



**ANALYSIS OF THE DISTINCTION BETWEEN AWARENESS AND INTENTION
AND THEIR FUNCTION IN REINTERPRETING THE MENTAL ELEMENT OF
INTENTIONAL MURDER IN ARTICLE 290 OF THE ISLAMIC PENAL CODE**

Eslam Niknam¹, Mohammad Chamkouri^{2*}, Esmail Abdollahi³

1. Department of Criminal Law and Criminology, Bu.C., Islamic Azad University, Bushehr, Iran.
2. Department of Criminal Law and Criminology, Bu.C., Islamic Azad University, Bushehr, Iran (Corresponding Author).
3. Department of Criminal Law and Criminology, Bu.C., Islamic Azad University, Bushehr, Iran.

*Corresponding author: mohammad.chamkouri@iau.ac.ir
mohammad.chamkouri@yahoo.com

Abstract

The main issue in Article 290 of the Islamic Penal Code is that a clear boundary between awareness and intention in realizing the mental element of intentional murder has not been drawn, and this has caused ambiguity in the correct interpretation and implementation of the law. This ambiguity can lead to conflicting opinions in determining the type of murder and determining the criminal liability of the perpetrator, and undermine criminal justice. In fact, the main concern of this research is to answer the question of what role the distinction between awareness and intention plays in reinterpreting and explaining the mental element of intentional murder in Article 290 of the Islamic Penal Code, and what effects does this have on the criminal liability of the perpetrator? The present research uses the method A descriptive-analytical study was conducted with the aim of analyzing the distinction between awareness and intent in Article 290 of the Islamic Penal Code. According to the findings of the study, the distinction between awareness and intent in Article 290 of the Islamic Penal Code plays a fundamental role in explaining the psychological element of intentional murder and leads to a more precise distinction between intentional murder, quasi-intentional murder, and pure error. This distinction, by affecting the criminal liability of the perpetrator, plays a decisive role in determining the type of crime and the severity of the punishment. The results show that the distinction between awareness and intent in Article 290 of the Islamic Penal Code clarifies the concept of the psychological element of intentional murder and separates it from other types of murder. This distinction in practice helps judges to more accurately identify the type of murder and the criminal liability of the perpetrator based on the degree of awareness or intent. Ultimately, clarifying the position of each of these concepts leads to strengthening criminal justice and reducing interpretative conflicts in judicial decisions.

Keywords: awareness, intent, psychological element, Article 290 of the Islamic Penal Code

Introduction

In Iranian criminal law, intentional homicide, as the most severe type of crime against the physical integrity of a person, has always been the focus of legislators and jurisprudential and

legal thought. The psychological element of intentional homicide, which consists of knowledge, intention, awareness, and intent, plays a decisive role in the realization of this crime. Article 290 of the Islamic Penal Code approved in 2013, in an attempt to more accurately explain the instances of intentional homicide, has emphasized the perpetrator's "awareness" and "intention." However, the clear boundary between these two concepts has not been well drawn, and this has led to different and sometimes conflicting perceptions in the interpretation and implementation of the law. The fundamental question is what role does the distinction between awareness and intent play in reinterpreting and explaining the psychological element of intentional homicide and what effects does this have on the perpetrator's criminal liability. The main issue in Article 290 is that the concepts of "awareness" and "intention" are used simultaneously, but the exact limits and nuances of their difference are not clear. This ambiguity in practice causes judges to sometimes interpret instances of intentional murder differently, and as a result, judicial decisions do not have the necessary uniformity of procedure. The main question of the research is as follows: What role does the distinction between awareness and intention play in reinterpreting and explaining the mental element of intentional murder in Article 290 of the Islamic Penal Code, and what effects does this have on the criminal liability of the perpetrator? The question that arises is how the distinction between awareness and intention affects the definition and analysis of the mental element of intentional murder and the determination of criminal liability in Article 290. Sub-questions also include the following: What is the exact concept of awareness and intention in jurisprudence and criminal law literature and what are their differences? What effect does the lack of awareness or intention have on changing the type of murder (intention, quasi-intention, or pure error)? And what is the role of interpreting these two concepts in judicial practice and to what extent is it effective in preventing conflicting court decisions? It seems that awareness and intention are two distinct concepts in the mental element of intentional homicide, each of which has a different contribution in determining the criminal liability of the perpetrator. Second, it seems that a precise explanation of this distinction will lead to clarity in distinguishing the types of murder and reducing procedural differences. The objectives of this research can also be expressed at two main and sub-levels. The main objective is to clarify the distinction between awareness and intention and explain its effects on the mental element of intentional homicide in Article 290 and its legal consequences in determining criminal liability. The sub-objectives are: explaining the concepts of awareness and intention in jurisprudence and criminal law; analyzing the position of these two concepts in the mental element and categorizing the types of murder; examining the effects of the absence or presence of awareness and intention in realizing intentional homicide; and providing theoretical and interpretative solutions for a more precise and coherent implementation of Article 290.

The necessity of conducting this research is because the ambiguity in the demarcation of the concepts of awareness and intention has made the application of Article 290 difficult and has caused some disagreements between judges and jurists in determining the type of murder. These differences not only distort the unity of procedure, but also affect criminal justice. Therefore, conducting research that can clarify this conceptual boundary is a serious necessity in order to improve the criminal justice system. Considering this necessity, a review of the history shows that although the research related to the subject is limited, each of them has addressed the psychological element of intentional murder in some way. Zare (2008) concluded

in his thesis on the material element of intentional murder that the material element is the basis of the crime and the psychological element is present in it. In his book *Criminal Responsibility Without Fault*, Abdollahi (2014) stated that in intentional crimes, proof of awareness and intent must be done in a mental and complete manner, while in unintentional crimes this is done in an objective manner. Moradi (2015) in his article *The Mental Element of Intentional Murder* considered the proof of intent to require the coordination of the material element and the psychological element, including knowledge and awareness. Ghiasi (2016) in his study of “Intentional Murder Due to Conscious Recklessness” showed that awareness and attention to the typically lethal nature of behavior are the main criteria for realizing intentional murder and the basis for retribution. Kalantari (2017) in a comparative article compared the views of Iran and the United States and emphasized that without awareness and attention, no behavior can be considered intentional murder. Finally, Roozbahani (2019) in his article *The Difference Between Awareness and Attention in the Spiritual Pillar of Intentional Murder* emphasized that these two concepts are considered the most important components of the mental element of intentional murder and explain the position of knowledge and will in realizing the crime.

A study of these sources shows that although valuable research has been conducted on the psychological element, criminal intent, and the role of awareness in intentional crimes, a comprehensive and independent study of the distinction between “awareness” and “intention” and its legal effects in Article 290 is very limited. Most sources have limited themselves to a general definition of knowledge and intent, and have less focused on the structural distinction and practical effects of these two concepts on criminal liability. Therefore, a clear gap is observed in this field.

The main innovation of this research is that for the first time, it systematically and coherently addresses the distinction between awareness and intention within the framework of Article 290 and examines their role in reinterpreting the mental element of intentional homicide. In addition to conceptual explanation, this research clarifies the practical effects of this distinction in determining criminal liability and categorizing the types of intentional homicide, quasi-intentional homicide, and pure error. It also attempts to present new solutions to resolve interpretative ambiguities by utilizing jurisprudential sources, comparative law, and judicial practice, thus taking a new step towards improving criminal justice in Iran.

2. Concepts

2 -1 -The concept and position of the mental element in criminal law

In criminal law, the mental element of a crime is one of the main foundations of criminal liability, and without its accurate verification, fair attribution of guilt is not possible. In the classical definition presented, the psychological element emphasizes the presence of malice, knowledge, intention, and will in the perpetrator, and creates a clear distinction between premeditated murder and other types of murder (Golduzian, 2005, p. 231). Recent studies have also examined the main dimensions of the psychological element and have shown that the components of this element, namely general and specific malice, knowledge, and will, play a key role in distinguishing premeditated murder from other types of murder. In the research conducted on premeditated murder, the focus is on the coordination between the intention of the act, actual awareness, and the will that leads to the commission of the crime (Moradi and Shahbazi, 2013, p. 65). In the field of international criminal law, proving the psychological element is carried out in a precise and differentiated manner, especially in important crimes

such as genocide and crimes against humanity; Authoritative research in this field has raised serious difficulties for courts in establishing intent, knowledge and awareness and has emphasized the need for standard and transparent definitions (Verdirame, 2000, p.584.) New comparative studies also emphasize the necessity of carefully examining the components of the mental element, including knowledge, intention, will and other factors such as intention and awareness. This approach helps to create unity of procedure and criminal justice in different legal systems and reveals the role of culture, judicial interpretation and legislation in changing the concept of the mental element (Kalantari, 2015, 7(

2. -2 -The concept of awareness in criminal law

Awareness in criminal law is considered one of the most fundamental components of criminal liability, and without its verification, the realization of intent and the proof of criminal guilt are practically impossible. Awareness in this field, despite its semantic proximity to concepts such as knowledge and intention, has a special legal burden; Because merely having theoretical knowledge or necessary information is not enough, but the individual must have a clear and active awareness of the criminal nature of the act and the possible consequences of his behavior. In comprehensive sources of criminal law, awareness is considered a kind of mental consciousness and personal perception that enables the perpetrator to understand the consequences of his behavior and by consciously choosing a criminal act, criminal responsibility is imposed on him (Ardebili, 1403, p. 141). The latest theoretical and comparative studies have shown that criminal awareness is not only a necessary condition for criminal responsibility in intentional crimes, but also plays a decisive role in proving guilt in unintentional crimes. An important feature of awareness is that the individual must have a positive and active awareness of the situation of the crime and its constituent elements and also understand the possibility of negative consequences. This makes awareness, on the one hand, the distinction between intentional homicide and quasi-intentional or pure error, and on the other hand, it is considered a necessary condition for the commission of many specific crimes such as forgery, theft, or misuse of confidential information (Fletcher, 2019, p.347). In comparative studies, awareness has always been considered the center of gravity of the psychological element of all types of intentional crimes. International research in the field of criminal law, especially in examining the crime of intentional homicide, has shown that the criteria for distinguishing between awareness, knowledge, intention, and care must be carefully formulated to prevent judicial excesses. Efforts to standardize definitions, develop evidentiary standards, and utilize objective evidence, especially in international courts, show that awareness has an active and voluntary aspect, and without it, the commission of an intentional crime and fair criminal liability are impossible (Ashworth, 2020, p.162).

In the author's opinion, the concept of awareness in criminal law is of great importance in the realization of criminal justice and the verification of judges' judgments due to the necessity of the perpetrator's active and internal perception of the result of the action. A precise understanding of the distinction between awareness and other components of the psychological element enables courts to apply the distinction between criminal responsibility with greater confidence and increases the possibility of issuing fair and appropriate verdicts according to the circumstances of the case. Also, a new explanation of the concepts of awareness in comparative law and attention to the experiences of international systems pave the way for improving criminal law standards in Iran.

-3 -2The concept of consideration and its distinction from awareness

The concept of consideration in criminal law is often analyzed alongside awareness, but it has a fundamental distinction from it. Consideration can be considered a type of active, reflective, and mental attention that an individual shows to the possibility of a harmful consequence or the possible results of his or her behavior. In authoritative sources of criminal law, this attention arises from the continuous assessment of the situation, and its presence in the perpetrator indicates that he not only has knowledge, but his mind is focused on the results of his action, even if he does not foresee the full realization of the result. Intention can be an intermediary concept between knowledge and awareness and causes many crimes, especially in the field of intentional murder, to be interpreted in terms of the absence or presence of intention (Kalantari, 2004, 76). Another prominent feature of intention is its distinction from awareness in the dimensions of proof and criminal attribution. In contrast to awareness, which is based on a clear and definite perception of the subject, intention is based on a mental process and a kind of conditional attention to the indirect consequence of behavior. In a detailed study conducted in comparative law, intention is considered a kind of mental prediction; This means that the person accepts the possibility of the outcome but may not be 100% certain that it will occur, and simply not paying attention to the outcome distorts the psychological element of the intentional crime. This characteristic makes intention an important tool for understanding the scope of criminal liability, and in intentional crimes, intention is considered a necessary but not sufficient condition for establishing full liability (Yeo, 2018, p.224). In recent studies on intention, psychological criteria have also entered the criminal law literature. In a new article published in the *Journal of Criminal Law*, intention is considered a conscious mental characteristic, complementary to awareness, and it is emphasized that the lack of intention severely limits the possibility of attributing criminal guilt. This view states that intention is not only the prediction of the outcome, but also includes the internal readiness to accept responsibility for the behavior resulting from it; Therefore, intent cannot be simply knowing or giving probability, but must be accompanied by mental attention to the effects of the action in order to lead to criminal liability (Kalantari and colleagues, 2015, 9) In the author's opinion, intent in criminal law, due to its flexible and nested nature, plays a vital role in determining the boundaries of criminal liability and explaining the true meaning of intent. The importance of psychological and legal modeling for proving intent, especially in cases of premeditated murder and intentional crimes, is undeniable. In addition to its theoretical importance, the study of the distinction between awareness and intent has found widespread application in the field of judicial adjudication and helps judges to realize criminal justice with greater intelligence and issue sentences appropriate to the mental and real conditions of the perpetrator.

-4-2 The relationship between awareness and intention with other components of the mental element (intention, knowledge, will)

In the criminal law system, the relationship between awareness and intention with other components of the mental element such as intention, knowledge, and will has a highly interconnected and dynamic structure. Traditionally, the mental element refers to a set of mental states that attribute criminal behavior to the perpetrator and determine criminal responsibility based on it. Awareness generally refers to the individual's recognition and perception of the nature of the act and the dimensions of its result, while intention means mental and conscious attention to the possible consequences of the behavior and is often

complementary to knowledge and intention. From the comprehensive perspective of general criminal law, the intention of conscious criminal acts gains meaning with the presence of knowledge and intention; In the sense that the consistency of intention depends on awareness of the conditions of the action and its results, and intention affects the intensity or weakness of the will and makes it possible to establish full criminal liability (Ardebili, 1403, p. 159). Comparative law studies have shown that knowledge, as the most basic element of the psychological element, is not sufficient without awareness; because knowledge refers solely to having theoretical information and data, and it is awareness that makes knowledge active, experimental, and criminally attributable. In the meantime, intention is also the bridge between knowledge and the will to commit a criminal act. New research in comparative law emphasizes that the existence of knowledge without intention leads to incomplete criminal liability, and intention without the voluntary support of awareness and intention lacks full legal validity. This perspective reveals that all three components (awareness, intention, and knowledge) must be present simultaneously in the perpetrator's mental structure in order for the criminal act to be established as intentional (Simons, 2022, p.442). The psychological dimensions of the element of will and the role of awareness and intention in stimulating the intention and motivation of the offender have also been considered in contemporary studies. A new study published in the Iranian Journal of Criminal Law states that individual will without awareness of the consequences of the action is not capable of forming criminal intent; intention, as part of the structure of will, causes the perpetrator to leave the state of passive acceptance and make an active and conscious decision to commit the crime. This link causes the criminal law system to rely on subjective and psychological criteria for understanding criminal intent, rather than formal definitions, in determining guilt and responsibility, and to make a fairer judgment (Akerami, 2010, 19).

In the author's opinion, explaining the relationship between awareness and intention with other components of the psychological element shows that modern criminal law requires a precise combination of subjective and volitional concepts to fully recognize criminal intent and establish criminal responsibility. This approach paves the way for individual and social justice and highlights the role of the perpetrator's rational and psychological faculties as the axis of judicial judgment; also, improving the standards of judgment with the help of psychological and comparative models will be a worthy solution for improving the judicial system.

-5-2 Legal views on the necessity of awareness and intention in intentional homicide

According to the detailed views of general criminal law, intentional homicide is considered when the perpetrator, while committing the fatal act, has full awareness of the nature of the act and the victim's condition and actively intends the possible or definite result of his behavior. This legal attention to the psychological element of intentional homicide, with the aim of ensuring criminal justice, has created a deep distinction between intentional homicide, quasi-intentional homicide, and pure error, and has considered criminal liability to be subject to the positive and active verification of these two components (Ardebili, 1403, p. 268). Comparative studies and recent analyses show that courts, especially in intentional homicide cases, do not consider the verification of the psychological element possible without proving awareness and intention. As proposed in a recent study, awareness of the lethal nature of the act and attention to the specific or sensitive situation of the victim are inseparable criteria for proving intentional homicide, and any doubt in proving them directly leads to a change in the criminal title (for

example, from intentional homicide to quasi-intentional homicide). In these studies, the role of objective and subjective evidence, behaviors before and during the commission of the crime, and explicit or implicit statements of the perpetrator in proving awareness and attention have been emphasized in order to enforce criminal justice (Dejen et al., 1400, 580). International studies also indicate that the importance of awareness and attention in intentional homicide cases has gone beyond national legal systems and is considered one of the main criteria for comparative criminal law adjudication. In a review of an English article published in a specialized criminal law journal, it is highlighted that the lack of awareness or attention is a clear violation of the principle of individual criminal responsibility and a condition for the realization of intentional homicide. According to comparative law theories, the existence of knowledge is not a sufficient condition and intent must also be established along with actual criminal intent (Herring, 2021, p.299).

In the author's opinion, the legal and psychological combination of the requirement to prove knowledge and intent in premeditated murder constitutes the most important foundation of justice in the criminal responsibility of individuals. This practical requirement, in addition to guaranteeing the rights of the victim and preventing judicial malpractice, allows for the distinction between different degrees of crimes and protects the criminal system from excessive judgment. These criteria also allow judges to carefully, in accordance with judicial conscience and legal knowledge, issue the most just verdict. 3- Article 290 of the Islamic Penal Code and the Psychological Element of Intentional Murder

-1 -3Examining the Structure of Article 290 and Its Examples

Article 290 of the Islamic Penal Code approved in 1392 is considered one of the most important legal articles in defining and identifying instances of intentional murder; this article, with a more comprehensive approach than previous regulations, has attempted to explain various types of lethal behaviors and the necessary conditions for the realization of intentional murder in an exemplary and structural manner. According to a precise legal interpretation, the structure of Article 290 is based on three main clauses: Clause A (intent to commit murder), Clause B (typically lethal behavior), and Clause C (use of a typically lethal means according to the knowledge of the perpetrator). Each clause separately deals with a group of acts and circumstances so that even in cases where the perpetrator does not have an explicit intention, upon establishing matters such as knowledge of the lethality of the means or behavior, intentional murder is considered. This mandatory distinction has made the boundary between intentional homicide and other types of murder clearer, removed ambiguity from criminal behavior, and achieved criminal justice (Ardebili, 1403, p. 439). In more recent research, the analysis of instances of Article 290 has gained double importance. An article in the Journal of Criminal Law examined typically lethal behaviors and showed that Section B of this article covers all actions that are conventionally and empirically considered lethal; even if the perpetrator does not insist or specify that the result will occur. Section C also creates a basis for attributing intentional homicide in specific circumstances, such as the use of a weapon or medical cases, by focusing on the means used and the perpetrator's knowledge of its dangerousness. This comprehensiveness has given judicial practice, relying on Article 290, the necessary freedom of action and flexibility in determining criminal liability and issuing verdicts (Salehi Nezhad, 2018, 77). In a comparative comparison with contemporary legislative systems, the outstanding feature of Article 290 is its preventive approach and strong

implementation guarantee. Comparative law researchers believe that this article, following modern global approaches, has classified the concepts of intent, quasi-intention, and error in a specific and reliable manner and presents numerous instances of intentional homicide in a systematic manner. This has made the criteria for judicial arbitration clearer, reduced procedural disputes, and met the expectations of judges and jurists from criminal legislation (Ebadollahi, 2021, p.154).

In the author's opinion, Article 290 of the Islamic Penal Code, with its three-part structure and instance-based approach, provides a new and uninterpretable justice in the field of intentional homicide. This article, with its scientific and citation strength, is the best model for judging and distinguishing criminal behaviors in the Iranian and regional judicial systems, and future reforms should focus on improving this structure and strengthening scientific and psychological tools for establishing criminal responsibility.

-2-3 The position of awareness and intention in various clauses of Article 290

The position of awareness and intention in various clauses of Article 290 of the Islamic Penal Code is so key in determining the type of murder and the criminal responsibility of the perpetrator that each clause of this article deals with them in a special way. In clause A, the intention to commit murder is considered as the most explicit type of intent and the deep connection between will, awareness of the result of the act, and active intention to cause death; that is, the perpetrator must not only know that his behavior is fatal, but also, at the moment of committing it, his mind must be focused on committing the murder. The importance of this awareness and intention in Islamic jurisprudence and criminal law is that the judgment is based on the existence of ultimate malice and the individual's attention to the catastrophic consequences of the behavior, and proving these concepts is the introduction to the recognition of intentional murder (Ardebili, 1403, p. 461). Clause B of Article 290 highlights the role of awareness and intention in typically fatal behavior; because even if the perpetrator claims to lack explicit intent, if his behavior is conventionally and empirically fatal, the need to prove awareness of the lethality of the act and intention is raised with a high probability of death. In evaluating the validity of this clause, the courts pay attention to scientific evidence, objective evidence, logical analysis of the circumstances, and the extent to which the accused is aware of the consequences of the behavior. Clause B, focusing on knowledge and intent, provides the possibility of converting the crime into intent, provided that the perpetrator has consciously chosen his dangerous behavior (Taheri Nasab, 2010, 12). In Clause C of Article 290, the recognition and realization of intentional homicide through the perpetrator's use of a means that is typically lethal and the proof of knowledge and attention to its danger and lethality has gained importance. This clause shows a glimpse of combining knowledge and intent with the instrumental element, and even if the perpetrator's behavior is based on the specific circumstances of the victim or the sensitivity of the subject, the existence of awareness of the lethality of the means and the intent to cause death are considered necessary conditions for full criminal liability. In recent works, it has been stated that the importance of this clause is in preventing evasion of responsibility and removing doubt in cases of ambiguity of the perpetrator's will or true intention (Shokri, 2023, p.121). In the author's opinion, the position and role of awareness and consideration in various clauses of Article 290 determines the boundary between intentional, quasi-intentional and pure error. Without the positive presence of these two elements in the perpetrator's mind, intentional murder is impossible and criminal

justice is distorted. Comparative studies and new theories show that this structure has significantly protected the Iranian judicial system from excesses in the interpretation of criminal responsibility and has provided a new basis for reference for the promotion of criminal justice and the coherence of judicial procedure. 3-3- The role of awareness in the realization of typically lethal behavior

The role of awareness in the realization of typically lethal behavior is considered, in the thought of Iranian criminal law and comparative systems, as the main prerequisite for attributing intent to murder. The perpetrator's awareness of the lethality of the behavior means the individual's clear and active recognition of the dangerous and harmful consequences of the act or tool used. Although typically lethal behavior, in the conventional and scientific view, can in itself provide the basis for murder, establishing strict criminal liability is only possible when it is proven that the perpetrator committed the act in question consciously and with sufficient knowledge of the risk of murder. This view is emphasized in reliable sources of Iranian general criminal law that the perpetrator's active awareness of the lethal nature of the behavior determines the boundary between intentional and quasi-intentional murder, and without it, criminal intent is considered merely potential (Ardebili, 1403, p. 482). In research, special attention has also been paid to the importance of the criteria for establishing awareness in typically lethal behavior. Recent studies show that the perpetrator's awareness can even be inferred from external evidence and circumstantial evidence, subsequent statements, or prior and subsequent behaviors and can be considered as one of the elements of criminal liability for intentional homicide. Objective criteria such as the choice of lethal instrument, recognition of the specific circumstances of the victim, and the use of scientific techniques in case analysis mean that proving awareness is not based solely on the individual's claim, and that courts, relying on a set of reasons, impose severe criminal liability (Kalantari, 2015, 78). In the field of comparative law, the role of awareness in the realization of lethal behavior has been analyzed from a scientific and psychological perspective. International research states that the perpetrator's awareness of the lethality of the act must be proven both at the stage of choosing the behavior and in the process of its execution. Even if the evidence shows that the perpetrator was able to recognize the consequences, but did not actively intend it, intentional homicide cannot be attributed. This approach reflects the sensitivity of modern legal systems to the element of consciousness and its key role in criminal policymaking (Simester, 2023, p.196).

In the author's opinion, consciousness, as a living element in the process of realizing typically lethal behavior, outlines the psychological and rational face of criminal responsibility. Strengthening the criteria for proving consciousness and utilizing scientific and psychological analyses enables fairer adjudication and contributes seriously to improving the standards of criminal justice and the integrity of judicial procedure in intentional homicide cases.

-4 -3The role of consideration in determining the subject and the status of the victim

The role of consideration in determining the subject and the status of the victim in criminal law is such that it greatly affects the boundaries of criminal responsibility. In this realm, consideration is not merely mental attention to the outcome of the action, but rather means the perpetrator's active and conscious understanding of the specific circumstances of the victim, the circumstances of the case, and the individual and social consequences of the criminal behavior. In specialized sources of Iranian criminal law, it has been emphasized that consideration removes judges' judgment from pure dependence on science and intention and

introduces personal and empirical criteria into psychological evaluation. This type of consideration puts the perpetrator in control of the consequences and legal and moral dimensions of the criminal behavior at the moment of committing the criminal behavior by accurately assessing the victim's condition (such as age, illness, vulnerability, etc.). If it is proven that the perpetrator did not pay attention to this condition or ignored it, there is no possibility of assigning full criminal responsibility (Ardebili, 14031, p. 512). New studies in the field of criminal law show that consideration not only clarifies the possible consequences of the behavior, but also makes the type of will and psychological element of the perpetrator clearer. An article in a specialized criminal law journal has emphasized that in cases involving intentional homicide or violent crimes, consideration of the victim's special condition (such as physical sensitivity, disability, or critical condition) is of dual importance, and judges analyze the perpetrator's behavior based on the degree of consideration he or she has given to these conditions. This legal perspective has led to cases where, even in the presence of deadly behavior, the punishment of retribution or full criminal liability is not assigned due to the lack of real consideration for the victim's condition (Mousavi, 1403, 70). In comparative law, the role of consideration in determining the subject and the victim's condition has been explained in such a way that psychological and objective criteria are used to measure it. In recent English works in the field of criminal law, consideration is more than just knowing; Rather, it is a kind of ability to foresee and pay special attention to the consequences of the victim's situation that enables judges to make fairer judgments in cases of intentional homicide and bodily harm and to determine the degree of responsibility based on the perpetrator's level of awareness and active attention (Duff, 2021, p.325).

In the author's opinion, the use of intention in criminal courts, by combining subjective and factual criteria, provides an accurate tool for measuring justice in each case, and its importance in determining the level of criminal responsibility, defending the rights of the victim, and promoting judicial conscience is very significant. Using scientific criteria, recognizing the specific circumstances of the victim, and explaining the role of intention will lead to more logical decisions and preventing excesses or omissions in judgment.

-5-3 The effects of lack or deficiency of awareness and intention in determining the type of murder (intention, quasi-intention, mistake)

The effects of lack or deficiency of awareness and intention in determining the type of murder are among the main issues in Iranian criminal law, which have been explicitly mentioned in legal and jurisprudential works. Lack of awareness in committing a fatal behavior causes the element of intention in murder to be definitively ruled out and the title of quasi-intention or pure mistake applies to the perpetrator's act. In the Iranian legal system, awareness is a necessary condition for the realization of intentional murder, and without it, there is no possibility of applying retribution or severe punishment; so that if the perpetrator does not know the lethal nature of the act and commits it only based on a mistake or accident, the mere dangerous behavior is not enough to establish intent, and intentional murder changes to quasi-intentional murder or error (Ardebili, 1403, p. 528).

The lack or lack of attention also has important legal effects in determining the type of murder; so that the courts consider behavior without attention more in the field of unintentional murder or pure error. If it is proven that the perpetrator not only did not have active awareness of the lethality of the behavior, but also did not have mental attention to the consequences of the

action and the specific situation of the victim, his criminal liability is reduced and he is directed towards lighter punishments such as blood money or ta'zir imprisonment. This legal distinction allows for fairer decisions and prevents the judicial system from imposing retribution in situations where there is real error or negligence (Mihanparast, 2017, 150). In the comparative approach and contemporary criminal law studies, the lack or deficiency of awareness and intention determines the precise boundary between the degrees of murder. English research in the field of intentional homicide has pointed out that the legislator and the judge should pay special attention to the level of awareness and attention of the accused at the moment of committing the crime; any failure to prove these two components prevents the attribution of severe criminal liability and requires a change in the classification of the crime to quasi-intention or error. This approach has increased the coefficient of justice, prevented excessive or excessive punishment, and reduced the number of unrealistic retribution sentences in the criminal system (Card, 2021, p.162). In the author's opinion, a precise distinction between the effects of lack or deficiency of awareness and intention guarantees individual and social criminal justice. Strengthening scientific and psychological tools to ascertain these two components at the stage of truth discovery will increase the ability of the judicial system to issue rational judgments and prevent errors, and make it more just to compensate for the damages caused to the victim and society.

4- Comparative analysis and practical implications

-1 -4Comparative study of awareness and consideration in the Iranian legal system and other systems

Iranian laws, especially Articles 290 and 291 of the Islamic Penal Code, pay special attention to the active ascertainment of knowledge and attention of the offender to the lethal nature of the victim's behavior and circumstances. In this context, judicial understanding and interpretation, especially in the discussion of intentional homicide, are generally based on the perpetrator's level of knowledge of the result of the act and mental attention to its consequences, and courts use a set of objective and mental evidence, behaviors before and after the crime, and specific circumstances in question to prove these two elements. This accuracy has caused the Iranian penal system to recognize a clear boundary between intentional homicide, quasi-intentional homicide, and pure error, and to maintain individual and social justice (Ardebili, 1403, p. 546).

Comparative studies show that in many advanced legal systems of the world, the concepts of awareness and intent also have a serious place. In France, the criterion of "intention" is based on awareness and criminal intent, and the element of "conscience" refers to the individual's knowledge of the practical consequences of his behavior. In England, the legal procedure for intentional homicide is based on the criterion of "mens rea" (mental element) and the three layers of awareness, will, and intent; courts are required to determine whether the defendant was aware of the fatal consequences of his behavior, and had mental intent to harm or kill the victim. We also see the same approach in the American and German systems, where relying on a precise assessment of the level of awareness, attention, and prediction of the result to prove intentional homicide, determine the type of crime, and the degree of punishment is considered an undeniable principle (Gardner, 2019, p.277).

In a practical comparison of these concepts, one of the most important differences in the Iranian system is the interplay of jurisprudential and customary concepts in judicial analysis. While many Western systems rely on codified psychological and legal standards and external evidence alone is sufficient to establish awareness and intent, in Iran the judge is required to consider jurisprudential concerns and ethical principles in addition to scientific and legal criteria. This combination, while enhancing the coefficient of judgment and justice, sometimes complicates the process of proving and interpreting instances of intentional homicide. The experience of France, Germany, and the United States shows that the development of legal, psychological, and social approaches to explaining awareness and intent has improved the quality of sentencing and strengthened the unity of judicial procedure (Keijzer, 2021, p.91).

In the author's opinion, a comparative analysis of awareness and intent in different legal systems provides useful findings for promoting criminal justice in Iran. The attention of foreign systems to the precise measurement of the knowledge, intent, and active attention of the perpetrator, relying on scientific criteria, and using psychological tools, is a valuable model for reforming and developing judicial and legislative procedures in Iran. The intelligent combination of customary, jurisprudential, and legal criteria will pave the way for creating a unified procedure and fair judgment.

-2-4 Review of Iranian Judicial Practice on Awareness and Intention in Premeditated Murder
Iranian judicial practice on awareness and intent in premeditated murder has undergone significant changes in recent years, and the judges' interpretation of these two elements has become a determining criterion in determining the type of murder and imposing punishment. Criminal courts, citing the provisions of Article 290 of the Islamic Penal Code, have made strict criminal liability conditional on proving the perpetrator's awareness of the lethality of his behavior and his active intent to act in a fatal manner; in such a way that the unanimous decision of the Supreme Court No. 711 has been a clear example of the judges' attention to the mental state of the perpetrator and the psychological elements of premeditated murder. This procedure leaves the judges free to make scientific and independent interpretations to prove or disprove knowledge and intent by utilizing the set of evidence, the behavior before and after the crime, the defendant's speech, and forensic evidence (Ardebili, 1403, p. 566). This trend has also been confirmed in recent criminal research and analysis; especially in studies of intentional homicide cases, judges have often emphasized that establishing knowledge and intent must be accompanied by a comprehensive examination of all external and subjective evidence. The perpetrator's official or unofficial statement, the way he chose the tool or behavior, psychological studies, and even previous relationships between the perpetrator and the victim are considered as positive evidence, and the conclusion of lack of awareness or intention is considered a preliminary to reducing the punishment and changing the type of murder (Yousefi et al., 1401, 280). The experience of Iranian judicial practice in recent years has also shown that each of the specialized branches of intentional homicide has developed specific criteria for determining knowledge and intention in order to prevent the issuance of different and conflicting verdicts. This set of criteria has been developed in light of the advancement of criminological knowledge, reliance on forensic reports and psychological studies, and analysis of case evidence. The ultimate goal of these approaches has been to establish individual justice and the compatibility of the verdicts issued with the principles of criminal legislation. In the author's opinion, improving the quality of examining awareness and intention in Iranian

judicial practice is a sign of a change in the criminal justice system. This development has improved the standard of arbitration, prevented errors, and increased public confidence in the true meaning of "criminal justice." The development of scientific tools and the use of precise criteria in the trial process have ensured fair and disciplined arbitration and made it possible to improve the uniformity of procedure and the quality of issuing criminal verdicts.

-3-4 The effects of the distinction between these two concepts on the criminal liability of the perpetrator

The effects of the distinction between awareness and intention on the criminal liability of the perpetrator play a fundamental and decisive role in litigation and determining the extent of actual liability. In the theories of Iranian general criminal law, it is emphasized that awareness means the perpetrator's real and active recognition of the nature of the act and its dangerous consequences; intention also refers to the mental attention to the consequences and the specific situation of the victim. The presence or absence of any of these components can cause a fundamental change in the type of punishment, the degree of responsibility, and even the basis for attributing the crime; In such a way that if awareness and intention are proven simultaneously, full criminal liability and severe punishment such as retribution will be possible, but with the absence or weakening of one of them, criminal liability is reduced and the individual's punishment is mitigated (Ardebili, 1403, p. 594). The distinction between awareness and intention has provided an analytical tool for reviewing and criticizing judicial decisions in cases of intentional homicide. Studies have shown that courts can classify criminal liability according to the degree of guilt and the circumstances of the case, based on the criterion of distinction between the perpetrator's theoretical knowledge (awareness) and mental attention, especially at the moment of the crime (intention). This scientific approach has not only helped to achieve judicial justice, but also prevented the issuance of hasty decisions and disproportionate punishments. (Ikrangi and colleagues, 2015, 160) International comparative studies explain that the effects of the distinction between awareness and intention on the criminal liability of the perpetrator are a main indicator in evaluating the philosophy of criminal justice. Comparative criminal law and psychological research indicate that many Western legal systems, relying on the distinction between awareness and intention, are able to accurately determine the types of intentional, conditional intentional, quasi-intentional, and pure error behavior and, accordingly, regulate criminal liability at different levels. These findings, in line with new trends in criminal justice and the resolution of judicial conflicts, play a key role in standardizing the judicial system (Mandel, 2022, p.388).

In the author's opinion, the precise distinction between knowledge and intention is an important development in the Iranian criminal justice system. The scientific and psychological integration of these two components will improve the quality of judgment, reduce errors and haste in issuing sentences, and ensure the issuance of fairer and more rational decisions. Creating educational and research systems for judges and lawyers with the aim of accurately understanding this distinction plays an effective role in strengthening public trust and improving the quality of the criminal system.

-4 -4 Interpretative and practical solutions for more precise implementation of the article

The interpretative solutions presented for more precise implementation of Article 290 of the Islamic Penal Code are based on conceptual clarification and highlighting the scientific criteria of knowledge and intention in cases of intentional homicide. For example, it has been

recommended that judges, at the trial stage, distinguish between theoretical knowledge of the nature of the act and practical intention of the result as a basis for issuing a verdict. Using the theories of criminal law and criminal psychology, issuing verdicts based on clear verification of "the perpetrator's awareness of the lethality of the behavior" and "mental attention to danger" will enhance the validity of the interpretative mechanism of the law and greatly reduce the scope for procedural disputes (Ardebili, 1403, p. 607). In the practical field, the development of special judicial guidelines for the interpretation and implementation of Article 290 has been recommended as an effective solution. Recent research shows that specialized training for judges and judicial officers, the development of executive flowcharts, the use of standard assessment forms (awareness and intent), the growth of psychological and forensic reports, and the requirement for a comprehensive analysis of all external and subjective evidence on the subject of the psychological element of crime have had a significant constructive effect on reducing the percentage of judicial errors and ensuring criminal justice (Kalantari et al., 2017, 77). Comparative studies indicate that for the precise implementation of this article, the legal experiences of the French, German, and English systems can be used. By developing objective criteria and psychological standards for determining knowledge and intent, they have removed ambiguity from the court in interpreting malice and criminal liability, and have developed new methods for classifying types of murder, lethal behavior, and determining the degree of punishment. Adapting Iranian enforcement strategies to these experiences can be achieved through joint workshops, translation of new books, and development of joint guidelines (Heaton, 2019, p.211).

In the author's view, transparent and scientific enforcement of Article 290 is closely linked to improving judicial skills, reforming adjudication procedures, and continuing education of officers and experts. Interpretive and applied strategies will not only ensure criminal justice, but also unify the procedure and increase the credibility of legislation in the field of intentional homicide. Combining these approaches with psychological models and comparative experiences will make the future of criminal adjudication smarter and more coherent.

Conclusion

According to the materials reviewed in this study on the distinction between "awareness" and "intention" in Article 290 of the Islamic Penal Code, it can be concluded that these two concepts, despite their apparent proximity, have fundamental differences in content and legal function, and this distinction plays a key role in explaining the psychological element of intentional homicide. Based on the main research question, which focused on the role of this difference in determining the type of murder and criminal liability, it was determined that awareness is more focused on the knowledge and understanding of the perpetrator than on the lethal nature of the act or specific situation of the victim; while intention is considered to mean active and mentally focused attention to the possible results and effects of criminal behavior. In other words, awareness has a perceptual and cognitive aspect, but intention more includes the psychological and mental burden of paying attention to the subject.

The research findings showed that the lack or deficiency in each of these two elements can have different effects in determining the description of murder. For example, if the perpetrator is unaware of the typically lethal nature of the means or the specific situation of the victim, the psychological element of intentional homicide will be distorted and his behavior may be

classified as quasi-intentional homicide or pure error. On the other hand, if the perpetrator is aware of the lethality of the act but does not have any intention or real attention to the result, his action may still fall outside the scope of intentional homicide. Therefore, the first hypothesis based on the conceptual and functional distinction of these two elements in the process of realizing intentional homicide is confirmed. The findings also showed that this distinction has important effects on the criminal liability of the perpetrator. Accepting the existence or absence of either of the two concepts of awareness and intention can cause a change in the type of murder from intentional to quasi-intentional or error, and consequently, the type of punishment can also change from retribution to blood money or financial guarantee. This also confirms the second hypothesis of the study based on the obvious effect of this distinction in clarifying the classification of types of murder and reducing judicial conflicts. In conclusion, it can be said that analyzing and reviewing the distinction between awareness and intent not only theoretically will lead to greater clarity of the concepts of the mental element in intentional homicide, but also in practical terms, it will help courts to avoid issuing conflicting opinions by citing Article 290 more clearly. This approach can be an effective step towards achieving criminal justice, strengthening the unity of judicial procedure, and improving the Iranian criminal law system.

To resolve the ambiguity in the distinction between awareness and intent in Article 290 of the Islamic Penal Code, the first solution is for the legislator to provide precise and clear definitions of these two concepts, either by amending the law or by providing a valid legal interpretation (by the Guardian Council or the Supreme Court). An explicit definition of awareness as “a person’s knowledge and recognition of the fatal nature of the act or the victim’s situation” and of intent as “the perpetrator’s active attention to the possibility of achieving a harmful result” can reduce the existing interpretative differences. In addition, the inclusion of objective criteria for determining knowledge and intent, such as the condition of the vehicle, the victim’s circumstances, and customary public awareness, will facilitate greater uniformity in the implementation of the law. The second solution is to pay attention to judicial practice and specialized training for judges and lawyers. The development of judicial and educational guidelines that specify the differences and applications of knowledge and intent in murder cases can help create uniformity in practice and reduce conflicting perceptions. Also, the use of comparative research in other legal systems and their adaptation to Iranian jurisprudential principles will provide the opportunity to strengthen interpretive frameworks and find innovative solutions in the implementation of Article 290. This set of measures can ultimately help stabilize criminal justice and increase public confidence in the judicial system.

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