

Research Paper

Sport in the Islamic Penal Code of Iran: from protection of Sports Activities to the Corrective and Educational Role of Sport

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Abstract

Today, sports plays an important role in social activities. Sports has amateur and professional fans. Sports has many positive effects on society. Sports contributes to the formation of peace in society. Sports is also effective in reducing crime and correcting criminals. The Islamic Penal Code of Iran pays attention to sports and sports activities. There are two articles concerning sport in this code. Article 43 views sport as a way to correct the offender, and Article 158 of the Islamic Penal Code does not criminalize sports activities under certain conditions, even if they are a crime. This descriptive-analytical research has tried to examine the role and position of sports in this law. The inclusion of these two articles in the Islamic Penal Code shows that the legislator has tried to use the educational effects of sports to correct criminals and to provide legal protection to athletes who commit crimes in sports. The Islamic Penal Code provides both criminal protection for sports activities and the corrective role of sports in society.

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Introduction

Sports is one of the most engaging topics in the world today that different countries deem fit to deal with in different ways. Engaging with sports is not just limited to being professional or amateur athletes or other sports personnel, but also as fans, audience, and supporters of different sports all over the world. Sport influences public opinion, and so governments try to achieve their goals through sport and use sport as a form of public diplomacy. In today's world, modern sport has a lot to do with domestic and international politics and it is believed that sport can play a positive role in promoting development, peace and resolving political conflicts. Large sports communities such as the Olympics and World Cups can bring countries together and lead to closer and more intimate relations between countries (1)

There are strong theoretical arguments for the potentially positive contribution that sport can make to reduce the propensity by young people to commit crime.(2) Some authors believe that sport helps to prevent crime to some extent (3) Some believe that sport activities will reduce the desire for committing a crime (4)

Of course, some research also shows that there is no relationship between exercise and crime prevention. sports participation was not related to juvenile delinquency. (5) Nevertheless with outbreak of different misdeeds in sport, like sports betting (6)Doping, Violence,

corruption and ... in sports communities which their undesirable results will affect athletic morale and human dignity(7). For example doping is illegal and threats athletes' reputation(8).

Therefore, it can be claimed that one of the methods of crime prevention is the spread of sports in society, especially among young people. Of course, in sports activities, crimes may also occur. The main question of this research is what is the view of the Islamic Penal Code of Iran on sports and sports activities and to what extent is it support from sports?. The present article tries to answer the question of the position of sport in the Islamic Penal Code of Iran with a descriptive and analytical method.

Society needs to Sport free of violence

Peace is a universal ideal and one of the most important necessities of our time and forms the foundation of human life. The progress of society, peace and happiness All need peace to be realized. Peace is not just communication but peace is the exchange of thoughts and mindsets, mutual love and acceptance of each other. The founder of the modern Olympic movement and sports theorist, Baron Pierre de Coubertin, sincerely expected sports grounds and stadiums to be a place where glorious competitors compete with each other to achieve to olive branch as a symbol of peace (9). (Goodarzi et al. 2012) studied the relationship between sports and politics by examining sports incidents

and states' policies towards it and concluded that sports have minimized political tensions between states(9). (Faghihisatari and Rezaiirad 2007) research shows that sport has reduced crime and some states have expanded the use of sport among the population, especially the young due to their lack of inclination to crime and social corruption (10). (Keim 2006) discusses the role of sport as an opportunity for community development and peace building in South Africa and concludes that the methods and processes of holding sports competitions are important in making peace through sport(11). (Parry 2012) by Examining the role of sport in maintaining peace, has been concluded that sport not only has the capacity to create international peace, but also the ability to maintain peace(12).(Spaaij and Burleson 2012) discussed the role of peace in the London 2012 Olympics and concluded that the role of peace in this tournament was small and understanding of peace and peace-making remains poorly developed within the peace-making discourse espoused by the Olympic movement(13) . Sports and sporting competitions can prevent conflicts that disrupt peace. They can be very effective in creating and strengthening peace and tranquillity after a conflict. (Cárdenas 2012) examined the role of sport in development and peace and concluded that sport is a good tool for resolving disputes in times of conflict and poverty alleviation to achieve peace(14).

The United Nations has also considered sport as a tool for peace and its establishment and perpetuation, and has referred to this in Resolution 58/5 of the General Assembly (A / RES / 58/5).(15) The 2030 Agenda for Sustainable Development underlines the growing contribution of sports as a tool for peace in its promotion of tolerance and respect. It also highlights the contributions that sport can make to the empowerment of communities as a whole, to individuals (particularly women and young people) as well as to health, education and social inclusion.

Social order and social adjustment is one of the great goals of physical education and sports. People who participate in physical and sports activities in the activity environment, which is like a small social laboratory, observe the rules and regulations, respect the orders and rotating opinions, respect the rights of others, cooperate with his team members or other athletes, observe They directly experience and are trained in discipline, observance of moral and human issues, inclination towards moral virtues and avoidance of moral vices, and in order to be successful in their activities, they are required to observe the above. Therefore, the participants in sports activities generalize and observe these items that they have been trained in the society in various conditions, and they are regular and adaptable people. Therefore, sport prevents delinquency, incompatibility and attempting to commit illegal acts and ultimately committing a crime(16).

One of the best ways to guide an incompatible person is to incorporate it into sports activities. These people will experience social adjustment in friendly, intimate and uplifting conditions in a sports environment and will be reformed in this way.

In Iran, The Ministry of Youth and Sport is the central administrative agency for sport and recreation in Iran. The administrative structure of sport and recreation, however, has been developed within the realm of the 'youth' portfolio(17). According to article 2 of Objectives, Duties and Powers of the Ministry of Sports and Youth Code (2020) The Ministry of Sports and Youth is responsible for promoting sports in the community, including public sports and professional sports(18)

sport in criminal law

Sports criminal law is a branch of law which is involved with any offense and quasi-offense by athletes, teachers, coaches, administrators, fans and other sports equipment manufacturers(19) in the Islamic Penal Code of Iran, which was amended in 2013, it has considered sports in two areas. Although this law has role of general criminal law and it is not expected that all criminal provisions will be mentioned in detail in this code, but it seems that in this code, the legislator has mentioned sports and sports activities very briefly. As a rule, its detailed provisions need to be mentioned in a separate law. However, in the Islamic Penal Code, on the one hand, criminal protection of sportsman in sports activities is addressed, and on

the other hand, the role of sports in postponing the sentencing is considered.

Criminal protection of sports activities

The Constitution of the Islamic Republic of Iran expressly that physical education is one of the most important tools for achieving the goals of the state and the government has been obliged to utilize it in this respect. In this respect article 3 (3) stipulated : " Free education and *physical education* for everyone at all levels, and the facilitation and expansion of higher education" (Emphasis added). The Islamic Penal Code of Iran being inspired by this provision of the Constitution and provides that the accidents resulting from sport activities are not considered as an offense, provided that the said activities do not entail transgression of the rules of the sport and the decrees of the religion(20).

Article 158 of this Code stipulated:

" ... committing conduct which is considered by law as an offense, shall not be punished in the following cases: a)... e) Athletic exercises and the accidents arising from them, provided that the causes of the accidents are not the violation of relevant rules of that sport, and such regulations do not violate the rules of Islamic Shari'a, f).. "(21).

According to article 158 of Islamic penal Code, unintentional sports-related injuries not considered crime if they are according to the rules and regulations approved by the religion and constitution and it should not be opposed to the concept of general rules(19). The reason for the lack of

criminal responsibility is the legitimacy of the sport. Of course, it depends on the community of circumstances. Therefore, if sports behavior is accompanied by unacceptable violence in sports and criminal titles such as intentional or quasi-intentional assault are applicable, Article 158 cannot be invoked to avoid punishment (22). Another thing in this paragraph is that the incident occurred during a sports operation. Nowhere in this law is "sports operations" defined. Some consider sports operations to be those actions that are performed within the framework of a sport. In other words, the mentioned sports operation "is any physical activity in the form of training and competition that is described according to the rules or custom" (23).

According to Article 2 Objectives, Duties and Powers of the Ministry of Sports and Youth Code (2020), Sport is defined as "an activity that includes the use of physical, mental and motor skills, which is performed in various types of training, public, championship and professional with specific goals" (18).

According to the laws of Iran and jurisprudence, in sporting activities, there will be no criminal liability with respect to related laws, but there is no reason to remove civil liability from such a person, but if there are civil liability elements in him, according to the materials contained in his civil liability law Will be responsible (23). But some authors believes that in such cases, there is no civil liability.

sport as a tool for Probation Before Judgment

The institution of *Probation Before Judgment* is a modern formation that has been extracted and adopted from French law and has no background in law texts of Islamic Republic of Iran (24). The *Probation Before Judgment* is used only in connection with the non-dangerous criminals (especially children), has been regulated and adjusted to prevent the criminal labeling of such criminal group, and assisting to reform them (24). Probation before judgment is one of the new establishments of the Islamic Criminal Code and in its legal system that fails to have any legislative background in Iran. In this new establishment, there is specific approach towards individuals who have committed some minor crimes, and the legislator has predicted the possibility of suspending their sentence for the sake of accommodating them with social norms and preventing the re-commitment of the criminal acts in case of necessary conditions. Probation before judgment has been established based on the principle of individualizing of punishments and is part of the institutions of pardon for the offenders (25). This institution is an auxiliary tool that the court can use properly to correct the offender. The purpose of Probation before judgment is to enable the court to have regard to the offender's conduct after conviction or any change in his or her circumstances, including the extent to which the offender has complied with any requirements imposed by the court.

In the Iranian legal system, Probation before judgment is possible in two ways. Simple Probation and supervisory

Probation. Article 41 of the Islamic Penal Code states:

"(a) in simple Probation, the offender shall promise in writing that in the period determined by the court, s/he will not commit any crime, and it is believed from his/her behavior that s/he will not commit any crime in the future too.

(b) in supervised Probation, in addition to the conditions mentioned for simple Probation, the offender promises to comply with and execute the orders and measures set by the court during the period of postponement" [\(21\)](#).

The court should conclude by observing the actions of the offender that she or he has been warned and will not commit a new crime in the future, and judge with this assurance, should start writing a sentence of impunity [\(25\)](#).

Probation before judgment is authorized in crimes that have been set based on law. But lawmakers in the chapter on punishment Suspension enumerated crimes and convince the court that in crime does not attempted to suspension or postponement. According to Article 47 of Islamic Penal Code Stipulates that: Sentencing and punishment in the following crimes and starting them is not able to be Probation or suspended. A: Crimes against internal and external security of the country Sabotage in water, electricity, gas, oil and telecommunications system. B: Organized crime, armed robbery-Robbery with assault, kidnapping and acid attack C: Show of force and interfere with knife Or any other weapon, Crimes against public morals-formation or manage centers of corruption and prostitution. D: major

trafficking of drug, Alcohol, weapons and ammunition human trafficking. E: Suspended instead of death, Complicity in murder, Waging war against God and corruption on earth. F: Economic crimes with the issue of crime over a hundred million Rials. G: Crimes sentenced from Grade 1 to Grade 5. Crimes entered in article 47 Islamic Penal Code and start this crime is non-derogable [\(26\)](#).

In paragraph (h) of Article 43 of the Islamic Penal Code, sports as one of the ways that the offender must do by court order to Probation before judgment. In fact, the legislature is looking at sport as an item to delay sentencing, not necessarily supporting sports. This shows that the legislator has paid attention to the corrective and educational role of sports in society, which is a kind of progress. According to the article 43 of the Islamic Penal Code :

"In supervised Probation before judgment, the court, while considering the offense committed and characteristics of the offender and conditions of his/her life, can require the offender to carry out one or more of the following orders during the period of Probation before judgment, provided that this will not significantly and hugely disrupt his/her own, and his/her family's, life: ... h) (h) Attending (a) special program(s) for training and learning basic skills for life or participating in training, ethical, religious, educational or *sport classes*".

This article does not provide a guarantee for the proper fulfillment of the convicted person's obligations, but the guarantee of its fulfillment is the extension of the postponement period or the cancellation of the postponement agreement.

Conclusion

Sport has many positive effects on society. Sport contributes to the formation of peace in society. It is associated with the occurrence of crime. Mostly sports create an atmosphere in society that reduces the occurrence of crime. The Islamic Penal Code of Iran pays attention to sports and sports activities. There are two articles concerning sport in this code. Article 43 views sport as a way to correct the offender, and Article 158 of the Islamic Penal Code does not criminalize sports activities under certain conditions, even if they are a crime. The inclusion of these two articles in the Islamic Penal Code shows that the legislator has tried to use the educational effects of sports to correct criminals and to provide legal protection to athletes who commit crimes in sports.

Ethical Considerations

Compliance with ethical guidelines

This article does not contain any studies with human participants or animals performed by any of the authors.

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Authors' contributions

All authors contribute to the design and implementation of the research, to the analysis of the results and to the writing of the manuscript

Conflicts of interest

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