

Investigating the differences and similarities of the criminal law dealing with drug trafficking in Iran and Pakistan

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Abstract

One of the problems of recent decades is the use of drugs in the global community. Along with the increase in drug use, many social problems are spreading in different countries of the world, so that producing and transit countries have been considered as an important factor in the spread of drugs according to the World Anti-Narcotics Organization. Iran is one of the countries on the route of drug trafficking to Europe. Therefore, in this study, the laws and regulations related to the punishment for drug trafficking in relation to Pakistan were evaluated and examined. This research was a library study. The results of the study show that in Iranian and Pakistani law, drug trafficking offenses are common in terms of laws, the need to investigate these crimes, and the non-acceptance of the right to appeal with drug offenses. The grounds for criminalizing drug trafficking in Iran and Pakistan depend on the legal and executive considerations of that country's legislature. Unlike Pakistan's criminal policy on drug trafficking, Iran's criminal policy is very strict and largely repressive.

Keywords: Trafficking, Drugs, Criminal Law, Police, Iran.

Introduction

In recent years, due to the prevalence of crimes related to drug trafficking and the execution of punishments related to this type of crime, which often kills or deprives individuals of their liberties, there has been much criticism both from Iranian criminologists and sociologists and from the international community. Which, in recent years, has prompted lawmakers to amend articles related to this type of punishment in the Anti-Narcotics Act (Zhang, 2002).

The phenomenon of drugs as a national problem in most countries of the world and the diversity of drug types and its international trafficking is a global problem. Few countries can be found that do not deal with the drug problem and its consequences. So that this issue slows down or even stops the development of societies and causes various crimes. The consequence of drug use is the destruction of human resources, which is the most important asset of any society. Poppy cultivation is a traditional crop in Pakistan. The Islamic Republic of Iran shares very long land and water borders with Pakistan. Therefore, it can be said that in the border points with the neighboring country in the north; That is, Pakistan faces many different challenges (Çduygu, 2004).

Sources of tension such as: the ethnic geographical extension of Afghans in the Afghan plains, Pakistan's strong need for rivers coming from Iran, the geopolitical interests of the two countries, especially in the field of transit uses, the legal regime of the Caspian Sea and border functions. But Pakistan's internal challenges, Central Asia and the possibility of widespread regional tensions, the presence of the United States and the Zionist regime in Pakistan, the functioning of Pakistan's secular political system and the treatment of Muslim fundamentalists will affect relations between the two countries. (2008).

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Francis (2010) examines new mechanisms for dealing with drug crimes. The study found that today we are witnessing some crimes such as theft, trafficking and distribution of drugs committed by multi-member gangs of children and adolescents. If these criminals become aware of their lack of criminal responsibility and know that the law has not prosecuted them, no force will be able to prevent them from going astray.

Thomas et al. (2016) examined the right of appeal in human rights and Iranian law documents. The study found that reviewing criminal sentences is one way to prevent impunity for innocent defendants and its harmful effects. Even if the jurisdiction, independence and impartiality of the court are established and other measures and criteria related to a fair trial are observed, the need to review the verdicts cannot be denied; because a judicial or legal error of the court is always possible .

Wastnidge (2014) examines the appeal of drug rulings in Iranian criminal law. In this study, it is stated that appealing against criminal judgments has always been one of the most important and significant issues in criminal proceedings due to its importance and impact on the realization of the rights of litigants and is a means of guaranteeing individual rights and freedoms and securing the interests of society. And it is recognized as one of the ways to protest the votes in the world legal systems and the judicial system of many countries. An appeal is a guarantee for the administration of justice and the observance of the rights of the accused and the compensation of judicial errors. In this article, the author reconsiders the views of narcotics, including rulings and appointments, and by comparing and comparing Iranian law with Pakistani law on narcotics, [tries to highlight] the advantages and disadvantages of Iranian law on the above issue (Ghoddusi (2018)).

Materials and Method

This study was a library study. In this study of internal studies, library resources, journals, newspapers and other available resources were used. International resources from the United Nations World Narcotics Organization were also used to study Pakistan. The results were analyzed sequentially.

Results

In Iran, smuggling does not affect entry and exit points and geographical borders, because according to paragraph 2 of Article 12 of the Law on Adding Articles to the Law on Regulating Part of the Government's Financial Regulations adopted in 2005, Article 62 of the Trade Union Law adopted in 2003 and Article 14 of the National Tobacco Control Law approved. 2006 The storage and distribution of goods imported without a license is a crime throughout the country and is subject to regulations related to the smuggling of goods. Therefore, keeping, distributing and transporting goods without a legal license inside the country is also considered smuggling. Thus, whenever persons import or export a licensed or prohibited goods without observing the rules and obtaining a license, they have committed customs smuggling, and this type of crime is considered to have occurred if the matter of attempting to export or import the goods is considered. To be done exclusively from the entry and exit points of the country. Therefore, the realization of the crime of customs smuggling is limited to the smuggling of goods that are inherently carried out in an unauthorized manner with the realization of entry or exit, so other types of smuggling such as transportation, purchase and sale, storage, production, etc. They have criminal descriptions such as arms and ammunition smuggling and drug trafficking is not included in this title (Mansouri & Afghah, 2019).

For example, in Iranian society, while some point to the role of public culture in the tendency of individuals to use drugs and the common and erroneous way of thinking and traditions that are deeply rooted in human beliefs (Mozayani, 2018; Thompson, 2006), others point to They believe that "addiction has never been widely accepted among Iranians" (Thompson, 2006). Erami, 2015) (Gholizade et al., 2011). Therefore, it seems that the basis of narcotics criminology in Iran, along with the social ugliness of some narcotics and religion (although there is no consensus on the sanctity of drug use), is to prevent harm to others (consumers) and Pourkazemi, 2013).

Criminal policy in Iran

The crime of smuggling, like other crimes, has elements and elements, but it should be noted that smuggling, like any other crime, has certain characteristics that distinguish it from other crimes; And these are the elements of the structure of this crime (Musai & Mehrara, 2014). One of the pillars that always exists by default in the crime of human trafficking is that in fact human beings, both male and female, are used in this crime as commodities; And the human being, who is located as a commodity, is exposed to all legal and illegal possessions; And almost all the laws of this chapter specify this matter (Habibi, 2010).

Aghazadeh et al. (2017) In contrast, opponents argue that there is no scientific evidence that the death penalty in particular can prevent the commission of a crime. According to him, the death penalty is not useful and just and does not prevent the occurrence of crimes and their recurrence; because in spite of the multiplicity of these punishments, we are always confronted with criminals who carry out the crimes of the death penalty without fear of this punishment. This group also points to the irreversibility of the death penalty if the sentence is found to be erroneous and the existence of significant statistics in this regard (Heydari & Hosseini, 2006).

Given that general intimidation or general deterrence is the main purpose of the legislature in determining the punishment for execution, its realization or non-realization largely answers the question of the efficiency or inefficiency of the death penalty in the specific part of the death penalty in drug offenses. will be. Punishment and punishment of the offender is the most traditional basis of punishment (Bhagwati & Hansen, 1973).

Based on this goal, the perpetrator has disturbed the public order by committing a crime, and it is only with the application of punishment that this disturbed order returns to the society. In fact, punishment means reparation for the past. Accordingly, it has been referred to as retrospective or retrospective (Içduygu, 2002). In the case of the death penalty as a criminal response to drug crimes in Iran, the purpose of punishing the perpetrators was certainly intended by the drafters of the Anti-Narcotics Law, and this is something that has been criticized by the judiciary in the Islamic Republic of Iran. , 2012) But the question that arises is whether these criminals, who are themselves mainly tools of drug gangs and struggle with poor socio-economic problems, and somehow fall victim to the lack of proper planning of government officials to create They are employed and, in a word, they are part of the chain of exploitation, they are subject to the punishment of execution, and this punishment is a proper response to their actions.

It should be noted that intrinsic dignity includes all human beings, both criminals and non-criminals, and it should not be achieved with the acquired dignity, which is achieved through human effort and effort, regarding the permissibility or non-permissibility of performing the hadd in the time of Khan (Ghayb 2020).). Drug trafficking is a multidimensional phenomenon and governments cannot look at it from a single perspective. A large percentage of those involved in drug trafficking are due to economic problems such as poverty and unemployment and the effects of the recession, including bankruptcy and its effects. Poverty, unemployment and recession are also the result of government inefficiency. Mohammadi, 2019).

Criminal policy in Pakistan Considering that the Islamic Republic of Iran has common borders with Pakistan and some of it has very long land and water borders and this country has different economic-political and environmental characteristics, it can be considered as a border with the country.

In the north, Pakistan itself, it faces many different challenges, which we will mention below: 2. The intelligence and economic activities of the US and the Zionist regime in the territory of the Republic of Pakistan;

۶. Lack of compatibility between pasture and livestock in large parts of the border strip and the tendency of Iranian border residents to graze cattle across the border and the negative political and security consequences of this;

۷. Existence of corruption and prostitution on the other side of the border and the tendency of a number of Iranian youth and transit drivers to travel in terms of promiscuity and sexual harassment;

۸. Existence of ethnic and religious affinities and pan-Turkic tendencies (of Afghan type) in which there is a possibility of exploiting supra-regional powers in this regard;

۹. High youth unemployment on both sides of the border and widespread poverty of the displaced people on the Pakistani side;

6. Extension of some of the problems of armed drug trafficking in the Pakistani Territory to the three-dimensional border area of the Zulfiqar Valley and the Khatun Bridge Border Regiment;

V. Problems of the two countries in determining the bilateral boundaries of the sea and determining the legal regime of the Caspian Sea (Mahdavi, 2, p. 1) In Pakistan, the legislature in recent years has explained the anti-trafficking law in 2012. Smuggling of goods is a subject with many forms and complexities; this is one of the major problems facing developing countries and accounts for a large share of the resources and forces of society and has a wide range of destructive cultural, social, political and economic effects.

This problem threatens and challenges the current and future economic life of the country by neutralizing or reducing the economic and trade policies and measures of the governments. The phenomenon of smuggling of goods and currency in Pakistan, in addition to its adverse economic effects, is important as an economic and social challenge. Today, this phenomenon, in addition to being a serious threat to free trade, also imposes high costs on the country's economic body. On the one hand, smuggling of goods reduces the customs and tax revenues of the government, and on the other hand, it causes the fruitless outflow of currency, the massive flight of capital, the increase of unemployment, the reduction of industrial and domestic production, and so on. In a healthy economy, all economic activities are recorded (Peyrouse, 2009).

Drug-related crimes are regulated between Articles 188 to 192 of the Pakistan Penal Code. In general, the mentioned articles regulate the crimes of buying and selling (trade), production, facilitation and use of drugs. In addition to the Penal Code, some drug-related cases are mentioned in other laws and regulations; Such as the Drug Law No. 3298 and the Drug Control Law No. 2313. Contrary to Iranian law, the ceiling on drug-related punishments in Pakistani law has little to do with the amount of drugs. that's mean; Punishment for drug trafficking, supply, and transportation, as referred to in Pakistan's penal code, is related to the act, and the amount of drugs discovered does not have much effect on the punishment ceiling (Hill, 2002; Nikpour, 2018).

Conclusion

One of the causes of the decline and backwardness of a nation is the phenomenon of addiction and drug trafficking. These opiums are known to weaken the nerves and will of people, which cause lethargy and behavioral imbalance and indifference to the family and society. A series of related consequences also aggravate this vulgarity and social deviation, so that they eventually create a passive society and destroy the country's capital. In terms of border geography, the countries involved in this flood of community can be referred to a neighbor who has unpleasant statistics in this area and has a long common border of 925 km from the Zulfiqar estuary in the north of Khorasan Razavi province to the nearby Malek Siah Mountain. It is north of Sistan and Baluchestan province, which includes important cities in Iran.

On the other side of the border, there are three major provinces in Pakistan: Nimroz, Helmand and Zabul, each of which is divided into several cities. Nearly 4 million people live on both sides of the border, who are somehow involved in the phenomenon of drug trafficking. Residents of border areas with their own regional geography, are composed of various tribes, clans and clans that have different customs as well as different levels of biological well-being. Due to many reasons such as having a dry climate and its periodic aggravation, financial and cultural poverty and lack of investment and the attention of officials to provide work for a decent living, a number of residents to invade and loot neighbors and the profession of smuggling goods and drugs Encourages. In this article, measures are taken that lead to changing the performance of these people towards adhering to the rights of others and having a safe and secure border for a more comfortable life. In this regard, it is proposed to create several cross-border buffer zones, which include several kilometers of land on both sides of the border. This border management plan can be created through a special joint management with the cooperation of foreign investors and the supervision of the United Nations, so that with the investment and employment of the parties and the establishment of industrial, agricultural, commercial and urban bio-hubs, an understanding can be reached. And there will be more cooperation and the growth of the welfare of the inhabitants, and the consequence of the eradication of these professions and the greater security of the border cities will follow.

References

1. Zhang, S., & Chin, K. L. (2002). Enter the dragon: Inside Chinese human smuggling organizations. *Criminology*, 40(4), 737-768.
2. Çduygu, A. (2004). Transborder crime between Turkey and Greece: Human smuggling and its regional consequences. *Southeast European and Black Sea Studies*, 4(2), 294-314.
3. Zhang, S. X., & Chin, K. L. (2008). Snakeheads, mules, and protective umbrellas: A review of current research on Chinese organized crime. *Crime, Law and Social Change*, 50(3), 177-195.
4. Soudijn, M. R., & Kleemans, E. R. (2009). Chinese organized crime and situational context: comparing human smuggling and synthetic drugs trafficking. *Crime, Law and Social Change*, 52(5), 457.
5. Madras, B. K. (2016). The growing problem of new psychoactive substances (NPS). In *Neuropharmacology of New Psychoactive Substances (NPS)* (pp. 1-18). Springer, Cham.
6. Francis, L. P., & Francis, J. G. (2010). Stateless crimes, legitimacy, and international criminal law: the case of organ trafficking. *Criminal Law and Philosophy*, 4(3), 283-295.
7. Thomas, V., Azizi, M. A., & Behzad, K. (2016). *Developing transboundary water resources: What perspectives for cooperation between Afghanistan, Iran and Pakistan?*. Kabul, Afghanistan: Afghanistan Research and Evaluation Unit.
8. Chandran, D. S. (1998). Drug trafficking and the security of the state: A case study of Pakistan. *Strategic Analysis*, 22(6), 903-922.
9. Wastnidge, E. (2014). Iran and Pakistan: It's Complicated.
10. Thompson, E. A. (2006). The nexus of drug trafficking and hawala in Afghanistan. *Introduction And Overview*, 155.
11. Ghoddusi, H., Rafizadeh, N., & Rahmati, M. H. (2018). Price elasticity of gasoline smuggling: A semi-structural estimation approach. *Energy Economics*, 71, 171-185.
12. Mansouri, A., & Afghah, M. (2019). Impact of corruption and crime on smuggling: evidence from Iran. *Journal of International Studies*, 15, 35-52.
13. Mozayani, A. H. (2018). An Operational Framework for Calculating Import Smuggling in Iran. *Quarterly Journal of Fiscal and Economic Policies*, 6(23), 61-96.
14. Erami, N., & Keshavarzian, A. (2015). When ties don't bind: smuggling effects, bazaars and regulatory regimes in postrevolutionary Iran. *Economy and Society*, 44(1), 110-139.
15. Gholizade, S. E., Alipoor, A., & Zoghi, B. K. (2011). Causes and Consequences of Smuggling in Iran after the Islamic Revolution.
16. Pourkazemi, M. H., Sherafat, M. N., & Azari, Z. D. (2013). A fuzzy logic approach to estimate the import of smuggling in Iran. *Iranian Economic Review*, 17(2), 107-129.
17. Musai, M., & Mehrara, M. (2014). The Relationship between Drug Smuggling and Unemployment (Case Study: Iran). *International Journal of Academic Research in Economics and Management Sciences*, 3(1), 126.
18. Habibi, N. (2010). The impact of sanctions on Iran-GCC Economic Relations. *Middle East Brief*, 45(1).
19. Aghazadeh, A., Ardebili, M., Ashouri, M., & Mahdavisabet, M. (2017). Organized Smuggling of Goods in the Criminal Law of Iran and Turkey. *J. Pol. & L.*, 10, 24.
20. Rezagholizadeh, M., & Heidarzadeh, S. (2020). Smuggling and Employment in Iran.
21. Heydari, G., & Hosseini, M. A. (2006). An estimation of tea smuggling in Iran.
22. Hosseini-Divkolaye, N. S. (2009). Iran: migrant smuggling and trafficking in persons. *Forced Migration Review*, (32), 66.
23. Musai, M., & Garshasebi, F. S. (2011). UNEMPLOYMENT AND DRUG SMUGGLING IN IRAN.
24. Bhagwati, J., & Hansen, B. (1973). A theoretical analysis of smuggling. *The Quarterly Journal of Economics*, 172-187.
25. İçduygu, A., & Toktas, S. (2002). How do smuggling and trafficking operate via irregular border crossings in the Middle East? Evidence from fieldwork in Turkey. *International migration*, 40(6), 25-54.
26. Batmanghelidj, E. (2012). Sanctions, Smuggling, and the Cigarette: The Granting of Iran OFAC Licenses to Big Tobacco. *Iranian Studies*, 45(3), 395-415.
27. Khan, Z. A. (2020). Balochistan factor in Pak-Iran relations: Opportunities and constraints. *South Asian Studies*, 27(1).
28. Mohammadi, A., & Sadeghi, R. (2019). Migrant Smuggling as 'Business': Exploration the Process of Smuggling of Economic Migrants from Afghanistan to Iran. *Sociological Review*, 26(1), 39-68.

29. Peyrouse, S. (2009). *Drug-trafficking in Central Asia*. Institute for Security and Development Policy.
30. Hill, F. (2002). The United States and Russia in Central Asia: Uzbekistan, Tajikistan, Afghanistan, Pakistan, and Iran. *The Aspen Institute Congressional Program*, 15, 17-22.
31. Nikpour, G. (2018). *Drugs and drug policy in the Islamic Republic of Iran*. Crown Center for Middle East Studies.