INVESTIGATING THE MURDER DUE TO URGENCY IN THE IRANIAN PENAL SYSTEM

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ABSTRACT

In the present article tried to briefly investigate about the effect of emergency in the intentional murder whether it's licensed or not. For this purpose, the legal sources of this law have been studied and evaluated. In Iran's criminal justice system, after dividing the general assumption of "intentional murder" into three assumptions "another assassination to survive", "the commission of a murder by a third party with respect to one of the parties at risk to save the second partie’s live" and "killing less people to save more lives", proof of permission or non-permission to commit murder in these assumptions were examined and eventually it was concluded that in each case, if there be an opportunity to assess the benefits and disadvantages of the perpetrator and legal considerations, rational and sharia to determine the importance of the value placed on commit, the perpetrator should not be ruled to punishment for deliberate murder. So what is the authority for murder in a state of emergency? In general, the urgency is not license of the murder but this general rule has exceptions, which are: one of two persons be categoric survival and the one be likely to stay. Categoric survival to save his life, he can commit murder the likely to stay. Deaths committed in emergency situations are also ongoing about if for a forced individual rights are created on the property of others. So that's the dread of danger gives the forced individual this right if anywhere there be a property he takes possession and allowing the murder of someone who impedes the exercise of such a right.

Keywords: Urgency, Compulsion, Intentional murder, Murder law, Rights

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INTRODUCTION

The commission of a carried out murder in accordance with the provisions of Article 381 of the Islamic Penal Code of Iran (2013) the penalty for retribution is qisas by criminal law, in some special circumstances, intentional murder will not be punished. One of these conditions is the emergence of an "emergency" situation that according to Article 152 of the Iranian Penal Code, and forced offense, is not punishable. Questions of murder making are connected in the assumption of the state of necessity. The reason for these questions in spite of the unanimity of non-punishment forced offense is that the murder is the only crime pertaining to permission or unauthorized permission in the event of an emergency, there is no agreement between jurists. So, in order to understand the exact subject and distinguish between different conceivable states of intentional murder due to emergency. Instead of asking this general question, "Is it permissible to commit murder in a state of necessity?" We will ask some more detailed questions: 1) if a person's life is at risk, can he commit an act of murder to escape from the state of emergency? 2) If the danger is for two people, can a third party (external supervisor) commit murder to save one of them? 3) In the assumption that danger is for the two groups can we commit fewer deaths to save more lives? And finally, we answer this question that what is the criterion for choosing the perpetrator and the preference one for the other?

In this paper, we have tried to apply a comparative approach with Iranian law to find answers. While in an urgency debate especially emergency in the murder is a brief discussion of the law and in accordance with the principle of Article 167 refer to jurisprudence to find the subject. And in this article it seems like that emergency in the murder be determines considering sources of jurisprudence. Upon finding the subject matter the way opens to generalize it to legal topics (Mirmohammad Sadeghi, 2007).

DEFINITION OF INTENTIONAL MURDER

Criminal lawyers have provided different definitions of intentional murder in their work. We refer to some of them.

1. Some have said in the definition of murder “The deliberate crime is the illegal abandonment of life (in murder) with initial or consequential intent by medium that cause
to proceed against the concerned person”. In this definition, the term deliberately crimes is used instead of intentional murder. Also, the examples in the definition are not common unless it is intended to be counted. It is unclear whether the murder commitment through the way of collection whether reason and direct are is possible or not? Another clear point made in the definition is the word "action” which the same ambiguity about leaving the action also comes up (Aghaiiniya, 2007, p19).

2. “The intentional murder is deliberate human behavior without legal authorization in such a way as to lead to the death of another person”. The privilege of this definition is the use of the term "behavior" which is a comprehensive, all acts of action are committed. But in the spiritual pillar, the question arises that given the use of the letter "and" to separate the word "deliberately" and "consciously", do they have two different meanings? And finally, is the deletion of the word "man" in this definition, will it be a defect? At the same time, the use of the term "unauthorized" indicates that the term "intentional murder" is the crime of intentional murder (Aghaiiniya, 2006, p20).

3. In another definition of intentional murder which is made without mentioning the conditions of qisas, we read: “The crime of intentional murder is to remove other man with clean blood’s soul deliberately and without legal and religious authority”. Specify the term crime and refrain from mentioning examples of material and spiritual pillar is the privilege of this definition. But considering having clean blood on the one hand, and the use of the term "without legal and sharia authority” on the other hand, asks that if a man with clean blood can be murdered with legal and sharia authority? The last point about this definition is that accordingly, being contrary to the law of murder is not enough to realize the crime and it is also necessary to be against sharia and vice versa (Aghaiiniya, 2006, p21).

The above definitions indicated that providing a comprehensive definition and prevent the crime of intentional murder how is difficult. From the all of these worthwhile efforts perhaps the definition can be extracted which is in a thorough manner of the three pillars of intentional murder. Therefore, in the definition of the crime of intentional murder is to say that “is the intentional deprivation of life from another without legal authorization” for the following reasons, there are fewer flaws:
- Refrain from using the word "man" as the perpetrator of murder is because crime in the law can only be conceived by humans and therefore it is not necessary to specify.
- Defines the word "other" and avoids the term "other human" first, because the crime of intentional murder is just human and the deprivation of life from the animal is not under the intentional murder; second, the term "other" excludes suicide.
- The use of the term "deprivation" and the lack of access to the arguments of the perpetrator's conduct, that's why, in writer’s opinion, a killing was carried out by a direct act and in such a case, it is not necessary to mention the instances in which the act is committed in the definition.
- The use of the term "without legal authority" is the legal basis it is clear that the deliberate murder committed with legal license exits the act from the definition of mass.
- The word "intentional" includes all the examples and its components, whether pure deliberate, intent, deliberate judgment, originally followed (Mirmohammad Sadeghi, 2007).

INTENTIONAL MURDER IN IRAN'S CRIMINAL CODE

The Criminal Code of Iran can be divided into two general periods.

In the first period, the law did not define a deliberate murder, and Article 170 of the Penal Code prescribed: “The punishment of committed intentional murder is execution except in cases where be legally excepted”. The General Penal Code 1304 and its subsequent amendments and supplements, in accordance with Article 729 of the Islamic Penal Code was abolished on 1998/10/8.

But in the second period of the law of limits and qisas and its provisions adopted on September 3, 1982, under Article 2 and the Islamic Penal Code approved on 1991 with some changes presented intentional murder according to Article 206. According to this article, murder is intentional in the following cases:

- a. When the murderer do something to kill a certain person or an individual or non-determinants of a people, whether that action be deadly or not but in practice it causes murder.
b. When the murderer intentionally do something that is typically deadly, though not intended to kill.

c. Items that the killer does not intend to kill and something that he does is not deadly but toward the side due to illness or aging or disability or childhood and the like typically is deadly and the killer is aware of it.

Acceptance of the article as a comprehensive definition and preventive intentional murder is difficult. It seems to be the mandate of this article only focuses on the intellectual core and he plans by using some case studies puts ends on a major part of the problems with the judicial system. However, one should not disregard the benefits of Article 206 of the Criminal Code as compared with Article 170 of the Criminal Code. Article 325 of the Criminal Code also provides: “…If the practice is typically deadly or committed for murder although not typically deadly, it is a deliberate murder and causes qisas” (Aghaiiniya, 2016).

DIFFERENCE OF URGENCY, RELUCTANCE AND COMPULSION

There is a clear difference between compulsion on one side and reluctance and urgency on the other side. In forced will, the will of the forced person is robbed; while in reluctance and urgency there is an element of will. There similarities and differences between convincing and forcing (Abdullahi, 2004, p63).

The similarity between the two should be sought in several things:

First, both are threatened and in the absence of action, the threat which is done against them gets actuality and cause them to lose their life. Secondly, the way out of the existing threat or the threat posed in both cases, is to do something that is unlawful and inappropriate under normal circumstances. Thirdly, reluctance and urgency puts both persons in a position of desperation and urgency; in a manner that there is no more way than a risk or threat or doing to committing a criminal action for them. Fourth, reluctance and urgency, both of them are of secondary titles and change the sharia order on done action and consequently, they are prevented from paying attention to criminal responsibility. Fifthly, both cause to lose the satisfaction and goodwill.
The difference between the two should also be sought in a few things:

First, in a precarious position and a source of danger threatening them. Second, the urgency does not ruin the arbitrary will of distressed man; but the will and power of the disturbed man are limited.

What causes a reluctant state in disturbed man is different with what causes urgent manner in him.

In an emergency, the distressed man finds himself in a situation where exit from it requires execution of haram verb. Threat situation is often created naturally, and humans do not interfere with it; like a person who is hungry or thirsty and does not have any food or water. In this case, in order to escape the danger of ruin, he must in turn do stealing or drinking or eating haram things (Abdullahi, 2004, p70).

In reluctance, the source of the threat and danger always is a human being that is an external factor; that is, a person exercising his or her power or abusing his good position, puts another by committing haram actions, and force him to commit the act. Forced person to escape from the danger that is imposing from coercer forcing him to commit the act. Forced person to escape from the danger that is imposing from coercer and in order to prevent his threats from happening inevitably, does something which he does not that under normal circumstances. According to Sheikh Mohammad Khadri Beck “If he is free and the same for what he did...” In short, reluctance, is the action of coercer and urgency is adjective of forced man.

Third, there is a difference in motivation and claimant. In coercion motivation or claimant, is eliminating the harm that coercer faced with it directly, while urgency is a necessary eliminating that forced man is situated in it; whether it is internal or external (Abdullahi, 2004, p73).

INTENTIONAL MURDER AND EMERGENCY IN THE ISLAMIC PENAL CODE OF IRAN

In Iran's criminal justice system, after dividing the general assumption of "intentional murder" into three assumptions "another assassination to survive", "the commission of a murder by a third party with respect to one of the parties at risk to save the second parties’ life " and "killing less people to save more lives", proof of permission or permission to commit murder in these assumptions
were examined and eventually it was concluded that in each case, if there be an opportunity to assess the benefits and disadvantages of the perpetrator and legal considerations, rational and sharia to determine the importance of the value placed on commit, the perpetrator should not be sentenced to punishment for deliberate murder (Shakeri, 2011, p103).

The commission of a deliberate murder in accordance with Article 381 of the Islamic Penal Code of Iran (2013). The commission of a carried out murder in accordance with the provisions of Article 381 of the Islamic Penal Code of Iran (2013) the penalty for retribution is qisas by criminal law, in some special circumstances, intentional murder will not be punished. One of these conditions is the emergence of an "emergency" situation that according to Article 152 of the Iranian Penal Code, and forced offense, is not punishable. The reason for these questions in spite of the unanimity of non-punishment forced offense is that the murder is the only crime pertaining to permission or unauthorized permission in the event of an emergency, there is no agreement between jurists. So, in order to understand the exact subject and distinguish between different conceivable states of intentional murder due to emergency, Instead of asking this general question, "Is it permissible to commit murder in a state of necessity?" We will ask some more detailed questions: 1) if a person's life is at risk, can he commit an act of murder to escape from the state of emergency? 2) If the danger is for two people, can a third party (external supervisor) commit murder to save one of them?3) In the assumption that danger is for the two groups can we commit fewer deaths to save more lives? And finally, we answer this question that what is the criterion for choosing the perpetrator and the preference one for the other? (Shakeri, 2011, p104).

**CHOOSING BETWEEN TWO PEOPLE**

In the choice between keeping one of two lives, two things are conceivable. In the first instance, the danger is that of the perpetrator شن in the absence of another person's killing by the forced man, his death is definite. But in the second case, the danger perceives the lives of both and failure to kill one another will result in the death of both.

*The first mode*: At the beginning it seems that despite Article 152 of the Criminal Code In the legal system of Iran, any comments on the unacceptability of emergency defense in intentional murder is incorrect; because whole and subjecting the subject matter clearly indicates the ability
to hearing such defenses in courts and prosecutors, but looking at the existing jurisprudential texts and examining the opinions and opinions of the jurists, cause serious doubts in this regard. Although according to the provisions of prophetic hadith the responsibility of the forced man is removed, but almost all of the Imams' jurists have not accepted the notion that “Surely Taghya is to prevent the bloodshed Therefore, if Taghya leads to bleeding, it is not permissible” (Shahidsani, p486) or “Everything accepts the necessity, except for matters relating to the lives of humans” and force in killing because of the breach of duty and the fact that being against the rule (Shahidsani, p109). On the one hand, it seems the principle of the equality of the lives of human beings impede the acceptance of permission to commit such a murder; because according to this principle, the soul does not prevail over any other soul and any attack on the lives of others in such circumstances, is unconventional preference, ugly and punishable, on the other hand it seems that a lack of determination and allocation of a special decree for "urgent murder" should be from legislator as a result of according to the Islamic lawmaker of Iran, it is obvious when it is not possible to invoke the defense of " coercion of murder", the "murder in force" defense will not be acceptable; because if we consider the compulsion as forced and whether it's the same possibility of further urgency be determined from the level of the rule for the forced so distressed killer like compelled assassin should be sentenced to qisas. In general, the roots of urgency or, in fact, factors causing emergency include coercion, protection, harm and necessity. Therefore, in this regard, compulsion is a source of urgency (Shahidsani, p88). The main differences between reluctance and emergency only is that in will reluctance a certain person causes pressure; but in an emergency, pressure or inevitable, was due to the situation and there is not the person who creates it. In fact, emergency and reluctance are not fundamentally different but simply from the point of view of the source of the risk are different from each other. For this reason, sometimes they call urgency a "vicious circle due to conditions and circumstances. One can even say that by not accepting reluctant defense in deliberate murder, in the first place, there should be no urgent defense in this crime; because in coercion where there are two sides the legislator could do qisas about forced man, but he rather recognize compelled man qisasable that urgency where there is a one man and as a result, the lack of determination of qisas for the forced means the abolition of qisas (Shahidsani, 306). Another argument is that if there is a crime that the person in question has to do be lighter than murder (such as loss of money or objection) is not allowed in order to prevent such a mild offense, the perpetrator of mass murder would be deliberate and if that crime is also a
crime of murder, since has same degree with urgent crime and none of them prefer one to the other (that is because of the impossibility of preference he cannot kill another innocent person to save his life or another person) (Shahidsani, 49). Therefore, if the damage caused by crime equals the danger that threatens a person emergency cannot be realized. So, as the Shahid Thani has ruled in Pathways (Shahidsani, p125) if two people be in a difficult situation one action to kill another in order to dam hunger and thirsty using his flesh is evil and illegitimate, the murderer is sentenced to qisas. Likewise if the case is between the killings of one of two people, one of them cannot initially kill another to escape from death; because there is no reason for self-esteem over another (Shahidsani, p131). And an emergency action must be done in order to severe risk aversion not equal risk. For the opposite argument one can be invoke to leading articles about urgency regarding the type of offense committed in Iran's law. It may be argued that no legislator referring to the 'murder of emergency "in the qisas of the Islamic Penal Code book and the non-allocation of a special and different ruling from the general ruling stipulated in Article 152 of this law, it means legitimate will belonging to the general function of knowing the rule of emergency murder. Note that as it is obvious legislator in different articles has defined death sentence committed in exceptional and unusual situations due to the occurrence of corroborating factors and the prosecution of criminal responsibility; among the material 375, which have been described as a compulsion sentence, section B, Articles 292 and 308, which deal with the killer man or madness, 307, which was devoted to drunkenness during the assassination attempt, section "A" of Article 292 made it clear that the death sentence is asleep or unconscious, article 365, which regulates the issue of the satisfaction of the innocent or Article 302, which assumes murder as a legitimate defense. Excuses of exemption from punishment has also been referred to and ruled out in scattered material such as 301 (killing a child by father, 302, (killing of Mahdoraldem) or Article 630 of the Tahitian Law (murder in education). However, it seems other conceivable situations are not mentioned and the ruling by legislator specifically on the crime of murder, including murder in an emergency should be subject to general rules and subject to the general provisions of general law.

But with regard to what has been said before about the lack of a significant difference between reluctance and urgency, it is no longer possible to speak of the lack of reference to the issue of urgency in the murder and the determination of a special decree for it and as a result, the public function of knowing the crime of intentional emergency murder; because from this perspective, legislative by saying reluctance in murder has also determined the emergency sentence in the
murder and so when the compulsion is not authorization committing for murder, emergency cannot have such an effect. Of course it must be admitted that determining the punishment with the punishment of the perpetrator with full will and self-perfection for the murderer does not conform to the requirements of fairness and justice. There is no doubt that because of the distortion of satisfaction harmfulness, his practice is less favorable to society, in fact, here, the question of moral permission is not to kill another person to save himself from death, but the problem is that such an assassin does not necessarily have to be punished like a normal killer. As if they were murdered by a small, drunk or insane person despite the prevalence of the principle of action, the community regards them as unjust. For this reason, some have suggested that instead of the "Responsibility Factor" of emergency consideration, compulsion and even legitimate defense of them be considered as mitigation (Shahidsani, p76). To this end, it is possible to take into account all factors involved in the subject, determine the perpetrator's punishment and, in this way, apply a fixed penalty (such as qisas) in the absence of one of the conditions for the fulfillment of emergency, it would be closer to justice and fairness.

Second mode: To illustrate the second mode, we resort to a very famous example. Suppose two ships that are drowned by the ship are floating on the ocean of water and clinging to a piece of board that only has one bearing on the weight one of them. One of them pushes another to save his life and the last dive finally drowns. Contrary to what was said before, it seems that where refrain from committing murder by one of the two, no doubt it will lead to the loss of both it is not possible to consider the above reasons as to the non-acceptance of emergency defense; although, in fact, "where two people are caught in the sea and a piece of wood, only the ability to keep one of two people on the water, even if the failure of action lead to both people to drown and die, in such a situation, it may be reasonable to take a piece of life-saving rescue, while lying down (Shahidsani, p71). The fact that the compulsion is not permission to intentional killing and the matter that we supposed reluctance equal to urgency in such cases, one should not neglect the wisdom (Which certainly preserves the lives of one person, is superior to the death of both). It is right that the forced cannot considers the force imposed him as a reason for the permission and legitimacy of the murder, but you should not forget that in compulsion one life must survived (the force or his target to kill). Therefore in compulsion nastiness work aversive by the reason for your preference is to die can be discussed. But in many cases of emergency (like the example above), if the perpetrator does not commit another killing both lose their lives. Therefore, the entirety of
the judgment is doubtful "the prohibition of other killing to save himself live in emergency situations".

**CHOOSING BETWEEN TWO PERSONS FROM THIRD PARTY**

Under this assumption, there is no danger to the perpetrator, but he hesitates to choose between saving the lives of two people who being in an emergency put the lives of both of them in endangered. Considering emergency act which is committed by the offender in this case, is due to the legislator’s word to stipulate of “life or property of yourself or the other one” in Article 152 of the Constitution And the use of the terms used by the Australian legislature in article 41 of the Penal Code. Therefore, emergency action is not only to eliminate the danger to the perpetrators of life or property, but also if the risk is about other one the perpetrator is also allowed to act because of the necessary conditions. A hypothetical example in this case can be drawn in this way that two climbers after the slip and fall, by hanging on a rope that can withstand only one person are suspended between ground and air. A third party witnessing this situation will ensure the survival of one of the two climbers in such a way that by firing a bullet into one of them, and consequently his death and fall, so other planes can use the rescue rope to escape the deadlock. In this assumption, given that it is not the duty of the people of the community to protect the lives and property of others, so if someone in such a situation in the rescue of one of two people, he will commit another murder (Regardless of what the criteria of his choice are and who ultimately chooses which of the two is preferable) and given that it is assumed that in the absence of action, both people lose their lives, referring to the rule of "Ehsan" and considering that the perpetrator committed no-one the thoughts of evil-doers he has taken steps towards the interests of the community, he could not be punished. Of course, if the offender has a duty to act it seems to be a case of instances of conflict which, according to the principled doctrine, it sentence is act of choosing, unless one of the most important is the other (Shahidsani, p345). Principles have highlighted the criteria for recognizing the most important judgment. Being strict, having become, being given, and not being limited to sharia, priority given to the time and finally priority in submission of one of the fighters to judge, are criteria being important of one to the other (Shahidsani, p503). The final criterion is the criterion that are referenceable in “we are in”; thus, if it is from the existing evidence or the relation of the ruling to the subject it become clear that one of the fighters or two of them has priority near the judge, have to do it arose.
For example, if there is a ruling to preserve Islam, such a ruling in a situation of importance, it is preceded by all other precepts, or if it is a matter for people's rights, such a verdict on other sharia duties which has nothing to do with the rights of others has priority. Likewise, one of the first cases of the superior judgment, items related to blood and honor, maintaining and protecting in this case is more important than the other; because with extreme caution in these cases, the famous Shar'e is well-known. So if the matter turns out between preserving the dignity of a believer and preserving his property, preserving his life is definitely a priority for maintaining his property (Shahidsani, 383). So if the matter turns out also between saving one of two people by killing another and ultimately the death of both, according to the criterion and according to the wisdom, the first option should be considered as a priority. This question may come to mind that why in the previous section where perpetrator is hesitant between keeping one's life and the other, we did not consider the rule to be effective and one who considers his life more important than any other and who perpetrated his murder was considered punishable? The first reason of obviousness of where the perpetrator himself is at risk of life and he is not able to make the right decision, based on perceptions adapted to the commands of reason and custom. Another it is obvious that anyone in such a situation instinctively, protect himself ahead of other none’s life and naturally, he does commit unintentionally murder. So, as in these cases, by considering the flow of the rule of the most important and important, only to preserve a person who is physically stronger or in the possession of facilities and weapons has better situation, we have ruled that result of this ruling means ignoring any rational criteria and common sense to recognize the value is more important and in fact means the survival of the unselfish soul and revocation of purpose. But more importantly, that's the case the matter is between preserving one's soul and another and in the absence of killing, the person loses his life, mentioned numerical criterion is not available, killing another is undue preference and ungracious, unless the murderer is able to prove that in the absence of killing, both people would be dead. In fact, the main criterion for the license of emergency killings, is counting the number of lives that in case of murder they will survive. Therefore, if in the absence of a murder, the death of both persons be definite, emergency killings will be allowed. Now at this stage for the diagnosis and selection of the one who deserves more of survival, you should refer to the above criteria. Therefore, if there be no numerical criterion (Such as where only one person is in danger or where the lives of both people are in danger but surely both will not die and one of them will survive) it will not be possible to refer to the criteria of preference.
THE CHOICE BETWEEN FEWER AND MORE PEOPLE

Where a person to save more lives, sacrifices fewer people (whether it is one of these two groups or the person is foreigner and be not in danger) it seems that in line with the general objectives of the legislature in order to protect and defend the optimum value he has stepped from the perspective of the community and in such cases it is correct that the perpetrator has sacrificed the important for the most important, if other necessary conditions be gathered we do not do punishment. Additionally, we said that urgency is subsection of contention, according to the wisdom in the cases of contention the important must be sacrificed for the most important violation of this ruling, according to the fundamentalists it is rationally ugly and according to the famous rule, accompany, the sharia law is also in accordance with this rational judgment. In an emergency and "to evaluate two things in addition to financial value, they should pay attention to the personality of the parties and their social status, anyway important against the most important must be considered. In this way, given the importance of crimes and the situation where the dilemma occurs the emergency rule turns out to be a different for different crimes (Shahidsani, p79). One of the contemporary jurisprudents in response to request of opinion writers in this regard, has written:” the cases are different, but if in the case of important and the most important, the most important should be chosen”. Another jurisprudent has given fatwa:” in general, it is said one cannot kill a Muslim to save himself, unless attacking him and save the person be align with stop him to killing; but if there is a very important thing like maintaining Islam that its importance is much more than the importance of human life in Sharia and to do that, it is necessary to kill a few or more people. Or, for example, a person is driving a car and the flow is such that he is going to hit people and there is not an option except driving the car towards more people or fewer people and it is not possible to stop and except for the two mentioned conditions and third manner does not exist. On the assumption of the fulfillment of such conditions it is certain that the killing of fewer people should be chosen.

Give a real example from Kamen La can help to further explain the issue. In 1998, Captain of the largest Australian Navy ship got burned after that it was revealed that the rescue team’s failure due to the intensity of flames, he decided to ensure the safety of the rest of the crew with the closing of the burning engine room and the death of the four soldiers who were caught in it he was accused of committing no crime, and even then he was nominated for a courage award. In another real
example, a British boat drowned on the Belgian coast in 1987 and about 200 passengers were killed. In the interrogation of the investigating officer it revealed that few travelers tried to reach the rescue ship to clime an aluminum ladder, but a man who was left unaffected by fear or attack on the ladder has banned the path. After they asked him to move with a cry, an army captain asked the travelers who were closer to the man to push him out of the ladder and as a result, he was thrown into the sea; but the lives of many passengers behind him were saved. The Corps of the Army were not only accused of committing no crime, he was also celebrated as a hero (Shahidsani, p5). It looks like someone with his own actions prevented losing importance of the most important in deed, and made society beneficiary, this can be considered as punishable. In such cases, the rule which has already been mentioned on the delusion of judgment (important priority), perpetrator has moved toward Shari’a’s and law expectations of himself and there is no responsibility for him. Basically, the goal of accepting emergency defenses in criminal cases is to keep more important profit and dispose more crimes (Shahidsani, p49). That this important issue is available at “It is us”. Given what has been said about the absence of a distinction between urgency and reluctancy and considering the famous comment of the jurists on murder, it must be admitted that even renowned jurists who did not accept coercion also do not extended this rule to infra-self and majority of jurists in the event of infra-self-compulsion, believe that this is like someone to tell other one cut off other one’s hand or else I’ll kill you, they considered qisas to compulsioner (Shahidsani, p289); because in this assumption due to the inequality of the two values, coercive investigator and there is no consequences to compulsioner. One of the lawyers after a hypothetical plan in which compulsioner threatens someone’s life if one does not kill the other (one person) he will kill him and his relatives will. He writes: though launch released of article 211 [Article 375 current] implies that impermissibility of murder, but it seems on this assumption, forcing is occurred and the forced is authorized to commit the crime; because in the crime occurrence superior light is that harder crime (Shahidsani, p141). Therefore, it can clearly be deduced that the numerical choice mechanism and the preference for most, in Islamic jurisprudence is appropriate approach and routine and even banning murder from compulsioner does not have leading and inclusion of general. Obviously, this approach about emergency murder and forced killer is also applicable and what ultimately is important is to maintain value of the most important thing from the view point of society.
CONCLUSION

It was observed that despite the existence terms developing used by Iranian legislator in explaining necessity from the view point of type of committed crime, in Iranian law, there is no related judicial procedure, but it seems that most of Iranian lawyers by referring to jurisprudential sources, have no believe in being audible of the forced defense in intentional murder crime. However, it may be possible to cite to instrumental arguments, create some doubts on generalization of this belief. According to legal rules what is important above all in determine the task of emergency killings is attention to the facts at the perimeter of each case due to the result of the perpetrator's action, and also the matter that whether his action lead to maintaining more important and acceptable value or no. Thus, with regard to the issues mentioned above, in the case of inaction of compulsioner leads to losing life of both sides who are in danger (whether he, himself is in danger or not, or he is external observer of the urgent event and there is no direct danger about him) or in the assumption that killing fewer people survives more people, one can have a permission to commit a murder. It seems that, in addition to the arguments advanced above, Section B, Article 158 of the Islamic Penal Code that do not recognize committing a criminal act for executing more important rule, is in common with this notion. Of course, provided that not to be confronted with this disgrace of maintaining more important value is separate from executing more important rule and one can nor equalize these two.
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