

## Explaining the criminal policy governing the suspended state in Iran's law

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### ABSTRACT

The government suspended in Iran's penal system and the principles of suspended state is regarded as a quasi-judicial system which has various definitions in legal and juridical fields, while, the suspended state has a unique definition. In the present study, the history of formation of the government suspended in Iran's legal system and the formation of inspection and monitoring organization on the price and distribution of goods are described one by one. Services and organizations of the government suspended and different points of view on this organization and the criminal policy and its types are also studied. Moreover, different processes of trial are mentioned in details. Finally, the issue of prevention of crimes such as the economic ones through informing and promoting the level of education and warnings before punishment will be discussed in details.

**KEYWORDS:** Criminal policy; suspended state; Iran; law.

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### INTRODUCTION

The governmental chastisement organization is a system that is related to ministry of justice, its provisions are authorized in 1988. The themes of these provisions are about economic and corporatism crimes. Governmental chastisements organization is defined as a professional organization in field of champion to economic-corporatism crimes and to a progressive criminal policy. This organization has a legal-executive nature but it's management is consigned to executive power. Chastisement organization should do reformations in provisions of it's mechanism and because of this most of the lawyers criticize this organization executive and professional function and some provisions of governmental chastisement like; selling costly, selling few ,cheating, hoard, selling out of system, inserting not the price, hiding merchandise, obeying not pricing, lack of execution of importers vow due to giving exchange and governmental services, causing guild off and the law was approved in 2003 as the law of guild system. Because of this and in order to specify criminal system in chastisement we can say that in 1988 a law as the law of governmental chastisement was approved by expediency council. In this law, some provisions of governmental chastisement that mentioned above and lack of announcing store of infractions like governmental chastisement are written off. By virtue of this law, supervision to infraction like governmental chastisements is divided to governmental section and nongovernmental section. In order to supervise infraction, the nongovernmental section by article 36 of governmental chastisement 1988 courts of revolution had capability to supervise but in infractions of government section, committees of ministry of interior were established. Now, we explain about what the criminal policy of governmental chastisement provisions is, the meaning of it is; is the aim of chastisement law just punishment of guilty or prevention of chastisement crimes?, there are some unknowns in answering this question and specify criminal policy of chastisement law like; what is the supervisions and prevention levers of governmental chastisement organizations, if a person want to complain to verdicts of governmental chastisement branches; can he complain?, can governmental chastisement organization judge about complainants losses?, what are the most of punishments in governmental chastisement law?, can mentioned punishments in law be preventive for committing the same crimes?, is custody in this law?, is this organization allowed to incarcerate and what is it's affections in preventing same kinds?, according to 1988 that improvement of punishment law, abstraction was approved and wasn't approved for special juridical guilty; does bind b of article 18 of law disagree?, does one abrogate to another one?, how is the order of assistance and stages of it in chastisement law?, is demand for revision possible?, and totally what is the conditions of complaint?, in other words attempts are according to that is most of the people in public are liable this law, criminal policy is spotted and debated in mentioned law and it should determine that if the policy in chastisement law is expenditure or is codificated because of criminal policy and has preventive aspect. Codification chapters of criminal policy of Iran vs. governmental chastisement crimes:

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Selling costly: is proffer merchandises or services more than accessorial prices by official references provisionally or definitely, lack of execution of law, norms of pricing and doing other things that lead to rise in prices or services for customer. the chastisements of selling costly are as follow:

A . Selling costly to 2000 tomans:

First grade; written remark (1), filing

Second grade; drastic notice, giving written warranty for inviolation (2), and sealed the permit of seal (second violation)

Third grade; punishment of 500 tomans to 5 times more than selling costly adjustment and sealed the permit of seal (second violation)

Forth grade; punishment of 1000 tomans to 10 times more than selling costly adjustment, canceling some of the governmental services from 1 to 6 months and sealed the permit of seal(third violence)

Fifth grade; catching punishment, blocking temporary from 1 to 6 months and locating sign as seller costly

B . Selling costly more than 2000 tomans to 20000 tomans:

First grade; punishment equivalent to selling costly price and written remark

Second grade; punishment from 1 to 2 times of selling costly and sealing the permit of seal (first violence)

Third grade; punishment from 1 to 5 times selling costly, warning(2), canceling governmental services and sealing the permit of seal (second violence)

Forth grade; giving punishment according to third grade, canceling all or some of the governmental services from 1 to 6 months and sealing the permit of seal (third violence)

Fifth grade; giving punishment according to third grade, blocking temporary from 1 to 6 months and locating sign as seller costly.

Sixth grade; closing and canceling the permit.

C . Selling costly more than 20000 tomans to 100000 tomans:

First grade; punishment from 1 to 2 times of selling costly, canceling all or some of the governmental services from 1 to 6 months and sealing the permit of seal (second violence)

Third grade; giving punishment according to second grade, closing and canceling the permit and canceling commercial card

D . Selling costly more than 100000 tomans:

First grade; punishment from 2 to 5 times of selling costly, written warning(4) and sealing the permit to seal (first violence)

Second grade; punishment from 5 to 8 of selling costly, blocking all or some of the governmental services from 1 to 6 months and sealing the permit to seal(second violence)

Third grade; giving punishment according to second grade, closing temporary from 1 to 6 months, locating sign as seller costly and sealing the permit to seal (third violence)

Forth grade; giving punishment according to second grade, closing and canceling permit and commercial card. Footnote: if the violence continues, chastisements will be according to amount and grades of violence.

Selling few and cheating: are selling or servicing merchandise fewer than the amount of quantitative and qualitative purchased that are radixes of official references rate. Selling few chastisement according to amount and grades of it, is exactly the same as selling costly chastisement.

Hoard: is keeping merchandises whole selling with determination of authority and refrain from selling it in order to selling costly or harm to society after vital declaration of selling by government. The chastisements of hoard are defined as follow:

1<sup>st</sup> grade; commitment to merchandise selling and taking forfeit equivalent to 10% of merchandise price

2<sup>nd</sup> ; selling merchandise by government and taking forfeit from 20% to 100% of it,s price

3<sup>rd</sup> ; selling merchandise by government, taking forfeit from 1 to 3 times of it's price, blocking whole or some of the governmental quota and services for 6 months and locating sign as a hoarder.

4<sup>th</sup> ; punishment of 3<sup>rd</sup> grade, canceling the permit and introducing from media as a hoard . footnote: if the authority know sustenance of merchandise, it won't be hoard.

Selling out of system: is selling merchandise unlike distribution norms and appointment systems of department of commerce and other related departments. Chastisements of selling out of system toward the sold merchandise amount are;

1<sup>st</sup> ; written warning (1) and blocking the quota for 3 months.

2<sup>nd</sup> ; taking punishment to 2 times of selling out of system price.

3<sup>rd</sup> ; taking punishment from 3 to 5 times of selling out of system.

Footnote: if the merchandise isn't sold, moreover to commitment of selling merchandise in system, taking punishment will be equivalent to 10% of official price of it.

Inserting not the price: is inserting not the merchandise prices or liable services so that is visible for customers like setting sticker or locating price in the site. The chastisements of inserting not the price is written below

1<sup>st</sup> grade; written warning (2), inserting in file

2<sup>nd</sup> grade; taking punishment from 500 tomans to 5000 tomans

3<sup>rd</sup> grade; taking punishment from 5000 tomans to 10000 tomans, canceling all or some of the governmental services from 3 to 6 months and locating sign as guilty.

Footnote: if the official price for merchandise is determined, inserting the price will be according to official price.

Hiding the merchandise: is refraining from selling the merchandise that has official price in order to selling costly or prejudice in selling. The chastisements of hiding merchandise are:

1<sup>st</sup> grade; written warning (3), inserting in file and selling in official price

2<sup>nd</sup> grade; selling in official price and taking punishment from 2 to 5 times of official cost of it

3<sup>rd</sup> grade; punishment of 2<sup>nd</sup> grade, canceling all or some of the governmental services from 3 to 6 months

Exporting not the bill: is refraining from export of the bill according to forms and determined norms from department of the treasury or exporting the bill unlike liable merchandises. The chastisements of exporting not the bill are:

1<sup>st</sup> grade; written warning (1), inserting in file

2<sup>nd</sup> grade; taking punishment from 500 tomans to 5000 tomans

3<sup>rd</sup> grade; taking punishment from 5000 tomans to 10000 tomans, canceling all or some of the governmental services from 3 to 6 months and locating sign as guilty.

Obeying not the pricing: is conferring not and representing not the necessary proofs for execution of pricing norms and distribution to legal departments without excuse and more than 3 months of release of import merchandises date or producing interior merchandise. The chastisements of obeying not the price are:

1<sup>st</sup> grade; written warning (2) and time out extension for about 1 week

2<sup>nd</sup> grade; punishment from 1 to 5 times of official cost and time out extension for about 1 week

3<sup>rd</sup> grade; punishment according to 2<sup>nd</sup> grade, canceling the quota or services for 3 months and canceling the commercial card for 1 year

Footnote: above grades will be done for each merchandise

Lack of execution of importers vow due to giving exchange and governmental services: is punishment of determined norms and provisions by government about imports that lead to lack of execution of importers vows, quantitative or qualitative decrease of merchandise or emersion the exchange from country. The chastisements are:

Punishment equivalent to difference of exchange rate with common rate or rebound of the exact exchange than leakage amount or doing not the vows, the suspension of commercial card from 6 months to 1 year and because of the duplication from 1 year to annulment and because of abusing moreover to mentioned punishments, the punishment is to 5 times of abuse price.

Footnote: if the imported goods be legal, after mentioned punishments it will come back to it's owner.

Lack of execute producer's vows against taking exchange and governmental services: is lack of produce and sell the goods according to contract and determined plan of government like type, amount, standard, delivery condition &... without excuse. The chastisements of it are as follows:

Written warning (1) and also inserting in the file, announcing to the ministry or recommendations organization.

Punishment equivalent to the difference of exchange rate with market current rate or restoring the exact rate than shortage amount or executing not the vows and if it continues, there will be above punishment from 1 to 3 tomes of abuse amount.

Footnote: if the productive units import ingredients or commercial goods, they will be liable to article 10.

Lack of trade units permit: is lack of permit without excuse during determined time and norms and provisions that are appointed by supreme supervisory board of central council of trade. Its chastisements are;

A . About productive trade units:

1<sup>st</sup> grade; written warning (2) and time extension until 6 months

2<sup>nd</sup> grade; canceling all or some of the governmental services for 3 months, taking punishment for 10000 tomans and time extension for 3 months.

3<sup>rd</sup> grade; closing the unit until getting permit

B . About services trade units:

1<sup>st</sup> grade; written warning (1) and time extension for 6 months

2<sup>nd</sup> grade; canceling quota or some of the governmental services for 3 months, taking punishment of 20000 tomans and time extension for 3 months.

3<sup>rd</sup> grade; closing the unit until getting the permit.

C . About distributive services trade units:

1<sup>st</sup> grade; written warning (2) and time extension for 2 months

2<sup>nd</sup> grade; canceling quota or some of the governmental services for 3 months, taking punishment of 50000 tomans and time extension for 1 month

3<sup>rd</sup> grade; closing the unit until getting the exploit permit

Footnote : the units which don't have certificate from standard organization and industrial research (about goods that are liable to mandatory standard) that their productions are harmful, immediately should be closed until getting the permit.

Lack of exploit permit of productive units: is lack of getting exploit permit without excuse during usance and norms and provisions that are appointed from productive ministries.

Selling exchange, Rial: is selling goods or services against taking exchange or depositing manifest of export exchange, for whole or some parts of goods cost or services inside the country opposite to provisions and government approvals. The chastisements are:

Taking whole of exchange or depositing received letters or their Rial equivalent to market rate and if continue, there will be above punishment, continuance of the quota and governmental services or blocking commercial card for 3 to 6 months. Article 15: mandatory sale: is mandatory sale of goods with other goods in wholesale or retailer. The chastisements are: punishment from 1 to 2 times of procrustean goods cost.

Lacking of the inventory of goods: is lacking of correct announcing of wholesale units than inventory of goods that have official rate and their necessary quote will determined from government. Its chastisements are exactly like hiding merchandise. In some cases that are opposite of norms and provisions of distribution or price as wholesale be in hand of non qualified people, there will be punishment and also for real or legal purchasers from 1 to 3 times and will be sentenced to it.

Footnote : if the goods aren't sold by purchaser, all the side costs will be due to buyer and the good will be refunded.

Condition prevention policy: there are arguable issues about manner of encountering governmental chastisements with committing crimes. We will define them and also prevention issues of mentioned organization about these crimes.

Before explaining about executing of votes verdict issued from governmental chastisements and philosophy formation and competence, in year 1994 with approves of adjustment law of governmental chastisements approved in 1988 from council of distinguishing system, all issues related to governmental chastisements of governmental and non governmental section like investigation affairs, supervision, puberty and verdict and it's execution to the executive power that were devolved to it. Until this year according to governmental chastisements year 1367 of puberty to crimes of governmental section in chastisements are dependant to chastisements central committee under supervision of ministry. Supervision of governmental section is related to revolution court.

By virtue of ministers approvals about determining chastisements organization in 1994, chastisements organization was created and according to article 1 of above approvals about persistent supervision for pricing law, distribution norms and it's punishment as supervision of price and goods distribution in commercial ministry. Article 2 of these approvals also created from justice minister that is about verdict of law crimes of chastisements in Tehran, cities and provinces centrals that have courts and revision branch. The capability of puberty to vast spectrum of banned manners in economical works and market from judge system is forbidden but this capability exit is not as mentioned. Just puberty to them was transferred from one judge system to official system under the control of the executive power. Some of the clear sighted people suppose that the aim of creating chastisements organization, as a executive mechanism, was that with attending far from long formalities to some crimes faster. So economic relations and indexes will be regulated in market and by this way the abuse will decrease and effects of economic international sanctions and war issues originated from ideas, managements will also decrease. The others believe that with study of chastisements law that is from society matters we can conclude the lawgiver for intensifying in make better the economic problems and has showed his importance because low speed in these item and crimes cause some problems like increasing inflation in affairs related to tax and also increasing in hoard and selling costly in society. The champion with such items need judging in order to bar economic crimes in society, so puberty to executive power is somehow in opposite to judging. The chastisements are:

1. Governmental chastisements according to chastisements law approved 1988 about crimes related to selling high cost, selling low, hoard, pricing not, selling out of system, hiding and... that because of lack of polarity with proposal topic we refuse from details.

2. Capability of chastisements organization

3. Capability of chastisements organizations about remedial affairs

4. Capability of chastisements organizations about wheat, flour and bread affairs.

## CONCLUSION AND SUGGESTIONS

The chastisements organization is the one related office to the ministry of justice and does its affairs independently and with minister of justice control. Governmental chastisements as a reference of puberty to economic crimes, is not a new issue and from the first of Islam until now was visible as different titles in Islamic republic and in other known legal systems also has special place like judicial and executive offices.

In Iran also after the victory of Islamic revolution and almost in first of forced war chastisements were established in order to refusing from high crimes in economy. Because of this in the first of 1982 with request of prime minister from Imam Khomeini about the permit of pricing of government and champion with selling high price by government were done. Because of these committees under control of the ministry of the country with name of chastisements committee was created and inspected to economic crimes. After finishing the forced war, Imam Khomeini foreclosed the right of chastisement and forced the distinguishing council to decide about it. Distinguishing council in 1988 with approve of 2 laws as chastisements law and chastisements of sanitary, devolved puberty of non governmental crimes to Islamic courts. This affair until 1994 continued; but because of government control on economic affairs, coordination of pricing, goods distribution, services and it's norms, with approve of unique article of adjustment law approves in 1994 the distinguishing council devolved all chastisements affairs like supervision, verdict issuance and it's execution to executive power so according to chastisements law 1988 declare that this affair continues nowadays. In 1995 about goods and exchange contraband and the form of chastisements another law approved. By virtue of this law and command of puberty to it's files and footnote1 of article 4 about punishment about contraband 1995 the boss of judge power included all affairs related to contraband to the courts and if the court isn't in a city, the public courts will verdict. In footnote2 of article4 from this law it is predicted that chastisements office in lacking of inspecting or lengthening and determining not the files from courts or places that don't have courts for creating legal offices, the chastisements organizations in laws can inspect. Executive law of contraband in 2000 of ministers is approved. As mentioned before contraband is not related to the executive power unless in special issued. The other vital note in that in 2003 the corporatism system law was approved and it is almost like chastisements obligations and also crimes like selling high price, selling low, cheating, hoard and the other mentioned crimes. There are similarities between chastisements law 1988 and corporatism law 2003 in type of crimes. So, what is the law for offender? The answer of this question is if person or corporatism unit are members of special corporatism unit and this office has member in corporatism is offender by virtue of corporatism law 2003 and will be sued; otherwise according to chastisement law 1988 with next corrigendum of it especially 73 will be sued. Offenders in this law mostly pay expensive punishment and sometimes closing corporatism units or refusing from that person temporarily. The important thing is that in corporatism law also are first councils in these affairs for puberty of crimes are predicted .according to article 73 of corporatism law the chastisements law has authority in mentioned crimes and missed these units about them. But in 2009 another revolution has occurred. In this year another law approved with name of support of consumers law. By virtue of articles 14, 17 and 22 this law from execution time for puberty to crimes by chastisements office and punishments approved in 2003 of Islamic supreme council and other laws will be done. In other words from this law approve first offices don't have authority to puberty this crimes but in this issues from 2009 chastisements office has this authority. With approved of this law boundaries and obligations of chastisement office has widened such that a few offices like it are under control of executive power. From 1994 till 2003 the council of corporatism affairs about people or units of offices had authority in puberty of offender's crimes. But from 2003 that this law was approved about mentioned crimes in corporatism law 2003 or crimes in chastisements law 1988, the chastisement office has total authority and now this office separately has this authority. Exact vows of chastisements branches according to law is objective in office court. The public council during united vow 252 in 2001 has confirmed this affair. Two supervision levers are predicted: 1<sup>st</sup>: approvals of adjustment law of chastisements law in 1994, two provisions in 1994 by ministers that approved. One is chastisements office law that in this grades of the office and puberty in first branches are mentioned. The second law is executive law of supervision to pricing goods law and services. By virtue of this provision and beside chastisements office, another office as the office of inspection and puberty to pricing has been created .the aim of its establishment is to supervise pricing and by virtue if this law the inspectors of this office have wide authorities. This office can report any crimes to chastisements office. As u see this office like norm is working beside chastisements office and people can report crimes in selling and producing about pricing, quality or quantity to this office and it will declare report after firs investigations. 2<sup>nd</sup>: supervision system of chastisements system is councils for support of consumer's law in province and cities. In 2009 this law was approved. By virtue of this law the sellers are responsible for broken or unrelated goods to the contract and must change them. Each goods must have valid warranty and enough information from quantity or quality, date of consume and date of expiry. Mandatory sale is banned and having standard sign about goods and services of mandatory sale is necessary. By

virtue of article 4 of this law sellers of importers or exporters of fund goods like industrial cars, agriculture, building, appliances, electrical or non electrical artifacts, pictorial and media devices are forced to have official agency, lawful workshop and giving services after selling. Article 5 of this law declares all of sellers of goods and services must sign label on the goods or locate sign in selling site and say the price. By virtue of article 7 of this law, announcements opposed to false information that lead to making mistake like media or publicity papers, are banned. For doing lawful supports of consumers, support councils of consumers in cities are established that the head of them is public council. The thing that is related to chastisement office is that these councils are the arms of chastisement office in supervision and pricing. The difference is the topics of them are various. The chastisement office can verdict about it. According to article 53 in such cases that offices of article 19 get harm and loss the chastisement office will force the cause of loss to pay. By virtue of article 54 in all cases that because of crimes loss is created for people they can sue. In related part to the crimes jail is predicted and it's opposed to governmental office .in this case we should have reformations. About other punishments of cheat type and times of occurrence are various. Most of this punishments start from low pecuniary to high 8 times more than it and also signing or closing the store temporarily and blocking the permit and governmental services. As mentioned in chastisements law just there in one type of jail so in other types verdict to jail is opposed to law. There are some notes: 1<sup>st</sup>; according to article 55 if the offender doesn't pay his punishment the amount will be paid from his properties. According to article 32 he must till 10 days pay punishment otherwise the amount will be paid by his property.

2<sup>nd</sup>; if he hide his properties, he can be arrested.

3<sup>rd</sup>; according to article 33 his store will be closed and this is possible to arrest him in paying not the punishment.

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