

Criminological Analysis of Medical Crimes in Isfahan Province in Iran

Morteza Rahbar Taromsari¹, Seyed Alireza Mirkamali^{2*}, Kourosh Delpasand³,
Zahra Pourhabibi⁴, Maryam Hafezi⁵

¹Forensic Medicine, Department of Forensic Medicine, Faculty of Medicine, Guilan University of Medical Sciences, Rasht, Iran

²Department of Criminal Law and Criminology, Faculty of Law, Shahid Behshti University, Tehran, Iran

³Medical Ethics, Guilan University of Medical Sciences, Rasht, Iran

⁴Guilan University of Medical Sciences, Rasht, Iran

⁵Islamic Azad University of Arak, Iran

ABSTRACT

In this, retro prospective study we raise study questions and examine them by pertinent methods to ascertain the extent of medical crimes and the factors increasing these crimes. The statistical population included wrongdoer clinical physicians between years 2009 and 2011 and 2002 and 2008 in Isfahan province in Iran. The researcher studied 158 conviction cases in medical crimes and interviewed with law professors, and judiciary judges for finding the root of occurrence of these crimes. The main reason of increasing these crimes is existing gaps in law and inconsistency between crime and punishment and the results derived from the study of 158 cases showed that one sixth of all of studied cases were derived from recidivism by physicians. Examining the results, it has been revealed that in 2009 the general practitioners have first rank of medical crimes in Isfahan province in Iran and in 2010 dentists placed at first rank of these crimes in one of the provinces in Iran.

Key words: Clinical physician, Penal liability, Medical crimes, Judiciary judges, Provinces in Iran, Pertinent methods

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Corresponding author: Seyed Alireza Mirkamali
e-mail✉: s.a.mirkamali@iran.ir
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INTRODUCTION

Withstanding the crime as a social phenomenon calls for understanding the real pathogens in the society [1]. There is no precise definition when it comes to the crime and the observations suggest the varying ideas, perceptions and interpretations regarding the constituents of nature of criminal behavior. The various interpretations about crime that each one can be deemed as a reflection of type of perspective of scientific and ideological resistance which lead to crime different definitions. Maerik Parmli in his criminology book suggests that the crime is an antisocial practice with such nature that suppressing it is necessary for maintaining social system. Improvement and treatment Canadian committee in 1969 declared in its report that no behavior should be considered as crime unless it represents a serious social threat and one cannot address it with other social and legal instruments [2]. The behavior should not be prohibited in penal terms

unless its occurring harms the society considerably in potential or de facto manner. Upon encountering the penal law behaviors, it should be raised when other social control tools are inadequate or inappropriate. Given the prominence of society health, one should thwart the medical crime increasing stride. Based on available statistics the point is that during the years a desired success failed to be achieved. Due to several reasons, the demand of hygiene services in market system is not freely and without hindrance. Firstly, people can make decision that use any clothes or car or food, but they cannot choose to not get ill. Secondly, the demand of a patient for hygiene assistances is unknown. This requirement should be offered not from consumer but from one with the specialty in this context. Thirdly, when someone gets ill, it is in a blurry and fragile position, not only he or she is at a predicament, but also his or her dependence to others is increased. Fourthly, it is related to imbalance of information setup between requester of treatment and its supplier. The requester neither has full information about the treatment nor has the ability to risk and choose nor the ability to bargaining. Thus, the treatment demand is not placed in its main place

[3]. Unfortunately, some clinical physicians are placing in social status with all the haste in which the brokers can be found, thus every day the medical complaints are increasing. The last statistics of medical complaints is related to 2008, which showed 14% growth when compared with previous year and the it reaches to the point that the medical society was forced to try to carry out the emergency task of defying wrongdoer physicians [4]. This statistics is even really more worrisome when hygiene health assistant says Iran is lagging 40 years in addressing medical violations from global standards [5]. As the statistics and study available in this regard is at country level and to day no study has been done in one of the provinces in Iran, the studying of these crimes is an inevitable necessity. Regarding above discussion and prominence of this subject we want to describe the medical crimes and analysis of existing laws in the context and statistical comparison of these crimes at the level of entire country with One of the provinces in Iran as well as stating the method and performance of developed countries to trace existing gaps and set forth a suitable solution. A crime is plural of crime and refers to withstanding the prohibition for which the law specifies the punishment [6].

Definition of crime is different in countries penal laws that have accepted the law of legality of crime and punishment for protecting the individual freedom. In Islamic republic of Iran any behavior including doing and refraining to do that law has determined punishment for it is deemed as crime. Other definition of Crime is criminology of non-adjustment of people in the society is known as antisocial practice and crime, some others believe that breaching and violating the life conditions is antisocial practice. So criminology is thorough study of human for understanding the causes and treatment of antisocial actions. Similarly, one can say that criminology is the academic study of crime and offender for understanding the reasons of developing these two and thwarting and treating the criminal actions and criminals. On the other hand in legal terminology the liability is referred to legal obligation for removing the damage impinged to other [7].

Literature review

Historical background of penal responsibility in Iran is examined in three eras:

Ancient Persia: With the witness of history at Darius I era, special rules and regulations have been existed on medical system and Darius was affected by Hammurabi for devising these rules. In Zoroastrian faith also, one discussed about various medical issues, for example abortion was an extremely despised sin as it is cutting the root of life and in fact it is extirpating the highest craft of Ahuramazda. Therefore, regarding the penal liability of clinical physician in Ancient Iran one can conclude that the splendid and glory of Iran before Islam was hinged on high rules and principles.

1. **Islamic Iran:** In general, according to Islamic and jurisprudential rules, if ignorant people try to deliver medical services and instead of healing a patient deteriorate him, they are responsible for their actions and if their medicine lead to death or mutilation, he should pay blood money and even one has assigned tazir punishment for such physicians and if the physicians purposefully commit crimes against people they are condemned to be retaliated. By conquering Iran by Islam forces, judiciary verdicts and commands of Islam Sharia reigned in Iran for nearly 13 centuries so that basically Iran law is based on jurisprudence (fiqh) [8].
2. Among above laws, more than all the Islamic punishment, the basics and principles ruling physicians' liability have changed.

Statistical population and sample

In this study, the statistical population includes all clinical physicians (between 2009 and 2011) and, 2002 and 2008. The studied sample included 158 cases with theme of physician criminality.

The realms of study in this paper includes, data of mismanaged patients, judiciary studies education, judiciary protection and information, branches 116 and 119 of judiciary penal general court of One of the provinces in Iran, penal verdicts enforcement branches [1,3-6,8] of judiciary of One of the provinces in Iran, legal medicine, Mirdamad laws specialized library and Shahid Behshti University of medical sciences.

RESEARCH METHOD

Research method in this study is descriptive and retro prospective analysis in which library method is used and is by note taking from clinical books and theses. In descriptive method, as the name implies, it includes taking scientific, real and regular description regarding various events and themes and analysis in this approach is analysis after occurrence. Statistics is scientific that is used for data collection, adjustment, interpretation. One uses descriptive study and one uses analysis so that firstly the data is collected and they are separately classified, coded, compared and finally are interpreted.

The method used for this research is full counting with non-probability sampling.

RESULT

Statistical complaints from physicians in one of the provinces in Iran in 2010 increased by 1500 when compared with 2009, and the dentists set in the crest of convicts. In one of the provinces in Iran, given the received information from general court branches, in 88, the cases of medical staff conviction were 28 cases (Table 1), and this number reached to 40 cases in 2010

(Table 2). The extent of medical crime underwent an ascending growth. First rank to third rank defendants of medical crimes in country and in one of the provinces in Iran are specified in Table 1.

After examining the first rank to third rank of wrongdoer physicians one examines three first ranks of physicians of each specialty (Table 2).

Statistics of people lawsuit from physicians in branches of one of the provinces in Iran public court showed that people are more complaining from general practitioner and dentist and one of reasons is abounding population of general practitioner 4000 persons and dentists 1800 persons. The result of medical default cases in the country were as follows:

Table 1: Physician crimes in 2009-2010

	year	First rank of medical crimes	Second rank of medical crimes	Third rank of medical crimes
Entire city	2009	Dentist	General Practitioner	Gynecology
	2010	Dentist	Gynecology	Orthopedic
	2009	General Practitioner	General Practitioner	Gynecology
	2010	Dentist	General Practitioner	General Surgeon

Table 2: Cadres of affected physician

Number	Practitioner
4000	General practitioner
1800	Dentist
205	General surgeon

Table 3: The statistics published from legal medicine

year	Number of medical default cases (%)	Number of corpses (%)
2006	43 (27.2%)	-
2007	57 (36.1%)	-
2008	92 (58.2%)	-
2009	115 (72.8%)	12 (7.6%)
2010	84 (53.2%)	11 (7%)
2011	95 (60.1%)	11 (7%)
2012	71 (44.9%)	-

Table 4: Published statistics of legal medicine

Resultant Outcome of Crime	Year	Number of Recidivisms	Specialty
Patient Paralysis	2009	Three Times	Orthopedic Number (1)
Spinal Damage			
Patient Paralysis	2006	Two Times	Orthopedic Number (2)
Leg Mutilation			
Knee Damage	2010	Two Times	Dentist Number (1)
Jaw Fracture			
Jaw Fracture	2011	Two Times	Dentist Number (2)
Exodontia of Sound Tooth			
Decaying the Tooth	2010	Two Times	Dentist Number (3)
Tooth Damage			
Developing Infectious Cyst	2008	Two Times	Orthopedic Number (3)
Bringing Motional Limitation in Arm			
Arm Disablement	2011	Three Times	Otorhinolaryngology
Jaw Fracture			
Face Left Side Paralysis	2011	Two Times	Plastic Surgeon
Hearing Loss			
Intensification of Nasal Septum	2011	Two Times	General Surgeon
Deviation			
Inducing Flaw in Nose	2011	Two Times	Optometrist
Breast Disfiguration			
Breast Beauty Impairment	2003	Two Times	Hospital Technician (1)
Blindness			
Sight Reduction	2011	Two Times	Hospital Technician (2)
Injury on Foot			
Foot Burning	2011	Two Times	Hospital Technician (2)
Arm Mutilation			
Leg Burning			

In 2009:

- 1054 medical staff cases are identified as culpable.
- 1153 quittance verdict cases were issued for medical staff.

In 2010:

- 1053 medical staff cases were identified as culpable.
- 1567 quittance verdict cases were issued for medical staff.

In Table 3, the statistics of specialized commissions of legal medicine with theme of number of finalized cases about medical default are shown. Also the number of cadavers with unnatural decease from surgery and medical operations are presented.

Non-lethal physical damages are the damaged impinged to patient; in addition to medical actions leading to murder that is the most severe sort of body damage to patient. Other non-lethal physical damages are:

- Member mutilation
- Member loss of function
- Member disfiguration

According to a study from general court branches from 158 medical cases 25 cases led to murder, 49 cases of mutilation, 60 cases of member disfiguration, 21 cases of member loss of function and three cases led to abortion.

Recidivism

Recidivism takes place by delinquent when after first conviction or doing it according to various legislations he shows again his dangerous action and recommit the crime that may be similar to previous crime or be other than it. Sometimes, the repetition causes intensification of punishment and sometimes has no bearing on punishment, the distinguishing aspect of recidivism from plurality of crime is conducting previous conviction. The legislator upon defining the recidivism binds it to Tazir or prohibitive crime, therefore, recidivism in other crimes has its own special verdicts, in Islamic punishment law, the intensification is arbitrary and the arbitrary feature philosophy of punishment intensification is necessity of consistency of punishment with criminal character which is among important principles of penal laws. In 158 cases which have been studied, roughly one sixth of all cases are related to recidivism. During interview with Mr. Rostampur 119 branch director of penal general court of one of the provinces in Iran that he had the greatest emphasis on it was the ground of recidivism and existing legal gaps and as he said, the reason of recidivism wasn't medical, the punishment is consistent with committed crime and the convicts in this context find full quittance

by paying blood money from insurance (Table 4).

DISCUSSION

Laws available regarding medical crimes in Islamic punishment law has abounding gaps and these legal gaps cause annual increase of these crimes. Studying the medical crimes cases, one of the subjects that have seen revealed abounding in the cases is recidivism by wrongdoer physicians. When turning to roots of this problem, it has been revealed that in medical crimes, there is no punishment other than blood money. Therefore, intensification of punishment is annulled at recidivism. The second issue is flaws of non-lethal physical damages that are divided into two forms namely intentional and unintentional and sometimes the outcome of damages is worse than decease.

CONCLUSION

The results from existing information regarding this theme whether existing laws is sufficient about committed crimes are as follows:

1. Existing laws on committed crimes is insufficient and call for approval of new laws for filling the existing gaps and revising in some regulations such as the law of how to thwart the sexually transmitted disease (STD) and contagious diseases and these laws doesn't include some STDs and contagious diseases such as AIDS and hepatitis and it is needed to amend these laws with a new attitude.
2. Existing punishments in laws lack the required deterring aspect and the criminal may pay blood money to get rid of punishment. Also, there is no contingency between crimes and punishments.
3. For avoiding the various interpretations from the law and issuing different verdicts in trials, it is needed to clarify the justified aspects of crime and emancipate the medical and legal society of country from equivocation in laws.
4. It is expected that legislator always pay a special attention to legal literature as a technic for inducing legal texts concept properly and emancipate the laws from deficiency in writing and utterance of the purpose.

Examining the all courses set forth in medical faculty we noticed the existence of courses required for medical crimes and existing laws for students. The first solution for thwarting crime is prevention and the requirement of prevention for crime is thorough awareness about types of crimes and related punishments, the didactic system calls for coordination and collaboration between research science ministry, ministry of justice and hygiene ministry for introducing courses in universities and on

the job training for students. Also, it needs adopting experience professors preferably among judges with legal degrees in universities for teaching this course. Examining that to which medical discipline are related most of complaints in this province we obtained the results includes general practitioner, dentist, general surgeon, and gynecologist). Since the number of general practitioners abounds (4000 persons) and these practitioners are sentinel of health care in all sectors, therefore a lot attend to them and naturally the errors in this groups are more than other medical groups. 1800 dentists are working in this province, thus the complaints from them is also abounding. The smallest unintentional error in gynecologist brings serious consequences for mother or child that its outcome is fully tangible for people. Analyzing the statistics of complaint from practitioners in previous chapter, we notice annual increase of medical crime level. Finally, the greatest factor which is effective in increasing medical crimes can be classified as follows:

1. In governmental Tazirs, the fines are low cost and when one commits a crime in the healthcare context, he is convicted to pay fine and the wrongdoer again continue its violation after paying the fine because the gain he earns by his own activity is multiple of paid fine.
2. The only punishment for wrongdoer practitioner is paying blood money and the
 - a. practitioner civil liability insurance pay this money, in fact the wrongdoer practitioner
 - b. doesn't brook any punishment.
3. Strong relations that can be found among individuals thwart the report of violations reaching to incumbent authorities and it is recommended to address it with more accurate supervision.
4. Carelessness of practitioners and negligence to patient rights
5. Lack of awareness of practitioners from their legal and penal liabilities
6. Absence of consistency between crime and punishment
7. Lack of awareness of patients to their rights

1. Insufficiency of existing laws regarding medical crimes

RECOMMENDATIONS

During the results and studied subjects some solutions are presented in the following for thwarting the medical crimes.

1. All of related organizations play a role in thwarting medical errors by adopting tool and their administrative ability by defining and identifying the legal situation in medical error occurrence process and addressing it.
2. For encountering medical crimes, the legal section of universities can act as an interface between university and judiciary.
3. Practitioner should have a medical specific court. The existence philosophy of medical system appears to be defending the practitioners, however in fact it defends the patients.
4. Medical default prevention unit in medical system organization notice the practitioners which practices can entail complaint.

Lack of required deterring aspect in existing laws.

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