

INCIPIENT CRIMINAL CONDUCT IN ISLAMIC JURISPRUDENCE AND ALGERIAN LAW: A COMPARATIVE EXAMINATION OF INTENT, ACTS, AND LEGAL FRAMEWORKS

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Abstract

This article conducts a comprehensive comparative analysis of the doctrine of criminal attempt (*shurūʿ* or *muḥāwalah*) within two distinct legal traditions: Islamic jurisprudence and Algerian positive law. While both systems recognize the need to intervene at the stage of incomplete criminal conduct to protect fundamental societal interests, they diverge fundamentally in their theoretical foundations, scope of application, and treatment of essential elements. Through systematic examination of classical Islamic legal sources from the four major schools (Ḥanafī, Mālikī, Shāfiʿī, and Ḥanbalī) and analysis of the Algerian Penal Code (particularly Articles 30–31), this study reveals that Algerian law, following the French penal tradition, conceptualizes criminal attempt as a dependent crime requiring the same specific criminal intent as the completed offense and predicates liability upon "commencement of execution" manifested through unambiguous acts leading directly to the crime. In contrast, Islamic jurisprudence addresses incomplete crimes through the flexible discretionary punishment framework of *taʿzīr*, treating each preparatory or executive act as an independent sin punishable in itself regardless of the perpetrator's ultimate criminal objective. The article critically examines points of convergence and divergence across three primary domains: the distinction between unpunishable preparatory acts and punishable commencement of execution, the treatment of impossible crimes (material versus legal impossibility), and the legal effect of voluntary desistance. Special attention is devoted to the divergent requirements for criminal intent: whereas Algerian law demands specific intent directed toward the completed crime, Islamic jurisprudence is satisfied with general intent to commit a sinful act, with the intended completed crime affecting only the severity of *taʿzīr* punishment. The analysis demonstrates that the Islamic penal system's *taʿzīr* framework, developed over fourteen centuries ago, offers a remarkably comprehensive and flexible approach to criminal attempt that in several respects anticipates and surpasses modern legal theories by focusing judicial attention on the culpable act itself rather than exclusively on the unachieved criminal result. The article concludes by identifying opportunities for meaningful cross-fertilization between these two legal traditions, particularly in the treatment of preparatory acts, impossible crimes, and the individualization of punishment based on the perpetrator's demonstrated dangerousness.

Keywords: Criminal attempt; Islamic criminal law; Algerian Penal Code; comparative criminal law; *taʿzīr*; commencement of execution.

Introduction

Incipient criminal conduct (criminal attempt) occupies a uniquely precarious position within the architecture of penal law, standing at the critical threshold between unpunished criminal thought—*cogitationis poenam nemo patitur*—and the completed crime that has produced tangible harm to legally protected interests. This intermediary stage raises fundamental questions regarding the nature and limits of criminal responsibility: At what precise moment does an individual's internal disposition toward criminality transform into conduct warranting state intervention? What quantum of external manifestation suffices to justify punishment in the absence of actual harm? And how should legal systems balance the competing imperatives of societal protection against premature or excessive criminalization?

Both Islamic jurisprudence and modern positive legal systems, including Algerian law, have developed sophisticated doctrinal frameworks to address these questions. Yet the theoretical foundations, scope of application, and specific rules governing criminal attempt differ markedly between the two traditions. Algerian law, heavily influenced by the French Penal Code of 1810 and subsequent doctrinal developments, provides a structured general provision for attempt in Article 30 of the Penal Code, defining it through the dual requirements of "commencement of execution" manifested by "unambiguous acts leading directly to the commission of the crime" and non-completion attributable to "circumstances independent of the perpetrator's will." This formulation, while ostensibly clear, has generated extensive jurisprudential debate regarding the precise boundaries between unpunishable preparatory acts and punishable attempt, the treatment of impossible crimes, and the effect of voluntary desistance.

Islamic jurisprudence, by contrast, addresses incomplete crimes not through a dedicated theory of attempt but rather through the comprehensive and flexible framework of *ta'zīr* (discretionary punishment). This approach, rooted in the foundational principle that "there is no crime and no punishment except through an overt act" (*lā jarīmah wa lā 'uqūbah illā bi-fi'l*), treats each step toward a criminal objective as a potentially independent sin (*ma'ṣiyah*) deserving punishment in its own right, regardless of whether the ultimate intended crime is completed. The classical jurists' meticulous attention to the gradations of culpable conduct—from mere intention through preparatory acts to commencement of execution—reflects a sophisticated understanding of criminal dangerousness that in several respects anticipates modern penal theories emphasizing the perpetrator's personality and subjective disposition.

The importance of this comparative study extends beyond mere academic curiosity. In an era characterized by increasing interaction between legal systems and growing interest in the potential contributions of Islamic legal heritage to contemporary challenges, understanding the convergences and divergences between these two approaches to criminal attempt offers valuable insights for legal reform, judicial practice, and theoretical development. Moreover, for Muslim-majority jurisdictions like Algeria that operate within a hybrid legal environment combining French-derived positive law with constitutional recognition of Islam as the religion of state, exploring the extent to which positive legislation aligns with or diverges from Islamic jurisprudential principles carries significant practical and normative implications.

This article proceeds in three principal parts. Section 1 examines the nature and scope of criminal attempt in both legal traditions, including definitions, historical development, and the types of crimes susceptible to attempt. Section 2 analyzes the material element of criminal attempt, focusing on the critical distinction between preparatory acts and commencement of execution, the requirement of non-completion due to external causes, and the effect of voluntary desistance. Section 3 addresses the moral element, comparing the divergent requirements for criminal intent in Islamic jurisprudence and Algerian law. The article concludes by synthesizing

the principal findings and identifying areas of potential cross-fertilization between the two legal traditions.

1. The Nature and Scope of Incipient Criminal Conduct (Criminal Attempt)

1.1. Definition and Conceptual Foundations

1.1.1. Linguistic and Terminological Analysis

The Arabic term *muḥāwalah* (محاولة), commonly employed in modern legal Arabic to denote criminal attempt, derives from the trilateral root *ḥāwala* (ح-و-ل), which carries the core semantic field of transformation, change, and exertion of effort toward an intended objective. In *Lisān al-‘Arab*, the authoritative lexicon of Ibn Manẓūr (d. 711 AH/1311 CE), the verb *ḥāwala* is defined as "he sought the thing and strived toward it" (Ibn Manẓūr, 1414 AH, Vol. 11, p. 185). Similarly, *Al-Qāmūs al-Muḥīṭ* of al-Fayrūzābādī (d. 817 AH/1415 CE) defines *ḥāwala al-amr* as "he sought it and endeavored in it" (Al-Fayrūzābādī, 1426 AH, p. 1037). This etymological foundation is juristically significant: *muḥāwalah* connotes not merely static intention but an active, dynamic process of transition from internal disposition to external manifestation. The perpetrator (*muḥāwil*) is one who exerts transformative effort, seeking to alter the existing state of affairs by bringing about a criminal result.

The alternative term *shurū‘* (شروع), derived from the root *shara‘a* (شرع) meaning "to begin, to set out, to embark upon," emphasizes the initiatory aspect of criminal conduct—the moment of crossing from preparation into execution. Classical jurists, particularly in chapters devoted to theft (*sariqah*), employed *shurū‘* to denote the commencement of the material acts constituting the crime, as in *bāb al-shurū‘ fī al-sariqah* (the chapter on commencement in theft). The terminological distinction between *muḥāwalah* and *shurū‘* reflects an underlying conceptual tension that would later manifest in the doctrinal divide between the "material school" (emphasizing objective acts) and the "personal school" (emphasizing subjective disposition) in modern penal jurisprudence.

The term *jarīmah* (جريمة), denoting crime, derives from the root *jarama* (جرم) meaning "to cut, to sever, to harvest." A *jārim* is one who cuts off or severs something—metaphorically, one who transgresses the bounds of divine law or severs the proper relationship between the individual, society, and Allah. This agricultural metaphor implies that a crime produces a "harvest" of harm or consequence. In the context of criminal attempt, the "cut" remains incomplete; the severance of the protected interest has not fully occurred. This linguistic nuance supports the Islamic juristic position that an attempted crime, while not yet a completed *jarīmah* deserving the full prescribed punishment (*ḥadd* or *qiṣāṣ*), nevertheless constitutes a *jurm* (sin) warranting discretionary punishment (*ta‘zīr*) precisely because the perpetrator has initiated the act of cutting.

1.1.2. Definitions in Islamic Jurisprudence

Islamic jurisprudence scholars did not formulate a dedicated technical definition of criminal attempt (*muḥāwalah* or *shurū‘*) as a distinct theoretical category. This apparent lacuna, however, reflects not a deficiency in Islamic penal thought but rather the distinctive architecture of the Islamic criminal justice system, particularly its tripartite classification of crimes into *ḥudūd* (fixed punishment crimes), *qiṣāṣ* and *diyāh* (retaliatory and compensatory crimes against persons), and *ta‘zīr* (discretionary punishment crimes).

The primary reason for the absence of a dedicated theory of attempt is that the *ta'zīr* system renders such a theory largely unnecessary. The governing principle, articulated by numerous classical authorities, is that "*ta'zīr* is prescribed for every sin for which there is no fixed punishment (*ḥadd*) or retaliation (*qiṣāṣ*)—that is, every act considered by Sharia as a sin is a crime punishable by *ta'zīr* unless it is punishable by *ḥadd* or *qiṣāṣ*" (Ibn Farḥūn, n.d., Vol. 2, p. 200; 'Āmir, 1976, p. 53). Since each step toward a criminal objective—from the initial preparatory act through commencement of execution to the final act preceding completion—potentially constitutes an independent sin (*ma'ṣiyah*), the judge possesses inherent authority to impose discretionary punishment commensurate with the culpability of the act itself, regardless of whether the ultimate intended crime materializes.

Ibn al-Qayyim al-Jawziyyah (d. 751 AH/1350 CE) articulated this principle with characteristic clarity:

"Since the harms of crimes are varying and not regulated in severity and weakness, fewness and abundance—ranging from a glance, to seclusion, to embrace—their punishment is left to the discretion of the imams and rulers according to what serves the interest in each time and place, and according to the perpetrators of crimes themselves" (Ibn al-Qayyim, 1987, Vol. 2, p. 109).

From these foundational principles, contemporary scholars have derived a functional definition of criminal attempt in Islamic jurisprudence: **Criminal attempt is every sin that leads to the completed crime, committed by the perpetrator with the purpose of achieving the completed crime, and which is deserving of punishment** ('Awdah, 1984, Vol. 1, p. 343; Abū Zahrah, n.d., p. 320).

This definition encompasses three essential elements: (1) the act must constitute a sin (*ma'ṣiyah*) in itself, regardless of its relationship to the intended completed crime; (2) the perpetrator must have committed the act with the purpose (*qaṣd*) of achieving the completed crime; and (3) the act must be deserving of punishment, meaning that non-completion was not attributable to voluntary desistance based on genuine repentance (in which case the judge may exercise discretion to waive punishment for *ta'zīr* crimes relating to the rights of Allah).

1.1.3. Definitions in Algerian Positive Law

The Algerian Penal Code, following the French legislative model, provides a general definition of criminal attempt in Article 30:

"All attempts to commit a felony manifested by commencement of execution, or by unambiguous acts leading directly to its commission, shall be considered as the felony itself if they are not stopped or their effect does not fail except as a result of circumstances independent of the perpetrator's will, even if the intended objective was not reached due to a material circumstance unknown to the perpetrator" (Algerian Penal Code, Order 66/156, Art. 30).

This formulation reflects the influence of the "personal school" (*école personnelle*) of criminal attempt, which emerged in late nineteenth-century French doctrine as a reaction against the perceived inadequacies of the purely objective "material school." The personal school, associated with jurists such as Garraud and Roux, emphasizes the perpetrator's subjective disposition and criminal dangerousness rather than the objective dangerousness of the acts themselves. Under this approach, attempt is established whenever the perpetrator performs acts that, in their own estimation and according to their criminal plan, would lead directly to the commission of the intended crime, even if those acts do not yet form part of the material element of the completed offense.

The Algerian legislator's adoption of the phrase "unambiguous acts leading directly to the commission of the crime" (*actes non équivoques tendant directement à la commission du crime*) rather than the narrower formulation "acts constituting commencement of execution" reflects this subjective orientation. The Supreme Court of Algeria has consistently interpreted this provision as requiring an examination of the perpetrator's criminal plan and subjective intention, deduced from the objective circumstances and external manifestations of conduct.

From the legal definition, penal jurisprudence has distilled the essential characteristics of criminal attempt: (1) attempt is a crime of risk (*infraction de danger*) that threatens protected rights and interests without necessarily causing actual harm; (2) the deficiency in criminal attempt lies exclusively in the non-realization of the criminal result, whether due to incompleteness of the material element or failure of effect despite completion of all executive acts; and (3) criminal attempt is a **dependent crime** (*infraction dépendante*), meaning that its existence, punishment, and susceptibility to aggravating or mitigating circumstances are all determined by reference to the completed crime that the perpetrator intended to commit.

1.2. Scope of Application

1.2.1. Scope in Islamic Jurisprudence

The scope of punishable criminal attempt in Islamic jurisprudence is remarkably broad, encompassing any deliberate act that constitutes a sin (*ma'ṣiyah*) leading toward a completed crime. This expansive scope derives directly from the *ta'zīr* framework, which empowers the judge to punish any culpable conduct not already subject to prescribed *ḥadd* or *qisās* penalties.

Several categories of crimes are, by their nature, incompatible with the concept of criminal attempt:

Negative Crimes (Omission Crimes): Islamic jurists distinguish between two types of omission. The first type involves omission intended to produce a specific criminal result—such as deliberately withholding food and water from a person until death ensues. In such cases, attempt is conceivable because the omission serves as the means of committing a positive crime. Ibn Ḥazm (d. 456 AH/1064 CE) narrates in *Al-Muḥallā* that a man requested water at a people's door and they refused to give him water until he died of thirst; 'Umar ibn al-Khaṭṭāb (d. 23 AH/644 CE) held them liable (Ibn Ḥazm, n.d., Vol. 1, p. 522). If the victim were rescued before death, the perpetrators would be liable for attempted murder through negative means.

The second type involves omission that itself constitutes the crime—such as a witness refusing to testify, or refusal to pay obligatory alms (*zakāt*). In such cases, attempt is inconceivable because the completed crime occurs upon mere refraining from the required act, with no interval between commencement and completion that would admit the possibility of attempt.

Unintentional Crimes (*Khaṭa'*): Attempt is inherently incompatible with unintentional crimes because attempt presupposes the existence of criminal intent (*qaṣd jinā'ī*) directed toward achieving a specific criminal objective. Unintentional crimes, by definition, involve either mistake in intent (the perpetrator intends a permissible act but mistakenly causes harm) or mistake in act (the perpetrator intends a specific act but a different act occurs). The absence of directed criminal intent negates the possibility of attempt.

Crimes Without an Attempt Stage: Certain crimes are completed instantaneously upon the commission of a single act, leaving no temporal interval between commencement and completion during which attempt could be conceived. The classic example is *qadhf* (false

accusation of adultery), which is completed upon utterance of the defamatory words. In contrast, crimes such as theft, adultery, and consumption of alcohol typically involve multiple stages—breaking and entering, gathering goods, seclusion, kissing, embracing—making suspension of execution and thus attempt conceivable.

For *ta'zīr* crimes specifically, attempt is conceivable in every crime whose material element admits fragmentation and partiality. The judge may punish any act that constitutes a sin, even if it does not reach the threshold of a completed crime warranting the full prescribed punishment. As stated in *Fath al-Qadīr*: "The maximum extent of *ta'zīr* is when one commits every prohibited act with a foreign woman except intercourse, or when a thief gathers goods before removing them" (Ibn Humām al-Ḥanafī, n.d., Vol. 5, p. 351).

1.2.2. Scope in Algerian Law

Algerian law, following the tripartite classification of crimes into felonies (*jināyāt*), misdemeanors (*junah*), and violations (*mukhālafāt*), adopts a more restrictive approach to the scope of punishable attempt:

Felonies: Attempt to commit any felony is generally punishable pursuant to Article 30, unless the legislator has expressly provided otherwise. This reflects the seriousness of felonies and the corresponding need for preventive intervention at the attempt stage.

Misdemeanors: Attempt to commit a misdemeanor is punishable only when expressly provided by a specific legal text. Examples include attempted theft (Article 350) and attempted abortion (Article 304). The legislator's silence regarding attempt for other misdemeanors reflects a policy judgment that the lesser seriousness of these offenses does not justify the extension of criminal liability to the pre-completion stage.

Violations: Attempt to commit a violation is never punishable. These minor regulatory offenses, carrying only petty fines, are deemed insufficiently serious to warrant punishment in the absence of completed harm.

Additionally, Algerian law excludes certain categories of crimes from the scope of attempt based on their inherent nature:

Purely Negative Crimes: Attempt is impossible in crimes consisting of pure omission, because commencement of execution requires positive acts. However, positive crimes committed through negative means (such as a mother refusing to breastfeed her child with intent to kill) may admit attempt.

Unintentional Crimes: By definition, attempt requires criminal intent (*intention coupable*), which is absent in unintentional crimes based on negligence, recklessness, or lack of precaution (Articles 288–289, 311, 442 of the Penal Code).

Crimes of Transposed Intent: In crimes where the result exceeds the perpetrator's intent—such as battery resulting in death (Article 264)—attempt cannot be conceived with respect to the aggravated result, because criminal intent was not directed toward that result.

Formal Crimes: Certain crimes are completed upon the mere commission of the prohibited act, without requiring a separate criminal result. Examples include drug possession, insult, and defamation (Articles 297–298). In such crimes, the interval between commencement and completion is so compressed as to render attempt practically inconceivable.

1.3. Comparative Assessment of Scope

The comparison of scope reveals a fundamental divergence in the underlying philosophies of the two systems. Islamic jurisprudence, through the *ta'zīr* mechanism, adopts a maximalist approach: any deliberate sinful act that moves toward a criminal objective is punishable, regardless of whether it constitutes "commencement of execution" in the technical legal sense. This approach ensures that no culpable conduct escapes punishment and that the state possesses the necessary flexibility to address the full spectrum of criminal dangerousness.

Algerian law, constrained by the principle of legality (*nullum crimen, nulla poena sine lege*) and the doctrinal requirement of "commencement of execution," adopts a more restrictive approach. Many acts that Islamic jurisprudence would punish as independent sins—such as seclusion with a foreign woman (*khalwah*), stalking with criminal intent, or acquiring tools for criminal purposes—fall outside the scope of punishable attempt in Algerian law unless they independently constitute completed crimes (e.g., breaking and entering as destruction of property).

This divergence reflects deeper differences in the sources and methodologies of the two legal traditions. Islamic jurisprudence, deriving its authority from divine revelation and the interpretive efforts of qualified jurists, operates within a flexible framework that prioritizes the prevention of harm (*dar' al-mafāsīd*) and the blocking of means to evil (*sadd al-dharā'i*). Algerian positive law, as a product of legislative enactment, must adhere to the principle of strict construction of penal statutes and cannot criminalize conduct beyond the express terms of the law.

2. The Material Element of Criminal Attempt

2.1. Preparatory Acts and Commencement of Execution

The distinction between unpunishable preparatory acts (*actes préparatoires*) and punishable commencement of execution (*commencement d'exécution*) constitutes the central problematic of the material element of criminal attempt. Upon this distinction turns the boundary between permissible conduct and criminal liability.

2.1.1. The Islamic Jurisprudential Approach

Islamic jurisprudence did not develop a specific standard for "commencement of execution" because the *ta'zīr* framework renders such a standard largely superfluous. The operative criterion is not whether the perpetrator has crossed some objective threshold of execution but rather whether the act itself constitutes a sin (*ma'ṣiyah*) deserving punishment.

Jurists define sin as "committing a prohibited act or omitting an obligatory act" ('Awdah, 1984, Vol. 1, p. 130). This definition encompasses three categories of sins:

1. **Sins subject to fixed punishment (*ḥadd*)**, sometimes with expiation (*kaffārah*)—e.g., theft, adultery, murder.
2. **Sins subject to expiation but not fixed punishment**—e.g., intercourse during daytime in Ramadan, intercourse during *iḥrām*.
3. **Sins subject to neither fixed punishment nor expiation**—this category includes most acts constituting criminal attempt, such as kissing a foreign woman, secluding with her, or incomplete theft.

The third category is further subdivided. Of particular relevance to criminal attempt is the subcategory where a fixed punishment is prescribed for the category of crime but not for the specific act committed—such as theft from a non-protected place (*ghayr ḥirz*), theft of property below the *niṣāb* threshold, or incomplete theft where the perpetrator is apprehended before removing goods from the protected place.

Classical jurisprudential texts abound with cases illustrating this approach. In *Al-Mudawwanah al-Kubrā*, Imām Mālik (d. 179 AH/795 CE) was asked: "What do you think if [the thief] gathered the goods and carried them, and was caught in the *ḥirz* before removing them? Should he be amputated?" Mālik replied: "He is not amputated" (Mālik, n.d., Vol. 16, p. 73). The thief in this scenario has clearly commenced execution—entering the protected place, locating the goods, gathering them, and carrying them toward the exit—yet apprehension before removal prevents the completion of the theft. The *ḥadd* of amputation is inapplicable, but the perpetrator is subject to *ta'zīr* for the sinful acts of breaking and entering, trespass, and attempted appropriation.

Al-Māwardī (d. 450 AH/1058 CE) provides a graduated scheme of *ta'zīr* punishments for the various stages of attempted theft:

- If the perpetrator is found with a pick and was monitoring the money: proven intent, punishable by *ta'zīr*.
- If he undertakes picking or opening the door but does not enter: ten lashes.
- If he breaches the *ḥirz* but does not enter: twenty lashes (Al-Māwardī, 1990, p. 387).

These gradations reflect a sophisticated appreciation of the varying degrees of dangerousness manifested by different stages of criminal conduct—an appreciation that modern penal jurisprudence would not systematically develop until the emergence of the positivist school in the late nineteenth century.

A significant point of divergence among Islamic jurists concerns the punishability of preparatory acts that are originally permissible but performed with criminal intent. The Mālikī and Ḥanbalī schools, applying the principle of blocking the means to evil (*sadd al-dharā'i'*), hold that such acts are punishable if the judge is satisfied that the perpetrator performed them with intent to commit a crime. The Ḥanafī and Shāfi'ī schools, adhering more strictly to the principle that acts are judged by their objective nature rather than subjective intent, hold that originally permissible acts do not become sins merely by virtue of the perpetrator's evil intention.

2.1.2. The Positive Law Approach: The Material and Personal Schools

Modern penal jurisprudence has grappled extensively with the definition of "commencement of execution," generating two principal schools of thought.

The Material School (*École Matérielle*): Advocated by the classical school of penal thought, this approach focuses on the objective dangerousness of the acts themselves. Commencement of execution is established only when the perpetrator performs acts that form part of the material element (*élément matériel*) of the completed crime. Various standards have been proposed within this school:

- **Causality Standard:** An act constitutes commencement of execution if it is a direct cause that naturally leads to the criminal result, as distinguished from mere circumstances or conditions.

- **Direct Connection Standard:** Commencement is realized when the perpetrator begins to perform one of the constituent acts of the crime itself.
- **Aggravating Circumstances Standard:** Attempt is established by acts that constitute aggravating circumstances of the completed crime—e.g., stalking for murder, scaling a wall for theft.
- **Unambiguous Acts Standard:** An act constitutes attempt if it admits no alternative interpretation and directly reveals the perpetrator's criminal purpose.

Each of these standards has attracted substantial criticism. The causality standard narrows the scope of attempt excessively; the direct connection standard leaves many dangerous acts unpunished; the aggravating circumstances standard lacks consistency across different crimes; and the unambiguous acts standard is often impracticable, as few acts unambiguously indicate a single criminal intention.

The Personal School (*École Personnelle*): Emerging from the positivist movement's emphasis on the perpetrator's personality and dangerousness, this approach shifts focus from the objective nature of the acts to the subjective disposition they reveal. Commencement of execution is established whenever the perpetrator performs acts that manifest a definitive criminal intention (*intention criminelle certaine*) and that, in the perpetrator's own estimation and according to their criminal plan, would lead directly to the commission of the intended crime.

The Algerian legislator's formulation in Article 30—"commencement of execution, or unambiguous acts leading directly to the commission of the crime"—explicitly adopts the personal school. The Supreme Court of Algeria has consistently interpreted this provision as requiring examination of the perpetrator's subjective plan and intention, deduced from the objective circumstances of the case.

Notably, the Algerian formulation does not require that the acts form part of the material element of the completed crime. It suffices that the acts, viewed in light of the perpetrator's demonstrated intention, lead directly (*tendent directement*) to the crime's commission. Thus, a thief surprised while breaking the lock of a safe is liable for attempted theft even though the act of appropriation has not yet commenced, because breaking the lock manifests the intention to steal and leads directly to appropriation.

2.1.3. Comparative Analysis

The comparison between the Islamic and Algerian approaches to commencement of execution reveals both convergence and divergence:

Convergence: Both systems have moved beyond a purely objective, materialist conception of attempt toward recognition of the importance of subjective intention and the perpetrator's criminal plan. The Algerian legislator's adoption of the personal school and the Islamic jurists' attention to the perpetrator's purpose (*qaṣd*) in assessing *ta'zīr* punishment reflect a shared appreciation that criminal dangerousness inheres as much in the perpetrator's disposition as in the objective dangerousness of the acts.

Divergence: The Islamic approach, through the *ta'zīr* framework, is significantly broader. It punishes acts that Algerian law would classify as merely preparatory—such as purchasing burglary tools with proven criminal intent, or stalking a victim without yet having committed an act of execution—whenever those acts independently constitute sins. Moreover, Islamic

jurisprudence does not require the fine distinction between "acts leading directly to the crime" and "acts that are merely preparatory," because the *ta'zīr* system can impose graduated punishments proportionate to the degree of proximity to the completed crime. The Algerian judge, constrained by Article 30, must make a binary determination: either the acts constitute punishable attempt (subject to the full penalty of the completed felony) or they are unpunishable preparatory acts. This binary structure leaves no room for an intermediate category of culpable but less dangerous conduct.

2.2. Suspension of Execution and Failure of Effect

The second essential component of the material element of criminal attempt is that execution be suspended or its effect fail for causes beyond the perpetrator's will. This condition distinguishes attempt from both completed crimes (where execution proceeds to completion) and voluntary desistance (where suspension is attributable to the perpetrator's own volition).

2.2.1. Forms of Non-Completion

Suspended Crime (Incomplete Attempt): The perpetrator commences execution but does not exhaust all acts necessary for completion, and the suspension is attributable to external causes. Examples include: a thief apprehended while searching for valuables; a murderer disarmed by a third party before firing; an arsonist caught while pouring accelerant but before igniting it.

Failed Crime (Complete Attempt): The perpetrator exhausts all acts deemed necessary for the crime's completion, but the criminal result fails to materialize due to circumstances beyond their control. Examples include: firing a weapon with intent to kill but missing the target; administering a substance believed to be poison that proves non-lethal; a thief opening a safe that proves empty.

Impossible Crime: The crime is inherently incapable of completion, whether due to the unsuitability of the means employed (material impossibility) or the absence of an essential legal element (legal impossibility). Examples include: attempting to kill with a defective weapon; shooting at a person already dead; attempting to abort a non-pregnant woman; attempting to steal property that belongs to the perpetrator.

2.2.2. Treatment in Islamic Jurisprudence

Islamic jurisprudence addresses all three forms of incomplete crime through the *ta'zīr* framework, without drawing rigid doctrinal distinctions between them. The key consideration is whether the perpetrator has committed a sin (*ma'ṣiyah*) deserving punishment.

For the **suspended crime**, classical texts provide numerous illustrations. In *Al-Muḥallā*, Ibn Ḥazm narrates that a thief breached the safe of al-Muṭṭalib ibn Wadā'ah, gathered the goods, but was apprehended before removal. Ibn al-Zubayr ordered amputation, but Ibn 'Umar intervened, stating: "He is not subject to amputation until he leaves the house" (Ibn Ḥazm, n.d., Vol. 8, p. 230). The thief was subject to *ta'zīr* flogging for the acts committed.

For the **failed crime**, the classic example is the combatant who strikes with a sword but misses or strikes a non-lethal area. Jurists classify such cases as *ta'zīr* crimes because, although the intended result did not materialize, the perpetrator has committed a dangerous assault. The prophetic ḥadīth—"When two Muslims meet with their swords, both the killer and the killed are in the Fire"—illustrates this principle. When asked why the killed person would be in Hellfire, the Prophet (PBUH) replied: "Because he was eager to kill his companion" (Al-Bukhārī, 1981, Vol. 13, p. 31). The killed person's intent and commencement of execution

(meeting with swords) constitute a sin deserving punishment, even though death—the intended result—was inflicted by the other combatant.

For the **impossible crime**, Islamic jurisprudence adopts a position that aligns closely with the modern "personal school." The perpetrator is criminally responsible whenever their act constitutes a deliberate sin, regardless of whether the crime was objectively possible or impossible to complete. Ibn Ḥazm articulated this principle with characteristic clarity:

"One who intends to commit a crime and commits it, then it becomes clear that there is no subject for it, is not in fact a criminal, but is one who takes crime lightly and belittles obligations and virtues. An example is one who approaches a woman thinking she is a foreign woman, commits the act believing it to be adultery, and it turns out to be his wife—he is not considered an adulterer... but he bears the sin of adultery" (Ibn Ḥazm, 1983, Vol. 4, p. 117).

The perpetrator in such cases is subject to *ta'zīr* punishment commensurate with the demonstrated dangerousness and culpability, even though the completed crime of adultery is legally impossible. Similarly, one who steals property believing it belongs to another but discovers it is their own is not subject to the *ḥadd* for theft, but is liable for *ta'zīr* for the sinful intention and the acts committed in its execution.

2.2.3. Treatment in Algerian Law

Algerian law, through Article 30, explicitly addresses the impossible crime: "even if the intended objective was not reached due to a material circumstance unknown to the perpetrator." This provision, unique among many Arab penal codes, resolves the longstanding doctrinal dispute between the material and personal schools regarding impossible attempt in favor of the personal school's position: material impossibility does not preclude punishment for attempt.

However, Algerian law distinguishes between material impossibility (punishable) and legal impossibility (unpunishable). Material impossibility occurs when the means employed are incapable of achieving the criminal result—e.g., using a defective weapon, shooting at a dead person, attempting to abort a non-pregnant woman. In such cases, attempt is punishable because all elements of attempt are present: criminal intent and commencement of execution, with non-completion attributable to a circumstance (the impossibility) independent of the perpetrator's will.

Legal impossibility occurs when an essential legal element of the crime is absent—e.g., the property stolen belongs to the perpetrator; the woman intended for adultery is the perpetrator's wife. In such cases, there is no crime and no attempt, because the legal definition of the offense cannot be satisfied. The act constitutes an imaginary or putative crime (*crime imaginaire*) that exists only in the perpetrator's mind and is therefore unpunishable.

This distinction yields a notable divergence from Islamic jurisprudence. Under Algerian law, the perpetrator who steals property believing it to belong to another but discovering it is their own is not liable for attempted theft. Under Islamic jurisprudence, the same perpetrator is subject to *ta'zīr* for the sinful intention and acts committed. Conversely, under both systems, the perpetrator who shoots at a person already dead (believing them alive) is punishable—under Algerian law for attempted murder, under Islamic law for *ta'zīr*.

2.3. Voluntary Desistance

2.3.1. Concept and Conditions in Algerian Law

Voluntary desistance (*désistement volontaire*) occurs when the perpetrator, having commenced execution of the crime, freely and spontaneously abandons the criminal project before its completion. Algerian law, like most modern penal systems, exempts the desisting perpetrator from punishment for the attempted crime. This exemption serves a dual purpose: it encourages perpetrators to abandon their criminal projects, thereby preventing harm; and it recognizes that the perpetrator who voluntarily desists demonstrates a lesser degree of dangerousness than one who proceeds to completion or is stopped only by external obstacles.

For desistance to produce its exempting effect, two conditions must be satisfied:

Voluntariness: The desistance must be freely chosen, not compelled by external circumstances. Legal doctrine distinguishes three categories:

- *Voluntary desistance:* Based on purely internal, subjective motives—remorse, pity, fear of punishment, religious scruples, etc.
- *Involuntary desistance:* Compelled by external obstacles—apprehension, victim resistance, police intervention, etc.
- *Mixed desistance:* Involving both internal and external factors. Jurisprudence favors evaluating the predominant factor; in case of doubt, the benefit goes to the accused.

Timing: Desistance must occur before the completion of the crime. Once the crime is completed, subsequent remorse or restitution cannot retroactively negate criminal liability, though they may constitute mitigating circumstances.

The effect of valid voluntary desistance is complete exemption from punishment for the attempted crime. However, if the acts already performed independently constitute a completed crime—e.g., breaking and entering, wounding, illegal possession of weapons—the perpetrator remains liable for those completed offenses.

2.3.2. Treatment in Islamic Jurisprudence

Islamic jurisprudence adopts a more nuanced approach to voluntary desistance, distinguishing between cases based on whether the perpetrator has already committed a sin and whether the desistance is motivated by genuine repentance (*tawbah*).

Case One: Desistance Before Committing Any Sin

If the perpetrator abandons the criminal project before performing any act that itself constitutes a sin—e.g., approaching the intended victim's house but turning back before trespassing—there is no punishment. The perpetrator's internal intention, unaccompanied by any external sinful act, is not punishable in this world, though they may bear moral accountability before Allah.

Case Two: Desistance After Committing a Sin

If the perpetrator has already performed acts that constitute independent sins—e.g., breaking a door, trespassing, threatening—the desistance does not retroactively purge those sins. The perpetrator remains liable for *ta'zīr* punishment for the sins actually committed, regardless of the abandonment of the ultimate criminal objective.

Case Three: Desistance Motivated by Genuine Repentance

When desistance is motivated by sincere repentance (*tawbah*)—meaning remorse in the heart, cessation of the sin, firm resolution not to return, and (where applicable) restitution of rights—Islamic jurists have expressed differing views on its effect regarding *ta'zīr* crimes:

- **First Opinion:** *Ta'zīr* is waived by repentance, following the Mālikī and Ḥanbalī schools' position on the repentance of the highway robber (*muḥārib*) as stated in Qur'an 5:33–34. If repentance waives the *ḥadd* for completed highway robbery, it should *a fortiori* waive *ta'zīr* for incomplete crimes.
- **Second Opinion:** *Ta'zīr* is not automatically waived by repentance; the matter is left to the discretion of the ruler (*walī al-amr*) or judge, who may impose punishment if the claimed repentance appears insincere or if public interest requires deterrence.
- **Third Opinion:** The effect of repentance on *ta'zīr* is determined by the nature of the right violated. If the sin relates purely to the rights of Allah (e.g., seclusion with a foreign woman, attending drinking parties), *ta'zīr* may be waived upon sincere repentance. If the sin involves the rights of individuals (e.g., trespass, destruction of property), punishment is not waived except by pardon of the rights-holder, though the judge may still impose *ta'zīr* for the public aspect of the offense.

This nuanced approach reflects the Islamic penal system's distinctive integration of moral and spiritual considerations into the administration of criminal justice. The judge is empowered to consider not merely the external acts but the perpetrator's internal state—their remorse, repentance, and determination to reform—in determining the appropriate disposition.

2.3.3. Comparative Assessment

The comparison reveals both convergence and divergence:

Convergence: Both systems recognize the principle that voluntary desistance should preclude or mitigate punishment for the attempted crime. Both require that desistance be genuinely voluntary and occur before completion. Both acknowledge that independent crimes committed in the course of the attempt remain punishable.

Divergence: Islamic jurisprudence's recognition of repentance as a potentially mitigating or exculpatory factor has no parallel in Algerian positive law, which treats the motive for desistance as legally irrelevant. Under Algerian law, desistance motivated by fear of apprehension and desistance motivated by genuine moral remorse produce identical legal consequences: exemption from punishment for the attempt. Under Islamic law, the quality of the motive—specifically, whether it constitutes sincere repentance—may affect the judge's discretionary determination of punishment.

This divergence reflects the fundamentally different normative foundations of the two systems. Islamic criminal justice is ultimately oriented toward the reform of the offender and the purification of society, with punishment serving as a means to these ends rather than an end in itself. Algerian positive law, grounded in secular republican principles, maintains a strict separation between law and morality and evaluates conduct based on external manifestations rather than internal dispositions.

3. The Moral Element: Criminal Intent in Criminal Attempt

3.1. Definition and Elements of Criminal Intent

3.1.1. Criminal Intent in Islamic Jurisprudence

Islamic jurisprudence conceptualizes criminal intent through the notion of *qaṣd al-ʿiṣyān* (intent to disobey), defined as "deliberately committing a prohibited act or omitting an obligatory act, with knowledge that the Legislator prohibits the act or makes it obligatory" (ʿAwdah, 1984, Vol. 1, p. 409; Abū Zahrah, n.d., p. 372).

This definition encompasses two essential elements:

Will (*al-irādah*): The deliberate direction of the perpetrator's volition toward the commission of the prohibited act or omission of the obligatory act. Will requires the presence of discernment (*tamyīz*) and freedom of choice (*ikhtiyār*). Persons lacking these capacities—the insane, the non-discerning child, the coerced—are not subject to criminal responsibility, though they may bear civil liability for any damage caused.

Knowledge (*al-ilm*): Awareness that the act is prohibited if committed, or obligatory if omitted. The general rule is that ignorance of the law does not excuse, provided that knowledge of the prohibition was accessible to the perpetrator. An exception is recognized for persons who lacked any reasonable means of knowing the relevant rulings—such as a recent convert to Islam living far from Muslim communities, or a Muslim raised in complete isolation from Islamic learning.

Islamic jurisprudence does not accord legal significance to the perpetrator's motive (*bāʿith*) in determining the existence of criminal intent or the applicable punishment for *ḥudūd* and *qiṣāṣ* crimes. Whether a murder is committed for noble motives (defense of honor) or base motives (material gain), the perpetrator is equally liable for intentional murder. However, motive may influence the judge's determination of the appropriate *taʿzīr* punishment, as the judge possesses broad discretion to individualize the penal response based on all relevant circumstances.

3.1.2. Criminal Intent in Algerian Law

Algerian law defines criminal intent (*intention criminelle* or *dol*) as "the direction of the perpetrator's will toward achieving the criminal act with knowledge of its constituent elements" (Salāmah, 1990, p. 112; Khudr, 1985, p. 280).

The two constituent elements parallel those in Islamic jurisprudence:

Will (*volonté*): The psychological activity directed toward achieving the criminal conduct and result through free choice, without material or moral coercion. The Algerian Penal Code addresses the absence of will in Articles 47–51, providing for exemption from punishment in cases of insanity, coercion, and minority.

Knowledge (*connaissance*): Awareness of the elements of the criminal act and all other legal elements constituting the offense according to its legal definition. The principle *nul n'est censé ignorer la loi* (no one is presumed ignorant of the law) applies; individuals may not excuse themselves by claiming ignorance of the Penal Code's provisions.

3.2. The Criminal Intent Required for Criminal Attempt

3.2.1. The Algerian Position: Specific Intent Toward the Completed Crime

Algerian law requires that the criminal intent in attempt be identical to the criminal intent required for the completed crime. The perpetrator must possess the specific intent to commit the completed offense; mere general intent to perform the acts constituting commencement of execution is insufficient.

Thus, for attempted murder, the prosecution must prove the perpetrator's intent to kill (*animus necandi*). For attempted theft, it must prove the intent to appropriate the property of another (*animus furandi*). The material acts of commencement of execution serve primarily as evidence from which the existence of this specific intent may be inferred.

This requirement yields several important consequences:

Impossibility of Attempt in Unintentional Crimes: Since attempt requires the specific intent associated with the completed crime, it is inconceivable in crimes of negligence, recklessness, or error, where such intent is definitionally absent.

Impossibility of Attempt in Crimes of Transposed Intent: Where the result exceeds the perpetrator's intent—e.g., battery resulting in death—attempt cannot be established with respect to the aggravated result, because intent was not directed toward that result.

Evidentiary Challenges: The requirement of proving specific intent toward the completed crime may, in practice, allow dangerous perpetrators to escape punishment where the evidence of intent is ambiguous. A perpetrator apprehended while breaking into a house may claim the intent was merely trespass or voyeurism rather than theft or murder, potentially avoiding liability for attempt if the specific intent cannot be proven beyond reasonable doubt.

3.2.2. The Islamic Position: General Intent Toward the Sinful Act

Islamic jurisprudence adopts a fundamentally different approach. For criminal attempt (incomplete crimes punishable by *ta'zīr*), it suffices that the perpetrator possess general intent (*qaṣd 'āmm*) toward the sinful act committed, regardless of whether specific intent toward the completed crime is established.

The intended completed crime is relevant not to the existence of criminal liability but to the determination of the appropriate *ta'zīr* punishment. A perpetrator who breaks into a house with proven intent to steal will receive a more severe *ta'zīr* than one who breaks in with intent merely to trespass, even if both are apprehended before completing their respective objectives. But both are punishable, because the act of breaking and entering is itself a sin (*ma'ṣiyah*) deserving punishment.

This approach eliminates the evidentiary difficulties that plague the Algerian requirement of proving specific intent. The judge need not determine with certainty whether the perpetrator intended theft, murder, or mere trespass; it suffices that the acts committed constitute sins, and the punishment can be calibrated to reflect the degree of dangerousness manifested and the reasonable inferences about intent that the circumstances support.

3.2.3. Comparative Analysis

The divergence between the two systems on the question of criminal intent reflects their different structural approaches to criminal attempt:

Algerian Law: Attempt is a **dependent crime** whose existence and punishment are parasitic upon the intended completed crime. This dependence necessitates proof of the specific intent associated with that completed crime. The binary structure—either punishable attempt (with penalty equal to the completed felony) or no liability—leaves no room for graduated responses to ambiguous cases.

Islamic Jurisprudence: Attempt is an **independent crime** (or series of independent crimes) consisting of the sinful acts actually committed. The intended completed crime is relevant to punishment but not to the existence of liability. This structure permits a graduated response that matches punishment to demonstrated culpability, without requiring the prosecution to prove the perpetrator's ultimate objective beyond reasonable doubt.

From a policy perspective, each approach offers distinct advantages and disadvantages. The Algerian approach provides greater certainty and predictability, adhering strictly to the principle of legality. The Islamic approach provides greater flexibility and comprehensiveness, ensuring that no culpable conduct escapes punishment while allowing individualized penal responses. The choice between these approaches ultimately reflects a society's broader normative commitments regarding the relationship between law and morality, the purposes of punishment, and the appropriate balance between certainty and flexibility in criminal justice.

4. Conclusion

This comparative analysis of criminal attempt in Islamic jurisprudence and Algerian positive law reveals both significant convergences and fundamental divergences between the two legal traditions. The principal findings may be summarized as follows:

First: Structural Divergence. The most fundamental difference lies in the structural approach to criminal attempt. Algerian law, following the French model, treats attempt as a dependent crime whose existence, elements, and punishment are determined by reference to the intended completed offense. Islamic jurisprudence, through the *ta'zīr* framework, treats each stage of criminal conduct as a potentially independent sin, punishable in its own right regardless of the ultimate intended crime. This structural difference explains most of the subsequent divergences in scope, elements, and punishment.

Second: Scope of Application. The scope of punishable attempt is significantly broader in Islamic jurisprudence than in Algerian law. Islamic law punishes any deliberate sinful act that leads toward a criminal objective, including many acts that Algerian law would classify as unpunishable preparatory acts. Conversely, Algerian law restricts punishable attempt to felonies and specifically designated misdemeanors, excluding violations and many lesser offenses.

Third: Commencement of Execution. Both systems have moved beyond purely objective criteria toward recognition of the importance of the perpetrator's subjective disposition. The Algerian legislator's adoption of the "personal school" in Article 30 converges with the Islamic jurists' attention to the perpetrator's purpose (*qaṣd*) in assessing culpability. However, the Islamic approach, unconstrained by the binary distinction between preparatory acts and commencement of execution, is able to punish a wider range of dangerous conduct through graduated *ta'zīr* penalties.

Fourth: Impossible Crime. Algerian law distinguishes between material impossibility (punishable) and legal impossibility (unpunishable), reflecting the influence of the principle of legality. Islamic jurisprudence does not recognize this distinction; all forms of impossibility are punishable by *ta'zīr* provided the perpetrator's act constitutes a deliberate sin, though the punishment may vary according to the circumstances.

Fifth: Voluntary Desistance. Both systems exempt the perpetrator from punishment for the attempted crime upon voluntary desistance before completion. Islamic jurisprudence adds an additional layer of analysis: the quality of the desistance—specifically, whether it is motivated

by sincere repentance—may affect the judge's discretionary determination of punishment, particularly for *ta'zīr* crimes relating to the rights of Allah.

Sixth: Criminal Intent. This represents the most significant doctrinal divergence. Algerian law requires proof of specific intent toward the completed crime, creating potential evidentiary difficulties and gaps in protection. Islamic jurisprudence requires only general intent toward the sinful act committed, with the intended completed crime affecting only the severity of punishment. This approach ensures that culpable conduct does not escape punishment due to ambiguity regarding the perpetrator's ultimate objective.

Seventh: Historical Precedence and Contemporary Relevance. The analysis demonstrates that Islamic jurisprudence developed sophisticated doctrines addressing the full spectrum of issues associated with criminal attempt—the distinction between preparatory and executive acts, the treatment of impossible crimes, the effect of desistance and repentance, and the individualization of punishment based on demonstrated dangerousness—many centuries before modern penal systems addressed these questions. The *ta'zīr* framework, with its flexibility, gradualism, and attention to both objective conduct and subjective disposition, offers valuable insights for contemporary efforts to develop more nuanced and effective approaches to incomplete crimes.

The comparative study of these two legal traditions reveals opportunities for meaningful cross-fertilization. Algerian law might benefit from incorporating elements of the *ta'zīr* approach, particularly in the treatment of preparatory acts that manifest clear criminal intent and in the development of graduated penal responses to varying degrees of criminal dangerousness. Conversely, Islamic jurisprudence might benefit from the Algerian law's clarity and predictability in defining the elements of attempt and from its strict adherence to the principle of legality.

Ultimately, both systems share a common commitment to protecting fundamental societal interests—life, property, honor, public order—while respecting the rights of the accused and limiting state power. Their divergent approaches to criminal attempt reflect different cultural, historical, and normative contexts, but they converge in recognizing that the prevention of harm and the just punishment of culpable conduct require intervention at the stage of incomplete crime. The continued dialogue between these two rich legal traditions promises to enrich both and to advance the shared project of achieving justice through law.

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Povzetek

Članek predstavlja celovito primerjalno analizo doktrine kaznivega poskusa (*shurū'* ali *muḥāwalah*) znotraj dveh različnih pravnih tradicij: islamskega prava in alžirskega pozitivnega prava. Čeprav oba sistema priznavata potrebo po intervenciji na stopnji nepopolnega kaznivega ravnanja zaradi varstva temeljnih družbenih interesov, se bistveno razlikujeta v teoretičnih temeljih, obsegu uporabe in obravnavi ključnih elementov. S sistematično analizo klasičnih islamskih pravnih virov štirih glavnih pravnih šol (ḥanafī, mālikī, shāfi'ī in ḥanbalī) ter določb alžirskega kazenskega zakonika (zlasti 30. in 31. člena) študija razkriva, da alžirsko pravo, ki sledi francoski kazenskopravni tradiciji, kaznivi poskus opredeljuje kot odvisno kaznivo dejanje, ki zahteva enak posebni naklep kot dokončano kaznivo dejanje, odgovornost pa pogojuje z "začetkom izvršitve", ki se kaže v nedvoumnih dejanjih, ki neposredno vodijo h kaznivemu dejanju. Nasprotno pa islamsko pravo nepopolna kazniva dejanja obravnava prek prožnega okvira diskrecijskega kaznovanja *ta'zīr*, pri čemer vsako pripravljeno ali izvršitveno dejanje obravnava kot samostojen greh, ki je kazniv sam po sebi, ne glede na storilčev končni kaznivi cilj. Članek kritično preučuje točke konvergence in divergence na treh primarnih področjih: razlikovanje med nekaznivimi pripravljalnimi dejanji in kaznivim začetkom izvršitve, obravnava nemogočih kaznivih dejanj (materialna proti pravni nemožnosti) in pravni učinek prostovoljnega odstopa. Posebna pozornost je namenjena različnim zahtevam glede kaznivega naklepa: medtem ko alžirsko pravo zahteva posebni naklep, usmerjen v dokončano kaznivo dejanje, islamsko pravo zadošča splošni naklep za storitev grešnega dejanja, pri čemer nameravano dokončano kaznivo dejanje vpliva le na strogost *ta'zīr* kazni. Analiza dokazuje, da okvir *ta'zīr* v islamskem kazenskem sistemu, razvit pred več kot štirinajstimi stoletji, ponuja izjemno celovit in prožen pristop h kaznivemu poskusu, ki v več pogledih anticipira in presega sodobne pravne teorije z osredotočanjem sodne pozornosti na krivdno dejanje samo in ne izključno na nedoseženo kaznivo posledico. Članek sklene z identifikacijo priložnosti za smiselno navzkrižno oplajanje med tema dvema pravnima tradicijama, zlasti pri obravnavi pripravljalnih dejanj, nemogočih kaznivih dejanj in individualizaciji kazni glede na dokazano storilčevo nevarnost.

Ključne besede

Kaznivi poskus; islamsko kazensko pravo; alžirski kazenski zakonik; primerjalno kazensko pravo; *ta'zīr*; začetek izvršitve.

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