

A Study of the Differential Criminal Policy of the Iranian Legal System in Conditions of Military War

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Abstract

Decision-making and the adoption of necessary measures during exceptional circumstances constitute one of the essential duties of state authorities, particularly in relation to the fundamental principles of criminal law and the system of crimes and punishments. Such decisions inevitably arise from abnormal conditions that compel political leadership to deliberate on appropriate methods of confronting emerging threats through legally defined obligations and prohibitions. Hot warfare—that is, direct military confrontation between states—is no exception. Rather, it generates a legal environment in which firmly established criminal norms must address issues such as specialized criminal procedures, dedicated courts, war-related offenses, binding orders of competent authorities, legislative deficiencies, declarations of war, and the formal identification of a wartime situation. Despite this, the criminal policy of the Iranian legal system—while adhering fully to international law, respecting the territorial integrity of other states, and abstaining from aggression—remains fundamentally grounded in peaceful principles. However, this should not be interpreted as passivity in the face of violations of Iran’s land, sea, or air sovereignty. On the contrary, backed by the authority of the Leader of the Islamic Ummah and the courage of the nation’s armed forces, the Iranian legal system foresees a decisive and overwhelming response to any act of aggression, in accordance with the statements of the Supreme Leader, Imam Khamenei. Accordingly, the present study explores the criminal policy of the Iranian legal system during conditions of hot war, aiming to elucidate ambiguities, conceptualize the governing principles, and clarify the framework of wartime criminal policy through a structured synthesis of relevant concepts and norms.

Keywords :wartime conditions, criminal policy, differential criminal policy, law, military war.

Extended Abstract

The criminal policy of the Iranian legal system in times of military conflict is a complex and multifaceted issue that requires tailored legal responses to the unique challenges posed by warfare. This paper explores the necessity and framework for a differentiated criminal policy during wartime conditions in Iran, drawing upon both legal principles and the particularities of the wartime context.

The study begins by emphasizing the importance of state authorities making timely and appropriate decisions during exceptional circumstances, especially in relation to criminal law and the corresponding punishments. In wartime, traditional criminal procedures may not suffice, as the intensity of conflict and the urgency of responses necessitate specialized legal approaches. The article investigates the nature of these differentiated responses and their legal and practical implications within the Iranian system.

The paper examines the concept of "differentiated criminal policy" within the context of military conflict, focusing on how the Iranian legal system addresses wartime offenses, such as espionage, collaboration with enemy forces, and sabotage. By analyzing the legislative framework, including relevant provisions in Iranian criminal law and international law, the study critiques how the current legal tools are applied to wartime crimes. Special attention is given to the application of *ifsād fi al-'arḍ* (corruption on Earth) as a legal category for severe crimes during wartime, exploring its consistency with traditional penal concepts and its compatibility with the broader goals of wartime justice.

In particular, the paper highlights the necessity for specialized courts and procedural adaptations in times of war. The research also discusses the role of the Iranian government in implementing such legal responses, while also considering the international legal standards governing armed conflict, including the protection of civilians and non-combatants.

The study provides a critical assessment of the existing legal provisions and points out the gaps in the criminal justice system when addressing wartime crimes. It argues for a more robust framework that balances the need for swift and decisive action with respect for due process and international human rights standards. Furthermore, the paper discusses how the Iranian legal system might further refine its wartime criminal policies to ensure that they are consistent with both domestic law and international obligations.

In conclusion, the paper suggests several reforms to enhance the effectiveness and fairness of Iran's criminal policy during military conflict. These include clearer definitions of wartime crimes, improvements in judicial procedures, and the establishment of specialized courts to handle such cases. The research ultimately calls for a comprehensive review of wartime legal policies to ensure that they remain just, efficient, and aligned with both the country's legal traditions and international human rights law.

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