



2528-9705

Örgütsel Davranış Araştırmaları Dergisi

Journal Of Organizational Behavior Research

Cilt / Vol.: 8, Sayı / Is.: S, Yıl/Year: 2023, Kod/ID: 23S0-835



## The Effects and the Conditions of the Criminal Policy of Iran and England against the Victims of the Indecent Exposure Crimes

Yaser sargolzai  
Father's Abraham

M.A in criminal law and criminology at Azad university Zahidand Iran

E-mail: zmomoni694@gmail.com

### ABSTRACT

The present study is to investigate the effects and the conditions of the criminal policy of Iran and England against the victims of indecent exposure crimes. The method is descriptive-analytical using library resources. The necessity to do this research can be explained in this way criminalization to maintain order in society based on the dominant ideology of that society is defined by the harmful behaviors of the legislators. Since criminalization has a direct relationship with the freedom of people and it can cause its deprivation, it should not be applied excessively. Instead, it should be in accordance with the culture and customs of that society and it should be used as the last resort. The significant amount of indecent exposure crimes in societies and their relationship with virtues and public morals have always increased the attention to these crimes. The investigations show that UK legal system is tackling the protective strategies for children, including their protection from sexual exploitation by updating criminal laws to prevent to use of computer systems for sexual crimes against children. The domestic law of the UK has considered child pornography for its distribution through a computer system a crime. Moreover, in a society suffering from an abnormality or a normative vacuum or in societies where "masculinity" is defined as bullying, violence, and dominance while "femininity" is defined as nothing more than having tenderness and submissiveness, and being reproductive means, the possibility of rape will increase. According to the social learning theory, rape is a learned behavior as are many other behaviors.

**Keywords:** indecent exposures crimes, English law, cybercrime, children pornography

### INTRODUCTION

Indecent exposure crimes are crimes that violate human morality in a direct and fundamental way and cause many personal and social consequences. It has been captured attention since our country is transiting from the traditional to the modern period. In this regard, on one hand, the importance of protecting the rights of the victims is added, and on the other hand, in many cases, such crimes are carried out in criminal and criminology areas secretly and the citizens usually do not want the government to interfere in their personal and secret affairs. These issues can lead to some contradictions. In Iran, where the public beliefs, culture as well as legal orders and prohibitions are set forth on the basis of Sharia, indecent exposure crimes are remarkable. By category, these crimes are classified as crimes related to the indecent acts and against the public morals of the society. The examples of these crimes are important to determine considering their special place in Iran's criminal policy.

Sexual offenses are among crimes against individuals, which are investigated in a full chapter because of their importance in the Holy Sharia. Since in Iran Sharia and Shia jurisprudence is tackled, such crimes have been examined in two sections, namely, Hudud and Tazir, and severe punishments have been prescribed for them. However, this study aims at investigating a part of

sexual offenses, which is called sexual assault. In cases where sexual crimes are committed with violence and unwillingness, they are not only classified as indecent exposure crimes but also as crimes against individuals due to the perpetrator's indifference to the victim's control over her body and their psychological and physical harm to the victim. Committing crimes, especially moral ones, is one of the challenges of all societies. In this regard, violent crimes, and sexual assault at the top of their lists, are the most serious crimes due to their negative psychological influence, which leads to creating a sense of insecurity in society and insulting the dignity of the victim. (Rabbani Khalkhali, 2003).

Permanently and potentially, half of the population of each society, women, are exposed to rape. It is why regardless of the influence of the views of different religions and cultures; there is agreement on setting serious penalties for sexual assault in the criminalization of moral crimes in all countries. The indecent acts are classified as criminalized crimes in the law, which have been less addressed despite its long history of committing and setting punishments. By history, even in the oldest human laws, such as the code of Hammurabi, dated back to Babylon and Mesopotamia (ancient Iran) around 3,800 years ago, severe punishments have been considered for these crimes. Today, the criminalization of sexual acts and intercourses is a main part of each country's law. Rape or sexual assault is the most severe sexual crime at all times and in all places. Sexual crimes are not among the crimes against individuals. Instead, they are among the indecent exposure crimes and offenses related to public morals, the subject of Chapter 18 of the Penal Code. However, when such crimes are committed with violence and reluctance, they are both crimes against public morals and individuals considering the perpetrator's indifference to the victims' control over their bodies and the psychological and physical negative impacts of such acts for them. The Islamic Penal Code imposes the death punishment for committing rape (Zina) by force and reluctance. The severity of this punishment is because of the fact that the rape causes the woman humiliation and takes away her and her family's dignity but this case does not apply to a man. What is known as rape (Zina) in our country is a part of sexual assault in English law, which includes a wide range of sexual crimes. It is the most important reason for choosing English law in this study. Sexual crimes in English law include a wide scope and in particular, sexual assault has many types and categories, which unfortunately are not seen in the Islamic legal system of Iran despite being based on the protection of Muslim rights. For example, rape has been criminalized in a limited way (Rahiminehad, 2008).

Bearing in mind that in today's Iranian society, the issue of crimes against individuals, especially sexual crimes are of great importance, and in Iranian law, the details have been neglected, it is necessary to examine the various aspects of sexual offenses. In addition, the various damages caused by them to different people should be investigated so that an all-inclusive law can be achieved. This research is to investigate the strengths and the flaws of the English and Iranian legal system by comparing them. Following it, the effects and conditions of the criminal policy of Iran and England against the victims of indecent exposure crimes are investigated.

### **Sexual assault**

Sexual assault is a form of violence in which sex is used as a weapon. It is rooted in cultural-social factors and it has no relationship with economic status. There is no absolute way to prevent sexual assault but it necessitates a comprehensive solution in which all methods of prevention, e.g. situational, developmental, social, and crime prevention are used. In the last years,



implementing sole criminal preventive measures has not made a significant change in reducing the rate of sexual crimes. In this regard, the criminal policymakers of Iran should use diverse and effective non-criminal solutions while revising their approach. They also should arrange an all-inclusive, accurate, and up-to-date program to prevent sexual crimes, particularly, those against women and children, in a normative manner. In fact, the criminal solutions predicted in the Islamic Penal Code to prevent sexual crimes, are profitable if they are used following non-criminal prevention solutions. The successful experience of using NGOs in preventing various types of sexual crimes against women and children gained by the social planners in England, especially in protective victimology, can be a suitable pattern for Iran's social policymakers to rely on these organizations to protect the victims. However, for more successful situational and technical crime prevention, the trained and specialized police force should be used in implementing sexual crime prevention programs ( Soleiman, 2010).

### **Rape**

The case of rape is realized when a man has sexual intercourse with [another] man or woman without their consent. Under the sexual offenses Act, approved in 1956, note 1 of [Article 1](#), amended by the Law of criminal justice and public order act approved in 1994, rape is a crime committed by a man against another man or a woman.

It should be noted that only a man is accused of the crime of sexual assault. In the law, a woman is not accused of this crime. However, a woman can be convicted of assisting in this crime.

Note that only a man can be accused of the crime of rape, in law, a woman cannot commit the crime of rape. Despite this, a woman may be accused of being an accessory to rape. For example, Rosemary Pauline West, a serial killer, was accused of assisting and abetting the rape of a girl. Rosemary West, the wife of Frederic West, who was alleged to be the serial killer, was initially charged with assisting and abetting the rape of a girl. In the case of DPP v K.V. (1997) two teenage girls (13 and 19 years old) were convicted of assisting in the crime of rape (Zeraat, 2006).

Until 1994, the crime of sexual assault was a crime against women (female rape). In the media, a situation where a man was forced to accept sodomy was referred to as sexual assault against a man (male rape). However, in legal terms, they could only be accused of indecent assault or sodomy. The criminal justice and public order act of 1994 made important changes so that now, both women and men who have been assaulted are considered the victims of sexual assault.

Moreover, those people in charge hope that by including men, a new look at sexual assault against women can be obtained. As Susan Brown Miller has argued in her [book](#) entitled “Against Our Will”: “Women are trained to be rape victims”. She says that merely hearing “the rape” means awareness of the power relationship between women and men... girls not boys are considered the victims of the rape. Rape is a terrible event, which happens to women, and it is suggested that if we do not act carefully, it is our inescapable fate. If this idea is accepted that rape happens to both men and women, we avoid making mistakes. Yet, some judges comment that women are responsible to stay at home at night, wearing dignified clothes, and other similar behaviors to prevent the occurrence of the crime of rape.

Until 1994, rape was committed if, during sexual intercourse, the penis entered a woman’s vagina. This idea was amended by the criminal justice and public order act approved in 1994. Now, rape means entering the penis into the woman’s vagina and anus. According to note 2 article 1 of the amendment of the sexual offenses acts approved in 1956, a man commits



rape if he has sexual intercourse with a person (whether by entering his penis in the vagina or anus) and the victim does not consent to this act. It means that rape crime overlaps with sodomy crime. Article 44 of the same act states that it is a crime even if no ejaculation occurs. Penetration means the commission of the crime: "The act of sexual intercourse does not mean expelling semen but, the mere entrance of the penis means sexual intercourse". There cannot be an offense in assault in omitting to act. It is in accordance with the principle discussed on page 9 of the book in the case of *Fagan v Metropolitan Police Commissioner*. Thus, in the *Kaitamaki* case (1984), the Royal Council stated that a defendant will be liable if they become aware during sexual intercourse that the victim no longer consents and fail to withdraw at that point.

Nowadays, the advanced forensic medicine methods related to the research mean that denying the act of sexual intercourse is less likely to be a (good) option. Clearly, consent along with the psychological element of the crime is the obvious boundary of defense.

The consent of the victim should be genuine not under pressure. In the case of *R v Olugboja* (1981), the accused had threatened to keep the girl in his house during the night. No threats of force and violence were uttered and the girl showed no resistance against sexual intercourse. The court held that there was no evidence of the girl's genuine consent, but the victim only began to struggle in earnest after penetration had occurred. In practice, the difference between mere submission and consent is difficult to distinguish.

In the past, it had to be proven whether the [consent in] sexual intercourse was obtained by force or not. However, nowadays there is no such a case anymore. In the case of *Larter and Castleton* (1995), this point was reemphasized. In this case, the accused had sexual intercourse with a woman who was asleep. The Court of Appeal held that force was not a requirement of the offense of rape and that a person who was asleep would be unable to consent to sexual intercourse. Thus, the actus reus of rape would be present. The reason for the use of force is related to the consent. At least, theoretically, it is only presented as a reason. In practice, the juries are reluctant to believe the victim's claim that there is no reason to use force. (Saadawi, 2000).

What about a case where the victim gives consent if she is being lied to? For example, the accused may lie that he is single to obtain the consent of the other party. At present, there are two situations where the deception by the accused negates any consent obtained from the victim. First, the situation where the accused pretends to be a victim's husband or boyfriend. According to note 3 article 1 of the sexual offenses Act, 1956, it is an offense for a person to procure a woman, by false representations, to have unlawful sexual intercourse in any part of the world. Until 1995, it was not clear whether a similar approach could be taken if the accused had pretended to be the victim's husband or boyfriend. There are old, different cases in this regard: In the *Burrow* case (1868) it was suggested that consent should not be negated and in the *Dee* case (1884) it was suggested that consent should be rejected. In the case of *R. v Elbekkay* (1995), the problem was resolved by adopting the same approach used in the case of *Dee*. The victim lived with her boyfriend. One evening, the couple went out with a friend and came back home drunk. The boyfriend fell asleep in the living room and the victim went to the bedroom. During the night, the boy (not the victim's boyfriend) slept with her. The girl who was half-asleep thought that he was her boyfriend. The court of appeal upheld the boy's conviction and held that it is an offense for a person to procure a woman, by false representations, to have unlawful sexual intercourse. Now, pretending to be a gay friend is considered a rape crime as well.



Second, the situation where the accused tries to deceive the victim and the deception is similar to sexual intercourse. Thus, in the case of Feltre (1877), the accused told the victim that he wanted to do surgery but he did sexual intercourse. Deception negated consent and the accused was convicted of the rape. The same point can be seen in the case of Williams(1923). The appellant was a music teacher who convinced a 16-year-old student, the victim, to let him do something to improve her singing voice. Deception negated consent and the accused was convicted of the rape.

According to the note 2b of Article 1 of the sexual offenses act, the accused should be in such a mental state that at the [time](#) of [committing the act], he knows the victim does not consent to sexual intercourse or neglects whether the victim consents to sexual intercourse or not.

In the case of R v Satnam (1984), it was held that the recklessness is not Caldwell type( overruling the case of Pigg 1982 on the same issue). Nevertheless, the court did not use traditional words of Cunningham( in the case) to describe the subjective status. The words were considering this risk that what happened might happen again. In contrast, in the case of the DPP v Morgan (1976), Judge Hailsham referred to the intention of sexual intercourse, whether there is such an intention or not. In this case, the accused did not care if the victim consented or not. The court of appeal asked in the case of Taylor(1984) if D. thought in this way: “I don’t care if she consents or not, I want to have sexual intercourse”. Some suggestions in this regard show that it might be a third type of recklessness, different from the recklessness of Caldwell and Cunningham. However, a better approach is that this type of recklessness is Cunningham's rule (Sadr, 2003).

#### **Illegal eavesdropping is one example of cybercrime**

Communication is possible to take place in the form of the computer data transfer in an independent computer system( e.g. CPU), between two computer systems that belong to the same person, two computers communicating to each other as well as a computer and a person ( for example by keyboards). However, the members can include another element between two computer systems far from each other. It should be reminded, this fact that the concept of “computer system” includes radio communications does not mean that members should criminalize any radio transmission, even if it is not public, it is in a relatively obvious and easily accessible form and it can listen with tools such as non-professional radios. The criminalization of magnetic waves encompasses a wide range. Electromagnetic transmissions can take place by the computer and during its operation. Such transmissions are not “data”. However, the data can be reconstructed using such transmissions. Thus, data eavesdropping by electromagnetic wave eavesdropping of a computer system is subject to the crime stipulated in this article. Illegal eavesdropping should be “intentional” and “without right” for establishment of the criminal liability. For example, no criminal liability shall be attached to eavesdropping if the perpetrator has the right to do that or is allowed by the communication parties ( e.g. authorized assessment or protection measures with the consent of the communication parties) or the aim is to maintain national security or criminal investigation. It has also been established that exploiting common business activities such as using cookies should not be criminalized since they are not without right eavesdropping (Shambiati, 2012).

In English law, eavesdropping is closely related to the crime of unauthorized access to computer systems. For ensuring the compatibility of prohibition and law enforcement, another point is mentioned here. Countries, other than the UK, which consider mala fides as a necessary condition for criminalization of eavesdropping, or find it a crime if a computer is connected to



another computer, can predict existence of the similar qualitative elements to establish criminal responsibility according to this article. These elements should be interpreted and applied to other elements of the crime, like “intentional” and “without right”(Mohammadi, 1997, p. 141).

### **Cyber crimes related to child pornography**

English legal system seeks protection measures for children, including protecting them against sexual exploitation and abuse by updating criminal rules to prevent the use of computer systems to commit sexual crimes against them more effectively.

These measures are in response to the concern of the heads of the countries and governments of the Council of Europe compiled in the second meeting ( Qurbani, 2010) in agreement with the international trend in fighting child pornography. As can be seen, the optional protocol to the Convention on the Rights of the Child and the recent initiative of the European Commission have respectively emphasized the sale of children, child prostitution, and child pornography and combating the sexual exploitation of children and child pornography. Various dimensions of electronic production, possession, and distribution of child pornography are criminalized. At present, most countries criminalize the traditional production and physical distribution of pornography to children. However, since the use of the Internet as the main means of trading such content has a galloping growth, it is strongly needed that particular provisions in the form of an international legal document should be established to fight against this new form of sexual exploitation and child endangerment (Saneii, 2010).

### **Producing child pornography through computer systems**

Producing child pornography for its distribution through a computer system is a crime in English domestic law. This legal viewpoint is necessary to fight against the origins of these dangers.

Offering or making available child pornography through a computer system has been considered a crime. It includes encouraging others to receive child pornography. It indicates that the provider can actively offer the content. By “making available” we mean others use child pornography through, for example, child pornography sites. Creating hyperlinks to children's pornography sites to facilitate access to them is another example ( Shafiei Servestani, 2001).

### **Child pornography through computer systems**

In England's legal system, three defined types of content are criminalized, which are: the sexual abuse images of a real child, obscene images showing a person who appears to be a minor engaged in the sexual act, and images that seems to be real but do not show a real child openly engaged in a sexual act. The last case includes altered images such as images made of real people or computer-generated people.

In all cases, the protected legal interests are slightly different and emphasize the protection of children against sexual abuse. The legislator aims at protecting children against behaviors that are not necessarily considered as a harm to them because the depicted child in the image may be computer generated, not a real one but the intention is to trick children into engaging in such acts and in this way, they are a part of the child abuse subculture. The term “without right” does not negate the legal defenses, exemptions, or similar principles that lead to the removal of a person's responsibility under certain conditions. Thus, this term allows the members to consider fundamental rights, including freedom of expression, and the privacy of criminal law, and criminology. Moreover, the members can defend the artistic, medical, scientific, or similar



contents in the pornography. For example, a member is not criminally liable if it is proved that, the depicted person in the image is not a minor. A minor means anyone under 18. However, the minimum age of 16 can be set (Kambaksh Fard, 2005).

In general, the term minor is used to refer to all under 18 years of age depicted in children's pornography. This definition is in accordance with the UN Convention child rights, article 1. Determining a single international standard for age is an important policy. It should be reminded that the age of exploiting children (real or virtual) as sexual subjects is different from that of consent to have sexual intercourse. However, it should be accepted that some countries have established a lower age range in their national legislation for child pornography. According to this standard, a person is responsible if she intends to offer, make available, distribute, send, produce, or possess child pornography. The members can choose more detailed standards. For example, if there is "awareness and supervision" of the transmitted or stored information, liability is possible to establish. If the service provider has a role of a channel or is the host of a website or a news environment containing such content, it is not sufficient to establish liability without the need to establish specific intent according to domestic law. In addition, the service provider is not forced to conduct surveillance to be acquitted of criminal liability (Abdi, 2013, p. 17).

#### **Objective conditions of crimes in English law**

Sometimes, the legislator holds people responsible for the conduct of another party which is further discussed in a section under the title of criminal responsibility for the conduct of another party. The relationship of causality or the attribution of criminal conduct and the outcome of the crime to the perpetrator means not only criminal conduct but also the outcome of the crime is attributed to the perpetrator. In fact, it is possible that a person may commit criminal conduct but the outcome of his crime is not attributed to him. One example is a situation where a person shoots at another person who dies due to cardiac arrest before the bullet hit him. This issue, as the material documents of the perpetrator's act and its outcome, should be direct and close (of course, in absolute crimes, the material documents of the outcome are not necessary, because basically, in such crimes, the mere criminal conducts regardless of their outcomes causes criminal liability).

It means having the mental strength necessary for understanding the criminality or conduct of a person. In this case, children and madmen, for example, who are not able to understand the concept of crime or public indecency of their conduct, bear no responsibility for the crime they commit. Awareness means to be aware of the existence of a rule based on which an act is a crime or to be aware that a given conduct of a person is a crime, legally. The awareness of the existence of criminal law is called "awareness of law" and ignorance of the existence of criminal law is called "ignorance of the law". The awareness of fact is awareness of the illegitimacy of the act or the elements of the criminal act specifically and during committing a criminal act. From this perspective. The legislator does not hold a person responsible if he is he is ignorant of the law (not being aware of the law) (Nourbaha, *ibid*, p. 100).

According to this principle, the person is responsible by the law to perform or quit an act and has the power and possibility to do so. Although not explicitly mentioned in criminal law, this issue, which is in most cases related to the crimes caused by quitting an act, can logically be understood from the jurisprudential generalities. For example, it is not accepted in the Sharia to oblige a "non-bearable obligation" or a duty that causes "Indigestion and embarrassment". Some



think that since will consists of two elements, authority, and power, the ability should be interpreted as a subcategory of the will and wanting the criminal outcome. According to this principle, criminal responsibility is realized when a person commits a criminal act at his own will. This principle applies to two conditions: The fundamental elements of a crime are '*mens rea*' and '*actus reus*', the former being the intention to commit a crime and the latter being the act done in furtherance of the intention. The criminal liability of a person shall be decided only when he or she has a *mala fide* intention. It is the direction of conduct towards the objects chosen upon considering the motive, which suggests the choice. Mere intention shall not constitute a crime, as it is almost impossible to know the intentions of a person. In fact, according to the "legal theory" in criminal law, in unintentional crimes, "conflict of will or criminal event" and according to the psychological theory, in intentional crimes, "agreement of the will with the criminal event" justify the crimes and create the psychological element of the crime.

### Types of perpetrators of sexual assaults

Groth in his book entitled "men who rape" identifies three patterns of rape: anger, power, and sadism. Accordingly, the perpetrators of rape can be divided into three groups (Abdi, 2007):

**Anger rapist:** This rapist aims to humiliate, debase, and hurt their victim; they express their contempt for their victim through physical violence and profane language. For these rapists, sex is a weapon to defile and degrade the victim; rape constitutes the ultimate expression of their anger. This rapist considers rape the ultimate offense they can commit against the victim. Anger rape is characterized by physical brutality, much more physical force is used during the assault than would be necessary if the intent were simply to overpower the victim and achieve penetration. This type of offender attacks their victim by grabbing, striking, and knocking the victim to the ground, beating them, tearing their clothes, and raping them.

**Power rapist:** The rapists seek sexual hegemony. Sexual satisfaction is not intended. Most of the powerful rapists use anger as their weapon thus the level of anger is low. This causes more mental damage to the victims because fewer injury marks reduce the amount of pity and social sympathy (Farajiha, 2008). As Groth shows, 55% of rapes fall in this category (Falahi & Nouri, 2010).

**Sadistic rapist:** here, the two components of violence and sexual excitement come together, that is, the rapist finds the victim similar to someone he hates. Thus, he reduces his anger by committing rape and torturing while enjoying (Abdulfalah, 2003). As Groth shows, 5% of rapes fall in this category (Qaemi, 2009).

### Sexual assault, false beliefs, and criminal statistics

The number and content of these beliefs are different in different social and cultural conditions of each society. However, it seems that some of them have more general aspects, which are mentioned here:

False belief: sexual assault is a purely sexual act.

Fact: sexual assault is not a purely sexual act, but it is a violent conduct where sexual acts and conduct are used as a weapon (Taheri, 2009).

False belief: Most rapes are perpetrated by a person unknown to the victim.

Fact: Research shows that a significant number of rapes are perpetrated by a person known to the victim.



False belief: Most rape perpetrators suffer from mental and personality problems and usually belong to the lower classes of society.

Fact: The findings show that variables such as education level, type of job, and social class do not have a significant effect on committing or not committing sexual assault acts.

False belief: only certain women are victims of sexual assault.

Fact: Every woman is potentially a victim of sexual assault and violence.

False belief: Victims provoke sexual assaults when they dress provocatively or act in a promiscuous manner.

Fact: Rape and sexual assault are crimes of violence and have not to do with the clothes and make-up of the victims.

On the other hand,

On the other hand, the criminal statistics regarding violent sexual assaults are not very reliable. It is because many victims do not report to the responsible institutions due to the following reasons: (1) a previous acquaintance with the perpetrator (2) fear of public reprimand and the occurrence of secondary victimization during the proceedings in the general sense (3) fear of revenge of the perpetrator due to distrust in the efficiency of the responsible institutions in pursuing the problem (4) failure to perceive and interpret the conduct of the perpetrator as aggression by the victim, especially in cases where there is acquaintance although his act is legally violence. The result is a high rate of sexual assaults (Aghazadeh, 2005, 64).

### **The Roots of the sexual assault**

As Durkheim put it, each society when passing from the traditional stage in which the division of labor is simple to the modern stage in which the division of labor is complex, experiences a situation where that society is neither homogeneously traditional nor homogeneously modern. In this condition, the previous normative system is not stable enough and the new normative system is not fully established. It is called anomie (Deputy of Judiciary Education, 2008). At this point, society suffers from a kind of abnormality or a normative vacuum. To put it clearly, the number and scope of agreed norms are greatly reduced. This phenomenon can occur in a completely normative system, including moral norms. During anomie, five events occur at the level of society:

1. Society goes towards the worst type of individualism, that is, selfish individualism
2. Since the number of the agreed norms decreases, the scope and intensity of social control decrease as well
3. Social solidarity fades
4. The predictability of individuals' behaviors decreases
5. individuals' ability to understand mutual behaviors decreases

As findings indicate, in a society where there is progress towards gender equality, the rate of rape and sexual assaults increases temporarily. In addition, the rate of occurrence of the same crime is higher in the neighborhoods where the number of separated families and the number of immigrants are high, compared to the neighborhoods where such problems do not exist. At the level of interpersonal relationships, rape, and sexual assaults occur in some cases due to misunderstandings in mutual relationships. On the other hand, although the victim perceives her own behavior and speech as normal, at the same time, the perpetrator perceives the other party's behavior and speech as an invitation to sexual intercourse. In all examples with anomic aspects, the possibility to predict and understand the actions and reactions related to the gender



domain decrease due to the lack of an established normative system. Thus, the actors fail to understand the meaning of each other's actions and the possibility of criminal acts increases (Kar, 2009).

According to the theory of masculine socialization, in societies where “masculinity” is interpreted as having traits such as force, violence, and dominance, and in contrast, “femininity” means a collection of qualities such as tenderness, submissiveness, and a means of reproduction, boys learn in their early lives to be violent, forceful and dominant. Thus, they see women as their sexual property. In such cultures, male sexual promiscuity faces no bad reaction from society, and even in some cases, it is encouraged. Those men who cannot adapt themselves to the accepted model of masculinity commit sexual assaults and rape to prove their masculinity.

According to the social learning theory, sexual assault, like other violent crimes, is a learned behavior, which means men learn it in various ways, especially through peer groups, mass media, etc. Primarily, in societies where the culture of violence is expansive and all individuals, from government officials to non-governmental elites, from the school level to publications and mass media, applaud violence, the rate of murder and violence is high. The followers of the social learning theory of crime emphasize strongly the effect of pornography on the rate of sexual assault. In their view, women will be humiliated in pornography, and the violence to perform sexual intercourse increases implicitly. Thus, those who watch such movies and porn videos regularly, accept a violent model of sexual intercourse as a normal one in which women are humiliated and abused. If they do the same behavior in real life, the outcome is a sexual assault (Feiz, 2003).

### **Conclusions**

Sexual assault is an obvious example of natural crime. Permanently and potentially, half of the population of each society, women, are exposed to it. This crime is examined from two perspectives: legal and criminological. Criminological types are the same in all societies, while legal types depend on economic, political, social, and cultural conditions. Rape is the most serious example of indecent exposure crimes against a person. The maximum punishment for this crime is life imprisonment. Sex without consent is rape. This condition is stipulated in note 2 article 1 of the sexual offenses acts, mentioned above. Perhaps, consent is one of the most difficult challenges in the trial. Today, advanced legal medical methods make it impossible to deny the act of sexual intercourse as a (good) option. Naturally, consent along with the psychological element of the crime is the obvious boundary of defense.

According to English domestic law, the intentional and unauthorized eavesdropping of computer data or the interception made by technical means without the right of any non-public transmission of computer data to, from, or within a computer system carrying such computer data is a crime. English law seeks measures to protect children against sexual exploitation. For this purpose, criminal rules are updated to prevent the use of computer systems to commit sexual crimes in more effective ways. Distribution and production of pornography of children through computer systems is a crime. On the other hand, Groth in his book entitled “men who rape” identifies three patterns of rape: anger, power, and sadism.

The context of controlling sexual assault necessitates a set of cultural, economic, social, legal, police, and judicial measures. Nevertheless, the role of the victim is of great importance. Therefore, as the first step, women should be given information on this issue with the help of the



media, schools, and family and as the main solution, keep themselves aloof from a situation where sexual assault may occur even if the situation is the result of the victim's performance. Social cleansing and elimination of physical and psychological driving factors to protect the sexual health of young people, coordination between the country's executive, legislative, disciplinary, judicial, and promotional agencies to deal with any manifestation of the sexual assault, justification of psychological and social harms of illicit sexual intercourses, Islamic teachings on Hijab, observance of privacy, easy marriages, especial protection of the victims of the sexual assault and etc. on one hand and comprehensive law reform with regard to rape and sexual assault, special counseling and support units and psychotherapy for victims and perpetrators and usage of methods for justifying and strengthening law enforcement and police forces are among appropriate measures to control the sexual assault.

**Acknowledgment: Non**

**Conflict of Interest: Non**

**Funding: Non**

**Ethical statements: Non**

#### References

- Aghazadeh, Alireza; 2005, Analytical and practical investigation of Iran's criminal policy against goods smuggling, Arian Tehran Publications
- Rabbani Khalkhali, Ali, 2003, Woman from the perspective of Islam; Qom, Hojjat
- Rahiminejad, Ismail; 2008, human dignity in criminal law. First edition, Tehran, Mizan
- Zareet, Abbas, 2006, Commentary on the Islamic Penal Code, Volume 1, Tehran, Qaqnos
- Saadawi, Nawal, 2000, The naked face of a woman and an Arab, [translated](#) by Majid Forotan and Rahim Moradi, Tehran, Andishehai Novin
- Soleimani, Hossein, Penalties in Jewish criminal law", Haft Asman magazine, No. 10-9, 2001
- Shambiati, Houshang; 2013, special criminal law (crimes against individuals), Majd Publications
- Shafiei Sorostani, Ibrahim, 2001, the difference between men and women in diya(blood money) Qisas, Tehran, Safir
- Saneii, Parviz, 2001, Laws and Society, the first volume, Tehran, the National University of Iran Press
- Sadr, Hassan, 2003, Women's rights in Islam and Europe, Javidan publishing organization
- .
- Taheri, Ebrahim, 2009, Examining the position of women; perspectives and presentation of the best model, Tehran, Sadouq
- Judicial Education Agency, 2008, Iran's legislative criminal policy in economic crimes, Tehran, Javadaneh Publishing
- Abdul Fattah, Izzat; 2003, From the policy of combating crime to the policy of defending the victim, translated by Ali Omid, Hassan, 2006, Farhang Omid, Tehran, Behrouz publication
- Abdi, Abbas; 2007, Social issues of murder in Iran, Tehran, University Jihad Publications
- Ghafarpur Maraghi, H., 1990, pseudo-intentional murder, Ganj Danesh Library, first edition
- Farajiha, Mohammad, 2008, prediction and control of violent crimes, promotional scientific journal, Karagah, first year, no
- Falahi, Fatemeh and Nouri, Ali; 2010, Women's Health International Law, Tehran, Ganj Danesh



Feiz, Alireza, 2003, Comparison in Islamic General Criminal Law, Tehran, Ministry of Culture and Islamic Guidance

Ghaemi, Ali, 2009, Family Life System, Tehran, Shafaq

Ghorbani, Zainuddin; 2001, towards the Eternal World, Lahijan, Shafaq

Kambakhsh Fard, Saifullah, 2005, Anahita Temple, Archaeological Exploration and Research, Tehran, Yalda Publishing House

Car, Mohammad; 2009, research on violence against women in Iran, Roshangaran Publications and Women's Studies

