A Study on the Differences and Similarities between Aiding and Abetting in the Crimes of Adultery (Zinā (and Sodomy (Liwāt) Compared to the Ḥadd Crime of *Qawādī* and the Offense of Managing or Establishing Centers of Corruption or Prostitution under the Islamic Penal Code

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Abstract.
Understanding and distinguishing between different categories of criminal offenses is among the judicial competencies that a judge must carefully observe when explaining charges and attributing criminal conduct to defendants. In this regard, the three offenses of aiding and abetting in adultery (zinā) and sodomy (liwāt), when compared to the ḥadd crime of *qawādī* and the offense of operating or establishing centers of corruption or prostitution, are so similar in their material elements and statutory definitions that misclassification may arise during the judicial process. The underlying reason is that the ease of commission—arising from the principle of "facilitation" in enabling such immoral acts—causes the role of intermediary conduct and provision of means to appear common across these offenses, placing them superficially within a single category of accusation despite their nuanced distinctions. However, these offenses should not be regarded as devoid of key differentiating features. Paying attention to certain principles—such as the specific, defined nature of *qawādī* compared to the broader concept of aiding in adultery and sodomy, the type of perpetration, fulfillment of results required for criminal liability, temporal and spatial considerations, as well as whether the conduct is continuous or instantaneous—provides judges with reliable tools needed to fulfill their legal functions with precision. Accordingly, this study seeks to clarify the conceptual weight and provide scholarly insight by gathering and analyzing relevant legal and jurisprudential concepts within the framework of this article.

Keywords :*Qawādī* ,adultery, prostitution, ḥadd punishment, law.

Extended Abstract

The correct identification, classification, and differentiation of criminal behaviors constitute a fundamental responsibility of the judicial authority in any criminal justice system. The precise attribution of criminal acts requires the judge to distinguish carefully between offenses that may outwardly appear similar yet differ substantially in their constituent elements, legal definitions, and prescribed punishments. Within Islamic criminal law and the Iranian Islamic Penal Code, the offenses of aiding and abetting in adultery (zinā) and sodomy (liwāt), the ḥadd crime of *qawādī* (pandering), and the offense of establishing or operating centers of corruption or prostitution represent a set of crimes whose material elements overlap significantly. This overlap can lead to confusion, both in judicial interpretation and in practical application, regarding the appropriate legal classification for a given behavior. The present study offers an extensive jurisprudential and legal analysis to elucidate the similarities and distinctions among these offenses and explores the

principles through which the judge may accurately determine which legal regime governs a particular act.

From the perspective of Islamic jurisprudence, zinā and liwāt constitute some of the gravest moral violations, strictly prohibited and punishable under ḥadd sanctions if proven through the stringent evidentiary standards prescribed by Sharia. Aiding and abetting in these acts—whether by facilitating circumstances, preparing the means, or coordinating arrangements—does not constitute the primary act itself; however, it incurs criminal liability through the doctrine of *musā'adah* (assistance), which has a broad conceptual scope. Under this doctrine, any person who knowingly and intentionally makes the commission of zinā or liwāt easier—in whole or in part—falls within the realm of accomplice liability. Since the essence of such liability rests on the principle of "facilitation," its boundaries can expand to encompass numerous behaviors, including providing a place, coordinating a meeting, or acting as an intermediary between offenders. This extensive coverage is the source of the confusion that often arises in distinguishing it from the crime of *qawādī*.

By contrast ,*qawādī* ,or pandering, is a distinct ḥadd offense categorized separately from mere assistance in zinā or liwāt. Classical jurists describe *qawādī* as the act of bringing two or more individuals together for the purpose of committing fornication or sodomy, often repeatedly or habitually. The criminality of *qawādī* therefore depends not on general facilitation but on the specific function of connecting sexual partners with the intention of enabling illicit acts. The Iranian Islamic Penal Code adopts this classical definition and provides ḥadd punishments for individuals who habitually or intentionally engage in such conduct. While aiding and abetting zinā or liwāt may occur even through a single, occasional act of support ,*qawādī* requires a more specific and deliberate form of mediation, often associated with repeat actions or professionalized behavior. These distinctions, although conceptually clear in theory, are less obvious in practice, where even routine acts of facilitation may appear similar to pandering from the standpoint of external behavior.

Further complicating matters is the offense of establishing, running, or managing centers of corruption or prostitution, which is categorized separately from both *qawādī* and aiding in zinā or liwāt. Under Iranian law, such conduct constitutes a serious criminal offense due to the perceived threat posed to societal morality, public order, and community safety. These centers are typically defined as places where immoral or illicit sexual activities are systematically encouraged, organized, or facilitated. Although the operators of such establishments do not always directly mediate between specific individuals—unlike the case of *qawādī*—their conduct nonetheless embodies a form of systematic facilitation that has broader societal consequences. For this reason, the law treats such behavior not as mere participation or mediation in an individual immoral act but as an organized enterprise that institutionalizes vice, requiring a penal response that is more severe and preventive in nature.

Despite these doctrinal distinctions, the material elements of the three offenses intersect substantially. All may involve facilitating illicit sexual acts, providing opportunities or locations for such acts, or mediating between willing participants. From a functional standpoint, the behaviors giving rise to liability appear analogous: coordination, enabling, arranging, or hosting interactions that lead to prohibited sexual conduct. The principle of ease of commission—

stemming from the jurisprudential concept of "tashīl" (facilitation)—contributes significantly to the overlapping elements. A single act of arranging a meeting could, depending on the circumstances, be construed as aiding in zinā, constituting *qawādī* ,or even contributing to the operation of a center of prostitution. This convergence increases the risk of misclassification, especially when judges rely solely on outward behavior without fully considering the mental element, the nature of the parties involved, and the broader context.

The present study argues that resolving this confusion requires attention to several jurisprudential and legal criteria. First, the doctrinal scope of each offense must be properly understood. Assistance in zinā or liwāt is broad and encompasses any facilitative act regardless of frequency or habitual nature. In contrast ,*qawādī* is narrower but more specific: it concerns mediation between individuals for illicit sexual relations, particularly when done knowingly and sometimes repeatedly. Managing a center of corruption or prostitution, however, involves organizational and structural elements absent from the other two offenses. It requires intentional establishment, maintenance, or supervision of a setting designed to encourage or enable immoral activities on a continuing basis. Recognizing these differentiating elements allows for more precise application of the law.

Second, the requirement of continuity and repetition is essential in distinguishing *qawādī* and managing centers of prostitution from occasional assistance in zinā. Occasional or isolated acts of facilitation cannot normally be classified as *qawādī* ,which traditionally requires habitual or professional conduct. Similarly, operating a center of prostitution implies ongoing management, not sporadic involvement. Thus, the temporal nature of the conduct—whether instantaneous or continuous—provides important guidance for judicial classification.

Third, the nature and degree of the offender's involvement play a central role. For accomplice liability in zinā or liwāt, the offense is derivative: its existence depends on the principal act committed by others, and the facilitator's liability attaches even if their role is minor as long as their intention aligns with enabling the act. In *qawādī* ,however, the mediator's participation is central and constitutes the primary criminal behavior, independent of whether the illicit act is ultimately carried out. The mere act of connecting individuals suffices for liability. In contrast, for managing prostitution centers, liability arises from systemic involvement rather than individual episodes.

Fourth, the intent) *qasd* (and purpose of the actor must be examined. A person who provides a location unknowingly or without intent to facilitate zinā is not a perpetrator. Similarly ,a landlord who rents property without knowledge of its misuse cannot be held liable for running a prostitution center. The differentiation between intentional facilitation and incidental benefit is crucial, and courts must investigate this element rigorously to avoid wrongful attribution of criminal liability.

Fifth, the spatial dimension—particularly the place in which the conduct is carried out—may also offer guidance. Conduct occurring within private settings, involving specific individuals, often falls within the scope of aiding in zinā or *qawādī* .Conduct occurring within locations designated or adapted for repeated acts of immorality may fall under the category of running or managing centers of prostitution. This spatial distinction reflects the broader societal harm associated with institutionalized vice, which differs from private unlawful acts.

Applying these criteria, the study argues that the first step in resolving the doctrinal confusion is for courts to carefully define the behavioral thresholds for each offense. Judges must rely on both statutory interpretation and jurisprudential principles rather than superficial behavioral similarities. The study suggests that legislative bodies may consider clarifying statutory definitions to better delineate the material elements of these crimes, thereby reducing ambiguity.

Ultimately, the research concludes that while aiding in zinā or liwāt ,*qawādī* ,and managing centers of prostitution may share overlapping external forms, they remain distinct offenses with different legal foundations, evidentiary requirements, and prescribed punishments. Proper differentiation requires comprehensive attention to the intent, frequency, context, role of the accused, and societal impact of the behavior. By adopting such an analytical framework, the judiciary can avoid misclassification and ensure that each offense is addressed within its appropriate doctrinal boundaries, thereby promoting fairness, consistency, and accuracy in criminal adjudication.

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