

Homicide crime between the social and legal dimension

جريمة القتل بين البعد الاجتماعي والقانوني

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Abstract :

This article aims to show the subject of crime from the social and legal dimension, and how did both perspectives explain this very important aspect. We have shed light on the phenomenon of homicide crime with the mentioning of the factors and motives causing the commission of this crime against the individual and society. In particular, the repercussions that occur on the society in which the phenomenon of homicide happens, In return, Algerian law has faced this crime by enforcing strict articles against the killer. This research also aims to highlight the compatibility of both the sociological dimension represented in the sociology of crime and deviance, and the legal dimension in the study of the phenomenon of crime, specifically homicide crime. Because the social aspect deals with the objective causes and their near and far effects on individuals and groups, and the factors surrounding the perpetrator of the criminal act.

Keywords: Crime, Homicide, Sociology of crime and deviance, Law

ملخص:

يهدف هذا المقال إلى تبيان موضوع الجريمة من البعد الاجتماعي والبعد القانوني، وكيف تتناول كلا المنظورين هذا الجانب البالغ الأهمية، ولقد سلطنا الضوء على ظاهرة جريمة القتل مع ذكر العوامل والدوافع المسببة لارتكاب هذا الجرم في حق الفرد والمجتمع، ولا سيما الانعكاسات التي تطرأ على المجتمع الذي تظهر فيه ظاهرة جريمة القتل، وبالمقابل تصدى القانون الجزائري لهذه الجريمة بتفعيل مواد صارمة في حق الجاني، كما يهدف هذا البحث إلى إبراز توافق كل من البعد السوسولوجي المتمثل في علم الاجتماع الجريمة والانحراف والبعد القانوني في دراسة ظاهرة الجريمة وبالتحديد جريمة القتل، فالجانب الاجتماعي يتناول الأسباب الموضوعية وآثارها القريبة والبعيدة على الأفراد والجماعات والعوامل المحيطة بمرتكب الفعل الإجرامي، ومن خلال تلك المعطيات يؤسس القانون التشريعات اللازمة لتصدي لهذه الظاهرة الإجرامية

كلمات مفتاحية: الجريمة، القتل، علم الاجرام والانحراف، القانون

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I- Introduction:

Crime is one of the most important topics that has attracted the attention of scholars and politicians (decision-makers and legislators), because of its relation to the social construction of society, and its threat and instability so interest has increased in recent years. By studying the causes and forms in which the phenomenon of crime is manifested in its various types.

The crime coincided with the first human behavior, also, crime is not independent of itself or separate from society's events rather, it is a reflection of the characteristics of a society where the crime happens, "I" says: crime is potential energy stored in all people (Abd al-Manan al-Tibi, Okasha, 1996, p.16), and societies, in general, are witnessing a great social development where communication has become open to a large degree and reduces long distances between individuals, and Online buying and selling has also reduced the market places.

All of these changes affected directly the social lifestyle, including the phenomenon of criminal behavior which has escalated in societies on a large scale on both quantitative and qualitative sides, and here we specialize in mentioning the phenomenon of homicide crime, because it is considered a phenomenon that requires basic research which we can understand the reality of this crime through, and what are the factors leading to this phenomenon, and here, the scientific and practical importance of this study appears.

As for the special aspect, the Algerian society and the structural transformations that it is going through there is a significant increase in the rates of homicide, according to unofficial statistics in our society. If we review, for example, only the topics of the daily Al-Shorouk newspaper and we search for the homicide crime in the entrance of October 2020 in the following issues: (Issue 6602, October 3, 2020), (Issue 6604, October 5, 2020), (Issue 6605, October 6, 2020), (Issue 6606, October 7, 2020) and (Issue 6607, October 8, 2020). We notice through these five verses that the homicide crime was mentioned on consecutive days, and this requires urgent studies on this growing phenomenon and highlighting the preventive measures taken towards it.

There is no doubt that homicide crime and other negative phenomena are a reflection of social and economic conditions prevailing in society during a certain period, where direct violence became a clear feature of most of the crimes committed.

On the basis of the aforementioned, we present the following problem:

Is the phenomenon of criminality in its generality and the phenomenon of homicide crime with its specificity subjects that the law will only study? Or does the sociology of crime and deviance build the phenomena in order for the law to base its legislation and produce for us a functional complementarity between the two sciences?

II -Concepts about crime:

I.1. The concept of crime in the sociology of crime and deviance:

Before starting to give a concept about crime in the sociology of crime and deviance, it should be noted that this science is one of the human sciences that appeared during the nineteenth century, and it is the branch specializing in the study of phenomena related to

criminality and deviance, stemming from sociology. It also has a close relationship with psychology, statistics, criminal law, services, philosophy and ethics.

The appearance of this science was related to the increase in crime rates in urban areas and large cities, especially after its industrialization, economic development, increase in population density, and the transformation of human relations from informal to formal.

Sociology of crime and deviance not only aims to know the causes of crime, but also aims to identify the negative effects that crime has on the individual and society. (Ihssan Muhammad Al-Hassan, 2008, p.15), therefore, the sociological or social dimension of crime specialized in this science.

Sociology of crime and deviance excludes any intervention of criminal law in its definition of crime, according to this, crime takes a broad and comprehensive concept of human behaviour because it includes all aspects of activities that deviate from socially defined standards, whether or not this behavior occurred in the criminal law department. (djamel Maatouk, 2016, p.27), and to bring the concept closer, for example, homicide crime is punishable by law and also a violation of standards in society, On the other side, wearing torn pants by some young men is not punishable by law but in some conservative Algerian societies, it is considered a violation. On this basis, he must be punished, by his isolation and not dealing with him in the same community until he retracts from his deviance.

- **Michel Deneken** defined in his book “Dictionary of Sociology” that the concept of crime in sociology of crime and deviance is the study of criminal behaviour which means the study of the negative activity or act that outlaws, ethics and values recognized in society, which brings damage to others and to the balance of social processes, so that it causes disruption of the entire social structure. Accordingly, the social body led by the state should apply the criminal law to the perpetrator of the crime to the rehabilitation of victims of crime and deterring those with intent to do a criminal act and maintain security and order. (Ihssan Muhammad Al-Hassan, p.16). Among the manifestations of criminal behavior: murder, theft, fraud and forgery, and other perverted manifestations in society.
- Sociology of crime and deviance defines the crime as a reaction against the general feeling of the group, and it is any individual or collective act breaking the rules of social control made by the society, which can be expressed by the set of values, traditions and norms prevailing in society. (Muhammad Abu Zaid, 2003, p.178) .
- Abdel-Qader Al-Qahwaji said according to sociology of crime and deviance the crime can be mentioned in two main directions which are: (Ali Abdullah Al-Qahwaji, 1985, p.13-14)
- ✓ **The first direction:** it links between crime and ethics, so the crime according to this direction is every act that opposed with ethics principle. However, supporters of this direction divided into two parts, the first part which makes the relationship between crime and ethics limited to the breaking of some ethics rules not all, and some of them make this relationship comprehensive for all ethics rules without discrimination. And this first direction is led by an Italian jurist named Garofalo, he is one of the poles of the Italian positivist school, whereas supporters of the second part go to define crime as every act or abstention that conflicts with the ethics values recognized in society. Among the supporters of this part are jurists **Ferri** who are also one of the poles of the Italian positivist school and **Grispini**.

- ✓ **The second direction:** according to this direction, the social definition of crime is the link between the crime and the social values.

Emile Durkheim define that the crime is every act or abstention contradicts the values and ideas that stabilized in the group's conscience. (Emile Durkheim, 1977, p.67)

There is no unified concept in the interpretation of crime in the sociology of crime and delinquency, however, there are three basic elements to the concept of crime where agreed by the pioneers of this science. (djamel Maatouk, p.34)

- The social harm implies in a criminal act from a threat to society
 - Act and behaviors that are contrary to public feelings and the rules of official social control (Regulations and laws) or unofficial (Customs, traditions, values and social norms)
 - A crime is not an act in and of itself rather, as seen by society, if a group does not reach the point of believing that a certain act prejudices a social benefits, it does not consider it a crime.
- Dr. Ahmed Al-Rabaie says “The process of identifying criminal behavior is not an easy mission, because the criminal act is determined by the nature of society, its values and social norms, and it is generally characterized by relativity not general and comprehensiveness. Because of the difficulty in unifying standards and social etiquette, also, these values and standards vary and change from time and society to another. (Ahmed Ar-rabiayah, 1984, p.34).

I. 2. The concept of crime in the field of law:

- A crime from a legal perspective is that act which is punishable under the law. (Salwa Othman Al-Siddiqi, Othman Al-Siddiqi, Jalaluddin Abdul-Khaleq. 2002, p.235)
- It is that act or abstention that the law stipulates its criminalization, and makes a penalty for its commission. (Salwa Othman Al-Siddiqi, Othman Al-Siddiqi, Jalaluddin Abdul-Khaleq, p.12-14)
- The dominant aspect of jurisprudence defines crime as the activity that done by the person, whether positive or negative, the law determines for him a punishment from the penalties prescribed in the penal code. (Salwa Othman Al-Siddiqi, Othman Al-Siddiqi, Jalal El-Din Abdul-Khaleq, p.15)
- Are those acts that violate the criminal law, and it is punished by the political authority in society. (Jalal El-Din Abdel-Khalek, Ramadan Essaid, 1994, p.15)
- The definition of crime is linked from a legal framework to the penal code from one side and to society on the other hand, in every act punishable by society that prejudices one of the basic conditions of its being. (Ramses Benham, 1996, p.28)
- it is every act or abstention that violates a stipulated criminal rule, and it determined for it a criminal sanction in the form of a criminal penalty or a precautionary measure. (Amin Mustafa, 1990, p.41).
- This concept belongs to criminal jurisprudence, which gives multiple definitions of the crime from its legal concept, crime differs in its formulation and ideas, but it is inspired about them by the provisions of the criminal law that considers the crime as an act that violates the penal code, or it is an unlawful act of a criminal will and law determines a

penalty or a precautionary measure for him. And there are those who add (that it is a punishable human behavior because it violates and threatens the values of society or the human interests.(Muhammad al-Hashemi, 2005, p.15-16). Crime in this sense is a physical behavior that takes two forms: the first picture is either a positive action and is often represented (Like someone who shoots the other, or steal money owned by others, or like someone raping a woman), or the crime may be based on abstention and this is the second picture (like a mother who refuses on purpose to breastfeed her newborn in order to end his life here she is a perpetrator of the homicide crime .(Muhammad al-Hashemi, Ipid, p.16).

- **Don Gibbons** mentioned that the criminal from a legal point of view is an individual who performs a certain behavior that violates forbidden or orders contained in the criminal law. This is means that the criminal from the legal point of view is the person who violates the criminal law. (Muhammad al-Hashemi, p.16).
- **Paul W.tapan** represents a legal definition of the crime as it is an intentional act or neglecting that violates the criminal law, and it is committed without justification, and it is punished by the state because it is an explicit felony. (Djamel Maatouk, p.17), from this definition, it derived three elements of the crime: (Djamel Maatouk,p.17)
 - ✓ Actus reus (physical element)
 - ✓ The legal element
 - ✓ The mens rea (mental element)
- **Mustafa Abdul Majid Kara** defines the crime”Commit an act (or abstain from performing a duty), stipulated by law and it is punishable under this law. (Mustafa Abdel-Majid Kara, 1985, p.23-24)
- Most of the people go to the act of crime and commit the forbidden and impermissible in terms of organizing standards of society, while they ignore the crime resulting from refraining from doing what is in the interest of others, such as the abstention of some parents to take care of their families and neglecting them, or the abstention of the wife to do her duties towards her husband and children, as well as the abstention of some to give a helping hand to people in danger.(Djamel Maatouk, p.17).

Therefore, it can be said that the crime is a behavior prohibited by law and replies to it by a penal penalty, deviant behavior must criminalizing legally and then punishing it. Its means that any act is not considered a crime only if it stipulated by law. (Ismail Abid, 1993, p.97).

Some Scientists see that the legal definition of a crime does not cover the substance of the crime, and then it does not help to study and know the other factors that lead to committing it. Thus, a trend appeared and it demands the necessary research on the illegal characteristics that control the course of the crime because it is a social phenomenon. This trend was not aimed at eliminating the legal perspective as much as linking it to the social which expands the prospects of dealing with crime and we mean it” Natural crime” This affects feelings of honesty and emotions of pity in all human societies, in every time and place.(Ismail Abid, p.97).

What we notice is that the crime is linked in terms of the penal code and society, The jurists have almost agreed to consider crime or criminal behavior as every action or abstain of a behavior or action incriminated by the legislator and provided by law with a penal rule applied to Outlaws. (Faraj Saleh Al-Harish, 1999, p.48)

Crime in this perspective requires three basic pillars: The physical part that indicates that the action or inaction has its tangible physical existence. for example, ideas: are not considered as a crime in criminal law, Legal capacity: means that the person should be eligible to legally responsible, then the legal element which determines which acts are a crime. (Muhammad Atef Ghaith, 1989, p.94).

The legal proposal is strongly present and has the largest share in the domination of all studies that touched criminal and deviant behavior, it takes from violating standards a decisive factor in explaining the behavior of individuals and their classification of their response to social norms and systems, whether the behavior is good or not.

I.3 Elements of crime

Through the previous definitions of the concept of crime, it becomes clear that crime has three elements which it is based on: action, illegality, and criminal will, Crime in its legal sense does not realized and happen until these conditions are occur. And this is called in law the elements of the crime. (Farid Rouabeh, 2019, p.29). there are:

- **Physical element -Actus reus- (Act)**

It is the getting out of criminal ideas to the outside world, by embodying it in acts that represent the physical element of the crime, and it is criminal behavior in the form of positive or abstention, where this act results in an assault of a right or interest protected by law. There is no crime without act.

- **Mental element -Mens rea-(Criminal will)**

A crime is not just a physical occurrence, but it is the work of a person that has origins in his psyche, where it comes from a person who has free conscious free will and is able to realize and discriminate, And his intention is directed towards the act and the result that the act causes.

If these three elements are provided, the crime is done and has a penal effect which is a sentence or precautionary measure, on the perpetrator when criminal liability occurs on him.

- **Legal element**

Crime is not happening with a legal act, but with an illegal act that is against the penal code, or its complementary laws. So the act is not a crime until there is a legal text that gives it a description of the crime, where the legislator aims to protect an interest from any act that pose a threat, an assault or putting it at risk. This interest is protected by the criminal law.

I.4 The most famous academic theories explaining the crime

I.4.1 Positivist theory

Since the appearance of the scientific revolution in the mid-nineteenth century, criminal policy took a new approach, based on the experimental scientific method and the Positivist School represents this approach, so it relied on observation.

The supporters of the positivist school were interested in the personality of the criminal, and it was at the first place of their research, so we can say that positivist thought in criminology gives special attention to the personality of the criminal because he is the cornerstone of the

explanation of the criminal phenomenon, because this latter is the making of human criminals first and foremost. Therefore, it is natural to examine the personality of this criminal, and to know all its sides, then try to link the privacy of the perpetrator with the crime that he committed.

Among the pioneers of the positivist school in the study of crime, we find **Cesar Lombroso**, **Raffaello Jarofalo** and **Enrico Ferri**, and we'll focus on Lombroso:

- **Cesar Lombroso (1836-1909)**

Lombroso was a professor of forensic and mental medicine at the University of Pavia in Italy and a doctor in the army, he made many types of research and experiments, including his book *The Criminal Man* Issued 1876, then was reprinted in 1897. Lombroso made systematic observations and several measurements on officers, criminals, lunatics, and some citizens, through the information he gathered, he made many comparisons using the experimental method in forensic medicine, which was similar to criminal anthropology. (Adly Al-Samri, Talaat Lotfi and others, 2014, p.73).

Lombroso goes that the criminal often has some signs and retro traits, which brings him back to the backward man, and it may not lead to the commission of the crime unless it merges with the person's personality, and here Lombroso confirmed the role of heredity. (Adly Al-Samri, Talaat Lotfi and others p.71).

Lombroso concluded through his research and field observations that the criminal human being differs from the natural human being in the internal physical formation and functional, and this lack of formation, in turn, affects the psychological formation, and leads the individual to commit the crime, just as people with mental and neurological diseases commit criminal acts under the influence of mental deficiency.

The most important thing Lombroso was famous for in his describing the criminal is his report that the criminal can be identified by his apparent organic characteristics, as wide forehead, big nose, the length or absence of the earlobes. And other descriptions and measurements, until Lombroso come to divide the criminals into five sects: (Djamel Maatouk, p.97-99)

- ✓ The criminal by birth
- ✓ The crazy criminal
- ✓ The criminal by usual
- ✓ The criminal by coincidence
- ✓ Criminal by emotion

I.4.2 Psychological theory

One of its most famous pioneers is Sigmund **Freud**, owner of the School of Psychoanalysis, and the constructive feature of **Freud's** theory is by the confirmation that the human being works at different levels of consciousness:

- **ID**: It is a biological and psychological energy that a person is born with, and it contains its innate, sexual, aggressive motives.
- **EGO**: It is an aspect of personality that is gradually formed when the child starts to contact with the real outside world and its pleasures, and how can he satisfy his instincts from this reality.

- **Super EGO:** It is the legal ethical side of the personality, and it represents the perfect side, rather than the realistic side which represents values and etiquette, and it is like a brake on the real ego.

The first source of crime and deviant behavior may be the weakness of the superego, which cannot control the ID's tendencies, and people who lack of a superego are often called Psychopath or Sociopath " Psychiatric or social patients". (Ayed Awad Al-Warikat, 2004, p.119). the crimes that can be committed by these are crimes of sex, emotion, homicide and violent crimes. These people are short-sighted, which mean that they see nothing more than their close interests .

The second source of crime is the concept that **Freud** developed, which is sublimation, and he explains the group of operations that person do it to substitute something somewhere else symbolism. As when mothers stand against the fulfillment of their sons' desires, so the children will go to this mechanism, and here conflict and frustration begins in children searching for crime, but they will collide with the reward and punishment from mothers, and they repress this feeling, which appears late in the form of crimes. (Ayed Awad Al-Warikat, p.119) .

I.4.3 Sociological theory

Many sociologists have tried to explain the phenomenon of criminality, and they also worked on identifying the indicators that work to highlight this phenomenon in society by limiting those attempts to explain the crime with the social reasons, which helps directly or indirectly to grow or extinguish the crime. (Mazouz Barkou, 2013, p.28). Among the scientists of the sociological trend to explain the crime we find the research of **Ketlett, Jeffrey, Gabriel Tarde, Durkheim, Merton, Goffman, Cohen, Marx** and his friend **Engels**..

- **Imitation theory (Gabriel Tarde):** In the opinion of **Tarde**, imitation is the typical characteristic of social life, because it represents the first flash of feeling, and people imitate each other, when the relations are closer, the imitation is greater and more trusted, we also find in a certain society that the lower imitates the higher, or we can say the weak imitates strength.
- **Anomie theory (Emile Durkheim):** It means lack of psychological, social and cultural adaptation, and deviance is one of its manifestations, anomie is defined as a result of discontinuity in the social and cultural structure. And it is a break due to the very large gap and the very strong tension between the proposed goals and the available means. The mismatch between culture and society leads to the degradation or disintegration of the standards and the emergence of anomie, this latter is a social condition characterized by the absence of standards. And under social pressure, some choose illegal means to achieve their goals. If the individual cannot find a job and he needs to work, then he offers a bribe in order to take the position, here the goal is achieved by illegal means, so society is the driving force behind criminal behavior.
- **Subcultural theory (Goffman):** The lower classes rebel against the values and cultures of the middle classes, by supporting an infrastructure culture. The opposite of the values of the previous infrastructure, these subcultures are formed thanks to the existence of a chain of persons, those are in constant interaction with each other and knowing the same adaptive

difficulties. From here the desire for deviant behavior and crime start, and it is caused by hostility to the middle class and breaking its standards.

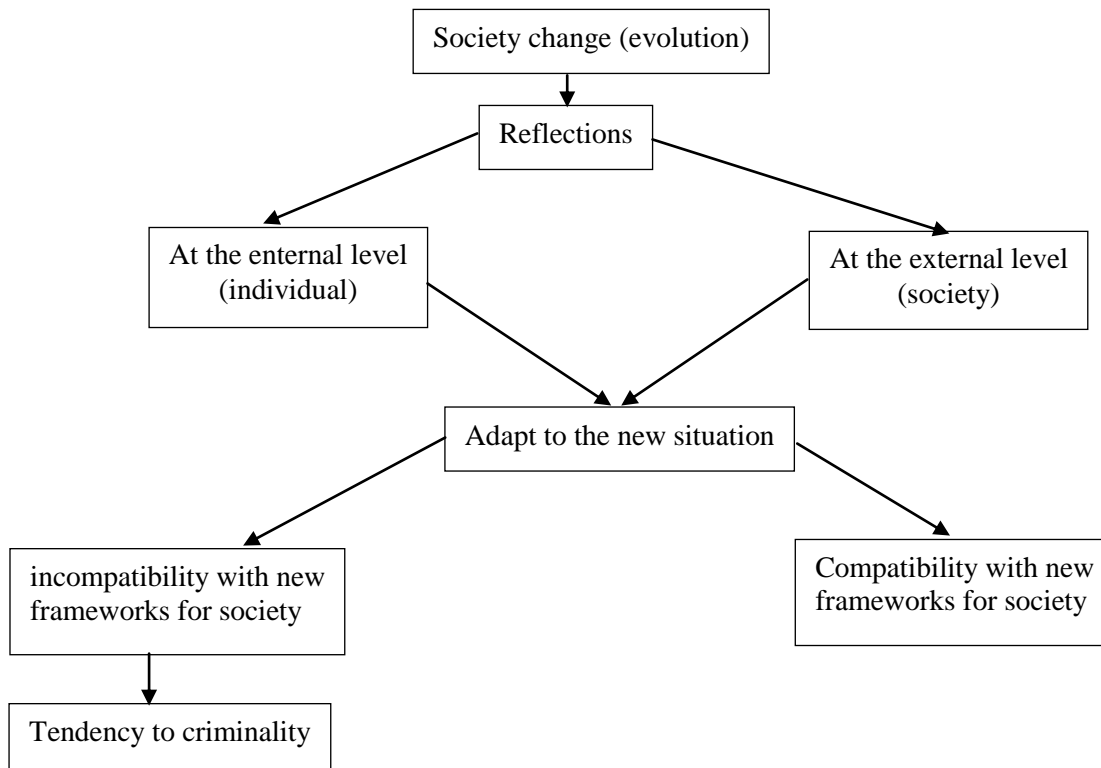
- **Conflict Theory (Marx and Engels):** Crime and deviance are considered with its various manifestations according to the **Marxist** view and his friend **Engels** from the results of capitalism, it is a translation and reflection of the prevailing economic situation, that situation represented by the hideous exploitation of the proletarian class with the bourgeois class.

Sothe Marxist theory explains the crime in society by the absence of justice in the distribution of goods, which means the inequality between the class owning the means of production and the class that doesn't have this means.

Crime in this view is a natural reaction to the lack of social justice in capitalist society. The economic situation is the basis of the infrastructure, which on its basis the upper foundations are formed, and the criminal phenomenon is one of these foundations.(Jean Lurée, 1972, p.290)

Schematic summary of the sociological theory: This diagram shows the contribution of the social change taking place, and its reflections on both individual and collective levels, it shows that there are two major trends taking place during the development of a society or the happening of social change, whether this change is at the political, economic or technological level, and a society or individual may adapt to it or may not.

Figure (1):Schematic summary of the sociological theory



Source: by the student

III- The phenomenon of homicide

III.1 The concept of homicide

The concept of murder is primarily used in the literature of jurisprudence and law, Scientists and researchers have cared about it, because it an act against human and social nature, and contrary to the celestial laws. Detailed sentences were placed about it to deter it, or retribution from the perpetrator, or protect society from its dangers.

- Homicide is defined as an assault on other's lives, it results in his death. Homicide may be willful if there is criminal intent, and it may be unintentional if the perpetrator has no intent, but the death was happened because of a mistake. Death may happen also as a result of an accident because of destiny and this it is not criminalized. (Ahmed Abu Al-Rous, 1997, p.11).

III.2 The physical element of the homicide crime

Its elements in the homicide crime are: the act of homicide, its results, and its causal relationship between action and consequence.

- **the act of homicide:** It is a behavior that may cause the death of the victim, this result must be achieved, if it is achieved, the homicide crime was complete, and if he does not achieve it for reasons that are not due to the will of the suspect who had the intent to kill, his responsibility was limited to willful.
The Court of Cassation determined the act that happens by willful homicide, it said that the law requires only the commission of an act on the victim that naturally leads to his death with the intent to kill him, whether the death occurred from a wound with the intent to kill him or not as long as the death is a direct result of the crime. (Ahmed Abu Al-Rous, Ipid, p.14).
- **Results (death of the victim):** The homicide crime must do its criminal activity in the death of the victim during the assault or slowly after it, and this death is the considered result in law, so the perpetrator must do an activity that will effectively lead to death and this is the result of the perpetrator's behavior. And here, the intentional homicide crime takes place.
The result does not have to be a direct effect of the perpetrator's activity, but, there is an interval between the two elements, so that it is not prevented for asking the perpetrator about the intentional homicide when there was a causal relationship between them, but if the death is not achieved because of the stop of the perpetrator's activity, or its effect disappointed and there is no reason for his will. So his crime is an initiate intentional homicide when the criminal intent is present, and the burden of proof of death is the task of the accusatory authority according to general rules. And proof may be made by all means, including simple examples. (Mahmoud Muhammad Abd al-Aziz al-Zaini, 2004, p.75)

- **Causal relationship (Between the act of assault on life and the death of the victim):** In order for the physical element in the homicide is available, it must be a causal relation between the act of assault on life and the death of the victim. The causation link does not raise any difficulty if death happened during the assault, because it appears that the act is the only source of death. But the question is available in the case if there were many factors that contributed to the death, whether these factors are earlier or later or contemporary to the act of assault on the extent which the perpetrator's act is considered as a cause of death.

III.3 Legal texts related to the homicide crime according to the Algerian Penal Code:

(Mazouz Barkou, p.55)

In the Algerian penal code, homicide is considered a crime against of persons' safety, from a physical or moral side. Homicide is classified among the most dangerous crimes, and arranged according to its dangerousness of the crime and its sentence in the third degree, after the treason crimes and espionage that touch the state and public security.

And unlike other crimes, Algerian jurisprudence makes special attention to homicide, so it defined it and determined its images. (El-Tayeb Nouar, 2004, p.47).

- **Article 254:** homicide is taking a human's soul intentionally
- **Article 255:** homicide may be related to premeditation and stalking
- **Article 256:** Premeditation is making determination before committing an act on assaulting someone you met, even if this intention was dependent on any circumstance or condition.
- **Article 257:** stalking is waiting for a person for a long or short period in one or more places, and this is for killing or assaulting him.
- **Article 258:** it is described as homicide ascendants, homicide the legitimate father and mother, or any of the legitimate ascendants.
- **Article 259:** Children homicide is an willful homicide, and willful homicide with premeditation and stalking of a newborn baby.
- **Article 260:** poisoning is described as any assault on a person's life, influenced by substances that can lead to death sooner or later, whatever the use or giving of those substances is, or the results that lead to. (Penal Code, General Secretariat of the Government, Presidency of the Republic, p.72)
- **Article 261:** Execution is the sentence of anyone commit an willful homicide crime with premeditation and stalking, or the willful homicide of ascendants or poisoning. The mother is punished, whether she is the original perpetrator or partner in the intentional homicide or the intentional homicide with premeditation and stalking of her newborn baby by the temporary imprisonment from 10 to 20 years, however, this provision does not apply to those who participated with it in the commission of the crime.
- **Article 262:** He will be punished as a premeditated and stalking killer every criminal, whatever his description who uses torture and atrocities in order to commit a crime.

The Algerian legislator gave a very great importance to the right of the human soul and tried to protect it with all legal texts due to the greatness of the crime.

III.3 Leading motives to the homicide crime

The motives for homicide crime are from the most difficult studies of crime, this is because determining the motive for homicide crime often disappears from the investigator's view. (Ahmed El-Sayed Imam Askar, 1988, p.188).

The writer adds that in several cases it cannot be recognized the killer and his feelings because when he commits the homicide crime, he does not think clearly but he sees himself driven to do this thing. And he later decides that the motive for the homicide was not of this great value that lead him to commit such a crime and that when he did the homicide he was not completely unaware, as if someone else was doing the act, However, a lot of research and studies have proven that the motive for a homicide is present in all cases. As if it is waiting for an external motive.

It is true that there are motives for homicide crime at the macro level, such as economic, political, cultural, social. But, the motives that we mention are divided into three sections: Psychologist's motives, Sociologist's motives, criminologist's motives.

- **Psychologist's motives:**

People of this direction say that the crime of murder stems from subconscious motives of the perpetrator, and that these motives are related to his first lifestyle and what he met during it, from frustrations, fears, suppress. And all this causes aggression toward oneself or others, according to them it is aggression resulting from frustration, and they also see that the homicide is subconscious aggression towards the image of the father and mother. And that the direction of this aggression turned towards the subject of homicide.

- **Sociologist's motives:**

Sociologists explain the motive for the homicide in the framework of the regulation of civilizational and cultural values. **Wolfgang** mentioned in his book about political crimes and punishment "Florence" in the renaissance, That the homicide happened as a result of political, economic, and religious motives, and This, in turn, represents the effect of the civilized and cultural style on the homicide factors.

- **criminologist's motives:**

Criminologists were interested in motives closest to the direct causes that lead individuals to commit a crime and this is consistent with what is contained in the police reports. Wolfgang mentioned Eleven types of motives are according to their importance : Quarrels for trivial reasons like insult and family disputes and jealousy, financial disputes, theft, revenge, accidents, self-defense, escape from arrest and get rid of children.

Chaulot and **Susini** also mentioned Five motives to homicide, which are according to their importance as well: homicide because of quarrels, homicide for emotional reasons, homicide of children because of fear of the scandal, bad economic situation, get rid of the bothering caused by children and revenge of one of the parents from another .

De greff also mentioned a several motives to homicide are: homicide for theft , homicide to get rid of a person for a benefit, homicide for emotional reasons, homicide of children to get rid of their bothering, homicide to avoid social damage, or psychological crisis.

III.4 The effects of the homicide crime on the individual and society

- **The psychological effects of the homicide**

- ✓ The cracked of the individual's personality and the fell apart of its basic elements
- ✓ The individual's fear from society, and he always try to reduce the relationships
- ✓ Breakdown of social relations in society
- ✓ Lack of trust between members of society
- ✓ Loss of individual aspirations and society goals
- ✓ Retreat in the productivity of the individual towards his society.

- **The social effects of the homicide**

- ✓ withdrawal and isolation of the individual from society, and poor sense of belonging to the community in which he lives. (Mona Nimer Al-Shishnah, 2018, p.333)
- ✓ The individual's fear from the society in which he lives, this fear reduces the individual giving to society
- ✓ The homicide crime threatens the group, which drives it to isolation, insurgency, displacement and emigration
- ✓ The spread of chaos and confusion in the society, which reduces the productivity of it
- ✓ The spread of other social problems such as theft, dissolution of values and ethics, and the loss of standards.

- **The economic effects of the homicide**

- ✓ Lack of earning sources, which obstruct the fulfilment of the individual's needs
- ✓ The phenomenon of poverty
- ✓ Homicide causes instability in the country's financial situation, If the country depends on tourism, its economy will get down
- ✓ Emigration efficiency affects negatively the country's GDP
- ✓ The absence of an investment culture
- ✓ Reducing economic and development activities, which reflects negatively on the society's level of living

III.4 Some examples of homicide crime in Algerian society

We'll show five cases of homicide crime, and they are files from three courts from the following states: Annaba, Setif, Constantine. (Najib Bou El-Mayen, 2008, p.205).

- **First case: a police investigator kills a young man**

The facts of the accident go back to August 7, 2001, where a policeman shot a young man and kill him, and according to the awarding decision, when an agent of re-education returned with the victim in a Mercedes owned by the victim, and when they arrived in front of the re-education centre of the city to take his belongings from the penal institution where he works, but the guard refused to open the door, based on the director's instructions, at that moment, a police officer arrived in a civilian car, carrying a radio with his children in the back seat.

He asked the agent about the reason for his presence and also asked him to show his identity card, he also inquired about the owner of the car before calling the police station, then the police car came and onboard other suspect. When the victim and he is the owner of the car, drove in the forbidden direction, they shot him, which made him increase the speed of the car and he was hit by gunshot that killed him. The perpetrator admitted to his crime and he was placed under judicial supervision.

- **The second case: attempted homicide**

The case goes back to January 15, 2005, in eastern Algeria, when the creditor went where the policeman lives and ask him the pay the debt. According to the policeman's declaration, the creditor used unethical and ugly words, and even he tried to convince him to calm down and stop using ugly words and asked for a delay until brought his children home, but the victim according to the policeman took an iron rod and he tried to assault him, and here the policeman took out his vocational gun and fired three warning shots, then the fourth hit him in the left leg.

- **The third case: intentional homicide with premeditation and stalking**

On the morning of October 19, 2004, the second and third suspect went to the security services to report the information that on the morning of the facts they went to the city market near the traveler's station, the first suspect was observed with another person fighting inside a car, and that was around eight in the morning.

And when the second and third suspect tried to intervene to solve the quarrel, but the reaction of the first suspect was violent and he said that they had nothing to do with a quarrel with his friend and they should get away immediately.

The two suspects according to their statements to the judicial police and the investigating judge in the investigation report, that the first suspect called them back to help him take his friend to the urgency, the victim was lying on his face, and they quickly placed him in the back seat of the car and the stabbed marks were visible on his chest, and instead of taking him to the emergency, the first suspect who was driving the car changed his destination to the security services and report about the facts to exonerates himself.

Interrogation of the suspects in front of the president of the criminal court showed a great contradiction in the exchange of homicide charges between the first suspect and the other suspects because each side was throw a charge of premeditated homicide to the other side.

The moderator tried his best to go deeper into the investigation and interrogation to solve the mystery, and in the end, the criminal court ruled that the first suspect is guilty of the crime of intentional homicide with premeditation with yes to the majority, and he was convicted of twenty years in prison. And the second and third suspects were innocence .

- **The fourth case: a husband kills his wife**

The events of the case go back to May 2005, Where the perpetrator is 25 years without any educational level and the victim is the wife has a bachelor degree in literature, according to what is available in the case, the wife has a high ethic and polite. the husband is unemployed and does live with financial benefits and other services from his father. The husband stayed up a lot at night, he takes drugs, and always goes with bad people.

One night, the husband comes back home late at night, and he was drunk. He did not find his wife in the bedroom and she was sleeping in the reception room, he doubted and stabbed her with a knife he was carrying with him. The victim's father reported the security services, but

she died because of her wounds. And the killer also tried to suicide after stabbing himself with the same crime tool.

- **The fifth case: a husband kills his wife**

The facts of the case go back to August 2004, where a dispute occurred between the father and his son.

the father works in agriculture all day and doing cropper by machine even in hot summer. One day, he came back home tired and had a headache due to the high temperature in summer, when he entered the house, he found his son sitting, he asked him to help him in the cropper, but the son refused, then a violent verbal quarrel occurred.

The father controlled himself but the son spoke again inappropriately and insulting, the father affected by his words, the mother intervened to resolve the dispute and the father was very angry, he took a knife and stabbed the wife, so she died. But he did not mean to kill her

Commentary on the five cases:

-The first and second case have in common factor is that the perpetrator is a police officer, in the legal framework the employee is not responsible for his work that harms others, because he did it as an order from his boss, so he must obey him.

And it proved that he believed that the act he did is legal, and his belief was based on reasonable reasons. A personal mistake is one that is gross, bad-intentioned, or motivated by personal revenge.

The use of firepower in situations of taking power requires a good discussion between police man and citizens even criminals, because the process of convincing between theme is a successful method to apply the principle of “security in the service of the citizen”. (Najib Bou El-Mayen, p.205).

-The third case is related to the intentional homicide with premeditation and stalking, the law deals strictly with those who left behind a crime or incident and they did not report it, we note that the first accused changed his way to the police to report the crime in order to protect himself.

- The fourth case:the main reason for the murder is an incompatibility in marriage, so the husband is from a skewed sample and the wife is from the good sample.

- The fifth case: the crime started by quarrels and arguments between the son and the father, and this means that there is no family relationship, add to this the father's irrationality led to this crime.

IV Conclusion

Sociology of Crime and deviance aims in the field of the criminal phenomenon to gather information and social facts and study it with an analytical, descriptive, explanatory, and scientific study, in order to extract the law related to this phenomenon, this is by following the

methodology in the sociological study. This field puts the criminal phenomenon in its theoretical framework to explain the factors that cause the crime.

The homicide crime is one of the most important subjects that sociology of Crime and deviance talk about.

the internal motives (The family and the individual), such as failure, frustration, family, weak personality, and weak education. And external motives (society) as economic causes and reference collections, all contributed to the homicide crime.

A killer may live in a troubled or broken family, with the absence of dialogue, like the homicide crime we mentioned in the fifth case, and also the gap between those who grow up in a good family and those who grow up in the drug and cabaret environment. It results in an imbalance which caused a homicide crime as we mentioned in the fourth case where did the young who takes drug kill his good and polite wife.

Through these facts and giving a realistic explanation of the crime, the role of the law comes to fight such crimes, when it makes limits to those practices, its three components: deterrence, control, protection.

Sociology of crime and deviance make a scientific analysis of the conditions in which criminal legislation is placed, made by law. Thus, both sciences have functional complementarity in the framework of organizing the society and trying to create a balanced social environment.

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