

Judicial Viewpoint about Narcotic Crime Contest

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Abstract

Nowadays the high person of Moslem knows narcotic using as a permissible (mubah) or undesirable (makruh) thing so that they don't use it. They believe that narcotic is forbidden (haram) like wine and they don't use it at all, due to which narcotic doesn't acquire all of the society. The main purpose of this paper is to investigate narcotic crime contest in judicial point of view. While there are relation hips between drugs forbidden and not to become addicted and also the judicial point of view has effects in law codification. This article has tried to investigate judicial quotations and documents about narcotic and have compared Sunnite and Shiah point of view in this case. This paper has also tried to investigate verses and narratives about narcotic revere and law codification in this case.

Introduction

As for a report from Interpol, the amount of opium that produced in Afghanistan in 1997 is about 3800 ton and by means of this report, Afghanistan supports 50% of heroin among the world and also 80% of heroin among the Europe (Norie, 1999, p. 213; Asadie, 1993, p. 28). Addicts enhancement, reduction in addict age and epidemic spread of addict even hose wives, have prepared a bad situation in social, family and personal factors in country while the judicial point of view has an important effect on reduction of narcotic, that's why the law derives from jurisprudence. I have investigated judicial manner in narcotic using reduction that have effects because of our beliefs (Ali bar, 1998, p. 322).

Narcotic consumption in judicial point of view

Most of ulema and clear sights view narcotic as a social ugly phenomenon and basic discussion imply to judicial revere of this material. For this reason, in branch 5 of the first seminar about addict problems have noted to judicial revere of narcotic. It's mentionable that when all of the jurisprudents know that narcotic is forbidden, it is taboo and they mention cigar as an example.

So, narcotic reverse needs a special reason. Some jurists, in this case, put a criterion that is impairment to body and human health and if this impairment is so little, it is not forbidden at all.

Reasons That Are Documented Of Narcotic Reverse In Judicial Point Of View

Quran verses:

1) Every healthy food is allowable (Halal) and every baneful food is forbidden (Haram) (Surrah Araf, verse 157). For this reason, narcotic is forbidden (Haram) because it causes fault in human health. But this reason is correct when it causes impairment to body severely, while there are a lot of believes that narcotic is helpful and the addicted person feels satisfactory about it such as: "opium is helpful after the age of 50 and opium is useful for diabetes remedy. It is the best drug for kids to sleep also". So, we can't consider it forbidden just by this verse (A report of the first seminar of addict problem investigation statistics, 1998, p. 343).

2) Don't enter to mortal situation (Surrah Baqarah, verse 195). By means of this verse, we elicit that narcotic consumption results in entrance to mortal situation, so we can account this verse as a cause to forbid narcotic.

3) Profit: they will ask you about wine and gamble. Tell them their big sins even if there are benefits in them. And their sins are more than their benefits.

It's obvious that this case is true in problems that impair is more than benefit, but this verse implies to wine and it is ambiguous to know narcotic as a forbidden material.

Also some verses of Quran imply to using halal foods (Surrah Nahl, verse 14; Surrah Anfal, verse 69; Surrah Baqara, verse 168). For this reason, we can elicit that it's forbidden because narcotic is not halal in judicial point of view (Norie, 1999, p. 110). they have also told that just healthy foods are halal and healthy food is the food that is useful for body (Surrah Maedah, verse 5) to guide human avoidance of making use of forbidden food from halal foods (Surrah Taha, verse 81; Surrah Maedah, verse 87; Surrah Baqara, verse 211), malignancy reverse and avoiding of them (Surrah Araf, verse 157) and profusion reverse (Surrah Asra, verse 211). All of the above are verses that imply to narcotic reverse (Norie, 1999, p. 10; Ali Bar, 1998, p. 10; Sakie, 2002, p. 213). None of mentioned verses implies to narcotic reverse in little amount and for amusement, however someone must know this amount to make it forbidden (Shokohie, 2002). Of course, using narcotic in big amount that causes impairment to your body is forbidden by means of verse mentioned above. Moreover, because growing and using narcotic have long history even before profit, there are narratives from profit in narcotic disapproval, that we imply them:

1) Anyone who underestimates hashish consumption is kafir (Norie, 1987, p. 86).

2) Say hello to Jewish and Christian but don't salute hashish user (Norie, 1987, p. 85).

3) Anyone who uses hashish is like a person who destroys Kaabah 70 times and is like a person who killed 70 angel, killed 70 profits and burn 70 Quran and such person is far away from God even more than drunken, usurer, person having extramarital affair and doing tittle-tattle. Some jurisprudents view hashish as forbidden by means of mentioned narratives and have generalized it to other narcotics like opium and marijuana.

It's possible that profit knows narcotics forbidden because of their damages in health and ethical advices are offered in this case as even you can't go to mosque after consumption. So, by this reason, narcotic is forbidden absolutely and everything that causes impairment in your health is forbidden too. Although in past, jurisprudents don't know narcotic absolutely, but now when its fault is obvious, there is no doubt in its revere (Mofeed, 1719, p. 705; Tosie, 1987, p. 721).

Ayatollah fazel lankaranie have told: opium is not allowed even if you are sure that it would not be case of your addiction. Or Ayatollah golpaieganie stated: opium, marijuana and other narcotic consumption even for amusement is forbidden because it may lead to addiction (Golpaieganie, p. 65). Other indults of other jurisprudents in this case are:

Ayatollah Borojerdie said, "I have always written that all Moslems must avoid this killer drugs" (Sakie, 2001, p. 313).

Imam khomeinie stated, "prevention of buying and selling of this drugs must be done and doesn't have any problem". In a question related to selling heroin, he answered, "It's not allowable at all". Among Sunnite jurisprudents, there are a lot of indults also that imply to hashish and marijuana consumption revere (Norie, 1999, p. 143).

There Are Three Ideas About Punishment Of Narcotic User:

1. Narcotic is forbidden absolutely and is like wine and they have determined punishment for it and its punishment amount is 40 or 80 of lash (Ali Bar, 1998, p. 47; Helie, 1988, p. 99; Sanie, 1995, p. 165). That's why they have said, it has "daraee" Law and contrition causes reduction in punishment in this case (Norie, 1999, p. 378). In KSA, Islamic thought about narcotic is: narcotic commandment is like wine commandment i.e. using, selling and buying of it is forbidden even for cure and remedy. Tobacco and its every related productivity like smoking, smelling or injection is forbidden and it user's punishment is 40-80 lash (Norie, 1999, p. 50).
2. Some others believe that seller, buyer and even user of narcotic must be hanged (Norie, 1999, p. 53), but ulema committee of KSA just considers smuggler as combatant in branch 238 (Norie, 1999, p. 53)
3. This group believes that narcotic is forbidden absolutely even for remedy, but they believe penalty to it. For example, sharbinie knows everything that destroys your mind, causes of penalty and to prove this thing, there comes hashish and marijuana (Sharbinie, 1958, p. 187). Hassan Ali commands to marijuana and hashish revere and mentions that its revere is less than wine revere and determines penalty for it.

Discussion

Prevention of harm to body is obligatory in Shia and Sunnite jurisprudence. Even for fast, in some cases, it's forbidden because it has harm to health. So about narcotic, it's forbidden because it causes disruption in your health.

About the commandment of selling and buying, Imam said, "It doesn't have any determined command but you must not trespass the government law and about smuggle punishment, he mentioned hanging, where narcotic is being distributed in the society making some people addicted (Sakie, 2001, p. 184).

While Sunnite ulema consider that narcotic is forbidden and they have generalized this command to tobacco and they believe that selling and buying of it is forbidden and causes vitiating of charity, Hajj and Zakat.

Acknowledgement

I appreciate my wife and some of my friends that have helped me writing this article.

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