

CRIMINAL INTENT BEHIND" DRIFTING" UNDER THE SAUDI LAW

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ABSTRACT: According to the potential intent, the offender in the Drifting crime is deemed to have committed the crime of deliberate killing and not of an involuntary manslaughter, given that, from the start, he had a well-developed sense of anticipation and knowledge while driving at a careless speed; although the offender was aware and certainly foresaw that the car might flip and hit the passers-by thus killing them, he did not mind and took the risk. At the beginning of the act, the offender had a high sense of anticipation that his act was going to cause the death of one or more people; however, he did not reject such anticipation, but welcomed it and took the risk, disregarding laws and regulations. Therefore, I concluded that there is equivalence as regards the legal value between the potential intent behind the Drifting crime and the deliberate killing.

Keywords : Drifting, potential-intent, criminal-intent, deliberate-killing, involuntary-Manslaughter

INTRODUCTION

Recently, there have been increasingly tragic accidents caused by "drifting" and the phenomenon's accelerated growth has become a concern for the criminal law legislator seen the crime that is committed by outlaws. While it was previously a one-man show, this crime is now committed by groups of people with undeclared intent; however, it seems that the incentive behind such act is fame, luxury or eccentricity.

These groups have become larger, with the crime involving several parties: the crime's main perpetrator, i.e. the drifter who drives the car; the passengers riding his car to cheer him on, while encouraging him and showing off his skills by getting out of the car window; the person found on the Drifting scene for manoeuvring purposes; the one among the public who gives specific signs to the driver in an attempt to hearten him, this being more of an "intervener" in the crime; and the one who prepares the car for Drifting equipping it with tires, smoked glass, among others.

As this dangerous phenomenon is developing at an accelerated pace, diligent efforts must be made to put an end to it, especially if it turns out that it claims hundreds of lives, according to annual reports.

This is the reason why I decided, through this paper, to look for a legal way to deter these offenders. In fact, legislations show that the traffic law is ineffective at fighting this phenomenon due to the weak incrimination with regard to the Drifting crime; the punishment, imprisonment or fine are negligible compared to such a perilous crime resulting in huge human losses and claiming lives by way of fun, not to mention the damages caused to public and private properties.

Looking at this issue from another perspective, i.e. the drifter's criminal liability: is he liable for a deliberate killing or an involuntary manslaughter?

When caught in the act, the drifter is taken to the Kingdom's investigation authority and this would be a traffic violation for which the perpetrator must be arrested. Thus, the legislators are helpless in the face of such a crime.

In this paper, I look into the nature of the criminal intent behind the Drifting crime: Is the Drifting just a traffic violation dealt with by all legislations under the traffic law or might its author be considered as having committed a deliberate killing? Is the Drifting regarded as an offence or is it so serious that it might be considered as a felony in terms of incrimination and punishment? This study will provide answers to these questions.

Theoretical framework

This paper is a first, exploratory, attempt at providing some background, and a framework, to help more systematically incorporate crime prevention in their remit.

Probabilistic intent in the crime based on or adapted to a theory of probability; subject to or involving chance variation.

Specific intent is the intent with the highest level of culpability for crimes other than murder. Unfortunately, criminal statutes rarely describe their intent element as "specific" or "general," and a judge may be required to define the level of intent using the common law or a dictionary to explain a word's ordinary meaning. Typically, specific intent means that the defendant acts with a more sophisticated level of awareness. Crimes that require specific intent usually fall into one of three categories: either the defendant intends to cause a certain bad result; the defendant intends to do something more than commit the criminal act, or the defendant acts with knowledge that his or her conduct is illegal, which is called scienter.

DEFINITION OF DRIFTING AND OPINION OF SAUDI LEGISLATORS

There is no ultimate holistic definition for Drifting in the legislations. Against this legislative silence, the Saudi legislators came up with a definition of Drifting that was introduced into the Saudi traffic law. According to them, the Drifting is defined as "starting up a car at high speed in such an unexpected or unsystematic manner so as to produce a loud tire noise, or any careless and perilous driving for fun or show purposes or to block the road or impede traffic (*¹).

Yet, in my opinion, the Drifting is legally defined as "a voluntary positive demeanour of a criminally responsible person by driving a car at high speed and then spinning it, as if he turns around himself, thus risking his life, as well as that of other people, and striking fear and panic into the hearts of the passers-by due to the way he drives.

There is no English equivalent for "Drifting", but terms like "careless driving/causing death by careless driving" are found in the Australian, Canadian laws and British (*²).

^{1*} Article 2/41 of the Saudi Traffic Law issued in 1428 H.

^{2*} British Road Traffic, F13ZAMeaning of careless or inconsiderate driving

(1)This section has effect for the purposes of sections 2B and 3 above and section 3A below. 1988

(2)A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver.

In the legislations of the Arab States, there is no such word as “drifting”, yet the comparative legislations introduced “the misdemeanour resulting in death or permanent disability” and the offence “of driving carelessly or spectacularly on the road.”

The Drifting in KSA is a “traffic infringement” pursuant to the traffic law, article (69). This way, the conflict arising out of this issue was settled by the Saudi legislators, who consider Drifting as an offence, and not as a crime. In article (60) of the traffic law, the Saudi legislators also believe that the traffic accident entails a liability should it be occasioned by negligence, lack of caution or breach of laws and regulations. Moreover, in their opinion, the person who drives over the speed limit in an overcrowded street and gets any passenger killed or wounded is regarded as “having committed a mistake” and not as a killer.

Under article (69), the Saudi legislators divided the drifting penalty into three phases in light of the wrongdoer’s previous record:

1. In the first time, the vehicle is impounded for 15 days, a SR 1,000 fine is charged, and the driver is taken to the competent court where he is sentenced to jail.
2. In the second time, the vehicle is impounded for one month, a SR 1,500 fine is charged, and the driver is taken to the competent court where he is sentenced to jail.
3. In the third time, the vehicle is impounded and a SR 2,000 fine is charged, and the driver is taken to the competent court where he is sentenced to jail, then is referred to the competent court which shall look into the vehicle’s origins or compel him to pay a fine of the just value of the rented or stolen vehicle and sentence him to imprisonment.

The drifting is now one of the 21 major crimes in KSA that require an immediate arrest and the person convicted of causing death is sentenced to at least one year in jail and to a fine of no less than SR 10,000, after which the case is referred to the “sharii” authorities in pursuit of the private right.

Under article (60) of the traffic law, according to the Saudi legislators, the traffic accident entails a liability should it be occasioned by negligence, lack of caution or breach of laws and regulations and the person who drives over the speed limit in an overcrowded street and gets any passenger killed or wounded is regarded as “having committed a mistake”, this being in contradiction with the deliberate killing because the author in this case committed a deliberate killing, and not a manslaughter, based on the potential intent I will evoke later on.

Elements of the Drifting Crime and Its Differentiation from Manslaughter

Like any other crime, the drifting must feature general elements. Since Saudi legislators prohibit women from driving an automobile within Saudi Arabia, the Saudi traffic law provisions do not apply to them. This leads us to the relation between the crime and the gender of its author, whether male or female - which is not covered in my present paper, as was stated by John [1] .

Material Element of the Drifting Crime

It is the material substances the crime is based on and which are felt by both the wrongdoer and the victim. There is no crime without a material element.

The material element of a perfect crime means the act that completes the attack against the right protected by the law Peter [2] . Its constituents are as follows, Honeis [3] .

- 1- The criminal conduct by the offender.
- 2- The criminal result achieved in the external world.
- 3- The causal relationship between the offender’s conduct and result.

1. The Positive Conduct Element:

The Drifting crime must necessarily involve a positive action or activity, Peter as referred in [2] represented by a voluntary physical movement made by the wrongdoer, Hosni [4] , which is in the case of Drifting, moving the car from its place and driving it at very high speed. Such conduct also requires a free will, i.e. the perpetrator must have been determined to achieve a specific criminal goal banned by the law, as a result of which, specific legal effects would have been produced, Al Said[5] .

As far as the Drifting crime is concerned, the wrongdoer intended to make acrobatic circular motions with the car of an absolute free will and without any coercion, in a public venue where the State forbids doing so.

The will linked to the action is an assumed element of the crime, because it is assumed that man’s all acts are always based on his own free will; therefore, the investigation authority, Dutelle [6] is not under the obligation of proving the presence of such will, Hadithi [7] , and although confession is the best evidence, the accused may use any means of proof to prove that he committed such act without a free will, Mohammed [8].

2. Criminal Result:

It means the effect brought about by the criminal conduct and which is taken into consideration by the legislators in the crime’s legal composition [9]. The criminal result is the violation of the interest protected by law, Najm, M. [10] and is achieved in any of the following forms .

1. by doing harm to the interest whether by fully disabling or reducing it.
2. by only endangering such interest.

Concerning the Drifting crime, to be considered a penal one, such conduct must necessarily result in the death of one or more people due to the Drifting.

3. Causation

It connects the criminal activity with the result. In the absence of causation, it is impossible to hold the defendant liable for the crime attributed to him, Ahmad . [11]. In the drifting crime, the activity must be in connection with the result; in this case, the activity is the “drifting” and the result is the criminal outcome produced by such activity, i.e. the “death”.

Criminal Intent in the Drifting Crime

It is the mental state of the author during his commission of the crime and which is represented by the will to commit the crime even if it goes beyond the criminal result (*³).

For the criminal legislations, the material act is not sufficient for a criminal liability to be established against the author, but also the author’s mental state and the stress existing at the time of the perpetration of his crime during the investigation, Dutelle [6] and through which the judge can know how dangerous the perpetrator is and decide the right punishment to make him less dangerous and

³ In determining, for the purposes of subsection (2) above, what would be expected of a careful and competent driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

rehabilitate him if possible.

Criminal Intent Elements

Judges and scholars alike long have criticized the terminology of “general intent” and “specific intent” as confusing¹ and perhaps incoherent.

If general and specific intent aren't culpable mental states, though, what exactly are they? The answer is that these terms describe the relationship between an offense's mental elements and its physical elements. This answer deserves explanation, because it's the key to understanding general and specific intent

First, by “physical elements” I mean the “conduct” elements, “attendant circumstance” elements, and “result of conduct” elements of which criminal statutes are composed.¹⁰ To illustrate: The crime of drunk-driving homicide essentially has three physical elements: (1) operating or driving a vehicle, which is a “conduct” element; (2) under the influence of alcohol, which is an “attendant circumstance” element; and (3) causing the death of another person, which is a “result” element.¹¹ Of course, criminal statutes also have “mental elements.”¹² In the Model Penal Code, as in many state criminal codes, the mental elements used in defining offenses include “purposely,” “knowingly,” “recklessly,” and “with criminal negligence.”¹⁴ Criminal codes also occasionally use mental states like “maliciously” or “wilfully” The most important thing to understand about all these mental states is that they “do not exist in isolation—instead, they relate to the [physical] elements contained in the definition of the crime.”¹⁵ In the criminal law we never speak of mental states like recklessness or negligence except in relation to a particular result or circumstance. This is evident, for example, in the standard definitions of recklessness and criminal negligence, which imply that recklessness and criminal negligence can exist only in relation to a statutorily defined “result” or “circumstance.”¹⁶ Because culpable mental states don't exist in isolation, but instead attach to the individual physical elements of offenses, one cannot adequately describe an offense merely by listing its physical and mental elements. One has to specify, as well, just how the offense's physical elements are connected to its mental elements. Criminal law is like chemistry: It isn't enough to know of what basic, atomic elements an object is constructed. To understand the object, you also have to know how exactly the atoms fit together to form molecules (or crimes, as the case may be).

To illustrate: Let's return to the offense of drunk-driving homicide. Remember that this offense has three physical elements: (1) operating or driving a vehicle, which is a “conduct” element; (2) under the influence of alcohol, which is an “attendant circumstance” element; and (3) causing the death of another person, which is a “result” element. The statutes defining this offense usually don't mention a mental state.¹⁷ but let's assume, for the sake of illustration, that we've been reliably informed that the mental state for the offense is “purposely.

Crimes can be broken down into elements, which the prosecution must prove beyond a reasonable doubt. Criminal elements are set forth in criminal statutes, or cases in jurisdictions that allow for common-law crimes. With exceptions, every crime has at least three elements: a criminal act, also called *actus reus*; a criminal intent, also called *mens rea*; and concurrence of the two. The term conduct is often used to reflect the criminal act and intent

elements.

The Knowledge

Intent is a notoriously difficult element to prove because it is locked inside the defendant's mind. Ordinarily, the only direct evidence of intent is a defendant's confession, which the government cannot forcibly obtain because of the Fifth Amendment privilege against self-incrimination. Witnesses who hear the defendant express intent are often unable to testify about it because of evidentiary rules prohibiting hearsay. However, many jurisdictions allow an inference of general intent based on the criminal act. In essence, if the jury accepts the inference, the prosecution does not have the burden of proving intent for a general intent crime.

The Knowledge, It is a state of mind or some awareness preceding the will and allowing the correct perception of things in conformity with the facts. The criminal intent only exists if the wrongdoer has previous knowledge of the crime's basic elements. If he is ignorant, there is no criminal intent, ALIA [12].

In the Drifting crime, I believe that for the criminal intent to exist, the author has only to will the criminal act while being aware of all other components of the crime's material element. Such theory excludes the willing of the result from the criminal intent's elements, and admits the mere knowledge about the material element's components, including of course the outcome as along with the will of the action. For example, in the Drifting crime, the criminal intent is composed of the knowledge, i.e. the drifter is fully aware that in the place where the crime is committed, there are living people and that such act might cause the death of the people around. Here, the criminal intent is composed only of the anticipation of the killing act, such will not including the death. In fact, the knowledge is about anticipating, thus producing the potential intent, Aoudeh [13].

Knowingly indicates that the defendant is aware of the nature of the act and its probable consequences, Knowingly differs from purposely in that the defendant is not acting to cause a certain result but is acting with the awareness that the result is practically certain to occur. The Model Penal Code describes knowingly as follows: “A person acts knowingly with respect to a material element of an offense when...he is aware that his conduct is of that nature...if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result for example Victor brags to his girlfriend Tanya that he can shoot into a densely packed crowd of people on the subway train without hitting any of them. Tanya dares Victor to try it. Victor removes a concealed weapon from his waistband and shoots, aiming at a group of people standing with their back to him. The shot kills Monica, who is standing the closest to Victor. In this case, Victor did not intend to shoot Monica. In fact, Victor's goal was to shoot and miss all the standing subway passengers. However, Victor was aware that he was shooting a loaded gun (the nature of the act) and was also practically certain that shooting into a crowd would result in somebody getting hurt or killed. Thus Victor acted knowingly according to the Model Penal Code. If the state in which Victor shoots Monica defines murder intent as knowingly under the Model Penal Code, then Victor has most likely committed murder in this case.

The Will

According to the theory of the will, the criminal intent necessitates the willing of the criminal act and the willing of the outcome as well, with the knowledge as to all the constituents of the crime's material element.

The will is a mental activity carried out consciously and discerningly to achieve a specific goal. If such conscious and discerning will is directed to carry out the criminal act by controlling the crime's material conduct and to achieve the outcome, then the criminal intent is established in the material crimes where the outcome is willed, while for the intent to exist, it only requires a will which tends to achieve the conduct in the purely behavioural crimes.

The will is of paramount importance in the criminal law, for the law is concerned with the voluntary acts, and if the person has no such will, he is not held responsible even if he would have caused serious damages to the community.

According to the criminal psychology, the criminal intent represents the human psyche facts, Mohammed [8], and based on the potential intent, it is the person's will that drives him to make some muscular movement that reflects his criminal determination whether the result is achieved or not. This idea makes no difference as to the potential intent between the act and the result, for both make up the criminal intent in the intentional crimes, including the Drifting crime.

Distinction between the Criminal Intent in Drifting and Other Intents

1. Difference between Criminal Intent in Drifting and Accidental Conduct

The Model Penal Code divides criminal intent into four states of mind listed in order of culpability: purposely, knowingly, recklessly, and negligently.

Purposely

A defendant who acts purposely intends to engage in conduct of that nature and intends to cause a certain result. Purposeful criminal intent resembles specific intent to cause harm, which was discussed previously. As the Model Penal Code states, "[a] person acts purposely with respect to a material element of an offense when: (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result", Ayman [9].

Recklessly

Recklessly is a lower level of culpability than knowingly, and reckless intent crimes are not as common as offenses criminalizing purposeful, knowing conduct. The degree of risk awareness is key to distinguishing a reckless intent crime from a knowing intent crime. A defendant acts recklessly if he or she consciously disregards a substantial and unjustifiable risk that the bad result or harm will. This is different from a knowing intent crime, where the defendant must be "practically certain" of the bad results. The reckless intent test is two pronged. First, the defendant must consciously disregard a substantial risk of harm. The standard is subjective; the defendant must know of the substantial risk. Second, the defendant must take an unjustifiable risk, meaning that no valid reason exists for the risk. The standard for this prong is objective; if a reasonable person would not take the risk, then the defendant's action in taking it is reckless. As the Model Penal Code states, "[t]he risk must be of such a nature and degree that...its disregard involves a gross deviation from the

Standard of conduct that a law-abiding person would observe in the actor's situation.

Negligent intent crimes are less culpable than reckless intent crimes and are also less common. The difference between reckless and negligent intent is the defendant's lack of awareness. While defendants committing negligent intent crimes are also faced with a substantial and unjustifiable risk, they are unaware of it, even though a reasonable person would be. Thus the first prong of the reckless intent test is simply changed from a subjective to objective standard. As the Model Penal Code states, "[a] person acts negligently...when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct.

In deliberate killing, the will of the wrongdoer is aimed at producing a specific outcome incriminated by law, while in manslaughter; the will is not aimed at achieving a criminal outcome, even if it is directed towards the act. The unlimited intent is one form of the criminal intent where the wrongdoer identifies neither the subject matter of his crime nor that of the criminal result he wants to achieve, and he uses such a pretext to cause as much damage and harm as possible to the individuals and the community through his intent.

2. Difference between Criminal Intent and Motivation of the Crime:

Intent should not be confused with motive, which is the reason the defendant commits the criminal act or actus reus. Motive can generate intent, support a defence, and be used to determine sentencing. However, motive alone does not constitute means rea and does not act as a substitute for criminal intent.

The motivation of the crime is the psychological motive that pushed the wrongdoer to perpetrate the crime, while the criminal intent is the mere willing of the crime. The motivation does not fall within the criminal intent. And this is one of the requirements of the criminal justice rules, Peak [14].

Criminal Intent in Drifting and Opinion of Courts Potential Intent behind the Drifting Crime

The moral element of the crime requires the will to reach the crime's material elements; when the conduct entails a specific result, the acting person's will must fall within any of the following hypotheses, Bahnam [15].

1. When the wrongdoer wills and insists on achieving the criminal result, it is called the "direct criminal intent". The majority of cases will be quite straight forward and involve direct intent. Direct intent can be said to exist where the defendant embarks on a course of conduct to bring about a result which in fact occurs. Eg D intends to kill his wife. To achieve that result he gets a knife from the kitchen, sharpens it and then stabs her, killing her. The conduct achieves the desired result.
2. When the wrongdoer doesn't directly will the result, but only accepts it, by anticipating the result and accepting to take the risk, it is called the "potential intent".
3. When, since the beginning, the offender hasn't willed the result, such conduct is considered as "accidental".

Both Islamic law (fiqh) and the justice agreed (*⁴) that "potential intent is an uncertain secondary intention the

⁴ A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

wrongdoer has, the latter expecting his exactly intended act to change to another end he has never intended and nevertheless, he carried out the act thus achieving the unintended end, Abdul Malek [16].

The fiqh also, Mohammed [17] sets the following conditions for the potential intent which is equivalent to the direct intent.

1. An indirect default has been performed or has just been started.
2. There is a result other than the one the direct criminal intent is aimed at, provided it is not an inevitable essential result of the act because the inevitable results are part of the act, and thus are directly intended.
3. The wrongdoer must have anticipated such a criminal result which went beyond his intent or the anticipation of which didn't prevent him from persisting in his criminal activity.
4. The crime that has gone beyond the author's original intent was completed or about to be committed. In this case, the wrongdoer must not be accountable for the harmful criminal results that could have occurred based on the fact that they are probable because the probability of occurrence is totally equivalent to the probability of non-occurrence and the wrongdoer is only liable for what has really happened. These conditions were adopted by both fiqh and the justice, Hosni [18].

The potential intent is achieved when the results prove to be more serious than what the wrongdoer expected, and nonetheless, the latter accepted (*⁵) them later on. Therefore, such intent is more serious than what the wrongdoer expected. This was expressly stated in some legislation since the potential intent is one aspect of the criminal intent.

In the Drifting crime, the undertaking of the activity by the author produces a more dangerous result than that expected when committing the crime. One concludes from the criminal event conditions that such result was in the wrongdoer's opinion probable, not certain.

What makes the deliberate killing crimes different from the potential intent is that in the deliberate killing crimes, Huda [19], the perpetrator's intention tends to claim the life of the victims in the case of direct intent. As far as the potential intent is concerned, the criminal result arising out of the act goes beyond the perpetrator's intent if he has expected it and thus agreed to take a risk(*⁶).

Therefore, according to the potential intent, the author of the drifting crime is deemed to have committed a deliberate killing crime, not manslaughter, given that, from the start, although he did it while knowing that the car he was driving at very high speed might flip and hit the passers-by thus killing them, he did not mind and took the risk. Since he first engaged in the act, he had high expectations that his act might cause the death of one or more people; however, he accepted such expectations and took the risk, contrary to manslaughter where the author has not willed, since the beginning, such a result, Talal [20].

I disagree with the legislations that consider the drifting as a security crime where the only stipulation of such crime is introduced by the legislators in the traffic law as a fine, and

some legislation classify it among the crimes that require immediate arrest. Based on the potential intent, the drifter can only be regarded according to the meaning of deliberate killing as someone who has killed deliberately, consciously and willfully. This way, the legal value of the potential intent in the drifting crime is equivalent to deliberate killing.

According to fiqh, the potential intent is an intersection between the intent circle and the accident circle, existing at the bottom of the intent circle and at the top of the accident circle. Therefore, the drifter is held liable for a murder crime if his act caused the death of one or more people since the potential intent is similar to the original intent.

The Drifting Crime in the Comparative Legislation Opinion of Jordanian Courts on Drifting Crime

The Jordanian Court of Cassation sees the potential intent as equivalent to the direct intent in terms of legal value. It states that "if the criminal intention arising from the act went beyond the intent of the author who had already anticipated it, and though, had taken the risk, because although the wrongdoer expects that the result might occur, he does not care, takes the risk and commits the act, he would be then considered as someone who anticipated the result and undertook his activity willing its occurrence, and whoever accepts the result in advance after having expected it to occur, is regarded as having willed it because the potential intent has the same legal value as the direct intent. In a recent judgment in a Drifting case, the Jordanian Court of Cassation judged as follows (*⁷): "What makes the deliberate killing crime different from a crime that causes death is the author's intention. The first tends to claim the life of the victim in case of direct intent and the criminal intention arising from the act went beyond the intent of the author who had already anticipated it, and, though, had taken the risk in case of potential intent. And whereas the author's activity, i.e. driving his vehicle at high speed and heading to a place crowded with people, was the intent factor in producing the criminal result represented in the running over the victim, such crime is deliberately committed - even if it goes beyond the result arising from the wrongdoer's act - for having anticipated the result and taken the risk.

Also, in a recent and unprecedented judgment in the Jordanian justice, it ruled that "the potential intent (*⁸) is an uncertain secondary intention the wrongdoer has, the latter expecting his exactly intended act to change to another end he has never intended and nevertheless, he carried out the act thus achieving the unintended end. And whereas the accused person (the cassation subject) is considered as having willed the execution of his act, which is shooting first from different arms, then by using a rifle during a wedding ceremony attended by tens of people in addition to the musical band, and firing while holding the arm one-handedly obliquely with the muzzle directed towards the musical band. Such act changed to another criminal end, i.e. the shooting of the victims which was not meant. Therefore, the author is accountable for the potential

⁵ See Lebanese Penal Law, article 189.

⁶ Ruling No.1937/2011 rendered on January 24, 2012 (five-party jury) by the Jordanian Court of Cassation in its penal capacity, publications of the Legal Justice Centre.

⁷ Ruling No.2261/2011 rendered on January 17, 2012 (five-party jury) by the Jordanian Court of Cassation in its penal capacity, publications of the Legal Justice Centre.

⁸ Ruling No.1394/2012 rendered on August 23, 2012 (five-party jury) by the Jordanian Court of Cassation in its penal capacity, publications of the Legal Justice Centre.

intent and is held liable for the felony of killing more than one person.

Opinion of Saudi Courts on Drifting Crime

In KSA, and in the first-of-its-kind case in the kingdom, the Saudi courts looked into the Drifting crime, considering it as a crime whose perpetrator deserves death as a way of rebuke. In fact, the Court of Cassation rendered a decision of executing F.A. against whom the Sharia court in Jeddah had issued a Sharia order requiring his execution for killing more than one year and six months ago three young men out of five who were with him in the car in a northern neighbourhood in Jeddah city, while drifting in an unpopulated area, and then Abu Cab⁽⁹⁾ was obliged to pay blood money.

In another case, the Saudi Unaizah court rendered a judgment against a drifter called Motanesh, condemning him to death as a way of rebuke. The latter had posted publications on his website intending to gather crowds of people who would watch him while performing the drifting, had prepared meals for them and rented a car from a car rental agency in Riyadh. During the drifting, he hit two Saudi young men who died at once, and ran away without helping them⁽¹⁰⁾.

CONCLUSIONS

At the end of this paper, I conclude that according to the potential intent, the offender in the Drifting crime is deemed as having committed the crime of deliberate killing and not of involuntary manslaughter, given that, since the beginning of his act, he had a well-developed sense of anticipation and knowledge while driving at a careless speed, Almajale [21], and although the offender was aware and certainly anticipated that the car might flip and hit the passers-by thus killing them, he did not mind and took the risk. At the beginning of the act, he had a high sense of anticipation that his act was going to cause the death of one or more people; however, he did not reject such anticipation and took the risk, disregarding laws and regulations. Therefore, I concluded that there is equivalence as regards the legal value between the potential intent behind the Drifting crime and the deliberate killing Al Said [22]. In the light of the previous study, I have reached the scientific findings established in their places in the study: 1. The Drifting act is a criminal offence, and the perpetrator of the Drifting crime is the perpetrator of a deliberate killing according to the potential intent, for the author has anticipated the result, and though accepted it, and there is no way that it can be considered as "manslaughter". 2. The crime must be prevented and this is a task that must be undertaken by the State which shall establish authorized places where the youth can exercise their hobby under the State control and conforming to the public safety conditions so that such a hobby becomes a kind of sport, not a crime. 3. The legal texts must be amended by intensifying the punishment against the

offender since the latter committed a deliberate killing crime, not a mere traffic violation.

4. There are many reasons and motives behind such phenomenon, most importantly seeking fame, occupying free time, competing, displaying the car's performance, lack of parental control which is the source of such conduct, abnormal relations and attempt of some youth to draw attention.

5. Drifting is a word used in KSA and is among the first 20 major crimes in the Kingdom. Other legislations use, however, the term "careless driving."

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⁹ He was so nicknamed because he was an officer in the Saudi navy and was sentenced to death in 2005 after being convicted for killing three teenagers in a tafheet accident, then the sentence was mitigated to 3,000 lashes and 20 years in prison.

¹⁰ The judgment was rendered unanimously. See the criminal department in Unaizah court, judgment of June 24, 2012 AD.