

Analysis of customs offenses in the Penal Code of Iran

Taleb pour Moghadam¹, Dr. Shapur Farhangpur²

¹ Department of Law, College Of Humanities, Ahvaz Branch, Islamic Azad University, ahvaz, Iran

² Department of Law, Bagmalek Branch, Islamic Azad University, Bagmalek, Iran

Abstract: Customs offenses as an example of economic crime (according to paragraph (b) of Article 109 and Article 36 of the Penal Code) could have a negative effect on a country's economy and security and peace of society that is the most important and most basic guarantee of growth and disrupt sustainable development.. As well as it could have the decreasing effect on investment, domestic production and employment. Committing these offenses may be due to the country's foreign trade policy, or misused by officials and employees of the Customs Department and sometimes even Customs laws or violations and abuses micro and macro criminals and opportunists, and even sometimes by people who intentionally commit a crime behind such legislation and intellectual actors. In this study, after the definition of customs and customs offenses, causes and history of customs offenses was stated. Iranian lawmaker performance in dealing with economic crime with a focus on customs offenses using library and electronic research studies was analyzed and evaluated and then criminal policy against the phenomenon of criminal violations of customs legislator was explained to the reader. To achieve this objective, while studying the laws of the country before and after the Islamic Revolution hypothesis in this project and about research and investigation was conducted. What was achieved in this study is the old formulation of the crimes and violations of customs laws in Iran, which is about one hundred years that legislator initially recorded content, and goods and trafficking items, however, after a decade, the detention lay alongside other penalties and the legislative approach has been most severe penalties. But in spite of the issue, using of institutions such as the suspension, commutation of sentence and release Provided evidence of legislator's short attention to teachings and criminological studies.

[Taleb pour Moghadam. Shapur Farhangpur. **Analysis of customs offenses in the Penal Code of Iran.** *N Y Sci J* 2015;8(8):45-48]. (ISSN: 1554-0200). <http://www.sciencepub.net/newyork>. 7

Keywords: Customs, customs offenses, economic crimes, the legislator

Introduction

Customs like other organizations such as the military, education, civil service organizations has a long history as being old a history. The word Customs that is an equivalent word in English Customs and in French is Douane and according to the famous researchers s words and historians, derived from the Latin word *Commercium* means trading and bartering that this word is derived from the Greek word *Cummerx* (*Kvmrks*) means rights reserved goods and merchandise. Customs duties have general and specific meanings: To any action or inaction on any action would cause that don't receive internal rights actually as they are not covered by provisions of customs smuggling they are customs violations, also any kind whether expressed it or not (apart from trafficking) or action contrary to the law or the constitution or other customs regulations or government guarantees of financial loss, or not, is called the customs violation.

Statement of Problem

One of the current problems in the world economy is commodity trafficking and that is undeniable its effects on the economic development of any country, such as the rate of gross domestic product, GDP, gross domestic product, capital, control the rate of unemployment, inflation and. According to

studies of the World Bank, hidden or underground economy involves nearly 40% of the GDP of developing countries and the figure for developed countries is about 17%.

As well as economic crimes have included about 30 to 35 percent of all cases closed each year in the black, but the crime rate is higher than this amount. According to customs offenses and smuggling has different effects on domestic production, foreign trade policy, development policy, culture, social welfare, public health and consumers and also due to the particular circumstances in terms of the volume of imports of the contraband, the position of Geographic, having long borders with neighboring countries such as Iraq and Afghanistan without a strong central government, the need for effective criminal policy to deal with this crime and its prevention is a good feeling as one of the challenges of the economic sector and the criminal justice system.

In this study, we have tried to consider the concept of customs offenses and criminal policy towards Iran policy analysis criminal and penal laws to prevent customs offenses, action and found the solutions for dealing with the problem of the economic and customs.

Background of research

1. Kian Dokht Tavakouli, answered the criminal policy of the trafficking offenses Customs, Department of Education and Research of the judiciary, fall 1389, Tehran, Khorsandi; it's criminal policy of Iran in relation to trafficking offenses Customs criminological approach examined as one of the manifestations of economic crime.

2. Abdullah Ahmed, fraud, smuggling, customs offenses and civil liability, fall 1391, Tehran, Mizan, in this book to explain the processes and procedures for entry and exit of goods to the customs valuation of imported goods such as or export, storage of cargoes on Customs formalities and general conditions, exit of product, measures introduced after discharge stated in one of the sectors of Articles 102 to 118 of the Customs Act, the Customs Act 1390 for violations of the Review.

3. Abdullah Ahmadi, crime, commercial fraud, customs, fall 1391, Tehran, Pub Mizan, in the first part of the book outlines, it has been reported historical records and various definitions and classifications of fraud. The second part, they are explained in detail about bank fraud, transport and customs.

B) Thesis

1. Saadat Salajegheh, 1391, to investigate the crime prevention approach with an emphasis on new legislation Customs legislation Customs, the international unit of Shiraz University.

2. Ali Shamsaie, 1391, customs smuggling in Iranian law and its implementation with international documents, Faculty of Law, Islamic Azad University of Tehran.

theories

1. Iran's Penal Code in relation to crimes of trafficking in customs procedures and in the compilation of criminal and authoritarian government uses two administrative methods.

2. The compilation of laws and functioning judicial system more based on criminal procedures instead of the prevention and correction of authority.

Research Methodology

This study was used by descriptive - an analysis method and in collecting information, used taking notes, the library method. Also by visiting the sites and Internet sites, especially on legal and customs of sites of the Islamic Republic of Iran with respect to data collection and analytical work have been reviewed and as well as described the compliance or deviation of the legislator of the principles and teachings of criminology.

Customs Violations «customs contravention»

To any action or inaction on any action that would cause actual receipt of the goods are not subject to the provisions of the Trafficking in case of violation of customs duties is not.

As well as any kind whether is expressed it or no or (apart from trafficking) or action contrary to the law or the constitution or other customs regulations or government guarantees of financial loss, or not, is called the customs violation. It should be noted that the violation of customs differs with fraud (commercial duty).

Survey Reference in diagnosis of customs tariff, value of the goods, fines (apart from the cases of trafficking and coercion or force majeure and customs regulations) is Commission of customs disputes. In cases where the amount of the difference between the desired and acceptable customs taxpayer or the customs value of goods that difference of condition of import and export is more than fifty million rials (000/000/50) in the case is reviewed in the form of protest with the appeals commission.

Duties after the Islamic Revolution

1. The exercise of the government suspended the law on smuggling 19/09/1369

In Article 2 of actions the government suspended the law on the completion of cases involving seizures of contraband, such as goods by the officers and receipt of income is determined.

Also in the executive regulations of this law, the Islamic Republic of Iran Customs, tobacco, fisheries companies have been introduced as revenue collection agencies.

In Article 2 of the Regulation has been agreed that if the prices of commodities and currencies is equivalent to ten million rials or less, punishment is only the seized goods and currency in favor of the government satisfied with the product, but about the cost of goods and smuggling currencies are higher than tens of millions in addition to recording goods Penal fines are anticipated.

2. The Penal Code Act 1370

Articles 41 and 43 and note the following with regard to crime (eg trafficking) has set enforceable.

3. Export and import export regulations adopted in 1372

In the law the matter of import and export goods divided into three groups: authorized goods, commodities and conditional prohibited commodity. Also in 1 Article 10 Exemption from some people in payment of customs duties and commercial benefit is determined.

4-law approved by the Customs Affairs 09/02/1390

5. Regulation Act, Customs Act 06.12.1391

To investigate violations of customs laws crimes in Iran before the Islamic Revolution

Before the establishment of the National Council, giving let to brokers and foreign traders exemption from payment of duty, was created messes in this context that led to the employment of foreign

experts sent to Customs reform, including the reform measures can be "Joseph light, "noting that it can be considered a precursor to the development of customs laws on smuggling.

After the formation of the National Council, the following factors accelerate the process of legislation and regulations in connection with the smuggling

:- Customs reform and setting common tariffs for customs enforcement and the need for it

- Dissatisfaction of businessmen involved in the constitutional victory with the handling of customs officials and not regulated recognition and authentication instances of trafficking

- Government efforts to combat trafficking with the aim of gaining more revenue from customs

Customs law codified in Iran for the first time on 03.30.1350 passed by the National Assembly which is composed of 60 females and forty-seven notes. The law, which until 1390 and until 1390 Customs Affairs Act has been in force since the adoption until copies continuously, especially after the Islamic Revolution's extension and amendment After the victory of Islamic Revolution in Iran crimes violations of customs laws Customs Affairs Act, including one hundred and sixty five and one hundred and sixty-seven notes in an open session of parliament was passed on Sunday 08/22/1390 and on 02/09/1390 was approved by the Guardian Council.

This law has been developed in thirteen sectors that titles are as follows:

The first part- the definition, organization and general (Articles 1 to 13)

Section II Valuation and Rules of Origin (Articles 14 to 17)

The third section, formalities before said (Articles 18 to 22)

Section IV storage of cargo on customs areas (Articles 23 to 32)

PART V products deserted, recording (recorded) and transfer to customs (Articles 33 to 37)

Section VI stated and clearance procedures and general requirements (Articles 38 to 46)

Section Seven- of customs procedures (Articles 47 to 101)

section VIII Abuse and Trafficking (Articles 102 to 118)

The ninth part, exemptions and prohibitions (Articles 119 to 127)

The tenth part, Customs brokers (Articles 128 to 132)

The eleventh part- the review and actions after discharge (Articles 133 to 143)

The twelfth part, customs authorities of Disputes (Articles 144 to 149)

The thirteen part - other provisions (Articles 150 to 165)

Conclusion

These days the tools of social control is very diverse and includes a range of criminal practices such as mediation and restoration and guarantees other administrative performances and disciplinary action that is compensation for damages.

Alert of authorities of the criminal justice system to public rights has many forms that criminal policy of Iran is currently dealing with customs smuggling crimes with an emphasis on the violators of the law. However, with respect to all terms and aspects of this research in study of customs offenses and offenses in the Penal Code of Iran following results were obtained:

1. In the study of criminal law can be seen that the Iranian legislators s performance about laws related to customs charges follow an integrated crime policy, because in some cases followed by a democratic society, and in some cases model state of the procedure and the authority of the state. On the other hand measures to combat smuggling and customs agency headquarters as exclusive performer of preventive measures in respect of customs offenses in accordance with the laws of 1381 and 1382 the whole country, the prevention model of the crime closes the model of authoritarian government.

2. In the hundred-year period of codifying laws about violations of customs (1286 to 1390) in two point has two different tack in dealing with the crimes and violations of the customs act and from 1307 to 1374 despite the first section attempts to deal with the customs Violations diversion of punishment and sanctions, but legislative competence has relied on punishment a lot and the first survey to the crimes of the criminal justice system and the legislator by creating the judicial system qualify exceptional powers of investigation and enforcement in administrative reaction against the crimes was enacted to the administrative body.

3. Study and research on the Iranian legislators in relation to penalties imposed by moderator institutions relies on customs offenses,criminological shows that these doctrines significantly, although is insufficient has effects on the formulation of laws. It can be said that due to the mandatory penalties for customs offenses it is possible to suspend all or part of the punishment prescribed for the offense (other than fines).

4. conditional Freedom: As one of the prescribed penalties for customs offenses under Article 5 of the Penal Code is imprisonment for perpetrators of trafficking and the mentioned law and the law of actions of the government suspended about to Smuggling and currency and other laws in this regard is no limit to the actions unforeseen, so in general, including the provisions of the Penal Code provides

for imprisonment of conditional release in relation to the offenses is no restriction.–

5. Codifying of the related laws to customs offenses and determining their punishment until 1306 based on financial penalties (fines) and from that year the prison was along with other penalties for customs offenses. But generally, more punishable customs crime relies on a fine (non-criminal aspects) or and confiscation of property or has been recording and generally in all customs offenses (apart from smuggling) punishment was based on financial penalties. Also in the Customs Act 1390 and the Penal Code Act of 1392 (Products 64 to 87) with the shift procedure of alternative punishment, imprisonment is considered.

References

1. Ahmadi, Abdullah, customs duty, the publication Mizan, Second Edition, Winter 1390.
2. Ahmad, Abdullah, crime, commercial fraud, customs, the print Mizan, First Edition, Fall 1391.
3. Ahmad, Abdullah, Wikipedia Customs Affairs, print Mizan, first edition, 138s4.
4. Mahmoud Abdullah, fraud, smuggling, customs fraud civil, The print Mizan, Fall 1391.
5. Past, Present, Future Customs, Customs and Research Training Center Press, 1372.
6. Tavakoli, Qian Dokht, answered the criminal policy of the customs smuggling crimes, Khorsandi Press, second edition, 1391.
7. Rnjbr Byranvnd, Ali Naqi, customs violations Customs Disputes and Appeals Commission issued Vara', law press, 1389.
8. Mr. Rahim and others, s Customs Affairs product, Atra press, first edition, 1391 Building.
9. R., Customs Affairs Act and Regulations, the printing company, Bazargani print, fourteenth edition, 1388.
10. Zeinalzadeh, Iraj, smuggling, currency, gold and silver imports informal, printing company Bazargani press.

8/16/2015