

Investigating Sexual Violence Against Women in Criminal Law in Iran and England

Violence is a bitter and undeniable reality that undermines human life and dignity and causes irreparable damage to the fabric of society. This horrific phenomenon has never disappeared and its frequency and quality are changing over time. Although the target of violence is not a specific group and encompasses all members of society; however, women have always been considered more suitable targets for it compared to men due to their sexual and gender characteristics and have been harassed in various ways depending on the time and place conditions. History shows that from the distant past to the present, sexual relations have always existed between humans. Sometimes, these relations have been legal and legitimate in the form of marriage and the customs and habits prevailing in society have accorded it a special individual and social respect and status and have considered it a normal and sacred matter, and sometimes, it has been illegal and violent and its perpetrators have been dealt with seriously; Therefore, sexual violence is a general and broad concept that is fundamentally different from crime in its specific meaning, and only in cases of illegality and illegitimacy and endangering individual and social interests does it acquire a semantic affinity with crime by the lawmaker. Basically, the commission of crimes known as sexual violence, considering the gender characteristics of the victim and its unique individual characteristics, is one of the most important types of violence committed against women compared to men, which does not only include individual aspects - as a crime against the physical integrity and freedom and dignity of the victim - and moral aspects, as a crime against morality and public chastity, but also has broader dimensions, and preserving the interests of society depends on observing chastity and recognizing the sexual integrity and dignity of individuals and public morality and chastity; This is while the increase in sexual violence against women itself causes other social crises, such as: the birth of illegitimate children, illegal abortions, the spread of infectious diseases and endangering the health and well-being of the community. Some cases of sexual violence, which are generally committed by men, often go undetected because women, due to factors such as fear and shame, are afraid to recount and narrate what has happened to them and keep it as a secret, which can increase the black figure and, as a result, other problems. What makes the importance of addressing this topic more necessary than ever is that how can we expect women who have been subjected to violence to be able to play their useful and effective role in the cultural, social, economic and political activities of the country, especially in the education and upbringing of children who will shape the future? In the UK, the Ministry of Justice, the Office for National Statistics and the Home Office published the first joint and official statistical bulletin on sexual violence, entitled: A look at sexual violence in England and Wales. According to this report, an average of 85,000 women are raped each year and more than 400,000 women face sexual violence each year. In the Iranian legal system, the legislative approach to responding to sexual violence is mainly derived from the jurisprudential foundations of Islam, such as the verses and narrations of the Infallibles (PBUH), which are criminalized in the form of sexual crimes subject to the hadd penalty (adultery, sodomy, and sexual intercourse) and Chapter 18 of the Penal Code (offenses against modesty and public morality); This is while the legal system of Western countries, especially England, is based on common law in sexual crimes, and the legislative process in this area began about two centuries ago, and sexual violence has been criminalized in specific areas such as: sexual crimes committed by force and coercion, sexual crimes against children, etc. The aim of this research is to understand the nature of violence against women and become familiar with its most important dimensions and examples, such as sexual violence, in order to achieve more effective practical measures and solutions in the areas of prevention, support for women victims, and removal of obstacles and challenges to their progress in realizing their rights.

Sexual violence is a completely relative concept that has changed its nature over time and appears in new and diverse forms. What is of concern to governments in the present era is the increase in the number and diversity of its commission against vulnerable segments of society, especially children and women. Obviously, one of the best solutions to reduce this criminal phenomenon is to study and compare the laws of different countries with each other and take advantage of their useful capacities. In accordance with the

establishment of specific rules and regulations on the criminalization of sexual violence against women in the penal systems of Iran and England, it should be said: In England, the element of consent plays a fundamental and decisive role in such crimes, and the mere lack of consent of the victim to sexual acts, except in limited cases, is considered the main condition for the commission of sexual crimes, while in Iran, the declaration or non-declaration of consent by the victim, with the exception of rape, has no effect on the criminalization of this act. What emerges from comparing instances of sexual violence in the criminal laws of both countries is the commonality of criminalization of many instances of this type of behavior, and at the same time, the existence of differences in criminal titles, the method of criminalization, and the perspective of legislators in imposing punishment on those convicted of these crimes; the Iranian penal system has determined fixed and irreversible punishments of flogging, stoning, and execution in terms of issuing punishments against sexual offenders, and the British judicial system has considered long-term imprisonment and, with a new approach, alternative punishments such as suspended sentences for dealing with such crimes. In the laws of both countries, in addition to imposing the main punishment, there is also the possibility of intensifying the punishment of the perpetrator by determining supplementary and consequential punishments. In Iranian law, there is no strong executive guarantee for compensating the material and moral damages of victims of sexual crimes; But in England, under the Criminal Justice Act, victims of sexual violence are financially supported by the state or by the offender in relation to the damage caused by the crime.