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Investigating Iranian Criminal Policy against Weapons and Arms

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ABSTRACT

Progress in any society requires security and stability and one of the crimes which causes severe unsteadiness in the society is illegal (unauthorized) usage of weapon, which has direct relationship with harsh crimes such as armed robbery, murder, trafficking, abduction, and so on. Illegal weapons can threaten the citizens' privacy and lead to insecurities thus governments deal with this crime very rigorously, because existence of security and providing security are necessary for survival of the governments.

What is important in discussion of crime-supposition of different aspects of criminal policy is not only resigning the role of penal laws to the criminal policy but also correctly choosing the proper criminal policy and proper approach; because, if incorrect criminal policy is chosen, not only the intended goals will not be realized but also the current conditions may get worse. In some regions of our country, Iran, since the circumstances are ready and suitable for illegal usage of weapons and arms, which are provided through trafficking and lead to other crimes, and also because of the special economical and political position of Iran which attracts other countries' particular attention, we should appropriately deal with this criminal phenomenon through compiling and preparing a wise and purposeful criminal policy in various legislative, juridical, cooperative, and executive steps.

KEYWORDS: security, society, criminal policy, illegal (unauthorized) weapons & arms

INTRODUCTION

Parallel to the progress of mankind and civilization of societies in international economic relations and exchanges, the societies must set special regulations and standards, consistent with their policies, and devise strategies, mostly preventive, to ensure the social control. Of course, the criminal sanction is not the only aim of the penal justice system and legal policy of all the societies but the most important aim is to rehabilitate and improve the criminals in order to return them to a sound social life. However, the aim of rehabilitating the criminals was first introduced by the criminal law schools, especially by the *neo-social defense school*, in late 19th century and this approach, as one of the important and main goals of the punishments and security-providing proceedings and actions, has maintained its credibility (Moazenzadegan, 2010, p235). Gunrunning is a penal crime (criminal guilt) that the public forces of every country define it under the military policies and, in some cases, by complementary actions with criminal characteristics and demonstrate legislative social reactions in form of punishment and, in some cases, together with educational (training) and security actions in order to deal with this kind of crimes. Therefore every government, regarding its religious and ideological basics, considers some values for itself and supposes those behaviors which violate these values as crime and fight with them through various methods. So it can be said that the concept of criminal policy has come to existence since formation of the mankind's social life.

The international society which is now encountered with the global disaster of weapons, especially the light weapons, has inaugurated an important process of global constructive action and all the governments have committed to devise, enhance, and execute some standards and strategies for preventing, fighting, and, eventually, extirpating the illegal production and trading of the light and heavy weapons.

Fortunately, since 2010 crime supposition of the mass destruction weapons has been considered as a complement in national enterprises related to prohibition and prevention of these weapons in the process of legislation. However it seems that the above-mentioned legislative processes are not based on the nature, type, and rules of the mass destruction weapons and contractual commitments.

On the other hand, the above-mentioned legal sources are mainly primary ones and must be generalized through devising integrated, comprehensive, and coordinated general and particular rules and regulations in order that any kind of illegal act by corporations and entities inside and outside the sovereignty and authority of the

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country, including importing, exporting, offering, maintaining, applying, assembling, and manufacturing the chemical, biologic, and radiologic weapons and their related items and parts (except for peaceful applications) can be recognized as crime and can be judicially prosecuted and punished. The punishment statute for gunrunning and arms trafficking passed in 2011 is considered as the main legal resource in our country for crime-supposition of mass destruction bills and their related items and parts (Saed, 2013, p3).

It must be noted that a large part of gunrunning and arms trafficking is done from Iraq to our western and southern provinces especially Khoozestan province. Another part of these contrabands and trafficked weapons are entered from countries such as Pakistan and Afghanistan to Khoozestan and Sistan & Baloochestan provinces. These weapons are mainly bought and used by drug trafficking bands or malefactors. This kind of trafficking is mainly done by the anti-revolution groups and bands. Thus regarding the development and progress of technology and industry in different areas, and particularly in weapon industry, there must be an up-to-date war preparation and readiness consistent with the necessities and requisites, and this readiness shouldn't be limited to the government.

Due to expansion and development of the social life and common welfare, considering and paying attention to the security and social issues have got special importance and position. Illegal usage of weapon has direct relationship with harsh crimes such as armed robbery, murder, drug trafficking, abduction, and kidnapping. Illegal weapon usage can threaten the citizens' privacy and lead to insecurities thus countries have a rigorous view on this crime because providing security is necessary for survival of the governments.

The important point in crime-supposition of various aspects of the criminal policy is not only resigning the role of penal laws to the criminal policy but also correctly choosing appropriate criminal policy and approach because if an incorrect criminal policy is chosen, not only the intended goals will not be realized but also the current conditions may get worse. In our country, with regard to the specific economic and political position of the country and since other countries pay special attention to our country, the decisions must be made more precisely and meticulously.

Studying the role of criminal law in changing the policies related to gunrunning, measuring previous criminal policies, and making efficient forward-looking policies needs a historical review. It is evident that the historical aspects and understanding the changes made in the previously adopted policies play important role in analyzing the criminal policy.

Growing increase of crimes, inefficiency of the method of exerting the punishments, and increasing tendency toward using the results and findings of criminological researches have made crime prevention in criminal policy making in national, regional, and international levels inevitable. Therefore, the governments' efforts to prevent crime occurrences and to rehabilitate the criminals based on the criminological findings are of the most important actions predicted in laws and regulations of most of the countries. Adopting appropriate criminal policies and taking a comprehensive approach in fighting with gunrunning, arms trafficking, and regarding the temperaments and habits of the people are of the most important legislative action which should be considered in legislation and codification of the regulations and rules.

The oldest law concerning gunrunning is the trafficking punishment law regulated in 1933/12/29. Then in 1972/11/26 the arms trafficking & gunrunning law was established and the administrative regulation of provision-3 of caluse-1 of this law was compiled in 1975. Of course some other articles have pointed to this issue but have been abrogated since establishment of Arms Punishment Law in 2011 whose regulation was proclaimed in 2013/10/21.

This law is not perfectly comprehensive and has had an inconspicuous role in preventing the crimes; besides, culture-making is the principal condition for this regulation which has not been considered by the legislator. Also different aspects of penal support and the principles of crime prevention, which must be supposed as primary solutions, have not been considered by the legislator.

The unreal pessimistic crime-suppositions and the severely repressive conflicts without regarding the causes of crimes not only don't prevent crimes of gunrunning and arms trafficking but also result in more problems such as criminal population increase; therefore, it is necessary to study the pathology of legislative criminal policy, particularly in crime-supposition, and to investigate the necessity of changing the penal responses.

Research goals

The general goal of the present research is to study the Iranian law's criminal policy for gunrunning and arms trafficking and also to investigate that why these laws and rules are not perfectly preventive while every day we see such a crime in newspapers and courts. We are to investigate that whether this problem lies in our criminal laws or in the method of exerting these laws. Thus the main goal of the present research is to study, first, the Iranian law's criminal policy for gunrunning and arms trafficking and, then, the reasons of its inefficiency. Therefore, since the applicative goal of the research is to study the effect of the Iranian criminal policy for gunrunning on reduction of such crime, its results and findings can act as preventive factor and also can be applied by police and courts and social researchers.

Research questions

1. Do the Iranian policies of fighting with gunrunning and arms trafficking sufficiently coherent and integrated?
2. Has the criminal policy adopted in the Iranian criminal law, particularly the new law, been a desirable and helpful policy? In addition, has it been effective in dissolving the legal gaps and problems?

Research hypotheses

– It seems that the criminal policy of fighting with gunrunning and arms trafficking in Iran lacks sufficient coherent and integrated because of multiplicity of the legislator references and variety of legislative institutions.

– It seems that the new law has, compared to the previous law, more power but still has some important shortcomings and deficiencies.

Research variables

Fixed variable and cause: Iranian criminal policy
Dependent variable and effect: gunrunning and arms trafficking
Responses and mechanisms adopted for gunrunning and arms trafficking

Iranian legislator's responses to perpetrators of gunrunning and arms trafficking crimes

Freedom-divesting punishments

One of the most common punishments used to oppose different crimes is imprisonment. In many countries imprisonment is the established punishment for most of the crimes and sometimes it is also used for less important crimes and even for crimes committed with different motivations a similar punishment is exerted. Although the legislator has declared in article-18 of the Islamic punishment law, ratified in 2013, that "the court, in issuing the decree, should consider the following point, regarding the legal regulations: motivation of the perpetrator and his/her mental and psychological status while committing the crime, but the question is that why the imprisonment punishment is applied more than other punishments? Three reasons can be mentioned this question: 1) Committing a crime by the criminal disturbs the society's discipline so the easiest way to overcome such a disturbance is to remove the doer of the crime from the society and temporarily prevent him from returning to the society. 2) This kind of punishment is appropriate for previously exerted retributions. 3) Punishments have generally changed in two aspects. First, the aim of punishments has changed, that is, their revenging and personal aspects have decreased and, instead, their preventive and social aspects have increased and consequently these punishments have become more reasonable and controllable. The second change is related to the reference of the punisher; that is, previously the personal aspects of the punishment were dominant while currently this duty is resigned to the responsible social institutions thus many of the physical and intimidatory punishments are discarded and substituted by imprisonment. This is why the importance of prison and imprisonment and its role in punishments has increased in the contemporary era. From the starting point of the process of crime-supposition in the field of gunrunning and arms trafficking the legislator has used imprisonment as the main and principal punishment for various crimes. For example the article-7 of the penal laws of traffickers, established in 1928, states that "anybody who has committed gunrunning or has imported or exported those goods whose import and export is forbidden would be sentenced to 6 months to 3 years imprisonment in addition to confiscation of his/her properties. Also in laws related to gunrunning and arms trafficking, established in 1972, the punishment of imprisonment is decreed for all the crime-supposed behaviors and only in some specific cases the perpetrator is condemned to execution. In the punishment law of gunrunning and arms trafficking established in 2011 which is set in 21 articles, too, the main punishment is imprisonment. So it appears that one of the most important reasons for extensive usage of imprisonment is that imposing imprisonment on the criminals is a preventive penalty although there are disagreements on this area.

Another freedom divesting punishments is execution which has, for the first time, been established in 1972 in the criminal law of gunrunning and arm trafficking. In article-1 of this law, stating that "whenever a perpetrator or perpetrators, among whom there is at least one armed individual, demonstrate an armed resistance against governmental forces they will be condemned to execution", the crime of belligerence has been added to the punishment law after the Islamic Revolution and based on jurisprudence. The punishment for this crime, based on article 190 of the punishment law, includes murdering, execution, cutting the leg or hand, and exiling. In article 13 of the punishment law for gunrunning, established in 2011, the legislator states that "if the judge, using opinions of experts of the defense ministry and Atomic Energy organization about radioactive material, recognizes that the under-control items or materials are in mass volume, regarding the amount of materials and the amount of their probable damage, and if the perpetrator is not recognized as belligerence, the punishment will be a 25 to 30 year imprisonment".

The legislator primarily removes from society those perpetrators who have committed the above-mentioned crimes through imprisonment punishment but if the criminal's behavior is recognized dangerous for the society, the legislator will eliminate the individual from the society. Of course there are various opinions and ideas about the execution punishment but such a discussion is beyond the present research's subject.

Non-freedom-divesting punishments

For committing crimes related to the illegal weapons the legislator has delineated another punishment as fine. The legislator considers two criteria for determining such a punishment: a) type of the instrument used for the crime; and b) type of the behavior demonstrated by the instrument. The less dangerous the type of weapon and crime or behavior committed the more mitigated the punishment will be. For example, in article-1, articles (a & b) the law of gunrunning and arms trafficking, established in 2011, and articles 8 & 10 and provision-12 have delineated the fine punishment proportionate to the type of crime. In previous discussions we pointed out that the main motivation for committing the crime of gunrunning is financial profit and interest thus fine punishment (cash punishment) can be considered as the principal punishment but it is not the case.

Confiscation

In the gunrunning law the article-1 expresses the gunrunning crime and then delineates the punishment for this crime. This legal decree means that these things are considered as property and should be the government's exclusive right and if anybody other then the government have such things they must be confiscated in favor of the government (Mansoorabadi, 2003; p47). The article-18 makes decision about all the detected weapons, arms, items, and under-control material whereby all of them should be confiscated in favor of the government (defense ministry).

Beside easiness and simplicity of executing such a punishment, this kind of punishment can, together with fine punishment, be the most effective preventive punishment. The revolution court is the authorized and competent court to judge on illegal arms and gunrunning. It must be noted that before ratifying and establishing the "penal law of gunrunning and illegal weapons owners, established in 2011/6/7", regarding the credibility and sovereignty of the "penal law of gunrunning and armed traffickers, established in 1972/11/26", and considering the fact that the legislator has recognized carrying and keeping weapons and arms as trafficking, the crimes related to keeping and carrying illegal weapons and arms were investigated and judged in the revolution court. Also after issuing the verdict of *unity* in approving the revolution court's competency and authority in 1984/7/11 some of the opposing procedures and different interpretations were eliminated.

After ratifying the "penal law of gunrunning and illegal arms and weapons owners, established in 2011/6/7", explicit abrogation of the "punishment intensification law of gunrunning and armed traffickers, established in 1972/11/26" in article 21 of the law, considering the definition of gunrunning and arms trafficking in article-1 of law (1), and with regard to the changes made in the current law compared to the previous one, it seems that the legislator has excluded illegal arms and weapons keeping and carriage from the definition of gunrunning and arms trafficking and thus has delineated an independent and different punishment for it. However despite the explicitness of the legal statements and clarity of change in the approach and numerous opinions in the legal office of the Judicature about approving the competency and authority of the public court (criminal) and also according to the inquiries from that office based on the current law (2), sometimes disagreements occur between some of the public courts (criminal) and the revolution court on the competent and authorized reference for investigating and judging the crime of carrying and keeping arms and weapons and even sometimes these disagreements are investigated in the branches of the High Court.

In investigating the exertion of intensified and mitigated punishments in gunrunning crimes in the "law of gunrunning and arms trafficking, established in 2011" for achieving a controllable level of criminality which is the aim of criminal policy and in order to encourage the social criminals to quit committing crimes or prevent them from committing future crimes, using the modern legal institutions is very important.

Therefore, resigning the extensive judicial authorities to the court judges in order to individualize the punishments has been under serious consideration of the criminal legislator including the probation, suspension, and mitigation institutions. In the penal laws including the laws of before and after the Islamic Revolution there are some regulations for punishment mitigation (Aghazade, 86).

In article-22 of the Islamic punishment law, established in 1991, and article 37 of the Islamic punishment law, established in 2013 the instances of punishment mitigation are predicated; that is, if the case is related to the judicial punishment mitigation it should be predicated to the laws by the judge too. Article 17 of the punishment law of gunrunning and arms trafficking perpetrators, about exerting mitigation, states that "cooperation of the gunrunning crimes perpetrators and accused individuals with police and security forces for discovering weapons, arms, arms, items and under-control material and detecting and prosecuting their assistants and accessories will result in one

degree of mitigation in degree 6 discretionary punishments and forgiveness in degree 7 & 8 discretionary punishments. As for the intensified punishments the legislator, in article 14 & 15 of gunrunning and arms trafficking law, has delineated two instances; first, when the crime is committed by an organized group and, second, when the criminal is armed and fight and resists against the police officers.

Investigation of gunrunning with regard to the prescription law

Since the penal procedure law has prescribed exertion of the prescription statutes merely for crimes with preventive punishments, recognizing the concept of this punishment is of great importance.

Scrutinizing the under-study statutes and regulations demonstrates that the current legislator acts cautiously in expressing some of the legal decrees which are of occurrences in order to avoid encountering disagreement of the jurisprudents of the Guard Council. Thus the legislator states its intentions in such a way that the Guard Council doesn't recognize them against the canon law. Therefore, we see that the legislators of the penal procedure law, to avoid disagreement of the Guard Council jurisprudents in canonization of the prescription law establishment, first in provision-1 of article 2, separated the canonical discretionary from other discretionary corrections and whereby provided the ground for including the statutes of prescription in other crimes (9). Then they succeeded to achieve the Guard Council's agreement through articles 173 174 stating that prescription law merely causes stop of prosecution of crimes which are included in preventive punishments. Indeed resistance of the Guard Council against accepting the prescription law establishment has caused the legislator to change its statements instead of explicitly stating them. However, it can be seen that the current judicial procedure, as the legislator recognized, has not had a wise and intelligent performance.

The legislator, in articles 105, 106 & 107 of the Islamic punishment law established in 2013/2/1, states respectively the instances included in the prescription law, executing the absolute decrees, and the crimes which are included in the prescription law. Thus regarding the exception mentioned in article 109 of the above-mentioned law, the gunrunning crime is absolved from this statute so crimes of gunrunning are included in the prescription law with regard to articles-105 & 107 of the punishment law (Islamic punishment law, established in 2013/2/1).

Exerting the principles of suspension, postponement, & probation in gunrunning and arms trafficking crimes
Principles of postponement in mentioned crimes

Postponement means pausing, postponing, delaying a job or action (Amid, 1987). Postponing the decree means that the court, after proving the crime of a criminal, postpones his punishment but in suspending the execution of a punishment the court, after proving the criminality and decreeing the punishment, suspends executing the punishment while this decision is not decreed for the punishment after proving the criminality (Sabzevarinezhad, 2012). We should make discrimination between postponing the punishment and postponing the decree because punishment postponement is a general topic, which embraces suspension and probation while decree postponement is a new institution in the Iranian law.

Types of postponement

Basically postponement of the decree announcement is in three types: 1) simple postponement; 2) experimental or watchful postponement; and 3) postponement with order. In the Iranian law based on article 41 of the new Islamic punishment law postponement is divided into two categories. Since in article 40 of the Islamic punishment law postponement is considered in degree-6to8 discretional crimes, of course with specific conditions, it seems that the crime of gunrunning and arms trafficking is not excepted. Of course according to the article 47 of the Islamic punishment law the crimes related to gunrunning and arms trafficking are not included in the postponement principles (Islamic punishment law, established in 2013; & arms and weapons punishment law, established in 2011).

Suspension principles in crimes of gunrunning and arms trafficking

The terminology of the suspension laws is defined as: when a condemned criminal has no criminal background he will be warned that if he doesn't commit a new crime his current sentence will not be executed till committing a new crime and if he commits the new crime both of the punishments will be executed. This is called punishment suspension which s in fact suspension of the punishment execution.

Suspension of the punishment execution is one of the traditional methods which substitutes the imprisonment punishment and has a historical background starting from the starting point of legislation. Suspension of punishment execution was, for the first time, predicted articles 47 to 50 of the general punishment law, established in 1925, as the simple suspension. This kind of suspension was specifically for the delinquent crimes. Article 47 of the general punishment law, established in 1925, declares that "if a person, who is condemned to imprisonment because of committing a delinquency, has been previously condemned due to committing a felony or a delinquency the court

can suspend execution of his punishment with regard to his behavior, property, and justifiable reasons." In 1928 the regulations of suspending the punishment execution were amended. In this amended law the instances included in suspension were limited. In this law we can see two main changes compared to the law of 1925. First, in this law the instances included in suspension were limited to delinquencies which had been determined in 1925 law. Second, the inclusion domain of suspension was extended to include the fine punishment. Eventually in 1965 the law of punishment execution suspension was established in 18 articles. According to article 1 of this law, for condemnations of correction imprisonment or fine punishment (or both of them) which are resulted from committing a felony or delinquency (if the punishment is not more vigorous than a single imprisonment) the court can suspend the punishment execution for 2-5 years alongside with condemnation. The law of year 1965 considers executing some of the penal decrees non-suspendable; some of these decrees include: decrees of more than one-year imprisonment; punishment of those who violate the laws related to food, drugs, and cosmetics; punishment of those who import or produce narcotics or provide the ground for others to commit such a crime; punishment of those who are condemned for embezzlement, bribery, forging, or using forged documents. Also suspension was not executable for those who had committed a number of important felonies or delinquencies and had been condemned regarding multiplicity of the crime. This law, compared to the law of year 1928, had a more extensive inclusion domain and included the criminal crimes too. The explicit difference between these two laws is that the length of condemnation has been decreased from three years to one year. About this point some of the jurists believe that "legislation in 1304 with philosophy of suspension of the imprisonment punishment was more compatible. Because, if the aim of suspending the imprisonment punishment is to prevent the severe effects and outcomes of residence in prisons and to safeguard the prisoner from the pernicious effects of association with other prisoners, it is meaningless to extend the imprisonment duration." Consequently suspending the punishment execution was excluded from the particular legal position and was predicted in article 40 of the Islamic punishment law in 1982. In article 40 of this law the legislator has mentioned the institution of suspending the punishment execution. There are principal differences between this law and the law of year 1965, one of which is that this law includes all of the discretionary condemnations and whipping, too, is considered as a discretionary punishment. Generalizing the suspension to other discretionary punishments appears to be mark of a new change occurring in fundamentals of the penal establishment. Because the problem was, no longer, merely to avoid from ominous effects of short-term imprisonment but the aim was to give advantage to the criminals who have committed a crime for the first time and threatening the criminal to execute the punishment in case of committing a new crime was considered as a preventive factor.

Eventually by establishing the Islamic punishment law in 1991 the regulations of article 40 were abolished and regulations of suspending the punishment execution are currently predicted in articles 25 to 37 of this law, of course with regard to some special conditions. This law, compared to the law of Islamic punishment established in 1982, includes all the preventive condemnations in addition to all the discretionary condemnations. It must be noted that in the law of correcting some of the judicature statutes, established in 1356, the suspension of criminal prosecution had been predicted. In article 22 of this law the suspension of criminal prosecution had been considered and emphasized by the legislator in the primary step of investigation in the court as follows: "in all of the accusations (with degree of delinquency) whenever the accused individual confesses committing the crime the attorney general can, himself, suspend the criminal prosecution until the first session of judgment, of course after the determined conditions are proved. These conditions include: a) the accused person's confession to the crime commitment: when the accused person's confession is close to the reality, based on the file's content, the judicial authority can suspend the criminal prosecution of unimportant crimes after the determined conditions are proved; b) lack of criminal condemnation background: the second condition needed for suspending the criminal prosecution is that the accused person has no criminal condemnation background; c) lack of private claimant or plaintiff: the last condition for accepting the criminal prosecution is that there is no private claimant or plaintiff or the plaintiff has restored his plaint. It is notable that there is law for suspending the prisoners' punishment established in 1952 which is titled the law of prisoners' punishment suspension.

Since article 47 of the Islamic punishment law delineates the crimes which are not included in suspension statute and one of this crimes, which are excepted in article "v" of this article, is the crime of gunrunning and arms trafficking so this crime, disregard of its degree, can't be included in the regulation of suspension.

Principles of probation in crimes of gunrunning and arms trafficking

Conditions of granting probation in article 58 of the new Islamic punishment law include:

1- Passing a part of the imprisonment punishment's duration: in the new law probation is granted provided that the individuals condemned to life imprisonment have passed more than 10 years in prison and other ones have passed one third of their imprisonment. The criterion which is reckoned in these cases is the duration mentioned in

the court's decree and is executed. The previous and new Islamic punishment laws there is no decree about probation for the sort-term imprisonments, but in provision 1 of the single article of the prisoners' probation law the individuals condemned to life imprisonment can use probation after passing 12 years of their imprisonment duration; it seems that, regarding the explicit abrogation, that part of the above-mentioned law which doesn't contradict the Islamic punishment law remains credible and reliable and is more compatible with the legal principles. However the legal bureau of judicature has stated, in numerous opinions, that in life imprisonment the probation is not imaginable and it appears that the legislators, too, have had the same opinion.

2- Good behavior and good temperedness: the legislator distinguishes that among the individuals condemned to imprisonment those ones who have demonstrated good behavior and temper during execution of their punishment deserve probation (article "a" of article 58).

3- Being assured of not committing the crime: the court should be assured that the prisoner will no longer commit the crime after freedom (article "b" of article 58).

4- Compensating the loser's loss which is resulted from the crime: the private claimant's loss is an example of financial obligations which the criminal is imposed to pay but the fine punishment is not reconcilable; however, if the condemned individual is recognized as insolvent he can use probation.

5- lack of previous usage of probation: not having background of criminal condemnation to imprisonment is not a condition for using probation and lack of a previous usage of probation is the sufficient condition for the condemned individual to use the probation even if he has been condemned to imprisonment for a number of times (article "v" of article 58); while, according to the Islamic punishment law and the prisoners' probation law, lack of an imprisonment condemnation was necessary to use probation.

6- Probation qualification approval by the judge of the decrees' execution: the judge of the decrees' execution should investigate the status of the prisoner to examine realization of the conditions mentioned in article-58 of the Islamic punishment law and then, in case of approving the qualification, propose the probation to the court.

Issuing the probation depends on the proposal (suggestion) of the attorney general or the decrees' execution judge and agreement of the court issuing the condemnation decree. Before an issuance the prisoners' categorization council one of whose members is, the prison chief (council's secretary) states its opinion about competence and eligibility of the prisoner. After approving the good-temperedness and good behavior of the prisoner during the imprisonment the chief proposes him to the decrees' execution judge as the one who deserves probation. Then the judge, after investigating the conditions, submits the probation proposal to the court. The court is free to accept or reject the probation request and nobody can object because probation is not a right that the court is imposed and forced to grant it but rejecting this request doesn't mean that the prisoner can no longer request it once again. According to article 12, "instruction of organizing the prisoners and reducing the criminal population of prisons", established in 2013/2/29, investigating the probation request in the court will be performed as an urgent case.

Corrections and innovations of probation in the new law:

1- Deleting the adverb of "first time" and adding the condition of "not previously using the probation".

2- Correcting and changing the absolute expression "imprisonment punishment" to the expression "discretionary imprisonment".

3- Segregating the more-than-10-years imprisonment condemnations from shorter ones for using the probation.

4- Changing the expression "absolute condemnation decree's issuing court" to the expression "decree's issuing court".

5- Adding the word "behavior goodness" after "good temperedness" in article "b" of article 58 of the new law.

6- Changing the authority, in the new law, that proposes the probation so that the attorney general and the decrees' execution judge propose the probation while in the previous law the "prisons organization" proposed the probation and the supervisor solicitor general approved it.

7- Report of the prison's chief in case of qualifying the probation conditions.

8- Probation qualification approval by the decrees' execution judge.

9- Perceiving the sanction of not following the court's orders during the probation or committing a new crime.

10- Adding 1 to two years to the probation for the first time in case of not following the court's orders without justifiable excuses.

11- Instances of cancelling the probation: a) committing one of the intentional crimes which result in canonic punishment, execution (killing), atonement, or discretionary up to degree 7; b) repetition of not following the court's orders during the probation without justifiable excuses.

With regard to the conditions of exerting the system of probation, the perpetrators of the gunrunning and arms trafficking crimes, to, can be included in this system (Omid Tavakolnia, researcher in laws; qf Islamic punishment law and support, 2013).

Conclusion

The cultural, political, social, and economical changes resulted from the development programs and plans, the increasing complexity of various kinds of crimes, and existence of various problems in different regions of our country have made it impossible to deny the necessity of setting and compiling a criminal policy based on the scientific findings. Compiling and providing scientific and dynamic criminal policies requires recognizing the basics and principles dominating the criminality and recognizing the causes and beds for occurrence of criminal phenomena, including gunrunning and arms trafficking, in different regions of the country. The emphasis on the necessity and importance of the criminal policy doesn't mean ignoring the role of supra-criminal systems such as family, schools, religious institutions, and media, creating social discipline and security, and controlling the criminal phenomena. The more active and dynamic the institutions act, the less we will need to use disciplinary strategies and penal tools and instruments. If families sufficiently try to train and breed their children from their birth and, then, the schools and other supra-criminal institutions effectively play their role, apparently the percentage of probability of the criminal phenomena occurrence (including gunrunning and arms trafficking) will decrease, and naturally the criminal justice institutions will demonstrate more efficiency in encountering the criminous phenomena; otherwise, the duty and responsibility of the responsible institutions in fighting with the criminous phenomena will become greater and harder and this will result in inefficiency and undesirable outcomes such as armed robbery, murder, narcotics and drug trafficking, abduction, and kidnapping by illegal weapons.

Illegal arms and weapons, which are provided through trafficking, can violate the citizens' privacy and lead to insecurity thus countries must consider this crime more rigorously, and adopting an appropriate criminal policy plays an undeniable and effective role in preventing and controlling this kind of crime.

Despite ratifying and establishing various laws and regulations for this crime, the legislator has explicitly delineated all of its aspects including a competent and authorized reference for investigating the accusation given to the individuals for carrying and keeping illegal weapons and arms. These regulations and laws, according to different procedures adopted by the courts or the Iranian High Court's branches, in different time periods results in two statements of procedure unity by the general counsel of the High Court, whereby illegal dealing (buying & selling), transporting, hiding, and keeping the weapons, arms, items, and under-control material are excluded from the trafficking law and investigating such cases is done by the general court (criminal) but the revolution court is the one which is authorized to investigate the cases of gunrunning and arms trafficking.

It is evident that gunrunning and arms trafficking is a penal crime which the public forces of any country define and delineate it with criminal characteristics under the military policies and, in some cases, with complimentary actions and demonstrate the legislative social reactions (responses) in form of punishments and, sometimes, together with some security and training actions; thus, in this way, they deal with such a crime. Therefore, any government regarding its religious and ideological fundamentals considers some values for itself and supposes the behaviors which violate these values as crimes. It must be noted that illegal usage of weapons has a direct relationship with harsh crimes such as armed robbery, murder, narcotics and drug trafficking, abduction, and kidnapping. Illegal weapon usage can threaten the citizens' privacy and lead to insecurity thus countries consider this crime rigorously because providing security is necessary for the governments' survival. When we discuss gunrunning as a supranational crime we mean trafficking in a wider range. The illegal arms trafficking and gunrunning is different from other supranational organized crimes. This commodity is manufactured in developed and progressed countries and sold in poor countries which have economical, social, and political crises.

It can be observed that in fighting with gunrunning there are shortcomings which must be resolved. However, the best solution is prevention. Therefore, we should apply all the tools and instruments (non-compulsory) to prevent ourselves from being set in a crime situation because today's criminologists prefer prevention to punishment and follow the well-known proverb stating that "prevention is better than curing" which was previously used in medicine. It must be noted that in the criminological management's approach the situational prevention is considered as the most important type of prevention, which is based on controlling the crime in order to prevent it from extending and growing; besides, the basis of situational or situation-oriented prevention is to disturb the pre-crime situation.

As for the nature of prevention and its dominating contradiction, there are discussions about activities and non-compulsory actions which reduce the crimes' intensity, disturb the crimes' equation, and increase the cost of committing a crime in such a way that the potential criminal is dissuaded to commit the crime.

Indeed, by using modern preventions in form of attraction-removing and hardening the crime commitment and by applying Bentham's idea, stating that "any individual unconsciously handles his affairs based on the loss and profit resulted from his performance and if he recognizes that the loss of his action is more than its profit probably he will be quickly dissuaded", we can minimize the crimes. Therefore, it is necessary to increase the cost of committing a crime and decrease the profit. This can be achieved through applying modern supervision methods,

increasing the inspection stations in borderlines, and showing the punishment of these crimes in public media in order to warning and deter the people.

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