

Comparative study if the politics of Iran and Afghanistan in the fight against smuggling of Weapons and ammunition

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ABSTRACT: The title of the recent article is a comparative study of the politics of Iran and Afghanistan in the fight against trafficking of weapons and ammunition. The type of research is descriptive analytical and by library tool, the problem is that what strategies have the legislators of Iran and Afghanistan thought to confront the consequences of trafficking of arms and ammunition? The research hypothesis is that the legislators of two mentioned countries have enacted laws and regulations as n other countries to deal with the harmful effects of trafficking in this area. In this research, it has been tried to address the conceptualization of this crime in penal politics of Iran and Afghanistan and after that the constituents of this crime and responses of penal politics and jurisdiction of courts in Iran and Afghanistan are analyzed. The results show that the legislators of two mentioned countries enact rules and regulations to deal with the harmful effects of smuggling of weapons and ammunition of other countries one of the reason of frustrating the performed measures against trafficking of arms and ammunition in Iran and Afghanistan is lack of harmony of plans and policy- makings in national, international and regional area. Also penal politics of two countries was not coordinated and aligned with each other.

Keywords: trafficking of and ammunition, penal politics Iran Afghanistan.

INTRODUCTION

Today, the smuggling of arms and ammunition is considered as one of the most important challenges of twenty-first century. Given the risks and harmful effects of the organized crimes, international population and headed by UN developed international document in 2000 to deal with the crime in Palermo (Italy) protocol of the convention on the production and trafficking of warm arms and ammunition in 2001 was developed and approved by General Assembly of UN. Trafficking of weapon is one of the important concerns of society, of removing its harmful consequences is not the problem of one country or one region, but it has involved May countries and led to international and universal problem, all countries deal with it. Undesired social, cultural, economical complications and effects of this category are to help develop terrorism and big national economical organized gangs that local and international terrorists easily and by the perpetrators of trafficking of arms and ammunition do riot, violence and crime against government and nation.

Research objectives

1. Conceptual explanation of trafficking of arms and ammunition in Iran, Afghanistan law and international documents and addressing diversity and abundance of this material to reform laws and regulations.
2. Studying the strategies of penal politics of Iran and Afghanistan against trafficking of arms and ammunition.
3. Identifying the strengths and weaknesses of penal politics of Iran and Afghanistan on issues related to the criminalization and social responses to crimes related to trafficking of arms and ammunition.
4. Studying the strategy of Iran and Afghanistan penal politics against the smuggling of weapons and ammunition compared to national, local and international plans and international criminal politics and the necessity of coordination of these and strategies with each other.

Research question

1. What measures have legislators thought to tackle the consequences of trafficking of arms and ammunition?
2. To what extent is the international and local cooperation's of two countries consistent with national strategy and internal penal politics?
3. To what extent do penal politics of Iran and Afghanistan have coordination and harmony with each other?

Research hypotheses

1. The legislators of two mentioned countries like other countries enacted rules and regulations to deal with the harmful effects of smuggling.
 2. One of the reasons of frustrating the action taken against the smuggling of arms and ammunitions is in consistencies of programs and policy- makings in national, international and regional area.
- Penal policy of two countries in this regard has not been aligned with each others.

MATERIALS AND METHODS

Methodology is descriptive- analytical, so that by reading legal texts including penal and legal along with the international documents and conventions, resources and content are collected using Persian and English articles and books, thesis's and internet sites. Then the data collected are analyzed in order to clarify the penal situation between Iran and Afghanistan and compare with international penal politics and with policy- makings in international and local convention. This research studies the rules against smuggling of weapon and ammunition of two countries and international conventions that Iran as a member is committed to it and also this research studies the international and local cooperation's between Iran and other international institutions.

Smuggling of weapons and ammunition

In article of the penal code trafficking of weapons and ammunition, legislators "trafficking of weapon, ammunition and materials under control" have been defined and the illegal import or export of the items described is considered as smuggling. In the other words, other acts such as make, assemblage, selling and buying, handing and maintenance and distribution of weapon and ammunition are not know as smuggling legal department of the judiciary in this case to the opinion 2007- 7897/7 stated that "according to article 2 of the penal code aggravated trafficking in arms and act 1971 with subsequent amendments, purchase and sale or maintenance or transportation or make of each one of the mentioned objects in article (1) of the mentioned Act is a separate crime and does not relate to smuggling of weapons and ammunition. The law also consists two parts: "the trafficking of arms and ammunition" and "owners of illegal arms and ammunition". In punishment intensification code of smuggling of weapon and ammunition and armed smugglers approved 1971, although title smuggling of weapon and ammunition has not explicitly been defined, but punishment import or export of weapon and ammunition" was different from punishment" buying and selling transporting and hiding. While the topics described in two articles (Articles 1 and 2) were written independently. In article (703) of Islamic penal code "to bring alcohol into the country" is illegal and its punishment is regardless of make or buy, sale or transportation and storage (Article 702 of penal code).

Foundation and criminal policy of Iran and Afghanistan

The term "criminal policy" with nearly a century old and macro approach to criminal phenomenon is an infrastructure for different answers in la framework and interaction between legal branches and civil society against crime. In criminal politic, legislator enjoys the participation of social institutions to control crime. Criminal law is one of the constituent elements of criminal policy, but does not account for all of it. The main task of the criminal policy of a country is to control criminal act. The criminal policy is used in two concepts "narrow" and "broad". The narrow concept is criminal policy. "There are different meanings for criminal policy", but each meaning in huge politics of government is feature of huge politics and coordination and coherence among its components and elements.

Model and types of Iran criminal policy

Targeted criminal policy needs effective tool to achieve its goals it divides into three types: legislative criminal policy, juridical criminal policy and participative criminal policy.

Trade in weapons and ammunition

During the cold war. Illegal trade of warm weapons is regarded as political issue and governments implement it as one of the principles of foreign politics. Especially in 1980, the used methods and perpetrator of weapon smuggling are considered the factors and tools of governments. After the cold war, smuggling of hot weapons is not considered

as the tool of foreign policy, but material motivations and benefit have overcome on political aspect. Non-politic weapon smuggling was the most important factor that the governments have decided to deal with this issue.

Iran and Afghanistan and organized crime

Adjacent to Afghanistan which produces 87 percent of the world's opium, also having the some border with the countries affected by armed conflict and serious opposition of powerful countries with the existence of the Islam Revolution caused that our country is seriously at risk of organized crimes. Discovering big consignments of drug by the police is the obvious instance of the recent risk. Smuggling of weapon, human and illegal migratory is done through Iran borders. In fact tug trafficking profit justifies the possible risks for offenders.

This threatens our national security; therefore, to combat seriously with the organized crimes needs new plan and effective thought to control these crimes.

Constituent elements of trafficking in weapons and ammunition

Defendant cannot be sentenced for a crime unless the court proves that legal, material and moral foundations are available. In particular, the material and moral elements of each crime must be symmetrical with each other and have spatial and temporal unity, thus culpable cannot be reprimanded because of the committed crime. The factors of removing penal responsibilities and justified factors of crime are explained that in any case, one of the above elements is incomplete or missing.

Elements of penal responsibilities

A) Material assignment

Material assignment means to interfere and pursue the offender as supervisor, partner or assistant in implementing the crime and its result.

B) Spiritual assignment

Material assignment is not enough to implement penal responsibility and spiritual assignment is needed. This means that offender must have will and authority to do criminal act then competence that includes discrimination and authority enters in to committing crime. Will (determination) is the ability of person in doing or not doing the specified and certain issue and people have the authority to act freely and factors like compulsion and coercion will not deny authority and will.

Investigating into the trafficking of weapons and ammunition principles of criminal jurisdiction

According to the closeness of the theory of universal village, the issue of implementing justice beyond borders regarding the difference in content, structure and procedures is more than before. This causes this issue of the determination of government competency to investigate. The international crimes. As the crime of smuggling of weapons and ammunition have the national aspects. Studying the penal jurisdiction of governments at first stage and domestic courts, at the second stage has a particular importance.

The principle of territorial jurisdiction

This is the most important and ancient principle to determine penal jurisdiction and government jurisdiction for investigating crime is determined by the location of committing all or part of crime. The benefits to accept this principle, is presented.

By accepting this principle, studying the causes of each crime is facilitated more, the purpose is achieved and government governance is maintained.

CONCLUSION

In this research, it has been tried to examine the conceptualization of this crime in penal politics of Iran and Afghanistan and then the constituent elements of this crime and answers of penal politics and jurisdiction of courts investigating this crime in Iran and Afghanistan. In other words, it must be said that in topic of dealing with trafficking of arms and ammunition, especially as the trafficking this material occur in the form of the organized bends that sometimes are activate by support of some countries especially western countries. Penal politics of countries derives of international criminal politic and therefore, limiting penal activities and criminal politic could not and would not be the only solution to deal with this crisis inside Iran and Afghanistan.

The results showed that lawmaker of two mentioned countries enact rules and regulations to deal with the harmful effects of smuggling like other countries and one of the reasons of frustrating the action taken against the smuggling of arms and ammunition is the in consistency of plans and politics in international, national and local area.

Also penal policy of two countries was not coordinated and aligned with each others

1. Legislators of two mentioned countries enact rules and regulations as other countries to deal with the harmful effects of smuggling.
2. One of the reasons of frustrating the action taken against the smuggling of arms and ammunition is the inconsistency of plans and policies in international national and local area.

Penal policy of two countries was not coordinated and aligned with each others.

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