

## Legal juridical analysis of Article 154 of the new Penal Code about being power less of drunken people and addicted to drugs or psychotropic substances

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**Abstract:** It is so late that Masloub Alaradgy as a factor influencing on the wisdom or authority and in the row factors such as dementia, Saker and coercion, as one of the causes of criminal responsibility and as an effective factor on punishment was expressed in the legal system and stated views about it. In Islamic law and jurisprudence, in particular the issue Masloub Alaradgy and its impact on individual s entitlement to criminal liability and punishment had precedents and special provisions regarding the consumption of alcohol and drunkenness caused it to be committed when the person was under its influence. From a legal standpoint when the crime impose to a person that the criminal is responsible. In the Iranian legal system, despite identification and recognition of drunkenness as a factor preventing criminal responsibility, dimensions and angles and how it affects on criminal responsibility for crimes committed is not so clear and criteria, standards and reference for identifying drunkenness are not known. Article 154 of the Penal Code, criminal liability of drunkenness and addict to psychotropic drugs has predicted in the new arrangements that if the person at the time of doing crime had intoxicated criminal responsibility was stripped off him, but if they are drinking alcoholics in order to carrying out the crime, the offender shall be sentenced to punishment for drinking alcohol. According to the concept of anti-matter, drinking alcohol can cause removal of criminal responsibility, but the penalty it will not be obstacle for implementation of legal penalty. The effects of damage to the will of the legislative authority and the power as a result of drunkenness and legal approach about the determination of criteria and diagnostic reference of identifying drunkenness, especial attention to the problems of Drugs and Psychotropic Substances is new and in general, to provide a comprehensive and exclusive regulation about drunken guilty.

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### Introduction

Among the institutional rules of Islam ban process of alcohol is interesting because it took place gradually. First without enforcement warned people from drinking intoxicants. Then by way of the commission and the use of intoxicants reduces invalidity prayer and in the end it has been demonized as devil function. God in verse 90 and verse 91 says M. (O ye who believe in God wine and gambling and idol and grouped tribe all these are evil and the devil's work, but avoid it so that you prosper. The devil intends by means of wine and gambling create the enmity and hate among you, and debar you from the remembrance of Allah and pray then do you abandon him?) When drunken argument expresses, scientists from theoretical Sciences were the opposition to them including the poets, scholars, mystics and others. Depending on what is channel of the ideas, views, so the results will be different. Even among this group, there are schools that had different ideas with other schools. If only the legal aspect this issue is noticed the fact that numerous opinions exist in the field, there is no opportunity to pay for all of

them. The interest shall be specified in the field of law which need to be addressed.

### Statement of problem:

In accordance with Article 154 of the Penal Code Act 1392 "Drunken and unwilling of voluntary intake of intoxicants, narcotics and psychotropic substances, and so on are not the barrier of penalty unless it was proven that guilty at the time of the crime in general has been stripped willing. But if it is proven that the use of these materials in order to commit a crime or had knowledge of its realization And the offense is considered to be the punishment for both offenses and sentenced. "As seen, the mentioned material correctly, intoxication is due to consumption of alcohol (other than alcohol, such as drugs) that most lawyers agree to it. Internal factors include mental disorders and insanity, drunk and confused and external factors include compulsion and necessity, self-defense and the US. Each of these factors if their effect is small and there are elements of criminal liability can be considered as mitigating punishment. A person who is drunk while impact of drunkenness is complete, it can not know the nature of their behavior and at the same time it does not

have control over his actions. Therefore, the person who uses the drug substance may be denied the pleasure and power of control over their actions. In this study we try to answers to questions in this area to identify ambiguous. whether psychotropic drug cause the denial of the will or no ? In the case of drug abuse for the crimes of criminal responsibility how would be it? And in general what is criminal responsibility for addicts of psychoactive drug?

The review of literature

The drunkenness and its relation to criminal responsibility has overcome many studies have been done, some of which are as follows.

Doctoral thesis: (drunkenness and its effects on the rights of criminal responsibility in Iran, N. Mhvan, Tehran, Faculty of Law and Political Science, 1357-1356) record of drunkenness at the time of the offense and the offender's criminal responsibility is examined.

Master Thesis (defense of criminal responsibility under Iranian law "madness, drunkenness and unconsciousness of sleep," Alireza Rezaei, martyr Beheshti University, 1375) of the Iranian criminal law, criminal liability shall be investigated Moore.

. article: (effects of drunkenness on criminal liability, nour-Amidi, Mehdi Maleki, the Bar Association Journal, Volume I, Number 2, June 1327) study examined the effect of drunkenness on criminal liability.

4. Book (Shahrukh Shahraki, A. Introduction by: H. Mirmohammad Sadeghi, the effect of intoxication on criminal liability in Iranian law and the UK, looked log Press, 1391), a comparative study of criminal responsibility from Iran and UK law is drunk.

### Hypothesis

Now in theory to answer these questions, we will give a thoughtful answer.

1. The consumption of psychoactive substances with the expropriation of distinguishing power of mental elements that affects the mental and criminal liability.

2. According to Article 154 of the Penal Code if the offender was unwilling we can relieve him of criminal responsibility

3- it Seems to be in force or lack of information on the contents of the bottle, which can be said that if he drank it wrongly criminal responsibility will remove.

Intoxication:

Drunkenness is a state means that lay between the man and his intellect or is or state that drinking ethanol and other forms can be obtained. Intoxication is a name to anything that is of intoxication and drunk intoxication is closing the conduit seal and the

words to the barrier between man and his mind Criminal responsibility:

The ability of criminal includes citation and attribution of criminal responsibility to the person or persons who committed it.

**Drug:**

It is said to chemical components that their consumption cause changes in the brain consciousness. Such a state of euphoria and pleasure, drowsiness and weakness and passivity Justified causes of crime: it must be an unwarrantable thing that explain this that the unjustified thing is the same offense. The reasons justifying the criminal law of criminal procedure that the practice is permissible.

### Research Methodology

The research is library and documental research and evidence obtained from the study of primary sources, including books and research done. Also using notes and use of computer networks and the use of specialized magazine includes monthly and quarterly help to make clear in the light of new research. With regards to the issue and the need to use surround and dominate, lack of resources was the most important difficulty of the study. If there is the misunderstanding or failure in the transmission of the material it goes to this affair.

### The relationship between using drug and crime

A small number of young addicted people had history acting illegal acts of abuse before, but most of them will be forced to obtain drugs doing various offenses against each other. But one must know that addicts commit crimes often are not large and the number of people who engage in these horrific crimes relatively are low. This does not mean these crimes that they are committed aren't not serious Rather, we mean that these people hardly ever make a plan for their actions like professional criminals. At the time of committing to a crime addict has features associated to ethics and This feature helps him in the face of temptations and self-determination and, in general, criminal and aggressive elasticity.. addict due to lack of confidence and lack of legal and ethical feelings is deprived of emotion and meaning he does not have legal rules.

### Types of responsibility

It includes moral responsibility such as responsibility, administrative, disciplinary, criminal, civil and...

civil responsibility is to make money, including losses, losses arising from the crime, or act out of responsibility.

For example, Article 12 of the Law of criminal and civil responsibility of the employee and employer, responsibility of breach of contract and Criminal responsibility, which is stipulated in the Criminal Code and suggests that punishment is

seeing. The content of this obligation and its effects is a criminal act. It means bearing the punish that its punishment is complaint. But committing to an error can not a responsibility was carried on the shoulder of the offender, but before that he should be entitled to bear this heavy burden, he said. Where the error has taken place put it on his account, and we ask him.

### **Principles of criminal responsibility**

The ability to accept criminal responsibility is assignment that it was Interpreted as attainment of the power of perception and interpretation. So if it is not the offending document or autonomous and he is not responsible for the actions and against these commands of legislator is not obligatory. Because these commands for those who addressed that understand instructions and power of legislator. So insane and immature as do not understand good and bad, both don't have criminal responsibility.

The criminal responsibility in the criminal system under the assumption of man's freedom finds meaning. Such human by freely choosing forbidden actions their intention clearly demonstrated and therefore they are reprehensible. From the social point of view the concept of criminal responsibility is inseparable from the concept of blame.. Punishing of fenders is an indication of public blame. Then they must accept the consequences of his deeds. In this view, man is able to distinguish between good and evil of their actions and to choose between them.

### **Drunkenness in the new Islamic Penal Code of Iran and English law:**

According to the Penal Code to deal with those who abuse alcohol and engaged in influence of the crime are taken into account, if it is proven that the use of these materials in order to commit a crime or with knowledge of the realization of it and the offender punish both the crime. Generally murder in Iranian law cause death, but only if the killer was drunk at the time of committing, secondly, the intention or willing denied by the killer and thirdly, criminal is not drunk by crime, exceptionally, the killer was not drunk retribution. Legislator in Article 53 of the Penal Code has stressed if someone by the consumption of alcohol, lost his will, but it has been proven that drinking alcohol in order to commit a crime, criminal penalties in addition to drinking alcohol and punishable offense was also convicted. In British law, there is a distinction between involuntary and voluntary intoxication and voluntary intoxication is not a defense of criminal liability, unless the person is totally incapable of forming the specific intent and the legislator clearly false and erroneous ideas and beliefs in specific crime, as a defense considers, or that the accused's intoxication raise other defenses such as insanity. He stressed, : Drunken never rather offenses committed with

carelessness or negligence and indeed are not effective and can even be a factor in aggravation of punishment and the other prosecutors are exempt from proving the mental element, the carelessness, negligence, etc., the In British law, involuntary intoxication in all crimes cause to deprive the criminal responsibility of the perpetrators, but voluntary intoxication is not a removal to criminal liability, except in exceptional cases, the first in crimes with specific intent crimes as if intoxication, disappears mental element of the criminal second, intoxication is as a mental illness.

### **Conclusion**

In previous Penal Code, about the criminal responsibility of individuals was discussed discretely in different materials of Penal Code, but the new Penal Code, a separate chapter is devoted to the conditions of criminal liability. The Penal Code has been established that criminal liability is fulfilled only if that person while committing a crime, he is wise, mature and free. The obstacles to criminal liability, including dementia Saker, named drunkenness and relative passivity and its conditions is expressed. 1. The researchers claim that the consumer (drugs and alcohol) according to the previous discussion clearly stated: this is what kind of materials can have a significant impact on person, and create a state of mental disorders that according to Article 148 of the new Penal Code and with the help of Article 149 of this law "... A person during the commission of a crime, he is wise, mature and free..." and Article 154 of the Act, he stated that "drunkenness and a collapse of the voluntary intake of intoxicants, narcotics and psychotropic substances, and so does not preclude punishment unless proven that guilty while committing a crime generally been powerless... "Considering the above-mentioned materials can be said that the people in the euphoria, when taking action on alcohol, drugs or psychotropic substances and, depending on the type of drug, dosage and time of application if proved that while committing crime they were powerless so criminal responsibility is removed of them that the purpose of the author of this study is to demonstrate the same subject.

2. Among the materials that can be named for example is hashish. About half of those with schizophrenia who use cannabis-type drugs too much, cannabis can be causal role,, But other drugs may be just as consistent mechanisms to deal with depression, anxiety, fatigue, and taken alone. Cannabis and its belongs increases the risk of developing a mental disorder associated with consumption frequently, its use is associated with double the risk of dementia and schizophrenia. While

enumerating the use of cannabis as a factor for schizophrenia is accepted by many, is still being debated. Amphetamines, cocaine, and to a lesser extent alcohol, can lead to insanity are very similar to schizophrenia. Although generally it doesn't supposed to cause disease, but people with schizophrenia consume more nicotine than the public.

3. criminal laws in every age group, according to overcome the idea of the other groups is codified. Adopting a balanced approach that tailored to social circumstances and level of understanding and awareness of human and social development, the legislature had recourse to methods that a wide range of behaviors in criminal laws is prevented or predicted and prevent its repetition. The importance need to take the time to study the social conditions and concrete and practical methods rather than pure theory. So, not only relying on the views of some and their followers imposed rules by resorting to trial and error, it is not in the society, that if it doesn't use it changes. Of course we should not deny the usefulness of these ideas and use them to improve the social situation ignored.

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