

Legislative Criminal Policy of Iran on Terrorism against Water

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Abstract

Crimes against energy infrastructure, in addition to the destruction, are a serious threat against national security. Water is among the most important energy. Accordingly, Water infrastructure is highly appealing for terrorists and this source is one of the targets of terroristic operations. In order to prevent the fear of water infrastructure disruption, this facility must be protected through legislating suitable criminal policies. The paper aims to identify the status of terrorism against water in the Iranian legislative criminal policies and the legal measures anticipated to counteract it. For this reason, the main purpose of this research is to study and evaluate the legislative criminal policy of Iran in confronting terrorism against water. Analyzing the existing legal articles in this area reveals that the protection of water in some of legal articles has been trivial while in some other articles, this offence has been recognized as an act of terror with the punishment provided for *Mohareb* (a person or a group who fights against Islamic government).

Keywords

Terrorism, Sabotage, Infrastructure, Water, Water Pollution

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Criminal Procedure in the case of Ideal Cumulation of Crimes; Rules, Ambiguities, Solutions

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Abstract

Cumulation shall be ideal when a person commits an action that contains elements of several crimes. Contrary to the substantive rules of ideal cumulation of crimes in the Islamic Penal Code, there is no specific provision in the Code of Criminal Procedure and there is a legal gap in this regard. Therefore, there are some ambiguities in the different stages of pre-trial and trial proceedings of such crimes, including the initiation of criminal prosecution, the arraignment, the issuance of criminal warrants, the jurisdiction of criminal courts and so on. In this study, using a descriptive-analytical method, we pointed out the ambiguities in the criminal proceedings of ideal cumulation of crimes and attempted to disambiguate them with a look to the Islamic jurisprudence and legal rules. We concluded that, due to the fact that judgments are based on criminal titles not acts, therefore, the criterion in the proceedings should be criminal titles. This approach will be elaborated in *Qisas*, *Hadd* and *Ta'ziri* crimes in the present study.

Key words

Criminal Procedure, Ideal Cumulation of Crime, Substantive Rule, Rights of the Accused, Law

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Delinquency and Victimization of Digital Natives; from Etiology to Response in the Restorative Justice Paradigm

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Abstract

With the autonomy of the generation known as "Network Natives" or "Digital Natives", there has been an exponential increase in the rate of crime in cyberspace, especially in social networks and the crime pattern has undergone a sudden change in the types of crime, crime scenes, age and gender of the perpetrators and the victims. The method of this research is qualitative and its method of analysis is grounded theory. This research seeks to address the origins of the problem and provides answers tailored to the causes of crime and victimization. In this paper, the causes of victimization are explained by the application of the "lifestyle" attributed to Hindelang and the causes of delinquency by employing the theory of "the neutralization of crime" attributed to Matza. The statistical population of the study was 20 teenage victims and delinquents of social networks from whom the information has been gathered by means of interview and observation. Findings of the research show that the unpredictability of virtual behaviors and interactions provides grounds for the victimization of adolescents and for juvenile delinquents' avoidance of responsibility by resorting to victim's fault. The result of this study shows that between the two corrective and restorative patterns, restorative responses to digital indigenous people are more suitable for delinquency and juvenile victimization, since restorative responses lead to "cyber alertness" of the victim, "taking responsibility" by the delinquent and "participation" of the passive society of the cyber space.

Keywords

Network Generation, Generalization of Crime, Femininity Victimization, Restorative Justice

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Pathology of Judicial Criminal Policy regarding Stolen Property

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Abstract

The rules, including some criminal policies are applied by judicial authorities. Judges bring the written laws among people and make them objective and tangible. But the function of the judiciary can completely further it to some parts of legislature objective and can lead to adoption and implementation of unexpected criminal policy. Because in addition to legislative and executive factors, there are other effective judiciary factors that must be taken into account in order to combat crimes. Scientific assessment of controlling a crime requires cognizance of its gaps and shortcomings on the grounds of legislative, judicial and executive criminal policy. One of the challenges in suppression of theft in the dimension of law and jurisdiction, is the recognition of things which are capable of being the object of this crime. Article 267 of the Islamic penal code, has considered "property" as the object of theft. Property is a relative concept and refers to any object such that there is a rational incentive to pay a valuable item or good in exchange for it. Legislative policy in financial crimes, especially theft is confined to protection of legitimate financial rights and benefits of people. But in practice, it has been seen that judges have followed a different approach from legislative criminal policy using judiciary interpretation.

Key words

Judicial Criminal Policy, Law, Object of Crime, Jurisdiction, Theft

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Victimization of Staff of Criminal Justice System (Case Study of the Personnel of Resolving Conflicts' Council in Broujerd)

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Abstract

Nowadays, it is believed that victim also comes into play in occurrence of many crimes. Therefore, the ideal of crime prevention is almost unachievable without detection of victim and elements of victimization. In the meantime, victimization of personnel of resolving conflicts' Council is an area that has not been subject to research yet. It is expected that, concerning to the folk frame of Council and the volunteering spirit in its members, communications between clients and personnel circulate without disrespect and violence, but evidence disapprove that expectation. The present study, using technique of measurement and quantitative method and by means of questionnaire and all-counting method, has examined elements of victimization of personnel of resolving conflicts' Council in Broujerd city in 1394. The results indicate that an interesting number of personnel of resolving conflicts' Council in Broujerd city (20 percent fully and 16 percent more or less) have been victimized especially with regard to the crime of insult. Also, analysis of empirical findings indicates that among different elements, the elements of nature of job, difficult conditions relative to job, characteristics of clients (especially their ignorance), loss of enough and suitable equipment and weakness of protective measures and official control, are effective in victimization of personnel of resolving conflicts' Council.

Key words

Resolving Conflicts' Council, Personnel, Victim, Victimization, Insult

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Cultural Heritage Destruction in ICC with a Look to the Al Mahdi Case

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Abstract

For the first time in the history of international criminal proceedings, International Criminal Court, alongside the gradual expansion of conventional international criminal law, has taken a few steps further from previous trials in the case of Al Faqi AL Mahdi and issued a ruling about the historic heritage reparation. In this article, we critically examined the reparation order of the ICC in the case of Al Mahdi. In this landmark verdict, regardless of direct or indirect damages, the court identified the residents of Timbuktu in the first place and Malian people and the international community in the second step as victims of cultural heritage destruction. The court has considered limited criminal responsibility for Mr. Al Mahdi. He has been convicted of war crimes, and his undertakings must be fulfilled by him. He is obliged to compensate for the mental and economic losses and to restore the destroyed buildings. Due to the symbolic importance and prominent role of this verdict in the future of international criminal proceedings, this article aims at analyzing the historic achievements of the court with a critical approach.

Keywords

Reparation, Law of War, Cultural Heritage, ICC, AL Mahdi.

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Impact Evaluation of Police Control Policies on Drug Markets

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Abstract

Police control the drug market through increasing the arrests and seizures of drugs. This strategy would be effective if drug dealers increase the price of drugs as a response and addicts reduce using drugs. Therefore, Police implement different programs to increase the price and seizure of drugs and decrease the availability of drugs. So, the main question of this research is whether police interventions lead to an increase in price and seizure, a decrease in the availability of drugs and ultimately a reduction in drug use. Another question of this research is to what extent these programs could be effective. In this study, two methods are used: in depth interview with 27 drug dealers and 41 drug users in drug markets; and discourse analyses of formal officials. The findings suggest that police interventions in drug markets lead to a decrease rather than an increase in drugs price, in long term. Furthermore, multidrug use and use of high-risk drugs will increase as a consequence of police controls.

Keywords

Police Interventions, Drug Market, Effectiveness, Purity of Drugs, Drug Use

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Criminal Law in light of the Political Theory of Constitutional State

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Abstract

The state's authority to use the criminal law is originally based on the political theory which legitimates the state. Therefore, it is necessary to understand the kind of political philosophy and political thought of a state for establishing a theory of criminal law. In Muslim-majority countries, the criminal law faced chronic problems in several aspects due to the emergence of thoughts on constitutionalism. The political theory of the "Constitutional state" supported by Naini is an effort which includes both modern state and *Sharia* requirements. The article generalizes the basis of political legitimacy to the criminal law theory and examines how adjustable the criminal law created by such a political theory is. The criminal law adopted by this theory induces a deep paradoxical dualism and conflicts which could not be solved in the constitutional period in Iran. These conflicts yet remain unresolved and it is vital to address this critical challenge.

Key words

Political Theory, Constitutionalism, Constitutional State Theory, Criminalization, Punishment

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The Role of Political-Social Leaders in Modifying the Level of Public Punitiveness: A Case Study of Capital Punishment

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Abstract

If we think that criminal policy is influenced by public opinion as an independent and direct factor, so, the media, pressure groups, interpersonal relationships, government and socio-political leaders can be considered as the most influential factors in changing public opinion, and in particular, public opinion about punishment or public punitiveness. Despite the direct influence of the leaders of the developing governments in the progress of criminal justice, they have not been actively involved in criminal reform in Iran due to the lack of the necessary legal-political contexts and unique historical-cultural backgrounds. However, in recent years, Iran's socio-political leaders have been able to moderate the level of public interest about capital punishment by shifting the fundamental direction from death penalty to the damage inflicted by it. The findings of the present study show that, as political leaders, relying on two macro-structural models, the representatives of Islamic Parliament in Iran have prepared the public opinion to modify the death penalty for drug and psychiatric crime. First, normative assessments relying on ethical considerations, religious doctrines, and human rights requirements; and second, empirical evaluations that include lack of deterrence and recidivism rates in close relatives of the executed, emphasis on the failure of the criminal justice system and the executive to identify the main criminals and finally, highlighting the consequences of the death penalty to the families of the executed. This article seeks to explain the role of political and social leaders in moderating public punitiveness - specifically the death penalty - by emphasizing on how public opinion is changed by political and social leaders.

Keywords

Political-Social Leaders, Public Punitiveness, Public Opinion, Capital Punishment, Normative Evaluation, Empirical Evaluation

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Obstacles of Access to Justice for Women Accused of Sexual Offenses in light of the "Madonna- Whore" Theory

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Abstract

One of the theories in the field of criminology of women is Madonna- whore. The basis of this theory is that women have an important role as a mother and a wife during their lives. Conducting a behavior contrary to the mentioned role will prevent them from doing their traditional roles. As a result, they are worthy of condemnation. Sexual crimes are in conflict with the fundamental role of women. Therefore, when they are accused of such crimes, they will be treated severely by the criminal justice system. This paper, using a descriptive- analytical method and by conducting interviews, tries to examine some of the obstacles of access to justice for women accused of sexual offenses in the criminal process. The results show that compared to men, women are confronted with more severe criminal warrants issued against them and their appearance, dress and manner of speech have an important role in this regard.

Keywords

Madonna-Whore, Access to Justice, Women Accused of Sexual Crimes, Women Criminality, Chivalry Theory.

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The Role of Cost of Crime Estimation in Penalization of “Ta’zirat”; A Descriptive and Normative Analysis

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Abstract

Costs of crime generally comprise the cost of crime commitment and of its prevention. The present article attempts to investigate the relationship between estimation of costs of crime, punishment theories and penalization in “*Ta’zirat*”. The rationale behind “*Ta’zirat*” and the specification of the severity of punishment within the unlimited authority of the legislator, is among the unanswered questions in the criminal justice system of Iran. Penalization in “*Ta’zirat*” may not be necessarily interpreted as taking a retributivist or consequentialist approach. Such determination is contingent upon the acceptability of criteria under the criminal policies of the state. However, in adopting either approach (retributivism or utilitarian considerations of criminal policy makers), the important concept of crime cost may serve as an effective tool in formulating a more complete criminal response and brings the criminal justice system closer to its desired goals (desert, proportionality and social benefit). The relevance of the costs of crime as a precondition for penalization and its conjunction with “*Ta’zirat*” is further investigated in the present article.

Key words

Costs of Crime, Penalization, Retributivism, Consequentialism, Ta’zirat

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The Challenges of Victim`s Rights in the International Criminal Court

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Abstract

Nowadays, the situation of the international society is in a way that we face a wide range of inhuman activities in different parts of the world, and some of them as an “international crime” affect people called “victim”. However, the International Criminal Court has attempted in the same way in line with international society for maintaining and providing victim`s rights. Operation of the court from beginning and during these years reflects the challenges of this organization in vindicating the victim`s rights. Therefore, this article while meeting substantive and procedural rights of victims, points out the challenges and ambiguities of these rights. Considering the operation of International Criminal Court in proceeding of the situation in Democratic Republic of Congo shows that victims in the process of adjudicating the rights assigned for them by the Statute have met serious challenges, and it resulted in interferences of trials specifically the trial chamber and appeal chamber in the case mentioned above. Taking advantage from international documents particularly the Declaration of 1985 and the Principles of 2005 in related matters can be effective in solving these challenges.

Key words

Victim, Substantive and Procedural Rights, International Criminal Court, The Rome Statute, Justice, Remedy and Reparation.

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