

## Alcohols contraband in Iran

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**Abstract:** Alcohols contraband is one of crimes that has not been addressed expressly in many law articles and books and it has been rather implicitly not detailed if addressed. There are a number of useful and valuable hygienic directions in framework oftaboos-recomandedso that human beings' health be preserved and they be safe against diseases. Directions that ensure the human beings' physical and mental health God has prevented human beings from drinking alcohol in Quran.

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### 1. Introduction

The word contraband is a Turkish word and has the meaning of ferret and it is inferred from aggregate of relevant law that contraband is rousting a property, weather the property be related to government's income or the import or export, production and transportation and it's selling or buying be illegal respect to the related law and regulation. Contraband plays a significant role in making countries' economy disarranged and governments try to stop it in different ways. Contraband can severely affect the political, economic and security condition of societies.

Contraband can be classified into several types including: drugs contraband, stuff contraband, currency contraband, human contraband and alcohol contraband from which the latter is the subject of this article because of underlying doubts about it. With citation to clause 29 of customs law, the following cases are considered as contraband:

1- Importing or exporting into or out of country in a prohibited order, except that the underlying stuff not be illegal or provisional, when it is imported or exported and have been exempt from importation customs fee or toll , imposition , duty and tax.

2- Refusal from sending out the vehicle or stuff that has been imported as temporary enteranceor guest transit using unreal documents.

3- Sending the commercial stuff out from customs without submitting the declaration and paying customs fee and business profitand tolls weather this takes place while sending out from customs or the stuff is discovered after exporting.

4- Changing the alien transit stuff or taking from it.

5- Declaring prohibited or unallowable stuff under the title of free and lawful or provisional stuff with other false name.

6- Existence of undeclared stuff among declared stuff except for the case that the stuff is legal and the customs fee and business profit and tolls is not more than the customs fee and business profit and tolls is not more than declared stuff. undeclared stuff among Transit stuff whether the stuff be legal, provisional or illegal.

7- Not importing or exporting stuff that its certain importing or exporting be prohibited or provisional, during determined space from the country or into the country, as foreign transit, or temporary entrance except for the cases that it is proved that there has been no bad purpose behind this action.

8- Submission of exempt stuff mentioned in clause 37 in a way that the regulations of this law are disobeyed or without paying customs fee and business profit and tolls.

9- Declaring legal stuff under the title of other legal stuff in case that the customs fee and business profit and tolls related to artificial stuff is less than that of the real one using unreal documents.

10-Taking the stuff out of customs using exemption eligibility or submission of unreal declaration or other documents.

11-Unreal declaration about quantity or quality of exported stuff such that result in illegal outgoing of currency from the country.

Any country has had several legislation periods for Alcohol Contraband and has experienced different Procedure and this has caused much conflict between dictums of judges and somehow it has caused confusion in judges and lawyers. This can be an obstacle for a justly trial.

1) It will be useful to review the process of legislation about alcohols:

For this purpose we review the process of legislation about alcohols in Iran for two periods, before and after Islamic Revolution.

#### Section 1:

1-1) process of legislation before Islamic Revolution.

This process has been much different before and after revolution such that for the reason that alcohols were in previous system, there has been no legislation for this subject and most of contraband legislations have been concentrated on stuff or opium contraband and the latter has been mentioned in both legislation of 1307 and contraband legislation approved in 1312.

1-1-1) Unit clause of Esfand 22th, 1306: "the doers of contraband of properties that are related to governments income, also persons who import prohibited things into the country, will be condemned to a punitive imprisonment from 8 days to 2 years. Moreover they must render the same or the similar contraband or prohibited property. The aforementioned imprisonment can be replaced by payment of 1 toman for each day. This is the first sentence of legislator about contraband that alcohol contraband be devoted to government's income. The legislation of 1307 was also legislated about this case. The next legislated law was:

1-1-2) The law for punishment of contraband doers legislated in 1312:

It is specified in clause 1 that "any person that contrabands a property that is related to governments income or its derivatives whether these incomes are legislated specifically in a separate regulation or mentioned and legislated explicitly in total budget of country, must pay two times the statutory income of the government and will be condemned to imprisonment from, 3 months to 2 years, other than giving the property or paying for the value of property in the case of property missing. In previous laws and the subsequent corrigendum we can't see any sentence about whether the alcohol contraband is crime or not. These Corrigendum include ones legislated in 1312, 1315, 1319 and 1353.

#### Section 2:

1-2) The law of alcohol contraband after Islamic revolution:

After Islamic revolution and mismatch of this law with juridical and religious laws, and the necessity of adjusting the law with juridical laws, many of these edicts were reviewed. It should be acknowledged that after the Islamic revolution and until 1374, when the law about the way of exertion of governmental **Suspending** about stuff or currency contraband was legislated by council for regime's benefit, the law for punishment of contraband doers,

legislated in 1312 was the most important principle of contraband and even the law for persons who cause disarrange in country's economic system, which as legislated at Azar 19<sup>th</sup>, 1369, and the corrigendum of clause 1 of the law of contraband doers retribution, legislated at Bahman 12<sup>th</sup>, 1373, were only bylaws of this law. until 1374 when the law of governmental **Suspending** exertion about stuff and currency contraband was legislated by council for regime's benefit.

1-1-2) Clause 1 of the law of contraband doers retribution corrigendum legislated in Esfand 12<sup>th</sup>, 1373:

Clause 1: any person who does contraband about the property related to government income must surrender the property or if the main property is missed must pay its price according to the circumstances, possibilities and the number of times that crime has taken place, and other than that, the doer will be condemned to a maximum fine 5 times the price of contraband property and a maximum 74 lashes according to circumstances, possibilities and the number of times that crime has taken place and if the stuff is prohibited from importing and exporting, and also for the case of monopolized stuff, the doer of contraband will be condemned to a maximum 2 years **Suspending** imprisonment. Industrial production of alcohol and alcohol compounds, non-alcohol drinks and juice inside the country, in an illegal way or their presentation with the purpose of selling before the respective tax is paid or is going to be paid is considered to be contraband of property related to government income and with taking into consideration the circumstances, possibilities and the number of times that crime has taken place, the doer will be condemned to a maximum 10 times the amount of the statutory income of government.

2-2-2) The law about the way of exertion of governmental **Suspending** about stuff or currency contraband legislated in 1374

There are some interesting points in clause 2 of this law: 1) mentioning a 30 days tie by legislator such that if Islamic revolution courts which are eligible do not proceed then the discoverer system can investigate to the dossier and take it to governmental **Suspending authorities**.

2) It has classified the crimes using the value of contraband property: if the value of property is less than 1 million tomans, the relevant governmental organs Sufficient to only to confiscating the stuff or currency pro the government. 3) if the value of property is more than 1 million tomans and if the accused person wants to pay the fine in Administrative step it specifies a fine equal to two times the stuff price and takes the fine and confiscating the stuff applying the way mentioned in

the relevant regulation in this law and prosecution and complaint due to the contraband crime will be waived. It must be noted that according to note addendum to two clauses of 4 aforementioned laws, in places where there exists no Islamic revolution court, the general courts are competent and if there are none of them, then the courts of governmental **Suspending** undertake the task and this sentence has been admitted by supreme bureau based on sentence of unification of procedure of general council of supreme bureau with the number of 676-10/38384.

The last point that calls attention in this law is the clause 7 which proceeds the way and percent of dividing the incomes due to selling the confiscated stuff. The point here is that how the alcohol can be sold and how the mentioned law can be performed; because the main problem of alcohol is that it is not considered as stuff.

But recently in the **Suspending** law legislated in 1375, it is sentenced in clause 703 that "any person who produce, sell, represent, import alcohol or provide it for someone else, will be condemned to 3 months to 1 year imprisonment and a maximum number 74 lashes and also to a minimum fine 1,500,000 rials and maximum 2,000,000 rials. The person might be condemned to one or both of these. The followings are some instances:

Importing alcohol is counted to be contraband according to the existing definition for stuff contraband. This sentence was legislated in 1375 and was legislated after governmental **Suspending** law about stuff and currency contraband legislated in 1374.

Clause (e)note 7 budget law legislated in 1386:

The last want of legislator up to now is as follows:

A) Deletion of appointed retributions in this ground and enhancing the amounts of fines and making unification that allows no difference between various stuffs in case of contraband and determines fine for all of them.

B) Have different look on necessary-unnecessary and prohibited stuffs such that it says that in fact the purpose of legislator is tolerance in importing necessary and severity about importing prohibited stuffs. In budget law legislated in 1386 the fine appointed for all kind of discovered alcohols will be the minimum amount 300,000 rials per liter or 10 times the global price for a liter, and it must not be less than of before. This will be taken and settled into treasury account. Moreover, all of places and vehicles used in the crime take place will be confiscated.

Here we pose some questions after we have studied the laws existing before and after Islamic revolution:

A) Are the alcohols considered as stuffs?

B) Does this consideration have an effect on the sentence of existing law about its criminalization and the respective retribution?

Before Islamic Revolution alcohols were counted as property with no doubt but after that the lack of a clear assessment made the judges rather confused. It even resulted in unified procedure sentence in 1373. Therefore based on clause 703 the Islamic retribution law, alcohols are not considered as properties so that they can be included in the law of stuff and currency contraband and the determined fine for stuff and currency contraband be applicable for them. Finally this confusion came to its end by the expository discretion of council for regime's benefit in 1381 and after that it was priced in budget law in 1386. Alcohols being considered as stuffs or not in of great importance both in criminalization and respective retribution and depends on considering it as property in terms of tradition and Sharia. if we consider it as property then it would follow the stuff and currency law, if we don't consider it as property then it is counted as crime and retribution will be exerted about it. There was an intense disagreement between judges about whether to consider alcohols as properties or not in 1373. This caused unified procedure sentence number 595 which was resulted from sentences of two departments 31 and 34 of the supreme bureau legislated at 9/12/1373. Department number 34 supreme bureau admitted the first department sentence about putting fine but department number 31 believes that alcohol can be considered as property and in the text in which it wrote its opinion, there was kind of doubt and at last, with citation to clause 6 of courts' revision law rejected it deterministically. Therefore according to budget law of 1386 and council for regime's benefit alcohols are considered as properties and legislator emphasized again on the sentence of the council based on considering alcohols as properties in paragraph (e), clause 7 and proposed a severe punishment for them. So the legislator terminated the doubt about considering alcohol as property or not. The price of this production in neighbor countries was applied as the standard scale.

### Section 3:

Which authority is competent for investigating drug contraband

Before the legislation of budget law of 1386 that called explicitly the importing of alcohol as contraband, and after legislation of regulation 703 of Islamic retribution law in 1375, it has always been the subject of discussion; some people didn't consider it to be instant of contraband counted it as a separate crime and believed that it was relevant to general court. But the others with Citation to clause

5.m.5 the law of general court and Enqelab court formation, they recognized the Enqelab court as the competent court because contraband crime is eligible and this clause.

### Discussions

At the end of our article we reviewed the context of alcohol contraband crime before and after Islamic revolution and saw that it was not considered as crime before Islamic revolution but after that it was counted as crime. After reviewing several legislations and telling about indispensable law and the competent authority for investigating the crime, at the present time the legal element of this crime is clause (e) of note 7 budget law of 1386 in which the legislator considered the subject of this crime as property for this crime and so terminated any probable assessment from judges. This clause has also recognized the Enqelab court as the competent court for investigation the crime with Citation to clause 5.m.5 of the law of general court and Enqelab court formation.

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### References

1. Budget law of 1386, the civil site for laws. The law of customs affairs. Circular about dossiers of contraband and selling alcohols
2. Bazgir, Yadollah. "Competence and the provisions about it in civil and criminal"- first press- Tehran- Ferdosi publication- 1380
3. Akhond, Mahmood- criminal trial regulation- fifth volume- forth press- Tehran- ministry of culture and enjoining- 1384
4. Heli. Sheykh Jafar- "sharayeoleslam Fi Sharhe Masaelolhalal Valharam"- Second Press- Tehran- ..?.. publication- 1403 hijri qamari.
5. Shokri, Reza- " Interpretation of Islamic Retribution Law"- First Press- Tehran- Mohajer publication- 1382
6. Goldozian, Iraj- Mhshaof Islamic Retribution Law"- second press- Tehran- Majd publication- 1382
7. Hazrati, Samad- "Alcohol Contraband"- message of education magazine- number 21- page 63. The law.