

Pathology of The Psychedelic Drug and Narcotic-Related Crimes in The Law of Iran and The United Kingdom

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Abstract

Different communities have been involved with the dangers of drugs from long ago, and the variety of the drugs is increasing day by day; especially when the drugs became industrial, and new drug called "psychedelic drug" was created with the various effects on the individuals' mind and will. Hence, different legal systems deal with different types of crimes related to these drugs with different approaches. The criminal policy governing drug crimes primarily focuses on the government's responses, both criminal and non-criminal, but the role of organs and NGOs is significant in the field of prevention and treatment of non-drug responses. The relative decimation of addiction, the participation of NGOs in the treatment of drug addicts and the drug rehabilitation, the perpetrator of industrial psychotropic drugs, and the reduction of the confiscation of the perpetrator's entire property to the property derived from crime, cooperation with the other countries in the prosecution of drug crimes, the guarantee for the implementation of the cancellation of the passport for perpetrators and the intensification of the punishment of the heads and perpetrators of drug crimes from the cases of the 2010 Amendment of the Counter Narcotics Law, have influenced the general anti-narcotics policies adopted in 2006, as well as international documents. Contrary to Iran pathology approach, it is possible to use social and non-repressive punishments for some minor drug crimes in the UK's legal system.

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1. Introduction

Nowadays, in new criminal law, the necessity of formulating a program and a differential pathology system is discussed, which can coincide with the specific conditions of responding to crimes and the developments of human societies, manage and control the rate of criminal phenomena in the community. One of the specialty fields of today differential pathology is specializing the response to drug crimes, so-called special psychotropic drugs. With reviewing the legitimate history of this issue in Iran, it can be said that the various laws have been passed and implemented in this regard. After the victory of the Islamic Revolution, and with the adoption of the new drug law, Iran's perpetrator policy was based on the intensification of the punishment of drug crimes, and all its issues and directions were criminalized. In this law, the legislator, using mathematical or Aristotelian logic, criminalized the use of narcotics in terms of the amount of narcotics, determined the punishment and considered all types of narcotics and punishments such as the whip, imprisonment and execution (Torabi, 2012).

In spite of the fact that drugs in the community and the UK legal system, have not yet become a national crisis, but has devised a special differential perpetrator schema for preventing and responding to these crimes that in many ways reflects the logic of criminal and cooperative policy, and the community-oriented in this field. With contemplation and study of British criminal law, we find that all kinds of drugs were subject to the sentence of legislature. The whipping and execution have been eliminated from the country's criminal arsenal, and the transportation and maintenance of a small amount of narcotics for personal consumption have not been criminalized in some cases, and the sale and delivery of narcotics in pharmacies has been authorized for pharmaceutical use. Sentencing System Drug and Psycho-Related Crimes in The Law of Iran and The United Kingdom: In order to understand the psychology approach in the field of drug and psychoanalysis, the analysis of the system of punishments that the authorities have described to them, can open more horizons for drug psychology and better represent its content. Therefore, in this section, we will look at punishments or the system of reaction to the Counter Narcotics Law and compare it with the British code of criminal law. The General Approach to Drug and Psychedelic drug in Iran: Iranian legislator basically, has attempted to adopt a repressive criminal approach to drug crimes and to establish a formal and governmental criminal policy in controlling the crime rate associated with drug and industrial psychotropic drugs in the Counter Narcotics Law. Meanwhile, a successful and targeted campaign against the drug crimes requires a comprehensive criminal policy which can take criminal measures in this regard while using criminological measures. In order to clarify the necessity of such a view and approach, it is worth noting that the deterrent rules for committing crimes, including drug crimes in each community, is determined by competent authorities in order to provide the order in society and social security, with the aim of preventing repeat crimes by the perpetrator. Given that social values are real things, it can limit the freedoms of individuals, restrict them, and be the basis for establishing legal barriers to criminal policy (Sadati, 2013).

In Iran, for the prevention of crimes and the reform of narcotics-related perpetrator s, since 1910 (the second term of the National Assembly), laws and regulations have been established so far that the latest action is the drafting of the Law on Counter Narcotics, approved in 1997 with the amendments of 2010 and 2017. The execution punishment, which had been stipulated in the "Article 4 of the Law on Amendments to the Prohibition of Opium Cultivation and Opium Use", contained fourteen items in the law approved in 1997. The content of the law indicates that the legislator has tried to apply punishments and strategies in perpetrator policy on the prevention of drug crimes and the correction of perpetrator s in proportion to the harm for the individuals, community and the environment; as the execution punishment and confiscation of property are carried out on the perpetrator s smuggling drugs, but for drug users, light punishments are prescribed, and even according to the article 15 of the current drug law, while drug addiction is considered as a crime, all drug addicts are allowed to visit the virtual centers designated by the Ministry of Health and Medical Education and apply for treatment and rehabilitation (Lohrasbi, 2012).

Punishments of the Drug and Psychotropic Drug Crimes in Iran: The most significant punishments described by the Counter Narcotics and Industrial Inspection Laws in this field, are confiscation of property and fines, execution, imprisonment and whipping. On the one hand, it may be said that the confiscation of smugglers' property, fines and prevention of drug smuggling are the most effective deterrent to narcotics-related crimes. The governments have encountered difficulties in enforcing the punishment for confiscating the smugglers' property and preventing smuggling. As it is now seventeen years since 1988 Vienna Convention was ratified, no government has yet succeeded in satisfying the important issues mentioned in this Convention. Some international companies and mafia cartels, covered by multinational companies and even a number of banks, serve for the criminal gangs of drug dealing (Shamsi, 2012).

The phrases and text of the law should be such that the judge can consider the factors influencing the appearance of the crime in the issuance of a sentence, and, even Consults with the experts and experts in psychology, social pathology, and jurists, on a case-by-case basis, and most importantly the execution sentence should be reviewed. The dependent individuals to dead man should be protected by law and their livelihood and education should be protected by the relevant organizations, so that the other perpetrator s would not be raised (Asadi, 2013).

Imprisonment: imprisonment is another punishment that has been repeatedly and widely used in the Counter Narcotics Act. In this law, legislature has predicted the sentence of imprisonment for many drug crimes, and maybe for the vast majority of them, that has been critically criticized by lawyers and criminologists. This punishment always has defenders and supporters who often believe that the best punishment for dealing with various crimes and categories of perpetrator s is the imprisonment. The most important reason for the defendants is that the imprisonment provides an opportunity to turn perpetrator s into good people, and they can be retrained so that they do not go to crime after freedom, and like the other human beings will continue to live in the community according to the rules and standards. The other reasons for defenders of imprisonment include the following issues (Peimani, 2005).

When a person is in prison for some time, surely neither he can solve his economic problems, nor his family. In many cases, it is often seen that a person, after being released from prison, due to financial and economic problems, commits another crime. In many cases, the family being in charge of the prisoner is trafficked in ways to live out of life. Of course, these financial and economic problems do not involve his family, but also the government for two reasons. One is that the cost of the prison is very high, and secondly, the prisoner leaves the economic community and loses the government. Until a person has not been imprisoned, both he and his family have social status, but if a person, even as a defendant and not an accuser, takes a few days in a detention center, he is not behaved well (Falah, 2009).

Whipping: Whipping punishment is not justifiable due to the circumstances of the time and even the characteristics of the most drug perpetrator s, especially the drug addicts. In legal sources, there are no indications to oblige the judge to condemn the drug perpetrator s to the punishment of whipping. Therefore, the punishment for the whipping out of the Counter Narcotics Act is better to be removed, and another punishment be imposed instead. Today the punishment of whipping is removed from a series of criminal laws in many countries of the world, but this punishment has also been foreseen in Iran's penal code in the form of perpetrator punishments (Roosbehani, 2014).

Compensation: Another punishment for some of the drug crimes is compensation. For example, Article 20 of the Counter Narcotics Law stipulates that "anyone who imports, manufactures, or sells the machinery or equipment for the production of the psychotropic drugs, in addition to seizing them, if condemned from one million to fifty million Rials of Cash and ten to fifty lashes (Gerami, 2013).

Following the disclosure of the disadvantages of fixed cash fines, another form of cash punishment has been raised under the heading of daily cash punishment, which has been considered in Iran in the Islamic Penal Code approved 2013. A fixed cash punishment is the amount of money the legislator sets for punishment and the fine that the legislator imposes without deducting the interest earned from the crime or

the damage caused by the commission of the crime to the others. This fine may be at least and maximum. In this way of the determination of punishment, what is most considered by the legislator, is dangerously crime and its possible adverse consequences, rather than the perpetrator's situation. The most common way is to determine the minimum and maximum of cash punishment rate. In this way, the judge's authority in determining the punishment is proportional to the financial condition of the perpetrator and the type of crime (Beigi, 2005).

UK law: In the English legal system, against the Iranian law, all sentences and penal provisions governing the crimes of the narcotics field have not been stated in the text of a single law, and this issue is observable both in massive laws and judicial procedures and policies in this country. The most important law on drug crimes and criminal policy towards them is the "Law on Combating and Drug Activities adopted in 1998". This law, against Iran law, specifically does not specify the types of punishments applicable to drug crimes, but in cases such as Articles 12 and 162, it is explicitly stated that, if the crime is organized, long imprisonment will be imposed with harsh limitations. But in some cases, such as Simon case against the prosecutor's office in 2005, it was observed that the judge has ruled both a cash punishment and an obligation to perform social services for Simon, who was accused of publicly using drugs near the railway Birmingham (Samuel, 2013).

Comparative study of the contributions and differentials of narcotics punishments in Iran and the United Kingdom: Differentials in terms of the legitimate sentencing basis: against the system of criminal law and specialty drug pathology in the British legal system, the significant feature of drug and psychotropic drug in Iran is the suppression spirit, and the severe punishments, such as execution and life imprisonment. However, today in the English Penal Code, the execution is completely abolished, and cases of long-term imprisonment are also very limited. In Iran, the rules of law and drug pathology have a repressive role which is objectified through the community's reaction to the perpetrators of crimes in this field. Drug pathology in order to defend the public interest, maintaining the public health, reducing the rate of drug addiction in society, controlling the economic system to deal with drug perpetrator s and corruption caused by such crimes, considers these crimes as punishment or totally repressive measures. In this regard, criminal courts are also required to decide on those who disturb the economic order and attack the public interest by issuing the appropriate sentence, and then implement it. In this way, the most important function of the criminal law of narcotics in all criminal systems is undeniably the repressive role that all scholars agree on. However, it should be added that today, the suppressive role of society's response to crimes, contrary to the past, is not only regardless of personal retaliation, but these responses are goal-oriented, organized and institutionalized. In addition, the oppressive functioning of criminal law does not mean that the community's response to crime is always respected, but repressive punishments can be anticipated in various forms in the law; but the ultimate goal is repression to prevent the repetition of crime that are overwhelmed by the intention of illegitimate wealth, and the reckless harm the social and economic calm of families, citizens and the jury (McMurray, 2011).

Drug crimes are a specific category of crimes committed in the criminal justice system that require specific rules and regulations in the form of Criminal Procedure Code, and their prevention requires the use of specific measures and forces in the official justice cycle. On one hand, these technical and specialized crimes, require the certain benefits. The importance of drug crimes and the sensitivity of public opinion and the damage caused by such crimes are fundamentally of such a degree that governments try to allocate specialized criminal tribunals and prosecutors to handle these crimes. The perpetrators' knowledge of their offense is such that there is a need for a professional judge. The judge who deals with murder cannot easily understand the complexity of the drug production, distribution, use and transit cycle. Therefore, in many countries, there are some justifications for dealing with drug crimes. That is why, in Iran, the judiciary has established the Revolutionary Court as a specialized authority to handle all drug crimes and has granted it extensive jurisdiction (Shri, 1995).

In English law, in accordance with article 27 of 2004 Correctional Drugs and Penal Code, judges have jurisdiction, in some cases, deprived of sentencing to the punishments specified in the law, for example, sending a drug trafficker to an agricultural and training workshop instead of the prison (Albert, 2017).

Identifying the shortcomings and vacuum of drug crimes pathology and psychotropic drugs in Iran's law and providing an alternative schema: In drug pathology and psychotropic drugs in Iran, the main approach of the legislature to combat the crimes in this field, is based on the policy of resorting to the system of official, governmental and repressive punishments which has not been so flexible and actually deletes more perpetrator s from the community (Eghbalzadeh, 2013).

In line with the fair assessment and critique of the penal system, which is the dominant approach to the fight against the narcotics law, it can be added that punishments have the characteristics that can both offend the perpetrator and deprive from the community, and on the other hand, correct him or restore to the society. Characteristics of punishments indicate their intrinsic essence, and their goals must be distinguished, although in some cases mixing of characteristics and goals may occur. Society responds to crime. One of these reactions is to punish a person who has violated the rules of the community. The humiliation of punishment will be achieved by removing the perpetrator from the community and creating a gap between him and other members of the community. You can also look at the humiliating character of how punishment is executed, such as the execution in a public place or the release of sentences in the mass media. The perpetrator must endure the suffering by committing the crime to the others and the community. When it is spoken from the organ retaliation (*Qisās*) or the soul retribution, the purpose is to return the punishment that the perpetrator has brought to victim; the punishments such as whipping, imprisoning, etc., all pursue a painful purpose for the perpetrator. Punishments and intentions from punishment will only be realized when they are determined. Possible and varied punishments cannot provide the perpetrator's panic which is one of the targets of punishment. The punishment must be able to compensate any material or moral losses inflicted on the victim as a result of committing the crime. The severity and extent of the punishments are determined by the type of the crime, the extent of the damage sustained. After reviewing the criminal litigation and during the legal proceedings for reviewing or passing through the statutory deadlines, it is not possible to legally re-examine the case and the validity of the decision is closed, except in the case of restitution of proceedings, that is, the elimination of the theoretical mistakes (Torabi, 2012).

Providing a Preventive and Effective Alternative Schema: There is an exclusive focus on criminal prevention in Iran drug pathology law, and no attention has been paid to the other preventive schemas. However, in countries such as England, according to the 2012 Correctional Security and Order Act, judges should use the power of public institutions to determine the response to the crime committed by the accused, and public organizations are also required to provide social services to people such as drug addicts or detainees and narcotics-related convicts. This has a favorable preventive effect. Basically, punishment is not the first priority. Prevention better than punishment can block social deviance and crime, and this is the goal that Iran penal policy against drugs has not paid much attention to (Sattari, 2015).

It should be noted that one of the controversial issues of today's world is the philosophy of punishment. There are many goals for punishment; revenge, which is one of the goals of punishment in non-civilized societies, to general deterrence and the others' learning lesson, and the realization of justice, is seriously discussed by lawyers, criminologists and philosophers. The Iran drug law system has a special status and faces the greatest challenges. Some of the punishments in this system have been criticized. There can be no doubt that the establishment of an efficient, fair justice system will not be realized, without paying attention to the clear criminal policy, and it will certainly not be possible to draw up a penal policy without a deep look at the objectives of punishment (Jeffreun 2012).

In the realm of social prevention, emphasis is placed on the role of popular institutions in combating crime; on the other hand, clear and up-to-date criminal policy is also appropriate. In the social prevention,

attention is also paid to the requirements of popular institutions and the possibility of providing them well (Mohammadian, 2010).

Another point is the need participation in the criminal policy system of drugs in society. In various laws, such as the criminal procedure code, the need for the efficiency of civil and human capacities to respond to crimes, is emphasized. Such an emphasis is on the importance of people's view of the legal system and of the criminal policy of society, which is one of the pillars of successful crime prevention and should be used more often in the field of drug crime. Therefore, the preemptive schema proposed for modifying the preventive approach to Iran drug criminal policy is the use of non-criminal and social prevention schemas that can make it difficult to commit many drug crimes. The conditional preventive method can also add to the capabilities of these schemas and allow lawmakers to identify crime-causing centers and susceptible targets for crime and reduce perpetrator's intentions in order to increase the crime costs and on the other hand reduce their potential benefits. Undoubtedly, people like drug dealers and smugglers enter the field with wealth motivation. Now, when the path to commit a crime and its benefits is reduced, it is hoped that gradually the crime rate in the drug and psychotropic drugs field, is reduced.

2. Discussion

In the current criminal law of Iran, there cannot be any specialized pathology expert in the field of drug. However, in English law, the situation is different and a more specific approach to drug has been adopted. In contrast to the legal system of criminal law and specialist drug pathology in the UK legal system, the prominent feature of narcotics and psychotropic drug in Iran is the suppression spirit and resort to severe punishment, such as the execution punishment and life imprisonment. However, today in the English Penal Code, the execution punishment is completely abolished, and cases of long-term imprisonment are also very limited. In England, according to article 27 of the 2004 Correctional Crimes and Crimes Code, judges can depart from sentencing to defined punishments for some cases; for example, a drug perpetrator would be sent to the agricultural and training workshops instead of the prison. This means that the English Penal Code does not exist in line with Iranian law in all respects. In Iran criminal law, judges of the Revolutionary Courts have the slightest authority to change the legal punishment of narcotics or the sentence not specified in the law.

Courts in Iran, against the English courts, cannot afford to punish crimes for the drugs. In the Iran judiciary office, the court sentences in drug cases are quasi-security, and they cannot easily be prosecuted. In Iran law and pathology drug, there is a monopoly focus on perpetrator prevention and no attention has been paid to the other preventive schemas. However, in countries such as England, according to 2012 Correctional Security and Order Act, judges should use the power of public institutions to determine the response to the offense committed by the perpetrator, and public organizations are also required to provide social services to people such as drug addicts or detainees and narcotics-related convicts. This has a favorable preventive effect.

The only area that illustrates the similarity of the Iranian-British penal policy approach to dealing with drug and narcotic crimes, is the use of classical punishment to prevent these crimes and respond to the perpetrator. That is, in both systems of law, there has been widespread use of punishments such as imprisonment and fines, but the difference here is that in British penal policy, there is a possibility of using social and non-repressive punishments for some minor drug crimes, while there is practically no such possibility in Iran, and the smallest criminal activity related to narcotics is faced with a severe punishment by the judges.

References

- Albert W. (2017). Judicial system in England, London: McMillan.
- Asadi Seyed Hassan. (2013). Analysis of some of the narcotics-related crimes, Archives of Iranian Law Blog.
- Beigi Abdullah. (2005). Guarantee of criminal and Perpetrator Crimes Against Drug Crimes, Journal of Fiqh and Law, No. 33.
- Eghbalzadeh Ali. (2013). Prevention of Drug Crimes in Iranian Criminal Law, Journal of Legal Education, Second Year, No. 6.
- Fallah Mohammad Amin. (2009). Disadvantages and Critical Criticisms of the Prison, First Edition, Tehran, Forest Publishing.
- Gerami ali. (2013). Legal and Criminological Analysis of criminal Penal Code in Iranian Law, Master's Degree in criminal Law and Criminology, University of Tehran.
- Jeferon M.T. (2012). criminal law and society, second edition, London: horse pre.
- Lohrasbi Pejman. (2012). How to punish perpetrators of drug crimes in Iranian law, Resalat Magazine.
- Mcmore, H; Narcotic Criminal law and New problems, second edition, university of Chicago press.
- Mohammadian Mohsen (2010). Prevention Criminology, First Edition, Tehran: New Publishing.
- Peymani keyvan. (2005). The Pathological Examination of Imprisonment in Iranian Law and Comparative Law, Journal of Modern Law, Second Year.
- Roozbehani Soroush. (2014). Criticism and Inspection around the Whip, Retirement Magazine.
- Sadaty Parviz. (2013). Drug Crime Penalization System in Iran's criminal Policy, Electronic Law Magazine Today, Archives of Articles.
- Samoel F. (2013). criminal law and Drugs abuse in England legal system, second edition, London.
- Sattari Mohammad Reza. (2015). Problems of Official Punishments in Crime Prevention, Journal of Legal Research, No. 13.
- Shamsi Akbar. (2012). National and International Penal Code in Response to Drug Crimes, Journal of Legal Justice, Third Year.
- Shery F. (2011). Narcotic criminal law and drug abuse in 20 centuries, Rotherham press.
- Sidney D K. (2010). Narcotic challenge in criminal law, Toronto; Madison press.
- Torabi Meisam. (2012). The Functions and Effects of Punishments in the Modern Criminal Law System, Journal of Law and Policy, No. 28.