be sentenced from three months to three years imprisonment or a fine of one million and half to eighteen millions Rials" (Article 680).

"Whoever knowingly burns deeds and offices and other government documents or wastes in any other way; he will be sentenced to imprisonment from two to ten years "(Article 681 Islamic Penal Law).

"Any kind of plunder and destruction of properties and goods, commodities or goods to be overcome by a group of more than three people and if they not known as enemy, they will be sentenced to imprisonment from two to five years "(Article 683 Islamic Penal Law).

"Everyone cuts trees as mentioned in subject of Article one of green space, knowingly, intentionally and contrary to the rule or causes to destroy them, in addition to compensation, he will be sentenced to imprisonment from six months to three years or a fine of three million to eighteen million rials"(Article 686 Islamic Penal Law).

3-destruction of historical, cultural and religious properties: Article 558: "Anyone who destroys all or part of the buildings, places, enclosures, historical or religious and cultural collections that has been registered in the Iran's national list, or decorations, equipment, installations, objects and scripts and motifs appointed or existing in places, which independently also have cultural, historical or religious prestige, he will be sentenced to imprisonment from one year to ten years in addition to compensation. "

4-wasting and burning and destruction of properties and governmental documents: Article 543: "If something or a location based on officials order is sealed and someone knowingly breaks or eliminates them or committed an act which is considered seal as fade or breaking, the committed will be sentenced to prison from three months to two years".

5-destruction of equipment, facilities and properties for public use: "Everyone committed destruction or arson or vandalism or any other disabling in the equipment and facilities used by the public such as water and sewage networks, electricity, oil, gas, post, telegraph and telephone facilities and centers of frequency and microwave (telecommunications) and broadcasting and their related facilities including dams and canals and branching plumbing and electrical power and transmission and telecommunication lines (earthy, aerial and optical cables) and production, distribution and transmission devices that is created by the expense or capital of the state or the common capital of state and the non-public sector or by private sector for public use as well as in traffic signs and other symptoms that are installed to maintain life of people or provide transport facilities and roads without that his purpose is disturbing the public order and security, he will be sentenced to imprisonment of three to ten years "(Article 687 Islamic Penal Law).

2.2.3. material element of destruction

Some issues are raised in material element that is similar in all offenses relating to the destruction. Common issues in material element include the following:

The act committed: the crime of destruction is, including crimes against properties and the material element of that positive material act is foreign. So omission cannot be the subject of crime of destruction. Even though legally about the trustee, wastage that requires omission and causes responsibility of trustee, but in Criminal Matters, violence to achieve positive material action is necessary that as damaging property, is effective in the authorities. Damage to property may be made directly or indirectly, also may cause destruction and damage of property totally or in part, but if the destruction caused to damage physical integrity of human beings, the issue is different, and may the act committed as an independent special crime of murder and assault be investigated and punished.

The means of crime: in the crime of destruction, means not effects the realization of crime. So that crime of destruction is not like scam that the means to be condition in its realization. But the means in intensity of the punishment is effective, as in Article 678 stipulated: If the crimes are occurred by explosives, the punishment will be two to five years in prison.

Subject of crime: in the crime of destruction, the subject of crime must be rateable property. The question raised is that which kind of property is the purpose of legislator in the crime of destruction? Whether the property should be movable or immovable only, or both can be the subject of crime?

2.2.4 Spiritual element of crime of destruction

In most of intentional crimes what constitute the spiritual element of the crime is the will of the perpetrator to commit an act contrary to the Criminal Code or refrain an act that is obliged whereby the Penal Code while the result of action is the purpose of agent. But in some criminals, crime cannot be realized unless the intention of committed is fraudulent harm or intention. In other words, in this case of spiritual element, crime is not only intention and intent to commit an act contrary to the Criminal Code and but also intend to harm or fraudulent intent, which is also the elements forming spiritual element that is called certain bad intention.

It should be understood that what constitutes spiritual element of crime of destruction is bad intention in special or general meaning, in other words to be criminalized the act of destruction, is intention enough from committed or it is committed for self-interest and non-intention to harm the owner or, it is required committed act to harm the owner intentionally for realization of crime of destruction?

In the former Penal Code and the law of sanctions, the general bad intent is not considered enough to realize crime but criminal should intent to damage others and if someone commits a crime of destruction but not damaged others, it is not occurred crime due to non-fulfillment of certain bad intention, because the crime of destruction is the bound crimes and not absolute and realization of loss or destruction or burning of property violated was necessary. But in the new Penal Code, basically, the realization of general bad intention to form spiritual element of crime is sufficient and in some cases if the act committed is with intent to harm the owner or dealing with Islamic government, it is considered the cases of intensity of penalties.

3. Discussion and results

3.1 Other rules

3.1.2. Constitution

If the person in addition to damage public properties destroys state-owned properties, he will be punished based on law. In this regard, according to Article 40 of the constitution, no one can use his actions in a way for damage to others or violent public interests. In addition, according to Article 22 of the constitution of dignity, life, property, rights, residence, and occupation of the individuals are inviolate, except in cases that law orders.

3.1.3. *The law of punishment for violating water, electricity, gas and telecommunications Act of 1972*

Anyone committed destruction or arson or vandalism or any other disabling to disturb public order and security in technical installations of water, electricity, gas and telecommunications and equipment and their accessories ranging from dam, canal and branch of piping and devices of generation, transmission and distribution as well as devices telecommunications and state communications such as telephone and telegraph and microwave and radio and television and means related to the cost of state or with common capital of the state and private sector or from the private sector to general use created will be sanctioned to solitary confinement from three to ten years and if committed is from organizations related, he will be sentenced to the maximum penalty (Article 1).

3.1.4. *The Penal Code of disruptors in oil industry Act 1957*

Anyone who burns deliberately and intentionally any of the oil industry's major units such as wells or centers of separating oil from gas or centers of collecting oil or refined devices or oil capacitors or major load centers or major dock or pumping stations or ships carrying oil or centers of power generation or departments or oil stocks or by any other means destroys, will be sentenced to the death penalty (Article 1).

4. Conclusion

The results obtained from the above is that legislator has had a strict view in the field of crime of destruction of public and state-owned properties, one of the cases that the law has criminalized in this area is Article 683 of the Penal Code that based it, any kind of plunder and destruction of properties and goods, commodities that from more than three people to be overcome, if they not recognized as enemy, they will be sentenced to imprisonment from two to five years. According to Article 618 of the sanctions of Islamic Penal Code, anyone who causes disruption of public order and peace and tranquility with unusual movements or attacks to people or the business will be sentenced to imprisonment of three months to one year and to 74 lashes. It should be also mentioned that in special laws like the law of punishment for violators of industry, the law of fair distribution of water is criminalized. As Article 40 of the constitution, no one can act for damage to others or detrimental to public interests. In addition, according to Article 22 of the constitution of dignity, life, property, rights, residence, and occupation of the individuals are inviolate, except in cases to be sanctioned by law. In addition, the Penal Code has considered weapons and ammunition and the holders of illegal weapons and ammunition, adopted in 2011 transporting, storing, sales and distribution and construction and assembling the explosives as offense and for perpetrators of such crimes are considered from 3 months and one day to two years in prison.

REFERENCES

- Amid H. 1996. Amid dictionary, publishing Amir Kabir.
- Dehkoda, A.A. 1998. dictionary, Tehran, Tehran University Publishing and Printing.
- Habibzade, M.J. 1994. Dedicated criminal law, Tehran, Samt publishing, first printing.
- Ibn Manzur, M.M. 1984. Lisan al-Arab, Qom, publishing literature of Qom Seminary.
- Katouzian, N. 2009. Property and ownership, Tehran, Mizan publication, twenty-sixth printing.
- Katouzian, N., 1992, civil rights of family, Tehran, Enteshar Company in cooperation with Bahman Borna.
- Katouzian, N., 2003, Family Law, Tehran, Enteshar joint-stock company.
- Katouzian, N., 2008, Family Law, Volume I, Tehran, Mizan publishing.
- Mir Mohammadi Sadeghi, H. 2011. Destruction of historical and cultural properties in Iranian criminal law, procedure Magazine, 27, 15-10.
- Najafi, M. H., 1983, Javaher alkalam, Tehran, Daralktb Alaslamyh.
- Safai, S. H. & Imami, A., 2002, Family Law, Tehran, Tehran University Press.
- The law of punishment for violating water, electricity, gas and telecommunications Act of 1972.
- The Penal Code of Disruptors in oil industry Act 1957.
- Walidi, M.S. 1997. Dedicated criminal law in detail rules of destruction of property and intentional loss of documents, Tehran, Dad publishing, first printing.

How to Cite this Article:

Khansha Z., Tavakolie Zanghir S., Crime of destruction of public and state-owned properties in Iranian law, ,

UCT Journal of Social Sciences and Humanities Research 5(4) (2017) 9–12.
--