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COMPARATIVE INVESTIGATION OF ROBBERY BY MEANS OF INTIMIDATION
AND VIOLENCE FROM THE POINT OF VIEW OF THE LEGISLATOR IN THE PENAL
CODE OF THE REPUBLIC OF AZERBAIJAN AND THE ISLAMIC REPUBLIC OF
IRAN

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Mohammad Yosefi, Caber Goliyv, Siyamak Shaker Sultan Ahmadi, Mortaza Shariati: Comparative Investigation of Robbery by Means of Intimidation and Violence from the Point of View of the Legislator in the Penal Code of the Republic of Azerbaijan and the Islamic Republic of Iran -- Palarch's Journal Of Archaeology Of Egypt/Egyptology 18(4), ISSN 1567-214x

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ABSTRACT

Based on the Islamic Penal Law, robbery can be described as one of the following categories according to some relevant conditions while its punishment can change to varying degrees: First, a robbery is considered "Hadd" (requiring graver punishment); in this case, the robber is sentenced to Hadd for the act of robbery. Second, a robbery committed via armed robbery or banditry, causing public horror, in which case it is regarded as Moharebeh and Corruption on Earth with its perpetrator being condemned as Mohareb and Worker of Corruption on Earth. Third, a robbery not involving any of the above conditions, in which case, it is known as Ta'zir (requiring canonical punishment; less serious than Hadd) with the robber facing less severe punishment. On the other hand, as per the Penal Code of the Republic of Azerbaijan, the acceptance of the element of seizure as the main element of robbery makes it difficult to accurately distinguish this offense from such offenses as fraud, vandalism, and even interference with the stolen property; as in each of these cases, the offender usually takes possession of the latter's property by considering proprietary interests to himself. To eliminate this problem, the courts in the Republic of Azerbaijan have sought on several occasions to provide criteria for the distinction of these financial offenses, as the basis of their decisions has sometimes been criticized by some lawmakers. This study pertains to a field of criminal law, as it sought to provide a comparative study of robbery using intimidation and violence in the view of the legislator in the Penal Code of the Republic of Azerbaijan and the Islamic Republic of Iran.

INTRODUCTION

Currently, in most countries, robbery accounts for a major part of offensive activities. Some robberies have been mostly seen internationally and in the form of mafia networks (Busar, 1995: 35). However, in line with an increase in the number of robberies in different countries, the number of robberies has sharply increased in our country in recent years, damaged the financial security of the society, made life bitter for people, thus causing distress and anxiety as well as uncertainty for many families, especially in large and immigrant cities. Moreover, the domestic security of the country is not immune to such intimidations. According to a report published in 1993 by the then Tehran Public and Revolutionary Court's Prosecutor, robbery has accounted for the highest number of offenses after fraudulent checks and other cases of fraud. The first investigation of the Economics of Offense was performed by Fleischer in 1963 and 1968. He explored the link between robbery and factors such as determining pay rates and income distribution while also examining its effect on time allocation between legal and illegal conducts (Sadeghi, 2005: 29 & Abdi, 2008: 34). In 1993, John Murphy and Price investigated the effects of payment inequality and the increased productivity of professionals in the United States, attributing the increase in offenses, especially robbery to wage inequality. Despite the importance of poverty to explain crime, some studies have demonstrated that there is no link between poverty and crime, with some suggesting a negative link between poverty and crime.

In most cases, it has been observed that crime commission including robbery, is more or less because of political and social factors rather than economic factors. Failure to fairly and justly distribute the country's resources among citizens and non-fulfillment of interests to the needy by the government contributes significantly to committing such crimes as robbery involving various political and financial motives (Ghasemi, 1995: 77). It must be acknowledged that industrialization and the development of urbanization are also among the important issues causing crimes. Studies in the United States have suggested that industrialization and urban development have significantly affected the growth of crime rates. Shaw and McKee concluded in their study that crime hotspots in Chicago were areas where industrialization had been constantly changing and urbanization growing rapidly.

Some research has also been done in this area. In a study, Sargolzaei and Bayari (2013) showed the relationship between transportation (private cars), the darkness of some streets, and robbery, concluding that a combination of these factors could provide a ground for committing robberies in Bandar Abbas. Amirinejad (2014) demonstrated in a study that violent robbers were mostly well-trained and physically fit. They were found to choose their subjects at random while not having a predetermined plan to rob. They were also used to commit a crime in groups of several people. They were also shown to be mostly illiterate and with a low social and family background, with their goal being merely material. In a study, Abdi (2008) illustrated that geographical location, passenger fleet (personal vehicles), the presence of immigrants, and weak police's operational capacity were confirmed to play roles in the incidence of robberies.

The crime of robbery is of great importance, from among the various crimes discussed in criminal law, both because of its considerable

background and of its frequency in different communities. In Islamic jurisprudence, this offense has brought about much debate among jurists considering that only a financial crime is subject to Hadd, while at the same time a variety of jurisprudential and legal debates has made this crime be one of the most controversial crimes in the Iranian criminal system. By studying other legal systems, a lawyer can delve into the strengths and weaknesses of domestic laws and ensure the constant development of jurisprudence, being its inherent feature. Maybe no other study, like comparative studies, can ever open the mind of the researcher to new and emerging themes. The issue of comparative law is up for consideration in the laws of the countries and nations across the world, as comparative law is aimed to find similarities and distinctions by comparing and applying them. The researcher in this study aimed to suggest a comparative study of laws related to robbery using intimidation and violence in the Iranian and the Republic of Azerbaijan's laws.

THEORETICAL FOUNDATIONS OF THE RESEARCH

Elements of the Offense of Robbery in the Republic of Azerbaijan's Penal Codes

In the Republic of Azerbaijan's Penal Code, the elements of the crime are categorized into four types:

- Obyekt: (Subject or object of the crime committed)
- Obyektiv: (The relationship between the subject and the perpetrator or apparent intent behind the crime)
- Subyekt: (doer of the crime)
- Subyektiv (mens rea element or internal intention or intent)
- In Republic of Azerbaijan's Penal Code, the elements of crime have been stated in four regards, with the first element being obyekt defined by Professor Fereydoun Samandrou as follows:

- Social relations protected from criminal intentions (Ağayev İ.B -2005.97, Samandarov F.Y , 2009, 286 s., 700 s)

The Republic of Azerbaijan's Penal Code has defined the regulation of social relations and on the other hand, protects such relations; put it simply, it safeguards the social relations defined by it. The specific properties of criminal law regulate the relationship with the government at the time a crime is perpetrated by an offender while ensuring the relationship between the offender and the government resulting from the crime. Forms of plundering a property depend on how the property is seized. In the Penal Code of the Republic of Azerbaijan, 6 types of Talama (seizure) are taken into account by the legislator.

1- Robbery: It means seizing other people's property (Article 177 of Azerbaijan's Penal Code)

2- Fraud: To misuse the credit of others or seizing the property of others fraudulently or transferring ownership of property (Article 178 of Azerbaijan's Criminal Laws)

3- Betrayal in trust: To take possession of the property entrusted to the trustee as a result of one's credit (Article 179 of Azerbaijan's Criminal Laws)

4- Evident robbery: It means seizing the others' property quite evidently (Article 180 of Azerbaijan's Criminal Laws)

5- Bullying: It means taking possession of the property of others by attacking the offender and creating havoc regarding the health of the person and by means of force (Article 181 of Azerbaijan's Criminal Laws)

6- Seizing property with a unique value, such as historical, scientific, literary property or objects that have cultural value as well as documents set under Article 183 of the Penal Code of the Republic of Azerbaijan.

The word Talama (seizure) is a word with its specific definition. In criminal law, Talama has been defined, whereas the legislator has not defined Talama in the laws. Including crimes that cause social insecurity and their totality is understood.

In a General Penal Code section, combination elements are fixed by such symbols that they hold the same for all combinations (Samandarov F.Y , 2007, 700 s). And if such symbols clarify the legal sources, one would suggest there will be descriptions that are not included in the definition and do not explain and interpret the presented claims. Such interpretations help meet the objective and apparent practice of comprehensive evaluation. (Ağayev İ.B. 2005. 496s).

Chenghis Mustafayev stated that the necessity of restricting the generality of the subject of seizure depends on the fact that it is different from other offenses that are unintentional (no intent). This is while, the salient properties of the subject of robbery is that they can be analyzed via different forms (Ç.F. Mustafayev, 1994, 160 s).

According to the laws, a part of material blessings has these signs in the view of people (CY Азерб. CCP, 1920, № 1. C. 13). To Mustafayev, whenever robbery is done by intimidation and violence of property, this rule is violated, and this violation is expressed such that the legal position of material blessings is damaged set following norms and rules at the time a robbery is committed along with intimidation and violence of property. This is while this legal position is not consistent with the rules and legal norms, and the offender becomes the owner of the property by adding some legal property to his account. Regardless of its form and type, this type of offense in other crimes damages the original owner or the legal owner of the property without malice. In this type of offense (robbery), the property is deducted exactly from the amount of the original owner and is taken possession of by the culprit. (Ç.F. Mustafayev, 1995, 160 s).

Robbery has been defined in the Republic of Azerbaijan's Penal Code adopted in 1999 as follows: "Robbery is the seizure of the latter's property in secret" (Article 177). In the Republic of Azerbaijan's Penal Code, in line with most countries, the amount of stolen property affects the punishment. According to Clause 1 of Article 177, from thirty manats (Azerbaijan's currency) to one thousand manats is considered as damage and the damage needs to be material. In other words, its amount should be considered only the value of the stolen property, and that the damage to the owner of the property should be set forth exactly in the file and submitted to the court until the expert issues a ruling. All the property should be priced and have their actual prices.

If the seizure of a total amount is carried out by a group and nothing from this total amount is reserved for one of the members of the group, then it will also be organized within the group.

177.3.3 twice or more as previously demanded by looting or intimidation

Robbery should involve intimidation and extortion. Convictions except for property seizure could involve banditry under Article 217 of the Penal Code and the stealth of radioactive materials by force and intimidation, under Article 227 of the Penal Code and the supply of firearms and equipment and explosives for wars as well as the seizure of weapons or their acquisition by force under Article 232 and the seizure of narcotics and psychotropic substances and their manufactured tools under Article 235 of Azerbaijan's Penal Code.

A Statistical Comparison of Robbery in the Republic of Azerbaijan and Iran

The ratio of seizure of others' property in the Republic of Azerbaijan from 2003 to 2012 has increased to 1.7%.

Table 1: Number of Registered Robbery Cases from 2003 to 2012 in the Republic of Azerbaijan

Years	Total number of registered crimes	Number of crimes of secret looting of another's property		Total number of offenders	The sum of persons who have secretly robbed another's property		Theft of non-secret property
		Absolute indicator	Special indicator		Absolute indicator	Special indicator	
1	2	3	4	5	6	7	8
2003	15520	1619	10,4	14555	1163	8	84,2
2004	15206	1820	12,0	14447	1212	8,4	80,5
2005	16810	1776	10,6	16030	1212	7,6	79,4
2006	18049	2151	11,9	17303	1319	7,6	71,5
2007	19045	2139	11,2	18588	1258	6,9	66,8
2008	18667	1951	15,9	17734	1262	7,1	73,1
2009	21692	3401	15,6	18312	1353	7,3	60,0
2010	22830	3640	15,9	19417	1409	7,2	59,8
2011	24263	3982	16,8	23215	1512	7,8	82,9
2012	21897	4120	17	24143	1567	8	86,2
2013	23867	4862	17,6	28613	1903	8,9	91,3

Also, in the Table of Seizing the Property of Others, the Number of Persons has been specified; besides, in Table 1, the number of examined cases has been varying from 59.8% to 80.6%. The number and graphic

situation of robberies using intimidation and violence registered in the Republic of Azerbaijan between 2003 and 2013 has been provided in Table 2 below.

Also, in the table of theft of property of others secretly reflected by the specified persons, also in this table, the number of cases examined has been changing from 59.8 to 80.6. The number and graphic status of theft of property of others registered in the Republic of Azerbaijan between 2003 and 2013 is reflected in the following table: According to the observations from the table, starting from 2003, the theft of other people's property in the Republic of Azerbaijan was secretly ascending and met with evidence.

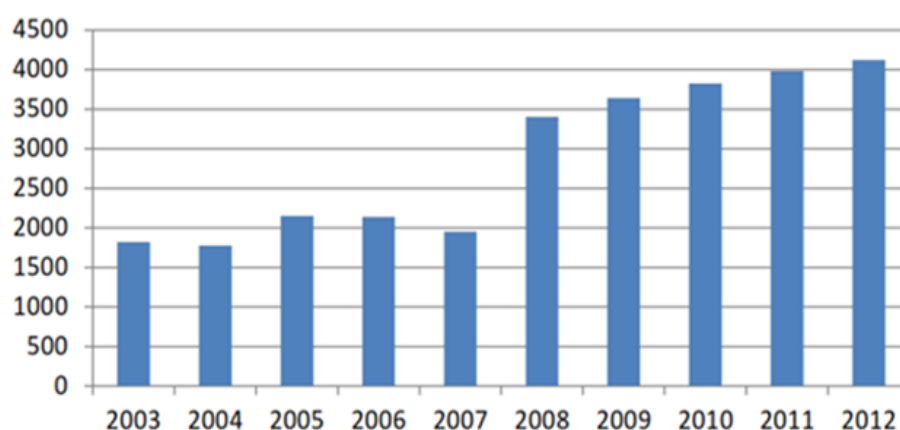


Figure 1: Graph of the rate of registered crimes and the growth of crime in the Republic of Azerbaijan in the period of 2003-2013

According to the 2011 Iranian population census, the population was 75150270, which per capita robbery for the population in 2011 was one out of hundred (0.0101838091), which was two from a thousand (0.002735) in Azerbaijan.

Table 2: The Number of Robberies from 1996 to 2015 by Type of Robberies

Year	Place Robbery					Auto and Its Parts Robbery				Livestock	Others	Sum
	Public places	Houses	Shops	Industrial and commercial centers	Other places	Autos	Motorcycles and bicycles.	Boats, boat engines, and marine accessories	Car accessories or equipment inside it			
1996	2,291	22,926	8,767	1,245	3,965	10,276	19,978	109	13,561	2,545	16,209	101,872
2001	3,010	40,052	14,298	2,230	7,806	9,779	24,779	134	34,044	5,254	21,373	162,759
2002	2,867	36,832	13,251	1,470	9,333	13,542	28,806	391	30,406	6,007	21,590	164,495
2003	3,139	41,301	12,973	980	10,954	14,067	30,111	398	36,499	5,622	29,777	185,821
2004	3,348	38,403	12,494	1,266	11,549	17,279	36,116	402	40,616	5,321	37,458	204,252

2005	2,353	27,359	9,024	1,437	9,611	15,250	39,458	139	46,334	4,371	30,096	185,432
2006	2,770	26,023	7,965	1,022	8,762	15,185	41,399	173	48,949	3,349	34,369	189,966
2007	2,051	22,589	7,221	630	7,177	11,885	2,988	175	42,228	3,459	38,499	138,902
2008	1,855	24,813	8,081	890	8,786	15,641	3,033	131	45,248	4,062	44,093	156,633
2009	2,232	38,918	13,539	1,354	12,963	22,011	2,868	316	78,109	8,852	63,180	244,342
2010	2,923	53,803	18,541	2,176	20,494	40,664	84,915	127	125,642	11,276	90,009	450,570
2011	3,627	57,565	18,888	2,488	25,930	46,988	75,973	115	145,547	11,092	42,949	431,162
2012	4,594	67,065	19,035	5,019	40,484	69,454	82,762	1,296	214,627	11,631	129,775	645,742
2013	7,652	87,655	23,162	8,990	65,513	79,070	92,173	1,466	155,989	13,227	138,970	673,867
2014	5,846	87,043	22,161	10,616	69,742	79,606	85,868	1,027	266,876	13,021	158,663	800,469
2015	4,955	88,141	22,557	4,332	71,453	76,236	85,459	102	233,734	15,690	162,657	765,316

According to the statistics, 746 cases of armed robberies took place in 2009, with an increase of 160 cases or 25 percent from a year ago. According to Jahan News, quoting informed outlets, Fars and Kerman provinces ranked first and second in 2008 and 2009, respectively. According to these statistics, Ardabil and North Khorasan provinces ranked 29th (last rank), with a 100% fall in armed robberies in 2009.

Based on official data published by the Iranian Statistics Center, the offense of robbery has been constantly on the rise from 1996 to 2015. For the past 5 years, robbery has tremendously been changing across the country.

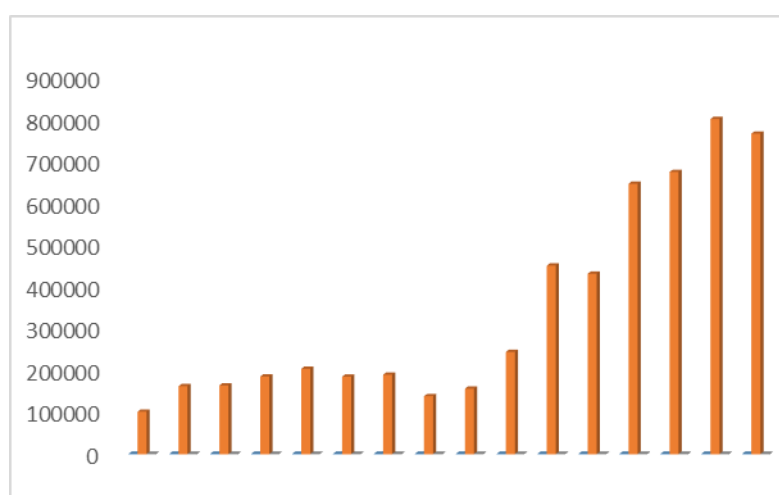


Figure 2: Diagram of Robbery Rates from 1996 to 2012

Statistical study of theft according to official statistics published by the Statistics Center of Iran shows that between 1375 to 1394, the rate of theft has been constantly increasing. During the last 5 years, the theft process in the country has fluctuated significantly

Robbery cases increase in different cities in proportion to population density. A city with twice the population of another city has a higher robbery rate than the latter city. In terms of financial values, city districts also differ; for example, in 10 cases of robbery in the Shahr Rey, the value

of the property hardly amounts to one 100\$, but in one case of robbery in Niavaran, the property value claimed by the homeowner was worth about 1500\$. In Iran, although the robbery rate is lower than that in developed countries, its slight growth in recent years has been a cause of concern. Investigating robbery in Shiraz, Saeed Madani has concluded that in affluent areas, most robberies take place during the day, and most robberies valuing more than 3000\$ take place in the hours after midnight until morning and during holidays. Most burglaries take place between 6 pm and 12 am. The selected places for robbery often do not have a police station and most small robberies occur by addicts in the same areas (Madani, 1994: 53-54).

Explaining the Concept of Robbery using Violence and Intimidation

Robbery using violence and intimidation is one of the types of restricted robberies. "Restricted robberies" refer to those seizures that involve aggravating qualities, such as armed robbery, collectiveness, robbery at night, and using intimidation or intimidation when perpetration. The crime of robbery, when combined with acts of violence and aggression, is no longer a simple state entailing severe crime followed by intense punishment. In such cases, an aggravated punishment for the crime is considered not based on the value of the stolen property but the violence applied. Robbery using violence and intimidation is defined as "an illegal seizure or taking possession of the latter's property through violence or intimidation of violence" (Wild, 2006: 229).

In robbery using violence and intimidation, the ensuing repercussions will be more severe than ordinary thefts because the robber applies physical force and tries to overcome the victim to take the property out of the owner's hands, as it is considered one of the anti-security components, thus endangering the peace and comfort of citizens and consequently creating distrust of law enforcement agencies such as the judiciary and law enforcement (Sargolzaei, Bayari, 2013: 67). This kind of seizure is one of the most violent cases of robberies, which generally causes physical damage and, worst of all, psychological damage, in addition to inflicting financial damage caused by the seizure of the property.

Most robberies using violence are committed with deadly weapons and involve two or more offenders, usually young men. Although the property stolen as a result of this offense may be trivial, the use of violence makes it a serious crime, so that when people become concerned about crimes on the streets, their first annoying concern is that of the robbery. (Bruinsma, Gerben & Weisburd, David ; 2014:45).

In the Iranian laws, robbery using violence was first criminalized as per Article 223 of the 1924 General Penal Code. In this article, the then legislator had explicitly used the word "intimidation", in addition to the word violence. The type of punishment regarded for the crime had also been confined to imprisonment (imprisonment of hard labor from three to fifteen years); however, the 1972 General Penal Code only amended the first chapter (Basics) of the aforementioned law and the 1982 Canonical Codes did not contain an article on robbery using violence. Finally, the above-mentioned Article 223 was annulled according to the laws adopted

after the Islamic Revolution of 1978, and in 1995, the legislator adopted the general provisions of this article with changes in the form of Article 652 of the Penal Code.

This article stipulates: "If the robbery involves violence or the robber is armed, he shall be sentenced to imprisonment of three months to ten years and receive 74 lashes. If an injury has arisen, the maximum punishment shall be followed, in addition to the punishment for the injury". As inferred from this ruling stated by the legislator, this type of seizure is included in Ta'zir robberies. It should also be noted that despite the enactment of the Islamic Penal Code in 2013, this article of the law, outlined in the Code of Permanent Penalties, has not been amended and only in some cases.

Because robbery using violence is considered an aggravated offense and requires the crime of simple theft, as one of its special conditions, it enjoys all specifications of a simple seizure, including its restriction. Concerning aggravated robbery, a simple rule can be provided as follows: "When a simple seizure is not fulfilled, violent robbery negates a benefit of the subject." According to this rule, a violent robbery becomes fulfilled when a simple seizure has arisen.

According to Article 652 of the Iranian Civil Laws, violence by the robber must take place at the time the robbery is perpetrated. The necessity of this condition can be inferred from the sentence "Whenever the robbery is violent", such that a reflection on this sentence clarifies the word "using violence" which is deemed critical for aggravating the punishment of the robber. In other words, when the seizure ends, violence by the robber shall not cause the past seizure to be aggravated. This is so important that non-consideration of which by the authorities will get the ruling issued by the Supreme Court abrogated.

Violence must take place within the place and time of the crime to say that the seizure was based on violence; thus, just as violence does not suffice by the time the seizure begins and the crime must be a complete seizure, causing violence against people who are not present at the crime scene and the violence against whom will prove to not affect the property of the owner, the seizure will not be considered to be aggravated. The subtle linkage between the time and place of committing theft requires careful consideration of each of these domains. On the other hand, the act of the robber must be considered violent and, consequently, the owner of the property is found to have suffered as a result.

Another issue to be debated is the meaning of the word "violence". Does this word involve all types of violence? To answer, one can say that the word refers to an unpleasant behavior causing suffering, discomfort, harassment, and damage to someone (Anvari, 2009: 31).

Carrying a weapon by the robber (if there are several robbers) causes the punishment to be aggravated. Simply put, when the criterion for this type of seizure is thought of as an objective criterion, the mere possession of a weapon by the perpetrator causes a kind of violence for the victim, taking into account common sense. Accordingly, Article 652 of the 1995 Iranian Civil Laws has proposed two types of robbery; one is aggravated robbery and the other is robbery by an armed robber (Habibzadeh, 2010: 152) which is criticized. The reason for this critical

approach is that the legislator's position implies that the armed robber is considered to be intimidating for the victim. One can argue that carrying a weapon is considered a clear example of violence by the robber, and the legislator has emphasized this example as it is an important issue. Therefore, some writers have maintained that with regards to the crime in question, a fake weapon can also be a means of physical or mental harm (Sadeghi, 2003: 2). If the victim is found to have been aware of the weapon being fake, the act is not considered violent, and therefore aggravated robbery will not be fulfilled as the aforementioned rule suggested.

Also, it seems that perpetration of violent conduct should be used to commit the seizure; as, by doing so, the perpetrator intends to facilitate the seizure of the property belonging to the latter and, in other words, to pave the way to meet his goal. In this regard, in a part of the theory of the Legal Department of the Judiciary, it is stipulated that: "Violent seizure occurs when the violence is done to commit the seizure or facilitate its occurrence".

Punishment for Robbery using Violence

In Iran, as per Article 652 of the 1996 Iranian Civil Laws, the punishment for robbery using violence is imprisonment from three months to ten years and 74 lashes. Of course, in cases where an injury has arisen, the maximum punishment (ten years imprisonment and 74 lashes) shall be enforced, in addition to the punishment of the injury itself. Regarding the level of imprisonment in the article, it has been stated that the word "month" has been wrongly used and the legislator meant "year" (Zeraat, 2003: 2). However, assuming that this interpretation was correct, it faces the hurdle of the legality of the punishment. Therefore, until the law is amended, the most appropriate solution is that the judicial authority, upon its discretion within the minimum and maximum punishment, takes into account the possible mistake and enforces an appropriate punishment in the case according to the type of robbery considered an aggravated seizure.

In cases where an injury is inflicted by the perpetrator, as stated by the application of the word "injury" in the legal article, its severity or insignificance is not important and, in any case, the maximum punishment is applied to the perpetrator, in addition to the punishment of injury. "Infliction of injury" can be considered as a form of violence and is therefore excluded from this part of the article; however, concerning the case of murder, there is a difference of opinion, so that the Supreme Court has not considered a united procedure in its verdicts. In its decision No. 2659, 1928, the Second Branch of the Supreme Court stated that murder is considered maximum violence and that if a robber is found to have killed someone while robbing, he has committed two separate offenses of murder and aggravated robbery; however, in another decision, No.1589.3 in 1929, it has declared that if a robber kills the owner of the house or the defender of the property during the robbery, this act of murder and robbery is not regarded violence, because the murder is no more than a crime, and when the punishment for this act is determined per se, the crime is longer taken as violent, but a simple robbery and such a person shall be punished for murder and violent robbery, etc. Punishment for bullying is not stipulated in the Azerbaijani Penal Code (Bazgir, 2007:24).

Armed Robberies

Armed robbery has been stated in our country in two forms in Articles 651 and 652 of the Islamic Penal Code adopted in 2013. What is important in an armed robbery is the quality of its constituting elements. This offense may occur in a systemic or normal way. If a group is led by a certain person and there is a systemic linkage between its components, it is called an organized crime. Armed robberies, in addition to the use of weapons, often take place via coercion, violence, or threats of violence against victims or bystanders. Such robberies are followed by the attempt to take anything having a value that is under the care, custody, or control of an individual or persons, using weapons, coercion or the threat of force or violence, or intimidation against the victim (Saffary, 2010: 32).

The Islamic Penal Code ("approved canonical punishments") stipulates in Article 653 of the Penal Code that: "Anyone who commits banditry on the streets and avenues if he is not labeled Mohareb, shall be sentenced to 3 to 15 years of imprisonment and flogging to 74 lashes". By the word "Mohareb", the legislator has meant the position of him in the article of the said law, approved in 2013 Islamic Penal Code; "Moharebeh" means drawing weapons to take the life, property, or honor of the people or intimidating them in a way that would result in insecurity of the environment". Anyone who draws weapons against one or more individuals for personal motives and whose actions are not publicly accepted, and also the one drawing weapons against people but does not deprive them of security due to incapacity, it is not considered a Moharebeh."

According to Article 654 of the Islamic Penal Code, if the robbery takes place at night and the robbers constitute three or more people, and at least one of them is found to be carrying an apparent or secret weapon, they could be sentenced to three years in prison and up to thirty lashes. According to Article 653 of the Islamic Penal Code, a robber and a bandit are called Mohareb when they commit intimidation and violate the security of the people by a weapon; in which case, they shall be sentenced to death or amputation of the right or left hand or leg or even exile. Another type of robbery is stealing from museums or historical and religious sites, which as per Article 559 of the Islamic Penal Code, imprisonment of 1 to 5 years is taken for the robbers seizing objects, appliances, and cultural and historical interests. Armed robbery against banks and exchange offices is another type of robbery which, as per the single article of the law on aggravation of punishment for the armed robbery of banks and exchange offices, shall be punished by imprisonment for this type of robbery and execution if anyone is murdered.

Banditry

The criminal act of robbery is a positive actus reus act through seizing another's property, through force and coercion, or the use of a weapon. Therefore, the omission cannot constitute criminal conduct of the said crime. Since this act takes place due to the use of weapons or force and coercion, it can deprive people of security. The act committed by the perpetrator of this crime, unlike robbery, is evident (Habibzadeh, 1999: 127). This is while it is not possible to commit this crime secretly.

Armed robbery and banditry, the subject of Article 185, fall under the category of intentional crimes; that is, the crime will not be materialized unless the person has the intention to do the act and does not intend the criminal outcome (general and specific malice). However, the wording of Article 185 is such that the result will not materialize if the intention is desired only apparently. To explain the matter, we will review the above-mentioned article once again:

"An armed road robber is a Mohareb whenever he disrupts the security of the people using a weapon and causes terror." According to this article, the armed robber, though generally intending to resort to weapons and close down the road on people to stealing their properties and since their acts cause horror and intimidation for people, they are called Mohareb. According to this article, the armed robber, though generally intending to resort to weapons and close down the road on people to stealing their properties and since their acts cause horror and intimidation for people, they are called Mohareb.

CONCLUSION

This study aimed to investigate the differences and similarities between robbery using intimidation and violence between the two criminal justice systems (Republic of Azerbaijan and the Islamic Republic of Iran). According to the Penal Code of the Republic of Azerbaijan of 1922 and 1927, many differences showed up with the 1960 Penal Codes in the field of crime against property, especially in the criminal title of bullying (robbery using violence and intimidation). Although changes have been twice made to the 1995 and 1999 Azerbaijani Penal Code, little was changed in the area of robbery using intimidation and violence compared to the code adopted in 1960. Article 181.2.4 and Article 181.3.2 of the General Penal Code of Azerbaijan provide for compensation for major damages one has suffered and Article 181.1 of the General Penal Code of Azerbaijan provides for the main elements of crimes against the property of others through bullying. According to Article 181.1, even if a property is not stolen, and a person or persons ever intend to rob others using intimidation and violence, they shall face the same punishment of robbery using bullying. According to Article 181.2.4 on describing robbery with intimidation and violence (bullying), it has been mentioned that if this bullying and violence harms the mental health of a person, it shall face a punishment of 4 to 8 years of imprisonment. If the only robbery is committed with no physical or mental health harmed, it shall lead to 3 to 8 years of imprisonment, depending on the circumstances.

The Penal Code of the Republic of Azerbaijan provides for that the age of criminal responsibility for robbery well under 14 years, while in the Islamic Penal Code of Iran, the age of robbery is defined in accordance with Islamic maturity. Concerning people not reached the age of responsibility but have committed the crime of robbery, they shall be held liable in accordance with paragraph 4 of Article 34 of the Penal Code of the Republic of Azerbaijan.

With almost 27 years passed since the Republic of Azerbaijan became independent from the USSR, and is rich in underground resources such as oil and gas, the people though do not have the economic power, as

this has become one of the cases causing an increase in the number of robberies in recent years. It should be noted that the ratio of robberies using violence and intimidation increased by 1.7% from 2003 to 2012.

According to the 2011 Iranian population census, the population was 75150270, which per capita robbery for the population in 2011 was one of hundred (0.0101838091), which was two from a thousand (0.002735) in Azerbaijan.

In the laws of the Republic of Azerbaijan, the subject of others' property stolen is constituted by property. According to Article 2/135 of the Civil Code of the Republic of Azerbaijan, the property is the sum of tangible and intangible guarantees and any object. Paragraph 1 of Article 135 of the Civil Code of the Republic of Azerbaijan suggests that not only physical (tangible) properties but also money and securities are regarded as objects.

According to the Iranian civil law, objects can be divided into two general categories: one is tradable objects and the other objects that not tradable naturally, legally, or religiously.

In Azerbaijan's legal system, the robber's intention to permanently deprive the owner or possessor of property constitutes the condition for the crime of robbery according to the wording of the laws. Despite this general rule, temporary use is also recognized as a special crime under the text of the law in Azerbaijan in the case of some types of property.

The penalty for complicity in the robbery is not specified in the Criminal Code of the Republic of Azerbaijan. However, assuming that the robber is the prime one to initiate the robbery, complicity in the offense shall face punishment.

A comparison of consequential effects in the Islamic Penal Code and the complementary punishments in the Criminal Code of the Republic of Azerbaijan concerning the crime of robbery using violence and intimidation does not show a significant difference with small differences being seen in the different cultural and social context of the two societies under study. In the Islamic Penal Code, the enforcement of this deprivation does not need to be specified in the decisions of the court issuing the sentence. On the contrary, in the Republic of Azerbaijan's Criminal Code, the consequences of committing the crime of robbery, as a complementary punishment applicable to natural persons and the liability of legal persons, are determined by the lawmakers. In the Republic of Azerbaijan's Criminal Code, initiating robbery (*oğurlug cəhd göstərmə*) is not considered the same as robbery, and despite the punishment provided for in the Penal Code, the punishment of robbery is applicable to all cases. This can be inferred from the text of Article 29 of the Criminal Code of the Republic of Azerbaijan.

In the Republic of Azerbaijan's Penal Code, as well as in most countries, the amount of stolen property has an impact on the degree of punishment. The amount should be considered only the value of the stolen property and that the damage to the owner of the property should be provided and paid to the court exactly in the case file until the expert determines a verdict.

Reviewing criminal cases in Azerbaijan's courts, one can argue that only in a few cases, the minimum punishment is regarded for those who have committed bullying, and in most cases, the judges provide for the

maximum punishment for these criminals, to prevent the repetition of similar cases. One would suggest that both the maximum penalty of 8 years for bullying and the penalty of robbery are enforced between 10 to 15 years of imprisonment for the offenders. However, as per the same law, the perpetrators of murder are sentenced to 9 to 14 years of imprisonment, and this issue shows the significance of the legislator's attention to the issue of bullying. Thus, it is observed that the punishment for robbery using intimidation as per the Penal Code of Azerbaijan is much heavier than its punishment under the Islamic Penal Code of Iran.

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