

Criteria for Distinguishing Illicit Relationship from Acts Contrary to Chastity in Islamic Fiqh and Law

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ABSTRACT

An illicit relationship refers to relations between a man and a woman who are not married to each other and who have no physical contact, such as conversation or correspondence. An act contrary to chastity refers to bodily contact between unrelated persons that does not amount to intercourse, such as kissing or lying together. The central questions are whether illicit relationship and acts contrary to chastity are identical, and whether the offenses under Article 637 of the Islamic Penal Code require proof of specific intent. This descriptive-analytical study examines statutes, judicial decisions, and legal scholarship to identify criteria separating the two offenses. The findings show that illicit relationship and acts contrary to chastity are independent criminal titles whose relation is one of partial overlap. Lying together does not require proof of specific sexual intent, but in other cases, including kissing and all instances of illicit relationship, intent to obtain sexual pleasure must be established. Precise distinction between these titles prevents erroneous interpretation and improves accuracy and justice in criminal adjudication.

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Introduction

Iranian criminal law uses the titles illicit relationship and acts contrary to chastity, but courts have sometimes treated them as the same. Illicit relationship concerns non-physical relations between a man and woman without a marital bond, such as communication or correspondence. Acts contrary to chastity involve bodily contact that falls short of intercourse. The article seeks to clarify whether the two titles are identical and whether Article 637 requires proof of specific intent.

Methodology

The study uses a descriptive-analytical method. It examines legal texts, judicial opinions, and the views of legal scholars in order to identify the criteria that distinguish these two criminal titles.

Literature Review

No prior study has directly addressed the precise criteria for distinguishing illicit relationship from acts contrary to chastity from the perspective of Islamic fiqh and law. Related writings have discussed Article 637, virtual illicit relationships, and crimes against chastity, but they have either treated the two titles as synonyms, considered their relation as absolute generality and specificity, or failed to analyze the requirement of specific intent.

Findings

The results show that illicit relationship and acts contrary to chastity are two independent offenses. Their relation is partial overlap, not identity or absolute inclusion. In the case of lying together, proof of specific sexual intent is not required. In other examples of acts contrary to chastity, including kissing, and in all examples of illicit relationship, the court must establish intent to obtain sexual pleasure.

Discussion

The article provides comprehensive definitions and examples of each offense and emphasizes that courts should not apply a single approach to both. It also clarifies that the debate over specific intent belongs to the mental element of the offense, not to the material element. Treating all cases as absolute crimes without regard to specific intent risks over-criminalization and inconsistent judgments.

Conclusion

A precise legal and fiqh distinction between illicit relationship and acts contrary to chastity prevents erroneous interpretation and the uniform treatment of different offenses. This distinction enhances accuracy, fairness,

and justice in criminal proceedings and provides clearer guidance for courts applying Article 637.

Declarations

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