Legal and Judicial Politics for Narcotic Smuggling in Islamic Republic of Iran

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Abstract

There is a special judgment ethic about narcotic smuggling in Iran’s law. Most of laws that relate to judgment ethic of narcotic smuggling crimes are different from other crimes judgment ethics. These differences can be considered in revolution court jurisdiction, special precept in supply contract, precepts that relate to review wanting, precept that relate to admin manner of lawyer. Jurisdiction abandon for investigation of narcotics smuggling crimes revolution court as a special court is due to lawmakers’ attempt to emphasize over the sensitivity of these crimes and special investigation needed for them. Issuance necessity of temporary arrestment in most of these crimes is an evidence for legislature rigor in this case. Researchers investigate investigation manner, jurisdiction and other judgment ethic laws of narcotic smuggling crimes.

Introduction

Mankind has tried to exit from life difficulties. It is necessary for us as a Moslem to know our religion’s ideology in our societal problems and after that execute it such as narcotics problem. On the other side, to resolve conflict with narcotics, its production, consumption and free trade is one of the legal duties of our Folk and Government, and if in case, jurisprudence supports law, it has more executive support. If law is just due to legislator or court opinion, utmost has a respect between people and to break it is crime. But if law is adapted with religious commandments and has had religious and jurisprudence support, conflict with such law is crime in legal terms and also is taboo w.r.t. religious point of view. So, changing this legal crime into religious sin can play an important role in preventing people and Islamic society from committing this crime.
Judicial Formation And Judgment Ethics Of Narcotic Smuggling And Related Crimes

Jurisdiction Laws

Jurisdiction is totally the ability of a special court to investigate a special judgment and is power and authority that is given to a court for reviewing obvious context and rule issuance. This authority is given to public courts by means of public rule of law and to private courts by means of private rule of law. Penal qualification is related to public array and sides of penal contest can never deny these qualifications and if rules are not regarded, it causes rule reversal in upper courts.

Territorial Jurisdiction

Law givers in penal of judgment ethics of revolution in public court consider a quartet criterion that includes crime commitment position, discovery position, arrestment position and residency, but penal finally determines priority for crime commitment position and article 54 of penal judgment ethic implies to this topic as emergency researches has been conducted and folders are assigned to culprit in crime commitment position by court after arrestment.

Natural Jurisdiction

The court that has natural jurisdiction to investigate narcotic problem, is Revolution court by means of Iran law. With reference to the date “1373/4/15”, the “revolution and public court formation law” is approved in terms that Iran judicial system change by means of justice elimination, law giver implied to revolution court jurisdiction as directed by branch 5 of article 5 about investigation of narcotic crimes that are determined by this jurisdiction in revolution court. Before and after revolution, government has tried to abandon investigation jurisdiction of narcotic crimes by private courts and in this case has tried to rigor about narcotic smuggling crimes (Qenchie, p92, 2001).

Personal Qualification

This kind of jurisdiction determines the culprit personality not on basis of judgmental authority but by means of constitution principal 140. Clergymen court and infant’s court are evidences for this topic.

Police also reflexes about narcotic smugle. It is one of the natural duties of police that must fight with issue of narcotics smugle, it is implied below.

Legal Analysis And Nominal Deals In Narcotic By Means Of Police

One of the techniques that policemen use in their job to contest with narcotic smugglers is to enter in their groups and do several nominal deals with them and as a buyer enter to their
shelter and finally arrest them. People, who arrest in this position, are probated by narcotic selling accusation and condemn selling crime. Narcotic contest laws have more attention in selling crime and mind huge punishment for it as mentioned in articles 4 and 8. But if the narcotic isn’t sold, law can give a reduction in punishment for criminal, and if the narcotic has been sold, this issue gains publicity and distribution, and criminal have to face rigid punishment. Now, the question is that is it impartial to use rigor in case of people who are arrested in nominal deals with policemen or by means of informants (Soltanie & Simin, 1998; Sajadie, 1385).

Corruption Conclusion Isn’t Accomplished In Nominal Deals

In nominal deals between policemen and criminal, all actions are done under supervision of police and narcotics near to enter into society and distribution network are under control of police. If lawgiver response to selling crime with more executive support, it’s just for prevention of society’s vulnerability.

That’s why where ever the act is not occurred, law give criminals a reduction in penalty because of articles 4 and 8 exemptions of narcotic contest law. But to do this, does deals have same conclusion in terms of nominal deals or they just want to clean society from vices? Is it impartial that law holds the same penalty about people in case if their narcotic has delivered to policemen in a nominal deal and for those culprits that really entered narcotic to distribution network of society? The real sample of narcotic selling is just the real interchange that will cause fault in society. Then narcotic selling during nominal deals is not a huge crime if lawgiver faces it with rigor. Finally it can be found that narcotic selling during nominal deals just utter narcotic and criminals and lawgiver must deal with them differently. The next reason will prove this argument.

Conclusion of Selling Crime

Vice publicity in society about narcotic selling causes negative publicity in society and creates pollution in society’s atmosphere. After selling, more people enter to this action as they may think that may be it is not a crime to handle narcotic keeping or transporting it. Narcotic selling has more impact on society that’s why lawgivers enact rigid laws to prevent this action and consider it different from other crimes of selling. But researcher must define that, some materials like opium and marijuana that have less effects and that’s why there is have lesser guilt, so there are differences in punishment toward some sins like keeping. And in some materials like heroin and morphine that don’t have effect, lawgivers determine a law in article 8 of narcotic contest law, and leave a corrigendum about production crimes, construction, keeping and transportation and selling and buying materials and determined the same law in this case. But in 1th waver of this material to not sell that is a reason to discount punishment in branch 6 of this article that is hanging. So the most rigid punishment is determined for selling and distribution because publicity of it has a bad effect on society (Sajadie, 2006).
Commitment Crime By Means Of Irritation

To do nominal deals and nominal demand discussions of narcotic purchase by mean of policemen is a way to encourage criminals to commit this crime. May be if there is no irritation or pressure from policemen, the criminal doesn’t do this act at all and their crime is just keeping narcotics. To offer criminal to sell material is a kind of irritation and persuasion. Justice execution must not become a tool to persuade criminals to commit these acts. In some important cases like narcotic contest, may be it is necessary for society’s safety and necessary for crime discovery and to destroy smuggle band, recourses to use these methods such as transportation under monitoring is one of the effective ways to discover smuggle bands or selling encouragement that is allowed in UNDCP law. Although it is not one of the justifiable factors to find and resolve crime or resolving factors as peal’s responsibility, but it is as least as an abbreviate quality for punishment determination. Apart from commitment action in this case, lawgiver must not determine the same law for criminals because they have not done it under persuasive situation. It is not impartial that we face same with two criminals that one of them really committed selling and caused corruption publicity in society, and another one did this as persuaded to do so.

(For sale) crime

Law giver hasn’t offered a description for this crime and its conditions. On the other side, some courts know it “for sale”, if criminals sell material to policemen. All of following reasons are mentionable about nominal deals.

First: It’s necessary that owner sells material for offering to bazaar while in nominal deals they do this by means of encouragement.

Second: Offer for sale in nominal deals is under control of policemen and there is no real buyer and seller and no corruption publicity in society. As researcher said, the aim of these cases is just to discover narcotic and destroy them and use of buyer and seller is not imperial and is not justifiable. And as a last note, if we accept that there is no selling crime in nominal deals, we must accept that there is no “for sale” crime, too.

Totally, whatever lawgivers have decided to response as “sale” or “for sale” by means of severe executive support, is an act that causes pollution in society where it accomplishes really, while there is no narcotic publicity in nominal deals and maybe there is no deal at all without policemen encouragement. It’s not impartial to offer the same punishment for those who just sell narcotic to policemen and those who want to publish and distribute these materials among the society. But punishment of those people that are arrested in nominal deals should be by title of “sell” or “for sale”. And this topic necessitates lawgivers and custodians’ attention to changing judicial methods and considering all effective factors in such case and to determine different punishments toward “sale” or “for sale” punishment for finding the criminal and
prove their vices, as it is necessary to consider the recourse to methods like nominal deals (Qenjie, 1999; Sajadie, 2006).

Discussion

There is a special judgment ethic about narcotic smuggling in Iran’s law and most of laws that relate to judgment ethic of narcotic smuggle crimes are different from other crimes judgment ethic. Iran’s laws have determined qualifications and rules about smuggling and selling deals of narcotic and also have determined interceptor punishment by means of lawgivers. So there must be differences quality and quantity of punishment between consumer and smuggler. Consumer has reduction in punishment according to law and it’s justifiable that lawgiver leaves a law that causes interdict and exclusion of social rights until disuse of narcotic.

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References


