

Trafficking of Children in Criminal Law

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ABSTRACT

The experience shows that the abusers of drugs addicts, victims not only women and it also can be men and boys and children under aged can be more vulnerable and there is no law regarding until the year 2004 which the law was executed for the protection of under aged boys. But it did not unfortunately worked and there were more works needed to be done for the younger generation and therefore it is a criminal offenses towards the drug abuse.

KEYWORDS: Human trafficking, child trafficking, criminal law

INTRODUCTION

1. Research History

Many researchers have attempted to writing and editing about trafficking. In Iran, a book as "human trafficking as an organized crime" was released by Sadegh Salimi in 1954, also in 1952, an article entitled "trafficking crime" was published by Abdul Rahman Ahmadi in the Journal of Tehran University. Among foreign articles can also cited an article titled "Human Trafficking and Health" by Zimmerman and colleagues in the journal of Social Science and Medicine, no 33, in 2011. But based on my research so far, any investigation about child trafficking has not been done in the criminal law. "

2. Trafficking in word and phrase

Trafficking is derived from the infinitive of "Qachmaq", a Turkish word, which means to escape, to run away and leave the country with authority and urgency. This word also means the slave, which is what its entry into the country or transaction that is prohibited by the state [1]. Phylologists considers two different meanings for this word. In fact, this word also has a gerund meaning and in some cases it is used as a tool name. When the word is used as a gerund, it means "doing something illegal and clandestine manner", and when used as a tool name, it means "the item that its transaction or the entry into the country is forbidden [2].

3. Trafficking means the following term:

A. shipment of goods from point (either two points within the country shall be called the internal trafficking or a point in abroad which is said foreign trade) against the transportation regulations, so that the action violate a prohibition or restriction, which is legally required (either an act of violation of authority or exclusive possession is or not) such as issuance and allowed entry without customs duties, smuggling of customs duties (Article 32 of the Law of the perpetrators of trafficking adopted in 1934) and transportation of goods in the country without the payment of customs and it is cited as customs trafficking (Article 33 of the law); primary acts of issuance the same products is cited as trafficking (Article 21, of trafficking perpetrators punishment enacted in 1933).

B. the purchase and sale, or maintenance of goods under Article II, the law on the sale of the prohibited goods adopte in 1935

C. the said goods exercised by the act of smuggling, are also trafficking. Subject of the trafficking act is said the smuggler or trafficker [3].

The product does not match with humans, especially the human trafficking may be done in consent of the victim [4] it should be noted that while trafficking is true that is done from one country to another and in transnational level. Human trafficking means ferret, escape and leave the home.

4. The concept of child trafficking

Child trafficking as a crime has not a long legal history in Iran and its footing can be seen in the anti- human trafficking law was adopted in 1954. With social upheaval, the slavery and the slave trade were considered well

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accepted phenomena, changed to a moral error and then to the changing nature of the international crime [5]. It must be mentioned that in Iranian domestic law, there is no definition of child trafficking and in article 1 of the anti-human trafficking law, only a general definition of human trafficking is provided; therefore we have to define the definition of child trafficking from the United Nations Children's Fund (UNICEF) [6]. According to the UN children's Fund (UNICEF) the trafficking means forced recruitment of children in the barracks, in exchange for food, medicine, daily necessities and placing children in illegal acts.

5. History, characteristics and forms of child trafficking

Migration and seeking a better life is good practice and does not constitute any crime, but this migration should necessarily be done legally and allowed. However, political and economic conditions in some countries increased citizens' tendency of those countries to migrate to countries with better political and economic situation, but this increase appeared while the immigration laws of host countries had predicted declining capacity for immigration especially in recent years.

As a result, by reducing the legal immigration, tendency to illegal immigration has increased further, that this provided an appropriate market for criminal organizations, so that only the annual profits from human trafficking in 1994 were a figure higher than 3.1 billion dollars. Reports indicate that this figure increased 1.5 times in 2001 and still is increasing [7].

The important point about illegal migration is the entry and exit of persons to borders without observing rules and regulations. Thus, some of Iran's procedure laws in relation to this subject are pointed out. Passport is a document given by the competent government authorities for Iranian citizens to travel abroad and stay abroad or travel overseas. According to the passport law, Iranian nationals are prohibited to leave the country or stay abroad or leaving the country without presenting a passport or travel documents mentioned in this law.

It should be noted that the Law on Entry, Residence and Exit of Foreign Nationals in Iran (enacted 1931) is stated that: "Each of foreign nationals to enter, stay and exit of Iran should be allowed by the respective Iranian authorities."

In Article 11 of this law, to sanction thenon-compliance with this regulation shall be punishable by imprisonment or a fine had been anticipated. Also in the single article of the Penal Code about traffickers of unauthorized people from the border is stated: Everyone crossed the other one out of the border illegally, or cause to facilitate or provide the illegal crossing the border is recognized as offender and sentenced to a punishment prescribed in the enacted single article. The most important and most widespread forms of human trafficking is children trafficking. Since 1990, after the collapse of the Union Soviet and East Bloc, the issue of human trafficking has become more widespread in the world, so that today, in countries like Japan and all European and American countries, the imports of children as goods and sex workers to be dramatically increased. In the Southeast Asian countries at least one million children under 11 years earn their living by prostitution. Also, according to the Europe Commission, 100 000 women and children are trafficked to Western Europe annually and the Statistics of forced labor announced by the International Labour Organisation, also show more than 122 million people are subject to forced labor worldwide now, of which more than two million and 200 thousand men, women and children, who are worked compulsory around the world, are victims of human trafficking.

In Iran, unfortunately, the trafficking of Iranians to the Arabic countries of the Persian Gulf, Afghanistan and Pakistan is discussed and unfortunately growing day by day. In our laws before adoption the "Law of anti- Human Trafficking" in 2004, there was not any explicit criminal of human trafficking, especially trafficking of women and children in our criminal law.

Unfortunately, in dealing with such a phenomenon, only its effect, ie, women were punished if they arrested [8]. Also before the adoption of anti- human trafficking law, the inauspiciousness phenomenon of human trafficking was discussed as the general titles including adultery, prostitution and kidnapping. It should be noted that in addition to illegal and international immigration, some parallel cases are happened including:

A. Sale of children:

Sale of children means any act or transaction that individual or group of individuals transferred a child in exchange for money or other considerations. It should be noted, that the sale and trafficking is the common sense, except the trafficking is an act to transfer child [9]

B. children, the victims of sexual exploitation:

Definitions of sexual exploitation of children have been developed on the basis of Decision Council on anti-sexual exploitation of children on 29 July 2003. Generally, there are several sub-categories in relation to the sexual exploitation of children and they are briefly defined and explained below:

- First, sexual assault

Sexual assault can be defined a child engaged in sexual activity, through coercion, threats, money or other compensation practices, or through abuse of position of trust, authority or influence over the child(regardless of family relationship (ibid 134). At present, more than thirty countries considered the child sex tourism as a crim and adopted the procedure of personal criminal jurisdiction. But there are some differences in attracting international standards and the implementation of the rules enacted in these countries [10]

- Second: runaway children

This group consisted of minors who run away from supporting home or institutions voluntarily.

- Third: kidnapping by a third party

This category includes all minor children, which kidnapped by someone other than their parents or someone who undertake the child guardianship.

- Fourth: child kidnapping by parents

Child kidnapping by parents means to keep away or care of child in a country other than the usual resident place of child by one of the parents or those who have custody of the child without consent or despite dissatisfaction of another parent or person who has custody of the child (ibid:133)

- Five: the lost and alone immigrant children:

The definition is adopted from the report of immigrants Commission of the United Nations General Assembly. This category doesn't include the lost immigrant children from countries, where people do not enjoy freedom of movement as well as eighteen-year-old children separated from both their parents and under the care of an adult who is legally responsible for their care (ibid :134)

6. Criminal action against the phenomenon of child trafficking

Iranian criminal law, with a more detailed approach to anti-trafficking law passed in 1954, we can see that the said law, especially about the penalties prescribed after Article 3 about the perpetrators punishment, has no coordination with principles and techniques of law making, in this respect, it seems that this law is not set based on the experts views [11].

Regardless of the ground problems of disproportionate penalties on the perpetrators of this crime, for example, for the simple perpetrators of trafficking and the traffickers who act professionally and in organized manner has been considered the same punishment in this law which can be mentioned as follows:

1. in Article 3 of the anti-Human Trafficking Act enacted in 2004 states:

If the act of human trafficking done under the said instances of Islamic penal Code, is sentenced based on the penalties prescribed by law and otherwise to imprisonment of two to ten years and pay a fine equivalent to double the funds or property of the crime or funds and property has promised to pay to the victim or a third person. The fundamental problems in writing this article, which is clear in the surface , is that it seems the legislator doesn't consider the human trafficking as an independent crime because according to the above article, the human trafficking is punishable the rhe committed act is not the cases mentioned under Islamic Penal Code otherwise will be punished accordingly. While it would be more proper, that legislator is written the said article as below: If human trafficking is started and not finished, the criminal penalties for the same amount of committed actions was sentenced. In this case, the legislator accepted the human trafficking as an independent crime and also if there is the spiritual plurality, he is punished in accordance with the general principles contained in Article 131 of Islamic Penal Code enacted in 2013. while according to the current Article 3 of this law, it seems that the committed act is subject to the spiritual plurality, the court must necessarily condemn the perpetrator of a crime listed in the Penal Code, although the amount of penalty less than the penalty prescribed in anti- human trafficking act; therefore, it is one of the drawbacks of the above article.

2. Another case would be cited as the neglectition of the legislature in drafting the anti- Human Trafficking Act enacted 2004 is Article 5 of this law on the punishment of legal persons, which provided that if private institutions and enterprises commit offenses under this Act, albeit with different names and titles, in addition to the penalties imposed, their Licenses or activity permit will be cancelled and the same institution will be shut down under the decision of the judiciary authority.

As can be seen, the legislator in this matter is referred to closure of criminal organizations and companies, under the order of the judiciary authority, "while to descibe the court order, some lawyers believe that "court order" has no particular form, is not set as a verdict, can not be communicated to the parties and it is permitted to waive of it without any excuse because this order is awarded without any argument[12].

Due to fundamental differences between the court order and court judgment on the one hand and closing the institution as a punishment for legal persons in Article 5 on the other hand, it seems that the legislator neglected in

writing this article and used the court order in return of the judicial order . In this chapter, we discussed the penal reactions against children trafficking in six subjects as below:

6.1. Punishment of children trafficking as organized and none organized

there are major problems about the Human Trafficking Act enacted 2004 including that the legislator in this act in spite of accept the human trafficking crim as organized and non organized, in other hand the organized crimes has more intensity than simple crimes and more complex than other crimes, but to proving of crime and procedure and also the punishment rate, there is not difference between theses two subjects and both crimes are considered same. This is one drawback of the same law which is effective to form and encourage of criminal gangs to commit the criminal activities.

6.2. Punishment the prepensor

Aarticle 3 of anti- children trafficking law 2004 states about the punishment the crime assistant:

If human trafficking is realized with committing other crimes, the perpetrator or perpetrators in addition to the punishment provided under the law, will be condemned to Punishment of those titles .So, the example above is subject to the article and both the penalty prescribed in the Penal Code and anti- children trafficking law.

The punishment of human trafficking is conditional to the crime is not mentioned in Islamic Penal Code, but it is contrary to the main reason of anti-trafficking law. Due to this law, it must be determined the prepensor activity is due to other Islamic penal codes or not [13]. also the legislator didn't consider the material and spiritual multiplicity of crime. In first case, the legislator is not familiar to the concept of multiplicity of crime and considers the Islamic penal code as absolute priority. If a man in addition to the girl trafficking , do an activity against incompatible with chastity , he will sentence to 99 lashes due to article637 of ICP 2004 and his strong punishment of human trafficking is not enforced.Article 6 of material multipicy of crimes will correct and adjust this judgement and established;

If the human trafficking is committed in addition to other crimes, the prepensor will sentes to other crimes also.so the above example can be included in this article and both the Islamic penal cod and anti human trafficking law could be used in this case together. So it is better the legislator combined the articles 3 and 6 on anti human trafficking law and offe a single article [14]

Thus the positive significant point in thi law is the adoption of Criminal responsibility of juridical personsin article 5 of this law [13]. The above article states:

6.3. Punishment of assistancy

Clause 3 of Article 3 of the anti- human trafficking Law 2004 provides that: assistancy of "human trafficking" crime is sentenced to two to five years in prison as well as the case of funds or property of the victim or a third person has a promise to pay it. It should be noted that Article 128 of the Penal Code 2004, about how people are considered as assistant of a crime:

- (A) threat, bribe or incite crime or a conspiracy or a deceit or abuse of power to anyone else would be a crime.
- (B) Make or provide any means of committing a crime or commits a crime to help the criminal
- (C) Facilitate any crime

Note: to realize abetting, unity of purpose and priority or coupling between behavior and crime deputy is required. If the main subject of crime is committed a crime more severe than what was intended to commit, the crime Assistant is Sentenced milder crime

Although the above provision has not changed than the the former Penal Code, however, can be noted:

Legislator in the new law in "A" and "B" paragraphs removed the deliberately and in knowledge terms. However, despite the term of Unity of intention is not longer necessary to repeat it in these paragraphs.

The former law, the case assignment is not clear if the perpetrator was committed harsher than what purposed. For example. A person assist the perpetrator for beating a child who is trafficked, however crime assistant murder the child. However, during the reign of former penal law, legal doctrine with regard to the interpretation in favor the accused, sentence was not severe for the crime assistant, but the new Penal Code provision on this question is answered.

Also IPC 2013 in a case that use a minor to commit a crime provides: Everyone use a minor to commit a crime refered to himself, is sentenced to the maximum punishment for the same crime. Everyone has assist in a minor criminal behavior, will be sentenced to the maximum punishment of assistancy in crime.

However, legislator used the term "everyone", it should be understood apart from the minors, since they do not have criminal responsibility. Thus, it seems if the adult commit the children trafficking outside border, by a minor, adults should be sentenced to the maximum punishment for human trafficking and a minor has no responsibility in this regard and Security and Corrective Measures to be applied in his case. It also seems that the following article is also apart from the minors.

Also, in some cases, several people involved in, and assistance to the crime, as some of them without intervene directly in charge of their operation, but with the knowledge of the intention of the perpetrator of such a crime and also facilitate and provide the means of committing the crime to the perpetrator. So these people though as an assistant of crime can be prosecuted, but because of the importance of legislation and punishment operation of indirect accomplice, his actions in providing the means of committing a crime or provide facilities for the offense, which stipulated in the law, he acted as assistant of crime and are considered as a assistant of crime in law. Everyone in this behavior could be prosecuted and punished. In the second part of Article 128 of IPC 2013 reads Everybody use a minor assisting in the children trafficking, for example, if a minor use a minor to child trafficking and cheat and tell them that the ship gives free ice cream or Taxi ride is free, and children, and taxi driver knowing that the minor wants to trafficking another child with Taxi to reach the desired location, in this case, immature person is considered steward and driver is assistant of crime.

Another example is that while two children who are fighting together and an adult give one of them a knife, here too the adult is crime assistant. In the first part of Article 128 of IPC 2004 reads:

Everyone misuse a minor to commit a crime as an assistant will sentence to the maximum punishment for that crime. "This article refers to the stronger view of stewardship. For example, if a mature person use a 12-year-old child in children Trafficking and 12-year-old child said other children: Let's go to the park to play or to eat Ice-cream in the responsible home, if child took the home of responsible with other mentioned children and the responsible steal or smuggle the children, 12-year-old child is the assistant of crime and perpetrator is the mature person.

6.4. Punishment of the start of crime

To start the criminal prosecution for the crime of organized human trafficking crime, the existence of criminal groups and individual members in its authentication is sufficient and the success rate in achieving a result is of secondary importance. In this regard, Clause 2, Article 3 of anti- human trafficking law passed in 2004 provides that: Every one who began the offenses under this Act, but the intention is not realized without his will, he will sentence to six months to two years in prison.

It should be noted that in line with the principle of legality of crimes and punishments, according to the IPC 2004, the start of crime are generalized to all crimes and due to Article 122, the start of crime is the intention of committing a crime and begin to implement it, but because of the intention of his will be suspended. Also, although the precedent issue 635 of General Board of the Supreme Court dated 2008, the start of crime is a criminal penalties in the event that is forecasted in the law, however, the IPC newly passed, is extended the start of crime to all crim[15]

One difference of the new Penal Code and a former is that the legislator in Article 41 of the former Penal Code, the intended crime if it is not committed, for whatever reason, whether voluntary or involuntary, is considered as the start of crime and punishable. In Article 122 of IPC 2004, the start of crime when achieved that it is suspended a result of factors outside of the will of the perpetrator intended to it. According to the new Penal Code, if the accused be deterred from continuing their crimes by his own will, he can not be prosecuted for allegedly began his crime, unless the amount of the treatment is done independently subject to criminal as others.

Thus, the wording of Clause 2, Article 3 of the anti- Human Trafficking law, in which, if desired action does not committed against his desire and will, it will be considered as the start to crime and is matched with scientific principles to the offense and Article 122 of the Penal Code 2013, which will be in line with the criminal law policy to encourage offenders to Cancel the voluntary offences because of legal exemption from punishment [16]

For example, if Mr. A wants to commit the children trafficking from Iran to Turkey, but by police at the border of Iran and Turkey arrested for child trafficking has commit the start of crime because he had a plan to commit a crime and began to it, but the outside factors will cause to suspend his intention. Legislator in Article 122 of IPC 2004 states:

If the alleged behavior has a direct connection with the crime, but in material ways that he is unaware of them, the act of crime become impossible, the action taken as start of a crime

Note: The above-mentioned article is referring to the impossible crime. It is impossible for the crime committed due to lack of crime issue or the ineffectiveness of the offense fails to reach its ultimate goal, like using sugar instead of toxin in toxic syrup to murder someone and shooting with intent to murder someone who died previously of previous attacks before the shooting [17]

The person who took action to exit a child from the country's borders to remove his kidney, while after the test, it turns out that the same child has a kidney problem, in this case, also achieved the impossible crime and according to Article 122 of the Penal Code 2004 will be punished. It should be noted that the new law enacted 2003 the impossible crime is punishable, but sterilized crime is not punishable unless the operation is crime itself.

7. Legislative responses to child trafficking

In this discussion, we will discuss other legislative response, suspension and postponement of the execution of punishment, commutation, parole and semi-freedom system

7.1. Suspension or postponement of the execution of punishment:

The difference of Suspension or postponement is that the suspension will be issued the sentence order but delayed its implementation. Suspension penalty is to stop the punishment of any person who punitive or deterrent has been sentenced to punishment, to commit another crime if it is not, after a certain period and the follow court orders in this period of time, his sentence is null and void [18]. Former Article 25 of IPC states that:

In all punitive and deterrent sentences, the judge can suspended all or part of the punishment up two to five years following terms:

IPC enacted 2013 in this regard to Article 46 provide that:

In prison sentence of Third to eighth grades, the court could suspended all or part of the sentence one to five years if the conditions for the deferment of the sentence is executed. Prosecutor or judge after run one-third of Punishment could demand the suspension sentence of a court which issue the final judgement. the convicted also after a third of his punishment, if it has legal status, can be request the public prosecutor or judge for the suspension of the execution of criminal sentences. As it is observed, Article 25 of the Penal Code of the former principle is that if all conditions are exist in law, all punitive or deterrent sentences are able to be suspended only if the legislator stipulated that crime is considered non-derogable. Due to this, since the anti-trafficking law passed in 2004, had not been considered on the suspension of the sentence for human trafficking; therefore human trafficking according to the penal code of the former was suspended. However, the suspension would have to be applied against human trafficking, which the history does not exist due to Article 25. Therefore, if convicted has no prison sentence before on charges of human trafficking, the suspension of sentence could be applied. But it must be mentioned due to article 25, the suspension is under authority of the court not a right of the convicted [19]

It should be noted, legislator in former Article 30 of the Penal Code doesnot consider suspension for some criminal sentences. For example, a person who commits the crime of kidnapping the suspension of punishment was prohibited, but the suspension of human trafficking was not sense. Therefore, the possibility of suspension of punishment for human trafficking was entered on anti-trafficking law, while possible adverse effects of political, cultural and even human trafficking was much more severe than the crime of kidnapping (ibid107) so Legislator in the Penal Code enacted 2004 put an end to this problem and Article 47 provides that:

Sentencing and punishment of these crimes and start them is not suspended:

A. crime against internal and external security of the country, sabotage of water, electricity, gas, oil and telecommunications

B. organized crime, armed robbery or robbery assault, kidnapping and acid pouring

C. A show of strength and harassment with a knife or any other weapon, offenses against public decency, formation or management of centers of corruption and Prostitution, trafficking of narcotic or psychotropic drugs, alcohol and weapons and human trafficking

D. punishment instead of death, intentional murder and waging war against God and corruption on earth

E. The economic crimes, the crime issue more than one hundred million Rials(100,000,000)

Therefore, the legislature with respect to the first part of Article 23 of the Islamic Penal Code enacted 2013 not only is not considered the human trafficking. For suspension and not delay, but also to the start of human trafficking has not been considered to suspended and postponed.

7.2. Commutation

Given that about human trafficking, there is no ban for converting a penalty and discount to other types of punishment, so the court may discount and convert the punishment of the perpetrator at the time of sentencing.

The point in this punishment is the victim satisfaction effect against children trafficking. On the one hand legislator, in paragraphs B and C of Article 2 anti-Human Trafficking law doesn't consider effective the consent of the victim in the crime, implicitly refers to the general aspect of human trafficking. On the other hand, in paragraph 1 of Article 38 of the IPC 2013, remission of the plaintiff or the private plaintiff is considered of mitigating punishment. Hence, the sum of these two substances should be said that paragraphs B and C of Article 2 of anti-Human Trafficking law does not mean that the consent of the victim in the commutation of the sentence, But due to paragraph A article 38, if the consent of the victim or her parent or guardian is seen as forgiveness during proceedings, if that court use it in its authority, will be a trafficker discount.

Thus the consent is discussed in paragraphs B and C of article 2 of the law are related to before the crime and is obtained during the investigation. Therefore, if the legislator consider the victim's consent to prevent a crime, the plaintiff or private claimant forgiveness would suspended the issue of prosecution. So if one of the conditions

referred to in Article 38 of the Penal Code exist, the court can apply discounts to punishment of perpetrators of children trafficking.

7.3. Parole

Parole is temporary release of a convicted person to imprisonment that he passed a term of his sentence and due to the conditions forecast by law, he is earned the conditions of freedom of the rest of penalties, that if the conditions are applied, his release is certain, unless his sentence is fully implemented. Article 58 of the Islamic Penal Code enacted 2013 states that: In the case of a prison sentence, a sentencing court may be issued the conditions of parole for persons who are convicted to the imprisonment for more than ten years, after bearing half of sentence term, and in other cases after one third, proposed by the prosecutor or the judge of execution:

- A. penalty condemned person shows good behavior during his sentence term
- B. The behavior of condemned person represent that he will not commit the crime after the release.
- C. "The condemned person is not used earlier parole.

paragraph C of the Islamic Penal Code enacted 2013, contrary to former Article 38 of IPC, consider the condition to use the parole is not past history, but sees no previous use of parole. And if the convicted has previous criminal conviction history, but did not use of probation, he could use it. The phrase of "the convicted sentence to prison" rather than "legal penalties" brings us to the interpretation of the criteria for granting parole is stipulated the rate of imprisonment that is stated in verdict not the punishment prescribed by law.

It should be noted, since the anti-trafficking law passed in 2004, a decision on the possibility or impossibility of granting parole to perpetrators of child trafficking doesn't exist, so it seems that if the conditions set out in Article 58 of the Islamic Penal Code Act 2013, the court which issued the final decision can apply the parole sentences on perpetrators of children Trafficking [18]

7.5. Semi-freedom system

semi-freedom system is considered as a new established institution of Islamic Penal Code Act enacted 2013, of course, in practice, what is called semi-freedom system, for first time was run in prisons entitled "open vote" (ibid135). The establishment core of such a institution is to individualization of criminal penalties as well as the reform and re-socialization of offender.

Since modern systems of criminal sentences enumerated many benefits and harms of imprisonment; therefore, modern Criminal systems attempt to impose new institutions, in order to decline the damaging effects of imprisonment for an individual, family and society and use the positive points of it to punish and reform the offenders. This is the way, that the offender in time of prisonment sentence can do the professional activities, education, training, health, and so on, all these things out of prison. Theses activities are supervised by a semi-freedom center which is established in Prisons, Security and Corrective Measures Organization.

It should be noted that the anti-trafficking law passed in 2004, a decision on the possibility or impossibility of granting the semi-freedom system to the perpetrators of child trafficking is not exists; therefore, given the silence of the law and legal development of this new established institution in IPC 2013, it seems to be attached to the fact that if the conditions set out in Article 56 and 57 of Islamic Penal Code Act 2013, the court which issued the final decision can apply the semi-freedom system on the perpetrators of human trafficking charges.

8. Conclusion

About The smuggling crime, it is clear that this crime is among the organized crime. Where it takes place outside the borders, while children trafficking is usually accomplished within the borders of a country; yet this theory is unacceptable in Iran so that it is considered one of the drawbacks of the legislation. It should be noted that other forms of human trafficking especially children trafficking took place through forced labor, domestic work and work hard in workshops and this did not punishable with the legal provisions. There is legal vacuum on human trafficking so that because of public pressure and the increasing trafficking cases day by day, and in some cases, the Iranian women and girls fall prey to traffickers, so to overcome the legal vacuum, the Council of Ministers on a proposal of State Department, was submitted a bill in eight articles under the title for "bill to anti-human trafficking," to the Islamic Consultative Assembly in April 2004 which passed under the title of law on anti-Human Trafficking" in July 2004. With the enactment of this law, some legal gaps were filled, but this law is largely a problem. Because it was not mentioned the issue of child trafficking in particular, and still was transferred in the IPC, while the children are vulnerable people in society and future is in their hands, so they must be safe of crime and social pathologies.

One of the drawbacks of the anti-trafficking law is that for those who engage in children trafficking, this law is not considered aggravating qualities. While this may cause these people do not go to the crime and can provide the protection of vulnerable children in society. Other objections to the anti-trafficking law is that the lack of determining fines for legal entities which are engaged in children trafficking, but this objection was resolved by the IPC in 2013. It should be noted that Clause 2 of Article 3 of the anti-trafficking law considered the trafficking act as punishable. As well as in Islamic Penal Code 2013, the legislator in Article 47 not considered to be suspended and postponed the start of trafficking that these cases count as a turning point. However, in recent years, although with the passage of legislation to protect children and adolescents, some important steps have been taken to solve these problems, but the issue of human trafficking, especially child trafficking is a growing problem and the best way to prevent the growth of this problem is information and awareness through the mass media, improve the financial situation of the population, the destruction of smugglers gangs and protect the country's borders, especially in neighboring Afghanistan, Pakistan, because the phenomena of trafficking, especially children trafficking is a problem that if not resolved, it will risk the life and future of society and we will face with a society that is growing bad guys, so legislators should carefully consider this problem and for those who engage in children trafficking shall determine the penalties to perpetrators to have the less tendency to it, because the children are very sensitive emotionally and psychologically and if a child is engaged with trafficking during this period, he will be tolerated the irreparable damage in adulthood. It hopes the lawmakers approve the supportive appropriate legislation and also the authorities with good infrastructure try to eradicate this problem in community.

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