

Criminalization Of The Transmission Of The Coronavirus (Covid-19) And Its Impact On The Right To A Healthy Environment

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Abstract:

Murder usually causes death. Unconventional kinds of attacks on human life include the propagation of Coronavirus illness (COVID-19). According to the World Health Organization and medical specialists, COVID-19 is a lethal virus and a poisonous chemical, making its transmission a murderous act.

Therefore, it is possible to have several criminal forms related to the transmission of COVID-19 to others. These forms vary according to the consequences that result from the transmission of COVID-19, so the consequences may be death, which is expected due to this virus if the victim is unable to resist it, as no treatment has been discovered up to now, so the consequences may be most often causing harm to others. In addition, these criminal forms vary based on whether the mental element is purposeful or involuntary.

Keywords:

Transmission (COVID-19), murder, involuntary murder, infection, lack of precautions, and penalties. environmental law, Healthy environment

Introduction

Murder is the earliest known crime, causing the first human bloodshed. Positive law protected the right to life and criminalised acts that violated it.

All faiths and positive laws recognise the right to life.

If murder results in the loss of human life, then there are unorthodox types of attacks on human life, such as the spread of COVID-19 in 2020 and its metamorphosis into a worldwide pandemic.

The virus debuted in December 2019 in Wuhan.

COVID-19's symptoms are similar to aspiration pneumonia, except they include fever, dry cough, and trouble breathing. This virus's importance lies in its ease of distribution by coughing, sneezing, or touching, which may lead to death or damage. As a result, it has

become a way of assaulting or murdering individuals.

Problematization:

The proliferation of COVID-19 presents a legal question about the virus carrier's culpability in case of transmission. For example, how will the afflicted individual be punished if he spreads the virus, purposefully or by mistake?

Relevance:

The originality of this legal issue originates from the recent growth of this worldwide pandemic; thus, it is required to address questions and past difficulties and assess the application of legal articles relating to intentional murder and involuntary murder to this growing crime.

Plan:

* First topic: COVID-19-caused murder

Section 1: Material and moral factors of COVID-19-transmitted deliberate murder

Section 2: Murder through COVID-19 transmission

* Second topic: involuntary COVID-19 murder

Section 1: murder through COVID-19 transmission

Section 2: Involuntary murder via COVID-19

First, COVID-19-caused murder

This article will describe the material and moral factors of COVID-19 murder and then define the sentence.

Section 1: Material and moral factors of COVID-19-transmitted deliberate murder

This section includes: First, COVID-19 transmission is deliberate murder.

The material part of this crime is the illegal act, its repercussions, and the causal link.

1- Crime: Every act that causes the soul to die is a crime punished by law.

Whoever knowingly beats, injures, or wounds a person with any effective act of violence and assault that results in sickness or job prevention for more than twenty days is penalised with three months to three years in jail.

The Egyptian Court of Cassation said: The law needs nothing more than doing an act against the victim that by its nature leads to his death to murder him, whether the death happened directly or indirectly as a consequence of a wound.

According to the above, criminal methods might be material or moral.

Material methods include using an incendiary substance, a weapon, instrument or means that causes injury or death. The Egyptian Court of Cassation ruled: If the instrument does not cause death by itself, this shall not lessen its value as evidence, so long as the court has proven that the attack was carried out to kill and that the murder was completed by its usage.

Whoever intentionally: 1- attacks a person on the face or neck with blades, scalpels, razors, or similar sharp instruments must be punished

with temporary hard labour for a term not exceeding seven years, whatever the length of prevention;

2- Throwing flammable, corrosive, or deforming elements at someone's face or neck is punishable by seven years of hard labour.

Every attack is intentional murder and will result in death.

Paragraph (b) of Article 22 of the Jordanian Public Health Law No. 47 of 2008 states: "Whoever intentionally hides an infected person, exposes a person to an epidemic disease, intentionally causes the transmission of a disease to others, or refrains, when requested, from carrying out any procedure to prevent the spread of infection, shall be considered to have committed a punishable offence."

Based on Public Health Law No. 47 of 2008 and its modifications and Jordanian Penal Code No. 16 of 1960 and its revisions, we determine that the criminal description of conveying a viral infection might be more than a penal description.

1- It criminalised purposefully concealing an infected individual from the public authorities (Ministry of Health) so that the person does not get treatment and inhibits the relevant authorities from combating the epidemic and halting its spread.

2 - It criminalised exposing a person to infection or transferring the illness with purpose, such as if a person with an infectious disease exposes a healthy person to infection or willfully transmits the sickness to others. The legislature did not define the technique of exposing people to illness or transferring the disease but left it open to cover every option.

3- It criminalised not taking the required steps to stop the epidemic's spread. In this case, the legislator has criminalised the infected person's failure to comply with the requirements he/she was asked to take to prevent the spread of the epidemic, such as if the infected person refuses to quarantine himself/herself at home or in hospital, or if he/she refuses to receive treatment to prevent the spread of the disease. In the implementation of the previous general rules in the Penal Code, in addition to what the legislator may require in some crimes, the additional elements assumed to exist because of the material element of the crime, such as the legal status of the public official in bribery crimes or crimes against the administration, Article 274 of the Egyptian Penal C.

We conclude that in willful murder by COVID-19, there is a presumed element that the criminal conduct must occur on an uninfected person because if he/she is infected, the crime shall not exist at all. After all, it is similar to the one who shoots a dead person, so the perpetrator shall not be responsible for willful murder.

On the other hand, there must be conduct resulting in the transmission of COVID-19 from the perpetrator to the victim so that this conduct is valid to form criminal conduct, such as intentionally touching the victim, sneezing in his/her face, kissing him/her, or any action the perpetrator conducts to transmit the infection to the victim. The perpetrator is not required to conduct a certain action such as touching, sneezing, or kissing. If the outcome happens, the perpetrator will be charged with deliberate murder. However, if the victim took precautions following contact with the offender, such as using sterile tissues, the culprit would be charged with attempted murder.

According to the World Health Organization and medical scientists, COVID-19 is a deadly virus in nature, being a toxic substance. Therefore, transmitting COVID-19 infection is a means of willful murder because it is not necessary that the act constituting criminal conduct be deadly. However, it is sufficient for the act to be valid for causing death according to its circumstances. This worldwide outbreak is declared a pandemic by the World Health Organization since the number of sick persons exceeds the capacity of major hospitals. The infection is thus lethal and poisonous.

Toxic materials are substances that negatively impact the human body, causing mortality, cell and tissue damage, and organ degradation.

COVID-19 causes lethal pneumonia, unlike typical respiratory-pulmonary infections, and no cure has been found. The virus attacks the blood vessel tissues, causing swelling and bleeding that impairs breathing and oxygen supply to the brain, lungs, and heart.

The Public Health Law and its amendments, Law No. 47 of 2008, defined infectious diseases (Article 17) as "disease caused by microorganisms such as bacteria, viruses, fungi, parasites and the like, or by their toxins, and the pathogen can spread to humans from the source of the infection directly or indirectly." "

The epidemic is "an increase in the number of cases of a specific disease over the number

usually expected in a specific place and time." It defined the infected person as "every person who was infected, and an infectious pathogen caused this infection." It defined the person in contact as "the person who had been in contact with, or whom the doctor suspected of having been in contact with, an infected person, leading to suspicion of tampering." "People, animals, luggage, cargoes, containers, transportation, goods, or postal parcels could be disease sources. "It described quarantine as "separating ill people, those in touch with polluters, or separating contaminated baggage, containers, transit, commodities, or mail packages."

2- Criminal repercussions

The criminal consequence is the change that occurs in the outside world due to illegal activity. It is recognised by law as one of the ingredients that comprise a certain crime. Therefore the crime cannot take place without it.

The criminal consequence and criminal conduct are both material elements of any crime. In this case, the criminal consequence is the loss of the victim's life after the transmission of COVID-19, whether his heart stops or part of the brain stops working, which leads to death without the possibility of treatment. Parts of the brain may remain functional, but all body parts stop working, and the infected person dies.

Suppose the criminal consequence, the victim's death, is not achieved. In that case, we are in the process of attempted murder, which is to begin executing criminal acts with the perpetrator's intention to achieve the criminal consequence. However, that consequence was not achieved, or circumstances beyond the perpetrator's will prevented him/her from achieving this criminal consequence.

Article (68) of the Jordanian Penal Code states: "Start committing a crime or misdemeanour. Suppose the perpetrator could not complete the acts needed to commit a felony or misdemeanour for reasons beyond his/her will. In that case, he/she shall be punished as follows: (1) Life or temporary imprisonment with hard labour ranging from seven to twenty years if the attempted crime penalty is death, and at least five years of said penalty if the original penalty is life imprisonment with hard labour or life detention. "

An effort to disseminate COVID-19 might take numerous forms.

1- First form: Incomplete crime: Crime in which the perpetrator has not exhausted all his criminal activity, such as if the perpetrator sneezes on the elevator buttons to transfer the virus to the victim, but the victim sterilises these buttons, or if the victim touches the elevator buttons but after sterilising his hands, or if the victim wears gloves that prevent him/her from touching the elevator buttons directly.

2- Second form: unsuccessful crime: crime in which the outcome is not attained despite the perpetrator's best efforts.

Suppose the culprit can convey the virus to the victim by sneezing, placing saliva on elevator buttons, or touching the victim, and medical treatment and quarantine avert the victim's death. In that case, the perpetrator will be charged with attempted murder.

- Third form: the impossible crime: a crime that cannot be carried out due to the invalidity of the method used, such as if the perpetrator puts his/her saliva on things used by the victim, or sneezes on the same or other means of transmission, as the perpetrator thinks he/she is infected with COVID-19, but in reality, he/she has normal pneumonia, and all his actions to transmit the virus are impossible to achieve the consequence.

The perpetrator's intention may be to harm the victim. However, the harm leads to death, so Jordan's Penal Code states: "Whoever assaults a person by striking or injuring him/her with a tool that should not cause death or gives him/her a harmful substance and does not intend to kill him/her is punished by imprisonment with hard labour for not less than seven years. 2-The minimum sentence is 12 years if the victim is under 15 or a woman of any age." If COVID-19 is harmful and toxic, we can imagine the crime of harm leading to death through the transmission of COVID-19 when the victim is given materials on which the virus is present, such as putting saliva on certain things to harm the victim. However, the consequence exceeds what the perpetrator wanted, which was limited to only harming, and death occurs as a result of the perpetrator's conduct represented in giving the material.

The Jordanian legislator also dealt with intentional harm in Articles (333 and 334) In. Article (333) dealt with harm leading to illness or prevention from carrying out work duties. On the other hand, article (334) dealt with harm without prevention from carrying out the duties

of work, as Article stipulates: "Whoever intentionally assaults a person by beating, injuring, or harming him/her by any effective act of violence, shall be punished."

If the sickness did not cause illness or prohibit employment for more than 20 days, the culprit is imprisoned for one year.

The legislature did not define the act or methods by which the intended harm crime might be accomplished. However, since harm is an attack on the safety and health of the victim's body, the perpetrator can commit the crime by conveying COVID-19 to the victim, affecting the victim's health and safety.

Also, the injury might be inadvertent; for example, the aggressor may unintentionally put his saliva on the victim, or the victim may unintentionally contact the aggressor, in which case Article 344 of the Penal Code applies.

3- Cause-and-effect: The causal connection refers to the ratio of the victim's death to the perpetrator's act of hostility.

The Egyptian criminal justice is pleased with the notion of the good cause among the crime's causes, according to its judgements on causality.

The Egyptian Court of Cassation held that the causative connection in criminal matters is a material relationship that starts with the perpetrator's real damage and connects morally with what he/she should anticipate of the common consequences of his/her conduct if he/she willfully acts.

In an implementation, if the perpetrator can transmit COVID-19 to the victim, then the victim is transferred to the hospital for medical treatment but dies due to the hospital's inability to provide the necessary treatment or receive it due to the large number of people infected as a result of the epidemic. However, that is not conclusive for the causal relationship, and the perpetrator shall not be excusable.

The Egyptian Court of Cassation ruled that the victim's typical neglect in treatment, or if he/she entirely avoids medical treatment in his/her surroundings, is not indicative of a causative link.

It also decided that if the therapy is harmful or painful, the victim's or his family's refusal does not diminish the causal link between the perpetrator's actions and the end outcomes.

In the absence of a cure for this global epidemic, or pandemic according to the World Health Organization, and in light of the collapse of the strongest global health systems and their

inability to contain it, the failure to treat the victim after the virus is transmitted to it by the perpetrator is not conclusive to the causal relationship in terms of behaviour and consequence, and the perpetrator shall remain liable.

As long as it is done logically and properly, showing a causal link is a matter for the court of merits, not the Court of Cassation.

Second, the moral aspect of COVID-19 murder: The moral part of COVID-19 transmission offence includes general purpose and specific intent.

1- Purpose: The offence of disseminating COVID-19 requires knowledge and purpose.

Knowledge is the essence of criminal intent, as the perpetrator must know the criminal act and the consequence of his/ her crime. For example, in the crime of murder, the perpetrator must know that his assault on a living person will lead to his/ her death. Likewise, in the crime of transmitting COVID-19, the perpetrator must be aware that he/ she is a carrier of the virus and that his criminal behaviour will lead to the transmission of the virus.

In the crime of disseminating COVID-19, the perpetrator's will must be oriented toward unlawful behaviour and the crime's effect.

The COVID-19 carrier is not accountable for viral transmission if it is coerced or unconscious, such as while inebriated.

2- Goals: Willful murder involves a definite desire to terminate the victim's life above and beyond knowledge and will and injury resulting in death.

The Egyptian Court of Cassation ruled, "As the crime of willful murder is distinguished from other crimes of ending lives with a special element, the perpetrator's intent to end the victim's life, and since this element is of a special nature that differs from the general criminal intent required by law in all other crimes, the judgement that convicts a person of this felony should give special care by showing this element."

In the crime of transferring COVID-19, both particular and general intent is accessible. If the offender puts his/her spit on the victim's items, his/her purpose is specific. If he/she places

his/her saliva on public spaces, including elevator buttons, his/her aim is broad.

The moral element of the act of harm must be intentional, which means there are two elements of criminal intent: knowledge and will. The perpetrator must be aware that he/she is infected with the virus, that his/her act will transmit the disease to the victim, and that his/her will harm the victim.

2. Willful murder via COVID-19 Article 326 of the Jordanian Penal Code states: "Whoever murders someone will serve 20 years of hard labour. Article 327 says: "Willful murder is punishable by hard labour.

As a precursor to a misdemeanour or to help its perpetrators flee or avoid punishment.

Against a public official doing his/her responsibilities or if he/she is murdered as a result.

Multi-person."

Article 328 states that "intentional murder is punishable by death if it is premeditated

."In Article (330), the legislator specified the punishment for harm leading to death as hard labour for no less than seven years: "...the perpetrator shall be punished by imprisonment with hard labour for not less than seven years.

2-The minimum penalty shall be twelve years if the act is committed against someone under fifteen or a female, no matter her age." Article 333 specifies the penalties for causing sickness or preventing employment. "Whoever intentionally assaults a person by beating, injuring, or harming him/her by any effective act of violence, and the assault results in an illness or that the victim is prevented from carrying out the duties of his/her work for more than twenty days, he/she shall be punished by imprisonment from three months to ten years."

If the conduct did not cause sickness or job stoppage for more than 20 days, the criminal must serve one year in jail.

If the injury were unintentional, he/she would be imprisoned for six months or fined fifty dinars.

Second, Murder-by-COVID-19

COVID-19 may be transferred accidentally, given how easily it spreads among people. What are these faults? What is the punishment? Next, we will explain:

1. Murder by COVID-19 Crimes have numerous faults. Article 343 of the Jordanian Penal Code states, "Whoever causes the death of another owing to carelessness, lack of care, or disregard for rules or regulations will be imprisoned for six months to three years."

Thus, faults include:

1- Negligence: It is a negative act represented in the lack of taking the necessary precautions, and it is conceivable in the crime of transmitting COVID-19 that a person refrains from taking precautionary measures while knowing that he/she is infected with the virus, or that the perpetrator inadvertently comes into contact with the victim or kisses it, thereby transmitting the virus.

The Egyptian Court of Cassation ruled that the perpetrator and victim share responsibility for involuntary murder.

2- Lack of precaution: The perpetrator does something positive despite the risks and consequences, such as sneezing in a crowd or on a bus. Realistically, everyone must take precautions, especially if infected with the virus.

3- Failure to observe laws and regulations, that is, the perpetrator does not follow the rules established by the legal provisions relating to such circumstances, such as if the perpetrator refuses to abide by the home confinement or curfew decision or continues to provide services through his/her cafe while being aware of the seriousness of his/her act, which leads to virus transmission.

Article 66 of Jordan's Public Health Law No. 47 of 2008 states: "Subject to any more severe punishment prescribed in any other legislation, anybody breaches any of this law's provisions, or regulations will be imprisoned for at least two months."

In this context, the Jordanian Criminal Appeals Court ruled the hospital's responsibility due to negligence and non-observance of Ministry of Health instructions, stating: "...For the first, second, third, and fifth reasons of the appeal reasons, all of which revolve around that the Appellant did not fail to perform its duty of dealing with the patient and that the deceased

Hamza is that who failed to protect himself, we find that, according.

On the other hand, there must be a causal relationship between the wrongdoing and the result, as the Egyptian Court of Cassation ruled: "It is established that the causal relationship, being one of the elements of the crime of involuntary murder, requires attributing the result to a fault and making the perpetrator responsible for the crime as long as this consequence is reasonable to occur and that the fault of others, including the victim, eliminates the crime."

2. Involuntary homicide via COVID-19

After reviewing the Public Health Law and its punitive provisions, the legislator did not determine a penalty for the crimes in Article (22 / b), so Article (66) applies.

Returning to Article (66), the legislator used the phrase "taking into account any more severe penalty stipulated in any other legislation" at the beginning of the article, which means that this provision is not a place for application if another provision in any legislation imposes a more severe penalty for violating the Public health law so that the penal code may apply.

Accordingly, Article 343 and Article 344 can be applied to the crime of involuntary murder by transmitting COVID-19. Article 343 states: "Whoever causes the death of a person due to negligence or lack of due care or regard for laws or regulations shall be punished by imprisonment from six months to three years."

Article 344 states: "If the perpetrator's fault only caused injury as stipulated in Article 333, the punishment shall be imprisonment from one month to one year or a fine from thirty dinars to one hundred dinars, and if the injury is as stipulated in Article 335, he/she shall be punished by imprisonment from three months to two years, or by a fine from fifty dinars to two hundred dinars. 2- Any intentional injury shall be punished by imprisonment for a minimum of Article 244 of the Egyptian Penal Code states:

"Whoever causes by fault a wound or mischief to a person due to neglect, imprudence, carelessness, or nonobservance of the laws,

decrees, regulations, and systems will be punished with detention for a period not exceeding one year and a fine not exceeding two hundred pounds or either penalty.

Conclusion

After this investigation, we can conclude that COVID-19 may be purposefully or accidentally communicated.

Criminal culpability for disseminating COVID-19 varies depending on intent or fault. It also depends on the virus-expertise carriers or lack thereof.

According to Articles 22 and 66 of the Public Health Law and the Penal Code, anyone who intentionally hid an infected person, exposed a person to epidemic disease, intentionally caused the transmission of infection to others, or failed to prevent an outbreak of infection can be prosecuted. Since infection may cause death, harm, or incapacity, we use the most severe penalty in any legislation if these circumstances arise.

Although Jordanian law protects victims of COVID-19 transmission, either intentionally or by fault, these provisions alone are not enough to confront the immoral practices of some people with COVID-19, despite knowing about their infection, such as not going to the hospital for quarantine, not confining themselves to their homes, and not adhering to the measures and procedures imposed by the competent author.

We suggest the legislator:

1- Criminalizing COVID-19 transmission by adopting specific legislation that contains the conduct and the punishment, with the option of applying the basic provisions in the penal code connected to intentional murder, involuntary murder, and harm offences.

2- If the punishment applied to the perpetrator who is infected with COVID-19 raises the question of the extent to which the punishment can be applied to it, whether it is death or hard labour according to the crime committed and in light of his/ her infection with the virus that may lead to his/ her death— then he/ she shall be quarantined in a place designated for him/ her

in prison and be isolated from others in order to prevent the transmission of infection to others, along with doubling the fine.

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