Investigating the case of causing disturbance for tourists in touristy places in Iran's penal system: providing a practical solution

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Abstract

Tourists are considered as foreigners from the perspective of law and in all legal systems rights and responsibilities are considered for them. In countries where almost all finical sources are produced from tourism industry, bilateral rules are considered for tourists and touristy places, in a way that the existence of this body of rules can be considered as the reason for the development of tourism industry. Under the influence of this experience, it is presumed that tourists' entrance to any country is considerably related with the rules and regulations which support their rights. So, coding rules and regulations for supporting tourists and creating security for them seems necessary. The purpose of the present article is investigating the case of causing disturbance for tourists in touristy places in Iran's penal system. In other words, the main question of the present article is how is this case dealt with in the penal system of Iran? The results of the present article have shown that in Iran's penal system the case of causing disturbance for tourists is adequately attended. Article 22 of the constitution states that: dignity, life, property, rights, house and jobs of the people shall be secured from any violation but the cases which are excepted by law. The concept of people includes both domestic and foreign people and the importance of securing and supporting their life, property and house is taken to consideration and also is their security. Except the constitution, the passport law approved in Esphand 51, the law of foreigners' entrance and residence approved in 1336 and amendment and affixation of a few articles and notes to the laws approved in 1350 and civil procedure about giving political, serving or ordinary and passing permission issued by the disciplinary forces and the ministry of foreign affairs have taken the case in to consideration. Based on the present introduction, the present article through implementing library sources and scientific and experimental articles aims at defining and analyzing the case of causing disturbance for tourists in tourist places in Iran's penal system.

Keywords: causing disturbance for tourists, touristy places, Iran's penal system, tourists' rights.

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Introduction

From the very old ages, tourism has been a phenomenon which has existed among human beings and it has remained popular up to now considering the economical, social and cultural changes. Iran has been among the top ten centers of the world for human civilization development and the first signs of civilization which are discovered in Iran belongs to the fifth minimum BC. In a way that Ariaes' entrance in the second millennium BC to this country and the Ilamies, Achemenian, Sasany's governments indicates the establishment of a precious civilization in this country.

Meanwhile, this country has been attended by many different people during various eras which have traveled to this country for different purposes such as trade, entertainment, culture, etc. And also, due to various customs of the country like spending time in nature during different occasions in a year individually or collectively indicates the spirit of touring and having fun among the people of this country (Ghaffari & Molaee, 2002; 218).

Although, the researches and studies performed on tourism and travelling and its rules and regulations in the ancient Iran and even the era after Islam is scarce, but it is obvious that Iran before Islam and even before the entrance of the Ariae to this country, tourists and travelers had special rights and privileges which not only were different qualitatively and quantitatively in comparison to other countries and civilizations, but also, based on the tourist or traveler's aim and motive, the rights and regulations were defined and executed.

Moreover, Iran, for its special geographical and customs, historical and artistic works and heritage, certainly in the past for tourists and travelers was considered as the best destination (Heidari Chineh & Hosseinzadeh Delir, 2003: 59).

However, there are a few studies and surveys about travelling to rural areas and adequate information is scant. But, considering the customs of Iran and large population in the rural areas, it can be supposed that

rural tourism in Iran is formed from the time of great civilizations and cities establishment and tourists during this period travelled to these areas for special purposes.

In Iran after Islam, based on civilized living records and experiences obtained from good temper and other behaviors of Iranians which have been existed among Iranians since the ancient time and also Iranians' special culture which was followed by special hospitality of eastern and specially under the influence of implementing the Quran's verses and Islamic principles, tourism has gained more popularity and based on the establishment of welfare and treatment facilities, establishing motels and entertaining places through endowment made tourism in Iran reach new stage which is reflected well in various famous travelers' notes and travel books including domestic and foreign. It should be mentioned that post Islam era, the holy Quran, nahj-al-blaghe, narrations and Imams' sayings and the religious dignitaries, through different means have encouraged Muslims to tourism. In a way that from Islam's perspective, tourism and travelling are followed by human's perfection as it was already mentioned.

So, meanwhile Islam encourages and emphasizes tourism and travelling, has referred to the plenty blesses of God and believes that tourism with its all material and living benefits, has never rejected the moral, religious aspects and elevating body and has not been centered beyond the earth and God, but all travels are instruments for travelling toward God and ascending toward the promised land. About the importance of travelling in Islam and the holy Quran it should be mentioned that about 29 verses out of 24 sourahs of the holy Quran are allocated to this topic in which the first seven verses have explicitly stated travelling through the earth and in other seven verses questioned about travelling through the earth (salehi, 1374:58).

Based on the above mentioned points, one can claim that Islam has had considerable influence in tourism and customs of travelling and also motivating travelling in Iran. During this period, many travelers have travelled to Iran and have visited different areas such as rural areas and tribes of this country which are referred to in various historical books and travelers' books. In the field of tourism, especially since the seventeenth century and safavy's dynasty has been attended by tourists and has also attracted the attention of Europeans. Except

hundreds of travelers who have travelled to Iran before seventeenth century, this century which is contemporary with eleventh and twelfth centuries of lunar year is the beginning of attending Iran for foreign tourism.

During this period, various travelers like Peter Dellave, Juan Shardon Tavernieh, Antony Sherli, Madam Divlafou, George Clarc and ….. from different nations accompanied with the long list which George Kersen form Britain at the end of nineteenth century in his famous book has written about Iran and its events which indicates the rank of Iran among the top Asian countries regarding the number of tourists who have visited this country during the seventeenth and eighteenth centuries (Ardeshir Tajzadeh Namin, 2014).

Nineteenth century is known as a different century in Iran's history of tourism. Travellers, diplomats, business men, archeologists, researchers and many other curious people have travelled to Iran for merely quenching their curiosity. In the second half of nineteenth century, Lady Shell, Vanson, Gobino and doctor Brogci were among the authors who made Iran famous by their books. Meanwhile, the number of tourists who visited Iran increased during that period, but it has never been considered as an industry like its present format which has a disciplined organization and special regulations and produces income.

Tourism industry in Iran, since a half a century ago was established aiming at introducing Iran's dignitaries and civilization of this ancient land to the world. And for the first time in 1314, an office in ministry of state known as the office of tourism affairs was established which had the responsibility of publishing journals and guide booklets of Iran Tourism. After shahrivar of 1320, the office was replaced by the high council of tourism which was directed by ministry of state and finally in 1342 the board of ministers ratified the establishment of the organization of attracting travelers and the organization stared formally its mission.

This organization through presenting plans and fundamental vast planning in tourism could successfully joined the ministry of information in 1353 and under the title of ministry of information and tourism was responsible for Iran touring and tourism affairs. Since then the office was managed by four shared stock company under the

supervision of ministry of information and Iran touring (Zaki, 2004: 112).

After the Islamic revolution, to avoid any interference in the functions and regulating the acts of facilities related to tourism, the four countries were joined together and the organization of Iran touring and tourism with new policies and aims different from the past was established and started acting. This organization was responsible for managing and using residential units in forms of motels, camps, cottage, tent, restaurant, coffee home, skiing, sea shore facilities, mineral waters, winter educational centers and any other suitable place for touring Iran and travelling.

After that period, in 1364, Cultural Heritage Organization and eleven state organization directed by the ministry of high education and culture and in 1372 they separated from the ministry of high education and joined the ministry of culture and Islamic guidance (Set the rules and regulations of Cultural Heritage, 12:1372). Again in 2004 based on the passed law of the high council administration of Cultural Heritage Organization was joined with the organization of Iran touring and Tourism. In the same year, this organization separated from the ministry of culture and Islamic guidance and entitled as one of the assisting organizations directed by president continued its activities. So, in 2006, due to the passed law in the high administrative council, the organization of hand crafts joined with the organization of cultural heritage and tourism. Based on the above mentioned materials, one can claim that tourism industry is a newly developed industry in Iran and is at the beginning of a long way (Sarlak, 2000: 239).

Based on the world organization of Tourism, number of tourist throughout the world has increased up to seven percent. The biggest share belongs to Europe and Africa. Europe with 671 million tourists has obtained the first rank. The second rank goes with Asia and Australia with 324 million tourists in 2017. America continent with 207 million tourists, African and middle -east with 130 million tourists are placed in the following ranks. Europe and Africa with 8 percent have the highest growth and come next Asia and Australia with 6 percent growth. During the recent decades, most counties have considered tourism as a method for development and economical growth.

Tourism efforts have made it as the second biggest industry in the world in a way that based on the statistics of the council of travelling and world tourism, about 4 percent of the world's gross production belongs to tourism in 2005. The experiences of the world's countries have indicated that tourism can influence economy positively and negatively.

It should restated that any process of tourism development and the its results, may bring social, cultural and environmental costs. Tourism is one of the important the world's industry which has employed 74.2 million people throughout the world or in other words, 2.8 percent of the whole jobs in the world belongs to this industry.

This industry has about 3.8 percent of the world's gross production in 2005. Considering the combination of direct economical activities and bound to tourism, it is estimated that this industry about 221 million people or 8.3 percent of the whole world jobs belong to this industry and has 10.6 percent of the whole world's gross production (Rasoulzadeh aghdam et al., 2016: 63).

One of the important elements which keeps back tourism industry in any country, is the absence of security. In other words, with insecurity expansion in subsidiary and financial aspects, tourists' motive and willingness, will double. The first step in improving tourism industry is the establishment of widespread security whether external or internal or national.

For achieving this purpose, after establishing full security, through applying communicative devices and international medias, the importance of full security in country was communicated to the people of the world and tourists in all countries so that the wrong picture of security absence in any country can not block the development of tourism industry. Security is one of the key elements in relation to tourism and demands efforts to establish full security in the environment and the tourists should receive the information and guidance that they need since touristy places are usually crowded and populated.

Security means an avoiding possible danger which threatens individuals or human get together. Security, for a country means earning trust in relation to health, existence and property. Security is one of the human being's needs which the first priority of every human

is securing his or her existence and next fulfilling other needs (Ghaffari & Molaee, 2002: 218).

Government and private sector should be considerate about the safety of tourists and the risky aspects of tourism should be settled. Any health problem and terrorist attack, diseases such as malaria and aids should be attended by the governments and should be aware of the problems and should inform the other countries. Conditions and procedurals on facilitating travelling, especially immigration and customs should be practical and user friendly as much as possible while their regulations are observed. On the other side of vast communicative tourism process is the host community.

The host is an individual or an organization which tourists deal with at their destinations. In this regard, the classification can be performed based on the quantity on the host's involvement and importance, in relation to security of tourists can be considered. Governments are the first involved organizations. Governments' interference in tourism affairs happens through various ways. The first and the most important way of meddling is through policy - making. Most of the time, governments through investigating the general condition of the country, through implementing different ways, control and apply restricting, directing or motivating policies. Also, performing official formalities, tourists' entrance and exit and their security issues including issuing passport and customs' supervision are among the responsibilities of the government. Companies and organizations and centers which provide services dependent on tourism are considered as the second host (Zahedi, 1374:48).

People responsible for transporting equipment affairs including airlines companies and car-rent institutes, residential facilities such as hotels and motels, airplane and traveling agencies, financial services related to tourism such as credit cards and travel checks, special shopping centers for tourists like hand crafts shops, educational services and also publications in this field, belong to this category.

Non native and even foreign workers, who move to tourist areas, also belong to this category. This group beside the governments is responsible for the establishment and maintenance of touristy places. People and shop keepers form the third group. Although have a share in tourism marketing, but their living is not bound to this industry.

Anyway, these people, personally or directly deal with tourists and since the provide a deeper and more real perspective of the host society, that have a key role in the process of security. Finally, ordinary people are the last group. This group is most real cultural capsules of the host country and has the least opportunity to connect with tourists. This connection is the most valuable relation for tourism and is considered as the foundation of states' policy-making (Musa'I, 2004: 244).

The purpose of the present article is investigating tourist harassment in tourist places cases in Iran's criminal system. The main question of this article is how the above mentioned cases are dealt with in Iran's criminal system. For this article, the researcher will try to explain and describe the cases through using library sources and also scientific and experimental articles which are related with the topic of tourist harassment in touristy places in Iran's criminal system.

Theoretical perspective

Tourism rights include body of laws and regulations which are codified for providing and securing the primary rights of a tourist. Tourism rights are fundamental rights which are the basis of these social activities and are a combination of all material and spiritual rights which a tourist can benefit them. So, to achieve success in tourism field, one should attend both the material aspects like the foundations and its spiritual structures which aim at observing the rights of tourists and coding suitable legal tourism laws. The laws protecting tourists in many countries are getting approved legally. These laws are produced for protecting travelers from exploitation of tourism agencies lacking management and ethics.

Also, the laws of tourism are various and complicated. The laws of protecting environment, health and security, the rights of employees, protecting consumers, the law of contracts, companies and etc, which are different in legal systems.

It can be said that the legal system which covers tourism fields, whether national or international wide, includes regulations which change based on national legal systems. Performance levels of tourism regulations like its levels of planning are different.

They include: 1. Local: including health and security, the rights of employees, protecting consumers. 2. Provincial, including the laws of

protecting environment. 3. National: including the laws of issuing passport or transferring goods by tourists (Customs law). 4. International: including the laws which the world organization of tourism mentions for tourism or legal-touristy contracts which are formed between two countries for developing tourism (Khakpure et al, 2013:94).

Obviously, legal laws in a society in different fields are coded based on the managerial structure and dominating conditions in a country and are declared to state's and private organizations which are located in the organizational hierarchy. So, it is possible that the managerial and organizational structures in the intended fields, due to different reasons like being dependent in law coding, incapability of managers in coding legal laws and etc, will result in defects.

On the other hand, the contents of the legislation under the influence of civil and social laws in a society and regardless of international laws are determined which may conflict with international laws and decreases the qualitative level of the laws. Also, responsible organizations in executing the determined laws may face challenges and this can affect suitable enforcement and execution of the laws (Afzali et al., 2019:119).

Two types of laws are presumed for tourists: private laws and public laws. But, the private laws which are approved in our different laws are not very open to negotiation. It seems that speaking about the laws which bring security and safety for tourists seems possible. For a traveler, saving his life and property is the most important point and the host government should not shrink this responsibility by no means, so it would be possible to enlist the most important rights of tourists:

1. the right to legal settlement and bringing actions: in means that a tourist should be entitled, like all Iranians, to restrain easily his loss in Iran's loss or through bringing actions are enabled to obtain his legal right and is not deprived from this right due to being a foreigner. The easier the method of suing an action for a traveler, the more trust they will have in our legal system and will fell secure. Of course, this right, under certain conditions, is present in Iran's civil and penal procedures especially if it is based on reciprocated behavior of the other country (Hossini, 1376:286).

2. Preventing ungrounded arresting

Tourists should feel safe and secure in a country. If Iran's officials without any legal and grounded reason, arrest a foreigner, this act may create this feeling in others that they are entitled to implement the same right and this also may keep the tourists away from travelling to our country.

3. The right of receiving respect: A tourist as a human being possesses the natural right of receiving respected and this right should never be violated or neglected. A part from his language, religion and nation, the host country should pay due attention to this point.

4. The right to gain familiarity with the laws and customs of the host country: any host country should provide the conditions for tourists to gain familiarity suitably with religious or national laws and traditions of the society. This is to avoid causing any problem for either himself or the host country. So, in this regard, the host country should publish a booklet including the most important laws and customs of the society and give it to tourists when granting them visa (Ibis, 1376:286).

5. The right to receive in time and suitable services: the host country is responsible for providing suitable facilities to achieve this purpose. For, in emergency conditions, when faced with a problem, tourists is enabled to solve the problem by itself. And if any country takes appropriate measures in this regard, number of tourists will increase. So, to support tourists, it seems necessary to consider the conditions as their natural right and help them in emergency conditions as fast as possible.

Tourism in penal system of Iran

In 1314, for the first time an office was established in state ministry for attracting tourists and advertising and performing the affairs related to the country's tourism. The purpose for establishing the office in the state country was providing facilities for developing and expanding tourism industry. This act was the first step toward codification of tourism laws which was also irrelevant to tourist's right.

The board of ministers approved the organization of attracting tourists and the organization based on the above mentioned description gained authorization and expanded its activities. Later, Iran touring and tourism affairs was managed for winter sports under the supervision of

the ministry of information and tourism with four companies including the stock company of Iran's tourism structure, Iran touring stock company, Iran central houses stock company and the organization of tourism centers stock company.

The 22nd principle of the constitution law states that: face, life, property, rights, house and occupation of people should be saved from any aggression except the cases which are allowed by the law. This principle is applied for all civilians and foreigners and considers the importance of saving the life, property and house of people and also their security.

In the ex constitution law, this principle was also important. In addition to the constitution law, the passport law, passed in Esfand 1351, the law of entering and residing of foreigners passed in 1336 and amending and attaching a few articles and acts which were passed in 1350 and also issuing the executive plan for giving political- in service passports or ordinary passing paper by disciplinary forces organization and the ministry of foreign affairs are among related cases. Of course, reviewing these laws and regulations is necessary and their legal defects should be revised (Hashemi & Zare, 2016: 202).

Law maker should pay enough attention not to pass trouble making laws and causes unnecessary strictness. Any law should be logical in relation to legal reasoning and logic. Observing this point can create comfort, in a way that tourists will consider them supportive.

While, exporting non-oil products is considered as one of the main purposes of the country, tourism industry which can be a great help for achieving this purpose is helpless and ignored.

The law of Iran touring and tourism which was passes in 1370, while mentioning this definition in its first act, in its second act which was revised in 1375 states that in order to determine the policies of Iran touring and tourism and also to create cooperation among the related organizations, the high council of Iran touring and tourism which would be directed by vice deputy of president and the membership of the minister of Islamic culture and guidance, the ministry of foreign affairs, economy and property affairs, culture and higher education, transportation, the chairman of preserving environment organization

and chairman of planning and budgeting will be established (Welayatia, 1374: 85).

Table 1- the items mentioned in Iran's formal documents and laws on tourism industry

Nothing is mentioned about the concepts of tourism	The constitution law of Islamic Republic of Iran
Nothing is mentioned about the concepts of tourism	The perspective deed of Iran in 1404
Nothing is mentioned about the concepts of tourism	The comprehensive map and scientific deed of the country o
Strengthening and developing Iran touring and tourism based on exchanging experience and knowledge and identifying Islamic culture and civilization and elevating mutual understanding and national unity, encouraging and organizing public cooperation and attracting and directing non- state capitals on this topic (policies section act 3)	The first development plan (1372-1368)
Nothing is mentioned about the concepts of tourism.	The second development plan (1374-1378)
The banks of the country located in air, sea, earth, hotel gates, will provide tourism services on buying currencies brought to Iran by tourists. Different branches of the banks are allowed to sell currency to tourists provided that they provide the required documents (act 164). Providing the costs of supporting cultural heritage (act 165). to support the good execution of renewing historical and cultural mansions, the chairman of cultural heritage will be a member of the high council of Iran's civil and architecture. Creating suitable management in municipalities to save historical areas, the government will be responsible to provide the required means and conditions for using the financial revenues of UNESCO for developing facilities and preserving national and cultural heritage works. Tehran mayer is responsible for preserving old areas like Jamaran and changing it to cultural and serving complex for pilgrims and tourists whether native ot foreigner.	The third development plan (2000-2004)
Supervising and supporting the owners of cultural and historical legal properties, creating and developing research based-specilaised musiem in relation to executive organizations, creaing and equipting cultural heritage bases in main historical mansions of the country, creating the fund of renewing and using historical and cultural areas and buildings of the country. Completing the consensus comprehensive system of tourism under the supervision of Iran's consensus center, identifying and documenting historical and cultural works, identifying and supporting cultural heritage of Iran's cultural district in neighboring countries, creating centers for preserving the cultural and tribal works in provinces of the country like touristy villages, museums and exhibitions (act 114).	The fourth development plan (2005-2009)
Establishing centers for supervising the residential areas and tourism services offices, financial supporting for establishing specialized museums on sacred defense and the martyrs and also creating centers for preserving rural culture and works by private sector, Supporting the owners of historical mansions and insuring historical, artistic and cultural works (act 11), identifying accurately the needs of pilgrims in holy cities and organizing them and providing basic needs, developing facilities, cultural activities and pilgrim services in main pilgrimage zones (act 12)	The fifth development plan (2011-2015)

Source: (compilation and adjustment of the writer based on Iran's extensive documentation(

Although, the high council of Iran touring and tourism is in charge of policy making and deciding on tourism issues in our country, but the main responsible of the tourism affairs in our country is the cultural heritage and tourism organization which is known as cultural heritage. This point is confirmed in the constitution law text that this organization has been unfair between its two main duties and among its responsibilities which are refered to act 3, out of 24 items only one item is allocated directly to tourism which is mentioned in item 23.

Cooperation with the ministry of culture and Islamic guidance on Iran touring and tourism affairs, although plenty of news is heard about the serious intention of the organization for removing the limits of tourism, the results of theses endeavors should be seen practically by people.

Conclusion and scientific findings of the research

In developing tourism, various factors are involved among which security is considered as the most important and fundamental principle in producing tourism strategy in the world. This point should be given due attention, because security is the most important factor which may guarantee the constant visiting of a certain place.

Along with the expansion of tourism in the present era, the organic relation of this industry with factors such as national security, transportation, mass media, education and etc., is created. According to the experts, between stability, development and security there is a meaningful relation because tourism foundation development, cooperation between cultural organizations, suitable propaganda and vast cooperation of security and intelligence organizations besides tourism development, will bring national security development which is desired and focused by the majority of the developed countries while having access to significant economical and income sources.

Direct presence of visitors and tourist in a country, besides developing economy and cultural exchange, will introduce that country as a secure touristy center to the world. Security in its vast meaning is among the significant factors which may influence the range of tourists' requests to travel that country.

Unfortunately, negative and unreal propaganda exists about our country Iran. And it should be mentioned that the borders of our country are not only that much insecure. But also, in all human societies and among all kinds of people, through different periods, there were human who created insecurity in society by violating the laws, misbehaving and ruling their malicious desires over other people's needs. All this insecurity stems from humans' incorrect policies, dictatorship, being immoral and ignoring ethics.

Now, it is our duty to both change all these incorrect thoughts and try to establish security in the borders of our country. To achieve the purposes, we need to learn the necessary knowledge and skills and ask for the help of related organizations and expertise thought and experience.

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