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Intentional Harm in Iraqi Law and Comparative Law

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Abstract

Intentional harm is considered one of the crimes with negative consequences that affect a person's body, health, and disrupt their normal activities for a period that may exceed twenty days or not. It is committed by the perpetrator with a deliberate criminal intent and can constitute a criminal act, a misdemeanor, or an offense. Each of these criminal acts carries a specific punishment, and the severity of the punishment depends on the criminal outcome. The more serious the criminal act and the resulting permanent disability or amputation of a body part, for example, the more severe the punishment. Intentional harm is distinguished from unintentional harm by its specific criminal intent. It is not sufficient to have knowledge of the criminal act and the intention to cause the result, but it must be the purpose to cause disability, harm, damage, or illness, and there must be a causal link between the act and the outcome.

Keywords. *offense of abuse - intentional abuse - felonies, misdemeanors and violations - criminal intent.*

Introduction

Intentional harm crimes are committed against living beings with the purpose of endangering and violating the safety of their bodies. These crimes, whether felonies, misdemeanors, or violations, require the general elements to be fulfilled. Although these crimes share general provisions, each of them has specific elements dictated by its own interests and nature. The consequences of physical harm may vary, ranging from mere pain to disability or even death. (Peter & Jule, 2023)

The perpetrator cannot guarantee the outcome of their actions in advance. The crime may result in achieving the intended objective, exceeding it, or falling short. Each of these actions constitutes a separate crime with an appropriate punishment.

Harm can take various forms and encompass different actions. Intentional harm differs from unintentional harm in that it is carried out with a specific intention and purpose, requiring the presence of a particular criminal intent for causing harm. (Lobo, 2023)

Research Problem

Harm, whether intentional or not, is a criminal act, which leads to criminal results and repercussions, which may manifest as disability from work, injury, harm, permanent disability, or even death, turning into a murder offense. The main problem addressed in this research is the crime of intentional harm and its requirement of specific criminal intent, which is represented by the purpose and objective of the harm. Does it aim to result in murder or just minor harm?

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This main problem branches out into the following sub-questions:

1. What is intentional harm and what are its elements?
2. What are the misdemeanors, felonies, and violations related to intentional harm?
3. What is the penalty for intentional harm?

Study Significance

The importance of the subject of intentional harm lies in understanding the concept and elements of an extremely dangerous crime, particularly when specific criminal intent is present in addition to general intent. This can lead to expected and unexpected outcomes, achieving its objective either fully or partially. It results from careful examination and scrutiny of actions that range from felony to misdemeanor to violation. Therefore, it was necessary to study and research the elements and concept of this crime, distinguishing it from unintentional harm and other similar offenses. (Haugen & Arntzen, 2022)

Aims of the Study

1. Statement of the meaning of intentional harm and the elements of this crime.
2. Identifying the actions that lead to the crime of intentional harm.
3. Addressing the serious consequences resulting from the crime of intentional harm.
4. Explanation of the prescribed punishment in the enacted laws for the crime of intentional harm.

Research Methodology

In this research, we adopted a descriptive-analytical approach by describing the crime of intentional harm and its general and specific elements. We analyzed legal texts in various legislations and examined the punishments prescribed for this crime.

Section One: The Concept and Elements of Intentional Harm

Various definitions have been mentioned in jurisprudence and language regarding the definition of intentional harm, some of which are similar while others differ. Therefore, it is necessary to address the linguistic and jurisprudential definitions of intentional harm.

The Concept of Intentional Harm

Intentional harm can be defined according to language, jurisprudence, and legislation. Linguistically, harm is defined as causing injury or harm, and when a person harms themselves, it is considered self-harm. In legal terms, harm refers to causing harm or damage to the property or belongings of others. As for the act of harm, it leads to a source of harm, as the perpetrator inflicts harm on others, causing them injury or harm. The recipient of harm is harmed.

As for intentional harm terminologically, it has been defined by several jurists. Jurist Ali Muhammad Ja'far defined it as an act that results in physical harm through assault, according to crimes against the rights of the victim's physical safety, in various degrees (Jaffar, 1995: 173; Verma et al., 2022)

Jurists Ali Abd al-Qadir al-Qahhaji and Futuh Abdullah al-Shadhli defined it as an act that includes hitting, injuring, or causing a person to consume harmful substances or any behavior capable of affecting a person's body.

Different national legislations have also defined intentional harm. For example, the Moroccan legislator defined it as a criminal act that occurs when the perpetrator intends to harm the health and physical

safety of others, regardless of the degree of harm caused. The Syrian legislation defined it as a crime where an assault is committed against the physical safety of a person, resulting in various degrees of physical harm (Al-Qahwaji & Al-Shadhli, 2003: 136-137; Abbas & Salim, 2023)

The Iraqi legislator defined intentional harm according to Article 412 as any person who intentionally assaults another person by injuring them, hitting them, or administering substances harmful to their body, or by committing acts contrary to the law, with the intention of causing permanent disability. They shall be punished with imprisonment for a term not exceeding fifteen years. Permanent disability may result in the severing, amputation, or mutilation of a body part, leading to disability, harm, insanity, or complete or partial impairment, and may result in an irreversible deformity. Therefore, intentional harm is defined as actions that can cause harm to a person's health or body without ending their life, using any means such as injury, assault, or violence. The perpetrator intends to harm the victim without causing their death by affecting their health and body. What distinguishes intentional harm is that its consequences play a significant role in determining the nature of the act and the punishment. (Ardí et al., 2022)

Elements of Intentional Harm

For intentional harm to occur and for the criminal act to be fully established as a crime, it must consist of several elements. Intentional harm is realized by the presence of two elements, one material and the other moral.

The Material Actions of Intentional Harm

The Iraqi legislator, in Article 28 of the Iraqi Penal Code, defined the material element as a criminal act either by committing an act prohibited by law or by failing to perform an act required by law (Iraqi Penal Code No. 111 of 1969, amended).

To commit the material action of intentional harm, there must be a behavior that involves an assault on the safety and health of a person's body. This aggressive behavior can take several forms:

1. Injury: Any act that causes a wound or tearing of the tissues of a person's body, encompassing all body tissues (Al-Mursafawi, 1975: 27).

Injury can be defined as the tearing of body tissues. These tissues can be internal, such as internal organs like the liver, spleen, and lungs. Alternatively, the injury can be superficial, such as scratches or minor wounds on the surface of the body or skin. It can also be severe, such as cutting or severing body parts with a knife, like cutting off a person's hand or amputating a foot. In some cases, the injury may be partial and not severe, involving only minor tearing of body tissues without complete detachment from the body. This includes abrasions, burns, and fractures, as long as this tearing causes pain to the victim. However, there are cases where this condition is not met, such as when the victim is unconscious, in a state of unconsciousness, or under the influence of drugs. In the eyes of the law, all cases of injuries are considered equal.

The Moroccan legislation also defined injury as any act performed by the perpetrator that leaves an impact on the victim's body, which may be apparent or hidden. According to the Moroccan legislation, the perpetrator can cause injury to the victim using a sharp tool such as a knife, a needle prick, or hitting with a stick. In some cases, the perpetrator may use their teeth to cause injury, such as biting, or use their feet to inflict harm, such as pushing the victim against a wall, causing a head injury (Al-Tabakh, 2002: 14-15; David Raul Hurtado et al., 2023)

2. Violence: It is an act that expresses and indicates physical assault but does not reach the level of severe injury, striking, or causing harm with harmful substances to the body.

Examples of violent acts include threatening another person with a firearm or forcefully banging on a door and forcibly cutting someone's hair (Al-Hadithi, n.d.: 206). Committing an Act Contrary to the

Law: The victim can be physically harmed in a manner different from hitting, injuring, or administering harmful substances, using other means. For example, imprisoning the victim in a cold room to cause illness, such as catching a cold, or firing a non-licensed firearm intentionally to harm the victim entirely. It refers to any intentional act that leads to harming someone by engaging in actions that violate the law, making it subject to punishment (Al-Saadi, n.d.: 227; Aljoghaiman & Sundram, 2023)

3. Administering Harmful Substances: It involves giving the victim a substance that can cause complete or partial harm to their physical health or temporarily or permanently impair bodily functions. These harmful substances can be administered in various ways, such as mixing them into food, injecting them into the body, or directly giving them to the person by hand (Ramadan, 1964: 256).
4. Beating: It refers to a person applying pressure to another person's body without cutting or tearing their body tissues. Hitting can occur in varying degrees, ranging from causing harm to leaving no visible trace. It can be accomplished using tools such as sticks, hands, or feet, and the number of strikes is not significant (Abdul Malik, 1942: 779).

The Moroccan legislator did not define the act of hitting, but scholars defined it as anything that affects a person's body, either through impact or pressure, resulting in bruises or contusions. Here, we can raise the following question: Does the crime of intentional harm occur through omission or not? Scholars argue that intentional harm resulting from omission should not be considered, as the legal texts only address physical hitting, injuring, administering harmful substances, causing wounds, or striking. These actions require physical acts, not mere omission. Therefore, punishment cannot be imposed solely based on an attempt to cause harm or hit, which is considered a misdemeanor. However, punishment can be imposed for attempted intentional harm crimes. (Gracia, 2022)

Regarding the outcome of committing an assault on someone's physical safety through hitting, injuring, or administering harmful substances, the consequences are manifested in the harm inflicted on the victim's body. Therefore, the criminal responsibility for these acts depends on the actual harm caused to the body. For example, the criminal responsibility does not fall on the perpetrator if no actual harm occurs. The legislator has made the criminal responsibility for such crimes progressive, depending on the severity and danger of the criminal act. The punishment varies in cases involving multiple victims or when these criminal behaviors lead to permanent disabilities (Al-Shawarbi, 1986: 265-266; Li, 2023)

There must be a causal relationship between the crime of intentional harm and the criminal outcome, which should be strong and have a factual connection. The harm inflicted on a person's body must result from the criminal act of intentional harm committed by the perpetrator. The causal link between the act of harm and the realized criminal outcome must be established. If there is no causal relationship between the act and the outcome, one of the elements of the material component is absent. The perpetrator is questioned about their act and the associated outcome. However, if other acts occur that are unrelated to the perpetrator's act, they break the causal link, and the perpetrator is not held accountable for them. The focus here is on events that have occurred and led to a specific outcome. In cases where unexpected and unusual actions occur, they negate criminal responsibility (Abu El-Rous, n.d.: 65-66).

The Mental Element

The criminal intent in the act of intentional harm occurs when the perpetrator's will is directed towards causing the criminal outcome of their action, knowing the harm that will be inflicted on the victim's physical safety. Additionally, the element of intent must be present, as it should be directed towards proving the behavior that constitutes the act of assault and demonstrating the impact on a living human body. Here, the intention is to achieve the desired outcome through these actions. In cases where the perpetrator proves that they acted under physical compulsion and did not have a genuine intention to commit the criminal act, such as forcing someone to collide with another person, the perpetrator lacks criminal intent and bears no actual criminal responsibility.

For example, if a person goes hunting and fires a shot intending to catch birds but accidentally injures another person, the perpetrator is not questioned about intentional harm but about unintended harm. Regarding the element of knowledge of the act, it requires the perpetrator to be aware at the time of the act that they will achieve the outcome of causing harm to someone's physical safety. For instance, the perpetrator's knowledge is negated if they believed that their action was directed towards a deceased person, a lifeless body, but the person turned out to be alive, albeit unconscious. The perpetrator's intent is also negated if they gave medication to the victim without realizing it was a toxic substance (Al-Shathli, 2002: 139).

If the situation becomes confused for the perpetrator and a change occurs in the identity of the victim, it does not affect the criminal intent of the perpetrator. The law protects a person's health and physical safety regardless of their identity. Therefore, if the perpetrator throws a stone intending to hit the intended victim but accidentally hits another person, the perpetrator is held accountable for their action despite the difference in the victim. According to the general rules, neither motive nor target affects the elements of criminal intent and does not impact criminal responsibility.

An example of this is a ruling issued by the Egyptian Court of Cassation: The perpetrator cannot claim that they intended to separate the victim in the ongoing fight to protect them from injuries, so they pushed them with their hand, causing them to fall to the ground. In this case, the legislator allows this action based on good intentions.

Similarly, the action of a doctor is allowed not based on the absence of criminal intent but based on consent and licenses required by medical laws, which the doctor must obtain before performing them. Based on this, a person who is not authorized to practice medicine is criminally questioned about the harm they may cause to others, considering that they have the intention to harm, as criminal intent exists without affecting the good motive. They are not exempt from responsibility and punishment unless extreme necessity is present (Al-Dahbi, 1976: 123-124).

Section Two: Criminal Acts Constituting Intentional Harm and Their Penalties

The criminal act constituting the crime of harm can be categorized as felonies, misdemeanors, or violations. The penalties for these acts vary and become more severe based on the criminal outcome that may be achieved.

Criminal Acts Constituting Intentional Harm

The acts constituting the crime of harm can be classified as felonies, misdemeanors, or violations.

Felonies of Intentional Harm

Intentional harm, as defined by Iraqi legislation in Article 412 of Penal Code No. 111 of 1969, which has been amended in two forms. The first form includes the offense of assault with the intention of causing permanent disability, and the second form includes the offense of assault resulting in permanent disability.

In Kuwaiti law, it is stipulated in Article No. 152 of the Penal Code that anyone who commits an act of assault, causing injury or harm without the intention of causing death, but death occurs nonetheless, shall be punished with imprisonment for a term not exceeding ten years. Additionally, a fine not exceeding 775 Kuwaiti Dinars may be imposed.

Offense of Assault with the Intention of Causing Permanent Disability

The aforementioned Iraqi law states that the crime of assault with the intention of causing permanent disability occurs when certain specific material elements are present. The responsibility for this offense requires the presence of a specific criminal intent.

Material Elements necessary for the occurrence of the felony

These elements include the act of assault and the resulting permanent disability. For example, the act of assault may involve striking, injuring, or administering harmful substances to the victim or any act that violates the law. The resulting permanent disability refers to the severing, separation, or amputation of a body part or tissue, or its impairment and loss of functionality, which may lead to insanity or mental impairment. The disability can be total or partial, permanent or temporary, and it may involve physical disfigurement or not (Al-Haidari, 2012: 384).

The Iraqi legislator has provided several forms of permanent disability, including.

Severing or separating a body part or amputating a limb. As stated by the Court of Cassation, even the simple act of severing a finger constitutes a permanent disability (Decision No. 457 of 1975. (Year 6). Collection of Judicial Provisions, (Issue No. 2): 247).

Causing the victim to lose the potential benefit of a body organ. The legislator did not specify the degree of loss required to establish a permanent disability, leaving it to the discretion of the court. As mentioned in a ruling by the Karbala Court of Cassation, if a person complains of a minor injury to their shoulder resulting in a 15% disability, the provisions of Article 412 of the Penal Code apply (Al-Yasiri, 2008: 30).

Insanity or mental impairment. Insanity is included as a form of mental disability, and scholars consider it as one of the conditions that lead to the loss of concentration, perception, and freedom of choice (Mustafa, 1982: 494).

Disability preventing the ability to work, either fully or partially, in one of the senses. Senses refer to any sense that performs a specific and defined function that humans rely on in their daily lives. Any injury can impair one of these senses. An example of this is the complete or partial deafness resulting from an injury, which leads to the loss of hearing (Al-Samak, 1968: 16-17).

Endangering Life

Iraqi legislation does not explicitly define this aspect of permanent disability. Therefore, it is the role of experts, professionals, and medical practitioners to assess the risk to life. For example, if the victim suffers a skull fracture, this would require a medical report to determine the severity (Al-Bana, 1948: 258).

Material requirements alone are not sufficient; there must also be causal link between the act of assault, such as striking, injuring, or harming, and the resulting permanent disability. The permanent disability must be attributed to the act of the offender. If the cause of the permanent disability is sufficient and directly related to the act of the offender, the offender is only questioned about their act, specifically their attempt to commit the crime that led to the permanent disability (Al-Haidari, 2012: 389).

The mental requirements are as follows.

To establish the crime of assault, the perpetrator must have criminal intent. Iraqi legislation does not only rely on general intent, which includes knowledge and willingness, but also requires specific criminal intent. The intent of the offender must be directed towards causing a permanent disability. Without this intention, the crime or criminal act is not established, and Article 412 does not apply (Al-Durra, 1976: 197).

Crime of Assault Resulting in Permanent Disability

Paragraph 2 of Article 412 of the Iraqi Penal Code stipulates that the crime of assault and its establishment require certain material requirements, while the liability arising from this crime requires a specific type of intent.

In Kuwaiti law, Article 162/1 states: "Anyone who causes harm to another person resulting in permanent disability shall be punished with imprisonment for a term not exceeding ten years. Additionally, a fine not exceeding 750 Kuwaiti Dinars may be imposed."

Material Requirements

This crime of assault resulting in permanent disability is composed of the act of striking, injuring, or violating laws, and the resulting permanent disability, which involves severing or amputating a body part, or the loss of functionality of an organ. It may result in total or partial disability preventing work (Al-Haidari, 2012: 301).

There must be a causal relationship between the act of assault committed by the perpetrator and the criminal result represented by the permanent disability. The criminal result must be attributed to the act of the perpetrator. If there is an intervening factor that breaks the causal link, the offender is not held accountable. The perpetrator must have intended to cause the criminal result, which is the permanent disability in the body of the victim. The intention is to harm the victim without causing a disability in their body.

Mental requirements

The criminal intent does not focus on causing a permanent disability, but rather on causing harm in the form of injury, assault, or administering harmful substances. However, despite this intent, a permanent disability occurs. In this case, the punishment is less severe than for intentionally causing a permanent disability (Al-Durra, 1976: 200).

The Crime of Intentional Harm

Iraqi legislation defines four forms of intentional harm, all of which are considered misdemeanors punishable by imprisonment. In Kuwaiti law, Article 162 states that if the assault causes severe pain and prevents the victim from performing their usual activities for a period exceeding 30 days without resulting in permanent disability, the punishment is imprisonment for a term not exceeding five years and a fine not exceeding 375 Kuwaiti Dinars.

Material Requirements

This crime, which involves assault leading to harm or injury, occurs when a disease, harm, or injury is caused without resulting in death or permanent disability. The punishment for this crime, which is within the scope of misdemeanor penalties, depends on the material requirements, including the act of assault, the causal relationship, and the criminal result of harm or injury. The responsibility for this crime requires criminal intent.

The act of assault refers to criminal behavior such as striking, injuring, harming, or violating the law (Al-Haidari, 2012: 303). The criminal result refers to the consequences of the perpetrator's actions, which include injury, illness, or harm that affects the physical health of the victim, hindering their normal functioning. It may also involve changes in the structure or function of organs. The occurrence of an

illness implies a disruption in the normal functioning of vital bodily functions, whether physical, mental, or psychological. Thus, the condition is met when the act leads to harm or injury, and the victim's pain alone is not sufficient (Al-Durra, 1976: 191).

The causal relationship requires a connection between the criminal act, such as assault, and the criminal result, such as injury or harm. If the usual circumstances allow for the act to lead to the result, the causal relationship remains intact, even if other factors are involved. However, if an unexpected or unlikely factor intervenes, it breaks the causal relationship. Examples of these other circumstances include if the victim is elderly, physically weak, or a minor. If the criminal act exists but there is no knowledge and intent, criminal responsibility is negated (Bakr, 1995: 622).

Mental requirements

Criminal liability is established only when there is criminal intent on the part of the perpetrator, involving their knowledge that the criminal act will cause harm, their intention to commit the act, and the occurrence of harm, injury, or illness as a result of their actions. If knowledge and intent are absent, criminal liability is not established (Al-Khafaji, 1969: 258).

Crime of Severe Harm: The legislator takes into account the behavior resulting from the perpetrator's act by increasing the punishment if the act causes harm, injury, or illness that incapacitates the victim from performing their daily activities for a period exceeding twenty days (Article 413/2 of the Iraqi Penal Code). Harsher penalties are imposed for the means used in causing harm compared to previous cases.

Forms of this crime

The Crime of Assault Leading to Bone Fracture

Anyone who inflicts injury, strikes, or engages in an unlawful act that results in a bone fracture or prevents the person from performing their usual activities for a period exceeding twenty days shall be punished with imprisonment for a term not exceeding three years or a fine not exceeding three hundred dinars, or both (Al-Hadithi, n.d.: 206).

If an assault results in a bone fracture in a person, excluding teeth as they are not considered bones, the legislator assumes in this case that the treatment period has ended and the victim has fully recovered without suffering complications resulting from the bone fracture, regardless of the duration of the victim's treatment. The objective is that the perpetrator did not rely on the occurrence of the crime through any means or tools mentioned earlier (Al-Haidari, 2012: 306).

In this case, the causal relationship is presumed to exist between the act of assault, such as injury or administering harmful substances, and the criminal result, which is the bone fracture of the victim. If it is proven that the external cause was sufficient to cause the bone fracture, the causal relationship between the act of the perpetrator and the criminal result is severed, and the perpetrator is not held accountable. The mental requirements for the act of assault require the presence of criminal intent, meaning that the perpetrator is aware of their act and its nature, and that they know that their crime will cause significant danger and harm. Therefore, the Iraqi legislator has arranged criminal liability if the criminal behavior results in significant harm, such as bone fracture. The perpetrator must be questioned about the harm they caused, and whether their intent was directed towards achieving it. In the absence of knowledge and intent on the part of the perpetrator, criminal intent is negated, and liability for the criminal act is also negated. The perpetrator may be questioned about the crime of unintentional harm (Article 416) under the Penal Code (Al-Durra, 1976: 191).

The Crime of Assault Leading to the Victim's Incapacity to Perform Their Usual Activities

The Iraqi legislator establishes a link between illness or harm and the victim's incapacity to perform their usual activities. If the assault only results in slight harm, injury, or illness that does not completely prevent the victim from performing their activities or causes such harm for a duration of twenty days or less, this provision does not apply to this case. Instead, the provision that applies is the first paragraph of this article. For this provision to apply, the harm or incapacity should not exceed twenty days, and the incapacity refers to the inability of the victim to perform their physical actions that involve the use of their body parts, such as feet and hands. The severity of harm is determined based on the extent of the victim's incapacity to perform their physical or manual actions. This criterion applies equally to all the mentioned provisions. The Iraqi legislator did not focus on ordinary activities such as the person's job, profession, or trade; otherwise, varying punishments would result not based on the severity and danger of the act but based on the social position of the victim. It is not a requirement for the aforementioned provision to apply that the victim has a complete incapacity to perform their physical actions. It is sufficient for the affected person to be unable to perform any ordinary physical action for a period exceeding twenty days. It is also not sufficient for the victim to have left scars or lasting effects for more than twenty days. Furthermore, it is not enough for the victim to have undergone treatment for more than twenty days. It must be proven that their injury, illness, or harm prevented them from performing their usual activities for a duration not exceeding twenty days, and this judgment must be made (Al-Durra, 1976: 193).

The Crime of Assault Using a Tool, Weapon, or Harmful Substance

Paragraph 3 of Article 413 states that if the assault occurs using a firearm, tool, or harmful substance that affects health, causes harm, or burns, the punishment shall be imprisonment. The legislator here considered the type of tool used as an independent case itself and imposed a stricter punishment than the previous cases. The punishment could reach its maximum level, which is five years of imprisonment, according to the judge's discretion. It is required for the criminal act to be committed using a firearm, such as a pistol or any other type of firearms that discharge bullets. In this case, the legal provision is applicable to the criminal act. However, if the tool is intended solely for harm, such as a knife, then the crime is established. Likewise, if the perpetrator uses a harmful substance that affects health or can cause burning, such as a chemical substance, the perpetrator is punished according to the specified punishment in this case. When the legislator used the word "harmful," it expanded the meaning of means of harm. Thus, if the perpetrator uses any of these substances, they are subject to the provisions of this legal text. A substance is considered harmful if it disrupts the functioning of body organs. When these substances are administered, the responsibility of the offender is based on this provision. The legislator here addressed a specific punishment for the type of substance, weapon, or tool used in causing harm and increased the punishment compared to previous cases where the perpetrator did not use a firearm or other tools (Al-Yasiri, 2008: 42).

Intentional Harm Violations

The Iraqi legislator addressed various types of harm crimes in Article 415 of Law No. 111 of 1969. These crimes fall under the lighter forms of this offense, referred to as "harm" or "minor assault." The legislator defined a punishment for this violation, which could be either a fine or imprisonment.

According to Kuwaiti Law Article 160: Anyone who physically assaults another person and causes harm or damage, provided that the harm is tangible, shall be punished with imprisonment for a period not exceeding two years and a fine not exceeding 150 dinars, or either of these penalties.

The nature of intentional harm violations: These cases involve simple and minor assaults that do not leave any lasting effects on the body of the victim. The legislator imposed a penalty for any form of harm, even if it is minor, in order to safeguard human dignity and protect individuals from any harm. However, certain conditions must be met for this provision to apply. These conditions include the occurrence of a behavior by the perpetrator

that causes this minor harm, and the harm should be extremely minor, without leaving any impact on the body of the victim. Additionally, the act must be committed with criminal intent, and there must be a causal link between the criminal behavior and the minor harm. Regarding the first condition, it is necessary for the behavior of assault to be carried out by the perpetrator, who initiates a movement using one of their body parts to commit the criminal act, which is the harm. When such behavior occurs, the law arranges the consequences of the criminal act, represented by the punishment imposed on the perpetrator for the crime. For example, if the act involves hitting with the hand, face, or other parts of the body, it must leave a minor impact.

As for the second condition, the assault must be minor, causing no more than twenty days of work disability. In this case, a medical report is sufficient to prove the type of minor assault and may be a basis for the court's decision. Thus, the two main conditions are that the assault must be minor, and its impact must be minor as well (Sowadi, 2014: 41).

Regarding the third condition, it relates to criminal intent. It is crucial to determine whether the crime was committed intentionally or unintentionally, as knowledge of criminal intent holds significant importance in determining which legal provision will be applied. As for the causal link between the assault and its consequences, no act can be attributed to anyone other than the perpetrator. The impact cannot be attributed without an act being committed. Therefore, the assault must be the result of the perpetrator's actions.

Punishment for Intentional Harm

The punishment for intentional harm varies depending on the nature of the criminal act. It becomes more severe based on the act committed, and the perpetrator is punished according to the criminal consequences resulting from their actions.

Punishment for Felonious Intentional Harm

Here, we will discuss the punishment stipulated for felonious intentional harm, as addressed in Article 412 of Iraqi Law No. 111 of 1969:

Whoever intentionally assaults another person by striking, injuring, or violating the law with the intention of causing permanent disability shall be punished with imprisonment for a period not exceeding fifteen years. Permanent disability occurs when the act leads to the amputation, separation, or severing of one of the person's body parts, resulting in complete or partial loss of function. It may even result in insanity or impairment, or the loss or temporary disablement of one of the senses.

The punishment may be imprisonment for a period not exceeding seven years or detention if the act causes permanent disability unintentionally, without the perpetrator intending to cause it.

To apply this provision correctly, we need to understand the criminal intent that led to the commission of the criminal act. If the criminal intent is solely to inflict harm, and one of these disabilities results from this harm, then the criminal intent is considered present. Criminal intent means that the perpetrator's will was directed toward achieving this criminal consequence, which refers to endangering the physical safety of the victim. However, if the perpetrator specifically intended to cause disability and intended harm, the punishment is increased because this act resulted in permanent disability.

Therefore, the prescribed punishment for a perpetrator who commits an assault on another person with intent is imprisonment for a period not exceeding fifteen years. The punishment is imprisonment for a period not exceeding seven years or detention if the perpetrator did not intend to cause permanent disability but only intended to cause harm (Al-Yasiri, 2008: 46-48).

As for the punishment in Moroccan law, it is stated in Article 403 of the Moroccan Penal Code: If the striking, injuring, or any other means of harm is intentionally committed without intending to cause death, but death occurs nonetheless, the punishment here is imprisonment for ten to twenty years. In cases where there is a prior criminal intent to use a weapon, the punishment is life imprisonment.

Misdemeanor Punishments for Intentional Harm

Article 413 of Iraqi Law Addresses the Following

Whoever intentionally assaults another person by striking, injuring, administering harmful substances, or committing an act contrary to the law, resulting in illness, damage, or harm, shall be punished with imprisonment for a period not exceeding one year, a fine not exceeding 100 dinars, or both.

If this assault results in illness or harm that incapacitates the victim from performing their usual activities for a period not exceeding twenty days, the punishment shall be imprisonment.

The punishment is imprisonment if the harm is caused by the use of a firearm or any other instrument designed for harm, burning, or damage.

From this text, we can understand that the perpetrator's assault, whether by injury, striking, or other actions, intended to produce visible effects on the body as a result of the assault. As for illness, the legislator did not specify it in the legal text. It occurs in the victim's body as a result of the perpetrator's actions, and there must be criminal intent for the victim to be harmed or become ill due to those actions. The punishment in such cases is imprisonment for a period not exceeding one year, a fine not exceeding 100 dinars, or both.

In Moroccan law, the punishment for the misdemeanor of intentional harm is stipulated in Article 401: If the striking, injuring, or harm results in incapacity to work for a period exceeding twenty days, the punishment is imprisonment for one to three years and a fine ranging from 200 to 1,000 dirhams. However, if the act is premeditated and planned, the punishment here is imprisonment for two to five years and a fine ranging from 250 to 2,000 dirhams. The act of assault may result in the fracture of someone's bone, illness, or harm that incapacitates the victim from performing their usual tasks for a period exceeding twenty days.

Punishments for Offenses of Intentional Harm

There are certain criminal behaviors that do not reach the level of assault or injury, known as minor harm, which is specified in Iraqi legislation in Article 415

Anyone who harms or assaults a person in a minor way without causing any physical impact on the victim's body shall be punished with imprisonment for a period not exceeding three months, a fine not exceeding thirty dinars, or both. In this case, the harm is minor and has no significant impact. Moreover, the act must be committed with criminal intent, and there must be a causal link between the act of harm and the minor outcome. In Moroccan legislation, punishments for offenses of intentional harm that result in minor and non-serious injuries, unlike in felony and misdemeanor crimes, are punishable by a fine ranging from 300 to 700 dirhams (Al-Yasiri, 2008: 45).

Conclusion

Crimes of intentional harm are considered serious crimes, and this seriousness is not limited to the victim alone but extends to the entire society. The victim represents one of the elements that make up societies in all their diversity, personal characteristics, and social status. Therefore, society needs its members to combat all forms of harm and injury that individuals suffer from, which result in their inability to perform their normal activities and lead to the loss of benefits derived from these activities. The victim of the assault also suffers if they suffer a permanent disability, which remains the goal for the victim to compensate for the damages they have endured.

Results

1. In conclusion, it can be inferred that intentional harm is a criminal behavior committed by the perpetrator against the body of the victim, resulting in harming or damaging their physical integrity.
2. We find that Iraqi legislation has used all the terms that encompass assaults in general in order to safeguard human dignity and protect the physical safety of any individual from harm.
3. It can be concluded that the legal status of the crime of intentional harm varies depending on the nature of the act. It differs in its nature, liability, and punishment between felonies, misdemeanors, and violations of intentional harm.

Recommendations

1. It is necessary to impose harsher penalties and stronger measures in the legislation of countries in order to reduce intentional harm crimes.
2. The term for the crime that includes a fatal blow should be replaced with intentional harm leading to death.
3. Compensation should be imposed on the perpetrator if their criminal acts result in a disability from work for a period exceeding twenty days.

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