Inflation of Criminal Laws in Iran, Causes, and Consequences

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Abstract

Excessive recourse of the government to the topic of criminalization along with the imagination that the multitude of punishment and criminal titles are preventive has caused a phenomenon to be created as “inflation in the criminal laws” due to blending concepts such as crime, sins and deviance and technological advances. As a result, the criminal law system has typically been faced with a crisis, so that despite the use of severe penalties the criminal law has not only failed to prevent crime offenders and reform the criminals as its original mission, but also the ineffectiveness of punishment in the category of prevention has caused citizens dissatisfaction with the criminal system, and paved the ground for increasing the number of offenders in the community. Due to inability to detect the abrogating and abrogated laws, this issue weakens the value-ethical function of punishment among citizens, fluctuates to the concept of justice, and imposes the staggering costs on state budget. Since the international communities have come to the conclusion that the history of criminal law has proven the inefficiency of punishment, using strategies such as reducing the work load densities of the courts, increasing the amount of citizens’ freedom using decriminalization from unimportant criminal titles, small crimes and offences, relieving punishment from criminal acts, and trying to handle social disorders non-criminally, putting judgments in a court aside and depositing the judiciary to address cases at non-judicial and administrative authorities, we should take our steps in line with the enforcement of social order and justice, which is the philosophy of criminal law. Hence, the conclusions that can be gained from this category include the necessity of reducing the governments’ interference in the liberties of citizens and consequently reducing the criminal titles in different countries’ penal code in line with getting out of the crisis.

Keywords: Inflation, Penal Code, Freedom, Citizenship Rights.

Introduction

The study of penal law developments’ history indicates the fact that the public officials have had special attention to the issues of crime and punishment from the oldest written human rules, including Ur-nammu laws and Hammurabi’s Code of Laws up to now.

In earlier times, although it was thought that the punishment was the best way to prevent the spread of crime in society, passing the time has proven the opposite thought, so that in most countries of the world we observe the crime increasing day by day. To analyze and identify the damage in this case, some valuable viewpoints have been raised by scholars that ultimately, following the creation of criminology in the nineteenth century, a category entitled “Criminal Inflation” was raised that the adverse consequences of this phenomenon has encountered the criminal law with a crisis, so that the criminal law has failed to achieve the lofty goals of philosophy of this branch of science. Therefore, scholars have been looking for a scientific approach to release the criminal law from the crisis, and finally have come to the conclusion that the multitudes of criminal titles caused citizens to commit guilty and led them to be dissatisfied with governing forces especially the judiciary, and eventually compels them to be red handed and adjust themselves with the ticket others have stuck on them. As a result, the failure of criminal laws to tackle crime, have forced the intellectuals to reduce work load of judiciary system through strategies such as...
decriminalization from petty and victimless crimes, diversion, and de-penalization, hoping the Criminal Law to be released from the present crisis.

First Topic: Clarifying Meaning and Causes of Criminal Inflation

The term "inflation" refers to "swelling, inflammation, and bulging (Moein Dictionary, 1983, p 1164). In legal terms, "the legislative measures to approve criminal laws continuously in order to reduce or maintain the level of wickedness with the notion that criminalization prevents crimes from repeating and corrects offenders, is called criminal inflation" (Rahiminejad, 2001; p 160). Therefore, "criminal inflation" sometimes means approving sometimes-unnecessary penal laws, and hereby making penal code thick regularly through some new criminalization (Habibzadeh et al. 2001, p 60).

Historically Montesquieu in 1748 AD, with the publication of the book "Spirit of Laws", has discussed the "criminal inflation" for the first time. Recently, Raymond Gassin has discussed the adverse effects of criminal inflation in his works.

Second Discussion: Factors influencing criminal inflation

The factors causing "criminal inflation" include:

First Clause: Punishment acceptance as the only reaction of society

One of the major factors causing Criminal Inflation is Retributivism, obedience of the traditional goals of punishments and putting importance on them. Like many of the government's willingness to show the importance of the role of belief in punishment and deterrence role Hamybashd penalty. The governments' tending to plenty of criminalization indicates the importance of the role of punishments and belief in deterrence role of penalties. The recent criminology data and Criminal Law history show that all the schools inspired from this thought have failed, since despite the penalty, the phenomenon of crime repetition has always been growing. Professor J.A Roux approves un-usefulness of punishments saying: "The criminal laws are not the best and only means that society has to defend itself" (Soudmand, 1996, p 71). All the above points indicate the fact that criminalization and violent treatment with delinquency phenomenon. Considering the review of the cause of failure of radical criminalization we should note that as Sherman the American criminologist believes: "Punishment should have a correcting influence on the offender, meanwhile it should be legitimate, meaning that if the accused believes that the judicial behavior against him is fair, he will definitely be admonished. However, if criminal proceedings are considered unfair, the offender will commit crime again as a protest. In this case, he is called a rebel offender. Hence, criminalization must be with complete caution, in accordance with culture and ideology, and coincide with the real needs of citizens in each country. Therefore, the lack of attention to the principles governing the criminalization, and describing criminalization on the basic of primitive precepts of religion will introduce the criminal law as a caricature, and this will be the origin of countless problems including "Criminal Inflation". Because as the unlimited use of antibiotic drug can cause increased resistance against microbes, uncontrolled use of criminal law will have no positive result in combating against crime (Kalantari, 2002, p 134). People have to accept the restrictions or have to deal with it. Accepting the restrictions will cause the freedoms to be restricted and rejecting them will cause the sanctions to be imposed. Restricting freedoms would lead people to protest, and this is against the government and society interest. According to census, 30 years ago in Iran, more than 300 criminal laws were approved by various authorities which form a large number along with nearly 130 verdicts of unity of directions and the approvals made by Supreme Council of Cultural Revolution (SCCR). Criticizing useless criminalization Montesquieu believes that "Corruption in a society is two folded: "When people do not obey laws, in this case the problem is remediable. However, when the law corrupts the people, there is no remedy, since the problem and the pain originates from the treatment itself" (Habilzadeh et al, 2001, p 61). Therefore, all these factors indicate the failure of criminalization in fighting against delinquency. With a short look at the traditions and narrations and the verses of the Koran, we see Islam's desire not to punish the criminal actions, sins and crimes. Putting an emphasis on lack of punishment, hiding crimes, ugliness and prediction of hidden refuges and many other alternative ways predicted with the aim of decriminalization, including severity of the ways to prove precincts, the necessity of four witnesses to prove adultery, extinguishment of Hudud due to doubts occurrence, etc all express doubts about the efficacy of punishments from the view of Islam (Sadeghi, 1999; P 175).

Second Clause: Making Technical Laws

Other factors causing criminal inflation include making technical laws resulting from the growing spread of technology. Although the industry and technology provide some welfare to people, they can take the comfort away from them. This is due to the necessity of order in rules and backgrounds of these industrial developments. A sensible example in this case is "car and its related crimes". Although as the car industry progresses, many human problems are solved, the increasing criminalization resulting from cars is undeniable in penal code collection. Another example is approving the law ratified on 03.11.1373 (A.H.) following the spread of satellite programs, which banned utilizing satellite dishes and equipments. This law has criminalized any use, distribution, import, transport, storage, and installation of such equipments. We
see that until 1373 (A.H.), using satellite equipments was not considered a crime, although people had used it for eight years (Najafi Abrand Abadi, 2000, p 421). Even in religion there was no specific rule forbidding it, and thousands of people used satellites. This year an experimental law banned any use of satellite in the country, and based on this law suddenly many people became actual criminals. In fact, the law itself produced a large number of offenders. Although there is no doubt that applying penalties is necessary to preserve the values and achievements in a community, any overusing of the penalties castrates them (Najafi Abrand abadi, 2002, p 248).

Third Clause: Mixing the Concepts of Sin, Diversion, and Crime

The main mission of criminal law is preservation of social order and protection of common values and ethics. But under this excuse the legislator should not interfere too much in people's lives, since the principle is human freedom and the exception in limiting possibility of this freedom by government. Because any new criminalization is considered as entering into the fields of individual freedoms, causes permissiveness or personal freedom delimitation. Legislator, with new criminalization will sound an alarm meaning that whatever was allowed to perform so far is punishable from now on. Iranian lawmakers would not only have not paid attention to this important principle, but they have expanded criminalization boundaries to offence and sins, so that they have considered acts like vagrancy as a crime and has determined a punishment for it. For a better understanding of this subject firstly the deviations, sins and crimes are separated from each other and then we will explain each of them.

Crime is defined as an act or leaving an act for which a punishment has been determined in law. Sin is defined as an act which its performing is forbidden, and its leaving is observable. Deviation is also comprised of any behavior not in concordance with social norms. There are two viewpoints regarding the possibilities of criminalization. According to the first viewpoint, as Abdolhossein Zarinkoub has suggested, in Islam like Moses sharia the religion was the same as law, thus in Mohammed Shariat (PBUH), every crime is considered as a sin and every sin a crime (Zarinkoub, 1983, P 138). We see that this group has opened the way for criminalization of sins regardless of the negative consequences of sin criminalization and mixing the concepts of sins and crimes. Of course, the relationship between sin and crime, and the diversity of its antitypes in religious communities is different from customary communities. In churches, the vast majority of sins, even sins like disbelief, violating the sanctity of Sunday and so on was punishable, however, with the advent of joy-worshipping, uring the societies and making criminal laws, many church offences removed and considered only as sins.

In contrast, another group believes that every sin is not necessarily punished with worldly punishments. And the religion emphasis on the fact that the believer should keep the committed sins in secret, and then express his regret with repentance, confirms the mentioned point. In particular the Imam Sadeq (PBUH) has been narrated that "the governor is obliged to implement 3 tasks about the specific and general …. Covering the criminal sins, in order to repent and leave the sins… " (Sadeghi, the same source, p 168). Putting emphasis on preventing or covering crime, this view has largely prevented the boundaries of crime and guilt to be mixed. In The Islamic Penal Code, in addition to canonical limitations other acts that are considered sins in terms of canonical rules are criminalized under the theory of "every sin is punishable", so that Article 2 of Criminal law may be derived from the same viewpoint. Moreover, the legislators have criminalized some sins in Article 167 of the Constitution and Clause 2 in Article 165 of Islamic Penal Code, and Article 638 of Islamic Penal Code and other cases, while they are unaware that any interference in the personal sphere of people will add to the contradictions, abuses, and finally violation of the laws by people. Most importantly, the punishment does not bring people's moral, since any ethical affair must be done by satisfaction, not by coercion and force. On the other hand, resorting to such a method, particularly in Islamic countries increases the possibility of abuse in the criminal justice system agencies. In addition, it may also change the position from legal provisions, and apply the laws in accordance with their own taste. Hojatolislam Izadpanah judiciary social and informational vice tells in this field:"Another idea has been proposed in the Islamic Penal Code and the prohibited has been introduced as equal to a crime. It means that the boundaries between crimes and sins have been mixed together". In fact the relationship between sin and crime is "public-private relationship in terms of appearance". Some of the sins such as lying are not worldly punished, and many other sins are criminally guaranteed to enforce only in the form of a crime. Criminal behavior has also been mixed with deviant behavior. Deviant behavior means behavior that is incompatible with the common behavioral expectations of a certain group, and other members of the society believe that it is bad or wrong. In fact, every society expects its members to observe the values and norms. But there always are people who do not comply with some of these values and norms. The society calls people who are coordinated and consistent with the values and norms, compatible or syncronic and those who behave contrary to them, inconsistent and non-syncronic. Therefore, "deviation" is defined as behavior which violates social norms and therefore is censurable from the viewpoint of most people (commendable, 1999, p 31). Among the abnormal people, someone whose behavior is not transitory and takes longer is called a deviate or diverted. His behavior is defined as "social deviation" or "social diversion". Usually, "deviation" is synonymous with
"breaking the law" and in society there are far more cases of it compared to crime. Scrutinizing the situation governing "diversion" and "crime", we realize that there is an absolute public and private relationship between them. This means that any crime is a diversion, but any diversion is not a crime (Aalipour, 2002, P 7). In defense of deviant behaviors' criminalization, some like "Bentham" believes that although these normal behaviors (deviation) are not a danger to society, their continuation may lead to a crime. Hence, they have to be criminalized (behaviors such as vagrancy and beggary).

Now, after reviewing each above-mentioned 3 concepts, we discover that the claim of lawyers claiming "ignoring the differences between religious study of sins and penal criminalization is one factor of the criminal inflation in Iranian criminal law" is a true claim (Ghoudarzi, 2004, P 74). Undoubtedly, the adoption of this legislation method by the legislature of Islamic Republic of Iran, not only cause people to hate national authorities, but due to conflict with individual freedom, brings them about some frustrated and vindictive people, abusing any opportunity to commit the mentioned crimes. Because humans are greedy for what they are prohibited (A Hadith from infallible Imams). On the other hand, using penalty most criminalized deviations are not modified at all. Because these patients are considered as patients and need treatment, while condemning them we have taken the wrong approach. Since no scholars use a sledgehammer to crack a nut (Clarkson, 1985; P 224). Ultimately, not separating the above-mentioned concepts from each other, not only causes the expansion of spread of criminalization, and reduces respecting the freedom of individuals but also introduces the law among the general public as being inefficient and intrusive. Because it intervenes in most private areas of personal life, having no relationship or harm to others. On the other hand, labeling as "criminal" on the individual who are deviant and one could treat them using different ways, not only disappoint them from any modification, but also highlight their treatment as futile, since the person with criminal label contemplates to matches himself with the description imposed upon him. Hereby, he becomes a guilty person, and ameliorating him will be much harder than improving a deviated person or a patient. Because a person stuck in such a situation do not see any way open to him and think all the doors are closed.

Fourth Clause: Fighting against Temporary Barriers

In some situations, the needs emanating from a temporary and particular situation force the legislators to criminalize in order to counter with some keruffle in the community. Although such measures may seem helpful in those situations, once the crisis passed, keeping such laws in the criminal law system not only will have no social benefit but also may cause criminal inflation. The most important situations include:

A) Revolutions and Governmental Change in a country. B) Wars

A) Revolutions: The relationship between criminal law and administration is not covered to any wise. Since having sanction such as punishments, criminal laws could be a firm and strong tool in the hands of the administration to achieve its objectives, the criminal law has been dubbed "the sword of laws", because the administration uses this powerful and repressive tool adopts measures to secure public order in society. Obviously, after revolutions that lead to change in the kind of government, the new government makes some fresh laws to provide security and authority based on society needs, and these new rules sometimes violate legal principles. The fourth principle of the constitution emphasis on the compliance necessity of laws passed by Parliament with Sharia legislation is a typical case. After passing this principle, insisting on approving the laws consistent with Islamic rules the parliament assigned all the major criminal laws approvals to the Judicial and Legal Commission. The mentioned commission approved over 800 legal articles in less than one year from 1361 to 1362 (A.H.). However, the parliament's excess of power sometimes opposed the laws and declared them obsolete. Islamic Republic of Iran enjoyed a special status. On one hand, since the Islamic Republic was a popular revolution, and on the other hand since the demanded new laws had to be in accordance with Islamic provisions of the law, fundamental changes occurred in all aspects of governance including the legislative. Meanwhile, the religious governments issue is significant. Since the ideological governments values always act based on their ideological values within their system, and the values are so crucial that recourse to any means to keep them, in the law sets of these countries, there are always laws that have been made to keep the values of those systems, like the limit crimes in the laws of Islamic Republic of Iran.

b) War: In some cases such as wars, the legislator is forced to make the regulations to fight against the unorganized situation of the country. Insecurity and disorder in the country's social and economic system and the emergence of a lot of problems due to lack of economic stability and low manufacturing, the destruction caused by war, the abuse applied by some jobbers, creating a black market and finally the existence of many problems involved in feeding people, are considered "criminalization" when the legislator intervenes. The same issues affect the course of criminalization movement to speed and lead to criminal inflation. A prominent example in this case in IRI (Iran), was the law prohibiting the purchase and sale of essential commodities coupons approved in April 12, 1988 in connection with the rationing of provender in Iran-Iraq War. The law had been approved to fight against making black markets inside the country during the war. The law aggravating the penalty for speculators, approved in April 12, 1988 (under the influence of
unfavorable conditions caused by war) and the laws relating to governmental punishment from 1988 onwards are also other examples of legislation due to unfavorable economic conditions.

Fifth Clause: Multiplicity of legislative bodies

Although in accordance with the 71 principle of Constitution of Islamic Republic of Iran "The parliament could make laws in public issues, regarding the limits determined in the Constitution", currently the existence of institutions like the Court of Administrative Justice and its General Board of unity of direction, the General Board of the Supreme Court under the Article 270 of the General and Revolution Court and code of procedure in criminal matters, the Expediency Council, internal Parliament commissions and ultimately circular and bylaws ratified by the cabinet or a minister or Head of the Judiciary, which determine some punishments, have caused the multiplicity of legislative bodies, and this is the cause of the multitude of criminal titles and eventually criminal inflation. Hence, the presence of seven legislative authorities in the country, some of them are not even familiar enough with the elegance of legislation has caused the legislation does not work in the community and over time some of the laws become abandoned. This leads to some kind of criminal inflation. On the other hand, the legislation by the various legislative bodies leads to lack of coordination and harmony in the formulation and approval of laws, each of the mentioned bodies approves laws proportionate with their own taste and according to their founding philosophy, including no social value. More importantly, this issue questions the separation of powers acceptable to all countries and creates a kind of mixing in their duties.

Sixth Clause: The Globalization of Criminal Law

Today, while considering the country's culture and some certain circumstances, most countries of the world join several international treaties and conventions, and conform their internal rules to these treaties, in order to demonstrate their good faith in international cooperation and special and avoid adopting criminal policy separate from the criminal policies of international community. Islamic Republic of Iran in terms of its adherence to Islam and believing that "every sin is a crime", in contrast to other countries has expanded the crime boundaries and this has caused the "criminal inflation" to be created by the multitude of criminal offenses titles.

Second Topic: The Consequences of Criminal Inflation

The most important consequences of criminal inflation include:

First Discussion: Rules Being Abandoned

Trying to establish social order through violent encounters with the criminal titles is the purpose of making criminal laws, and this is the right according to "Jean-Jacques Rousseau"s" a citizen grants to the government once he agrees on a social contract with the society. Nevertheless, governments are not allowed to abuse their right using criminalization numerous, because the multitude of criminal titles leads to criminal inflation, and criminal inflation causes loss of respect for laws and creates the feeling that the law a plaything, which is too soon subject to change" (Mir Mohammad Sadeghi; 2000, P 34). Advocates of extreme criminalization are neglectful of the fact that the law grows as the tree raise in certain conditions, and in a society

One cannot perfectly implement all the laws, except with the laws approved regarding legal and social circumstances and period of time and place requirements, in order to support the values most people consider it desirable. Because regardless of these factors, like a plant seed growing in a certain and not any climate, the law becomes dry and abandoned. This situation negatively reflexes the criminal justice system in society and the law turns into an abandoned one.

Second Discussion: Attenuation of Value-Moral Function of Criminal Law, And Increasing the Violence-Seeking Sensation among Citizens

Excessive resort to criminal reaction creates the illusion in people that violence is the only way to solve problems and leads to amnesia regarding the role of other institutions and social organizations. This issue leads people to act violently in the society. Moreover, numerous criminalization challenges preventive and effective social policies, and closes the way to civil and social institutions' activities, or slows down their movement, causes psychological atmosphere and debilitates respect for law. Therefore, with increasing the load of criminal law some thought that the criminal law system has lost its efficiency in dealing with criminal offenses. On the other hand, numerous criminalizations in the society cause the criminal behaviors ugliness to reduce due to the multiplicity of criminal acts as well as committing a felony more likely, and the people commitment to community values to be reduced. A distinguished example is the issue of "hijab" in Iran, which has had an inverse result despite repeated criminal warnings, threats and pressure from the police on the street. On the other hand, criminal inflation leads to anarchy, and causes loss of meaning and essential values for citizens. Because when everything is considered as criminal law, citizens are mixed up, all things are considered trivial, and ultimately the value of the penalty is reduced (Gussen, 1991, P 291). Thus, the first necessary condition for remaining immune from the weakening of criminal law value function and implementing wisely criminalization is the fact that the criminalized behavior is severely immoral or brings great harm to others. The second condition is that the necessity of criminalization has to be proved to protect
freedoms. Thirdly, using criminal law should be beneficial; meaning that the benefits of criminalization overcome the costs. One of these costs is creation of crimes. It means that one crime creates another crime (Clarkson, the same source, P 234). Imam Ali (PBUH) states in this regard: "A penalty-oppressed personality will not censure him committing any ugly", or "You won't be safe from a person whose personality has been oppressed". Jean Carbonnier also believes in this regard, "if threats of punishments that is to say penalties increase and overcome the capacity of human memory neutralize each other and ultimately become meaningless (Lazej, 1996, P 70). As psychologists believe, in this case the risk of crime normalization besides reducing safe feeling in the community and spread of fear from crime-which is based on the probability of every citizen being criminalized- are non-negligible and cannot be ignored (Shekarchizadeh, 2001, P 156). Because when criminal laws are inflated, there may be the feeling that the law has turned into a playing thing in the hands of the people and soon will be subject to change. Montesquieu believes, "it has repeatedly been observed that in unfortunate circumstances, the government has resorted to make severe laws to correct the situation, and immediately follows their execution to prevent the worse consequences, whereas such measures exhausts driving force of the government, and addict people's thought to stiff penalties. The repeated execution of punishments would lead to normalization of punishments and humiliation of the normal penalty. Therefore, the intimidation role of punishments, emphasized at Islamic Criminal Policy, is undermined and neutralized.

Third Discussion: Increasing the Cost of Criminal Justice System

Among other adverse effects of criminal inflation we could name criminal justice system cost increase. A plurality of criminal titles makes most criminal offenders to be sentenced to jail, and consequently aiming to reform others and making efforts to combat crime and eradicate it in the society the government has to pay the cost for the construction of prisons, the employment of technical experts and consultants. This along with maintenance and feeding of prisoners and other related costs, impose a cost on the country budget.

Fourth Discussion: Fluctuations in the Concept of Justice

One of the scholars of law says: "Once Pascal said mockingly that justice in this side of Pyrenees Mountains is not equal to that side" (Katouzyan, 1997, p 67). Obviously, when criminal titles are increased, this causes disagreement between justice and police officials and creates a kind of oscillation and change in
the concept of justice. Today, because of the frequent topics of criminal titles, judges, police forces and other officials in the country’s judicial system disagree about the reality of the criminal acts, and this leads to the issuance of different writs from different courts. Although this is a manifestation of justice and law-abidingness, the general public with no adequate knowledge about the laws, consider it as an injustice. In 1338 (A.H.) a thinker says about this: "If the pace of legislative factory was the reason for progress, Iran have to be considered as one of the most progressive countries in the world. People are really amazed at who is competent and who wicked. Abrogating and abrogated laws are so intertwined that even the grandees get doubtful about the survival and validation of laws. So how can we expect people to be secure and believe in the government? (Matin Daftari, 1969, P3). The important issue in this case is that the emergence of such a situation causes the value loss of rule "Ignorance to the law does not eliminate the responsibilities". Since this rule will be accepted when assuming the availability of all people to an official newspaper, the legislator believes that an overwhelming majority of people will be informed. In this case, due to the multiplicity of laws passed, the chance will be minimized to its lowest level and punishing people according to these rules, constitutes a real and obvious injustice in the society. This issue could create a kind of pessimism towards law among the masses. Therefore, factors such as lack of fitness between facilities and criminalization, and police and judicial authorities' stylistic dealing with crimes cause quality to be sacrificed for quantity, the cases to be heard non-normatively and finally justice to be more fragile and the number of dissidents from criminal justice system to be increased.

Sixth Discussion: Increasing Black and Gray Numbers of Crimes

We should notice that not all crimes occurred in a society, can be discovered, but just a little can be discovered and prosecuted. In criminology terms the difference between these two rates is called "black figure". Black figure is a common theory of criminology and refers to the figure resulting from the difference between the actual crimes committed and the crime discovered. The term entered into criminology in 1908 by Oba, a Japanese prosecutor (Rahiminejad, 2001, p 164). Hence, the black figure includes the delinquency rate never reported to the police and prosecuting authorities. Crimes with no misdemeanor and offenses, not too bad in terms of moral and social, the public believe have to be decriminalized are among the offenses that their black figure is very high. Considering the fact that with the approval of any criminal law -although it become abandoned later- some people are prone to committing crimes, we have to study the statistics showing the number and amount of actual crimes committed. "Gray figure" is also used in cases the crimes of which have been found but for some reasons the offender has not still been undiscovered. We should notice that ignoring the circumstances prevailing in a society, and criminalizing there will lead to a situation in which social distress and violation of reasonable social norms and essential is inevitable with the aim of maintaining a social life. Due to lack of adequate facilities, only some of the real criminals are arrested, and this makes the arrested people angry, since they think they should not be punished. This anger gradually passes to the others and the moral legitimacy of the criminal law reduces.

Seventh Discussion: Delimitation of Personal Freedom and Rights

Human progress requires nurturing of talents and their prosperity, but criminalization prevents people from legitimate activities; therefore, with the aim of protecting the individual from the adverse consequences of criminalization, while respecting the will of individuals, we are allowed to limit only a small range of individual freedoms in order to protect the social order, and use criminal laws only in cases which other legal tools are not efficient. Because committing any crime is a response to an individual need. Needs have to be satisfied through legitimate ways, and solely in essential cases we are allowed to resort to criminal laws (Habibzadeh et al, the same source, P 76). In this regard, John Stuart Mill believes that the only purpose justifying the proper exercise of power against the freedom of members in a civilized society is to stop him from harming others. On individual liberty and its relation to Islamic rule, we have three categories of freedom: 1) Freedom of Private Behavior, like any freedom of privacy, which are considered a sin, but the government refuses to interfere. 2) Freedom of Human Behavior, individual liberty is allowed until it is not harmful to others; otherwise it is a sin as well as a crime. 3) Freedom of Belief and Religion, although Islam has taken a hard stance, but all of these rigors have been due to the fear from ominous plans of Islam enemies to overthrow the Islamic government (Bushehri, 2000, p 32).

Eighth Discussion: Impairing the International Prestige of the Country, Especially the Criticism Raised By Human Rights Bodies

Adopting severe criminal policy causing international community and human right bodies’ pessimism to a country’s position, results from an unlimited inflation of criminal laws. States as the world’s great community members are either effective against emerging issues or impressive. The range of this effectiveness and vulnerability is to the extent that we allow ourselves to judge the performance of other people. Obviously there are boundaries of human rights and public freedoms, which in addition to them no text or workmanship and criminal policy performance is not acceptable. The philosophy of establishing institutions like the European Court of Human Rights is to safeguard human rights and fundamental freedoms. In this regard, we should note that the acceptance of any country in the international arena entails
respecting the incontrovertible rights of every individual, specified by the International References in the Conventions and Universal Declaration of Human Rights. In the various provisions of the European Declaration of Human Rights, UN Human Rights Declaration, and the Cairo Declaration and other declarations and conventions, rights such as freedom of expression, right to life, right of immunity from torture and the right to vote, etcetera mentioned in the constitutions of most countries have been dealt with. Any country not recognizing these rights in its legislation will be condemned by international bodies on charges of human rights violation. A clear example of disregarding for the provisions of international agreements has been mentioned in UN General Assembly Resolution in November 2, 2000 in the first part of Paragraph 4, based on Iran's obligation to end torture (Delavar, 2001, P 136).

Conclusion

Believing in punitive and deterrent effect of punishments, although governments have treated with offenders applying severe penalties, passing time and the history of criminal law show the fact that penalties have failed to guide the criminal law to their real mission, which is certainly reforming criminals and preventing crimes to occur in the future. On the other hand, the plurality of criminal titles, fitting on each country’s government type, culture and ideology, and increasing level of governments’ respect to freedom of citizens in most countries, have caused a newfangled phenomenon plague the criminal law and encounter this powerful branch of the law with a crisis, so that the criminal law have failed to release form this crisis. Hence, informed of the dire consequences of extreme criminalization, including criminal labeling theory, too much interference in the privacy of citizens, undermining moral and value dimensions of criminal law, establishing fluctuations in justice concept, due to the inability to detect abrogating and abrogated laws, increasing grey and black figures of crime, destroying the quality of hearing in favor of quantity, and the most important of all degradation of the country's international standing in the world, the governments have been trying to save the criminal law from the crisis and take steps toward establishing public order and social, adopting strategies such as decriminalization in micro-and-non-felony crimes, diversion, removing cases from the courts and entrusting them to administrative and non-judicial authorities, depenalization, and applying no criminal penalties in an effort to reform criminals through medical, psychological, and other ways.

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