



CIVIL AND CRIMINAL RESPONSIBILITY OF DRUG DISTRIBUTORS

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Abstract

The problem of narcotic drugs and its consumption and distribution among the classes and members of the society is always considered as one of the social anomalies, which can more or less be considered as one of the social problems and a concern for the criminal legislators to deal with these people and He mentioned the imposition of punishment and the criminal responsibility of the distributors and sellers of these opiates. In this article, according to the available sources and references, the author examines the criminal law of the Anti-Narcotics Law with an emphasis on the distribution and criminal responsibility of its distributors, using library sources and analytical-descriptive and evaluation method to examine the penalties. The anti-narcotics law and the effects and results of the implementation of these punishments. Actions taken in relation to drug laws, over the past 50 years and successive changes in the law, showed that the law alone could not solve the problem of sale, distribution and criminal liability of drug distributors. For this purpose, advanced societies as well as Iran decided to reconsider this issue. The criminalization of drug abuse and the failure of this measure to control the problem of addiction and the emergence of problems such as the increase in the criminal population, led to the acceptance of decriminalization and the belief that an addicted person is sick. New approaches were made in the category of criminal liability of drug distributors and its use. Although it was very natural to change the government's approach towards the inclusion of the death penalty for drug offenders, the process that started even with a slow movement due to the variety of existing interpretations, indicated a positive event in the future. In the following, it seemed that the reduction of the most severe type of punishment for the most dangerous type of crimes with the aim of increasing the deterrence of the punishment of drug distributors and the resulting criminal liability, could not solve an important part of the challenge of the legislator to deal with drug distribution and consequently , explain the criminal responsibility of the distributors.

Keywords: criminal liability, civil liability of organizations, drugs, abuse, distribution, addiction.

INTRODUCTION

Today, in most parts of the country, every day or once in a while, we hear news from the media that a number of drug addicts and drug users have lost their lives due to various reasons, and each of these deaths It has its own reason, some of these reasons are; Contamination of the drugs consumed by the deceased person, excessive use of drugs, some also mix drugs with other deadly substances or things with malicious intent and distribute them to the addicted person for use and consumption. do In our country, due to its geographical location and proximity to the largest center of production of opioids and the transit route of these substances, it is still affected by these conditions and has not been able to protect itself from the effects of the abuse of this scourge. There is no doubt that the crime rate among drug addicts is higher than normal people. Committing crimes in addicted people is mostly related to the problem of drug preparation and distribution and their physical, financial and psychological needs. The country's prisoners who are in prison in connection with drug crimes constitute the largest number of prisoners.

In this research, he tries to investigate the criminal responsibility of the people who are responsible for the distributors of this kind of drugs and the deaths that occur due to its use, to the extent that the sources and books provide answers, and investigate whether these people who They are responsible for the distribution of such drugs. Will they be held criminally responsible and will they be considered guilty in the deaths that occur due to their actions? In this research, which was carried out

in a legal descriptive and analytical method, since the author's research and long-term research on this topic did not find any material related to this topic, it can be said that this topic has innovation or new content. Was.

Drugs and its history:


History of narcotics The use of narcotics has a long history among societies and its forms of consumption have been diverse. Contrary to popular belief, the Chinese were not the first people who were familiar with opium, and documents show that the familiarity of the Chinese goes back to the 9th century AD. Writings from the Sumerian civilization show that they are one of the oldest peoples who used opium and even called it a happy plant. Assyrian doctors also realized the medicinal properties of opium hundreds of years before BC. Sinohe, a special physician, Pharaoh used opium as a pain reliever when pulling the teeth of the king of Babylon. Sinuhe said about opium: This is a drug that if it falls into people's hands, people will no longer be afraid of pain and the order of society will be disrupted.

Civil liability:

The definition of civil liability is that a person is obliged to compensate for the damage he has caused to another. Civil liability arises when someone harms the rights of another without legal permission and causes damage to him as a result. which has caused damage is a crime or the beginning of a crime, in any case where a person is obliged to compensate another person, it is said that this person has civil liability and is a guarantor. This logical and fair rule has existed for a long time that "anyone who harms another must compensate for it, unless in cases where the harm is not according to the law or the harm done to a person does not appear to be illegal and unusual" (Badini, 1384) Civil responsibility as a guarantee for the implementation of civil rights opens up a sensitive and important role in demanding and satisfying the rights of individuals and as a result regulating social and legal relations. In the simple definition of civil liability, it can be written as follows: Whenever damage is caused to other persons or members of the society due to the actions and behavior of a person or persons, civil liability is realized. For example, a doctor who, due to carelessness and negligence in The treatment of the patient has caused damage to him; he has committed civil liability and must compensate for the damage. From a broader point of view, civil liability may be considered as the obligation to compensate for the damage. According to some others, civil liability is the obligation of a person to compensate Damage caused to another. Civil liability arises when someone without permission a law harms another's right and causes him a loss as a result (Hoshiari Ajirlu and Sayer 1395: 48). The rights of our country in relation to the realm of civil liability resulting from the violation of the fulfillment of an obligation, are full of many ups and downs. has gone through, in such a way that it can be divided into three stages: the approval of the civil law of 1317, the approval of the law of civil procedure in 1318 and the law of civil responsibility in 1339 and the law of the procedure of public courts and the revolution in civil affairs in 1379. It is not possible to understand the mentioned legal developments in connection with the subject under discussion except by examining the background of the issue in foreign law on the one hand and knowing the jurisprudential foundations and the famous theory among jurists in Iranian law on the other hand. The legal developments of our country in recent years show that the legislator has reduced the amount of civil liability as much as possible, such as Note 2 of Article 515 of the Law on Procedures of General and Revolutionary Courts (in civil affairs) approved in 1379, damage caused by non-profit has declared it unclaimable. It is obvious that limiting the scope of civil liability prevents the contractual obligee from breaching the obligation and disturbs the security and speed of commercial relations. But the whole point is that the expansion The scope of civil liability resulting from breach of obligation must be based on science and compatible with jurisprudence standards, because otherwise, a law that lacks scientific basis or is incompatible with religion will not have the necessary durability and public acceptance Timuri, 2017: 44.

Criminal responsibility:

Criminal responsibility Criminal responsibility arises when a person or people disturb the social order and harm the society due to their actions and behavior. Obviously, in order to defend itself, the society condemns the person who opposes the public order and the interests of the society and punishes the cause of harm. Criminal responsibility also arises when a person commits a crime that is against the



public order and laws of the country. The issue has been raised and has a significant role. Criminal liability is different from civil liability. Civil liability may or may not be preceded by a criminal charge; In this way, compensation is sometimes accompanied by punishment and sometimes without it, in addition, these two types of responsibility are different in terms of the goal and measurement criteria. The measure of civil liability is the amount of damage. While the measuring criterion in criminal responsibility is the severity of the defendant's "error" or "fault" in violating the generally applicable rule, and also, the purpose of criminal responsibility is to protect the interests of society, but the purpose of civil responsibility is to protect the interests of the injured person.

Distribution

Distribution in the word means "dispersing, distributing, dividing something among people". The meaning of drug distribution is the process of delivering drugs to people in need for use or consumption. Distribution can be done directly or indirectly. In direct distribution, the manufacturers of industrial drugs deliver the produced substances directly to the consumers. But in indirect distribution, the act of delivering drugs to consumers is done through an intermediary. In other words, the producers have delivered drugs to non-users so that they reach the consumers either in small or large quantities. In the new anti-narcotics law, the act of distributing narcotics is subject to punishment, and this act is punishable just like other crimes related to narcotics specified in the law. In Iran's anti-narcotics law, the word "distribution" is used in such a way that it is an independent criminal act and a specific activity can be called distribution. The word distribution can be referred to a set of actions that are related to each other, so that it can be the name of a process. Distribution is the delivery of the right product at the right time and place to the customers. Now, to achieve this goal, a set of actions must be carried out, which includes transportation, purchase, sale, storage, storage, and transit. which takes place after the production of narcotics so that the narcotics reach the consumer. To make the matter clearer, it is mentioned to express the meaning of the process in a certain dictionary. set of operations and the necessary steps to reach a specific goal. On the other hand, the meaning of distribution in a certain dictionary means to scatter and divide. Therefore, in this article, the purpose of using the word distribution, as it is clear from the definitions above, emphasizes a set of actions that take place after the production of drugs to reach the hands of the consumer. The nine distribution words mentioned in the first two articles of the Anti-Narcotics Law. In fact, the expression of the word "distribution" in the desired law is either due to the mistake of the legislator or it is meant to include all the actions that may be done in order to deliver these substances to the hands of the consumer.

Causes of tendency to distribute and consume drugs

The tendency to abuse drugs, including distribution and consumption, can be considered in three realms: individual, family, and society. Some of these factors are internal and some are external. A person with internal control tends to accept responsibility for his actions and believes that he is responsible for his actions. On the contrary, a person with external control wants to see the control of his behavior from outside and attribute his successes and failures to external and environmental factors. Therefore, in people's reporting of drug use or distribution, including heroin or white powder, the center or position of control that governs people's behavior plays an important role. In this regard, it should be mentioned that each of the individual, family and social factors is closely related to the center and control center of people's behavior. Therefore, from the point of view of psychology, it is believed that drug addiction is an indirect, destructive reaction and response to the intolerable external and internal actions that the user tries to solve internal problems such as anxiety, depression and deprivation. and in the case of the distributor, it is actually an unhealthy choice to escape from existing realities including unemployment and poverty.

Social Security

One of the security experts says: "If security in itself means peace of mind, assurance, being together, and immunity from the threat and danger of disease, death, poverty, unexpected accidents, and in general, any factor that destroys human peace. Another expert says: "Security has two subjective and objective dimensions. In the objective dimension, security means the absence of threats to acquired values, and in the subjective dimension, it includes the absence of fear that those values will be



attacked. Therefore, security depends on relative freedom from threats and appropriate use of opportunities. Sediq Sarostani, for the abuse of drugs among the country's students (report of the national plan) (Tehran: Deputy Department of Physical Education and Health, Ministry of Education, Tehran), p. 115. 3 Robert Mandel, *The Changing Face of National Security*, Strategic Studies Research Institute.

Regarding social security, Dr. Sarostani says, "But what is meant by social security is peace and peace of mind that every society is obliged to create for its members in the occupational, economic, political, and judicial fields." Therefore, social security is nothing but a state of peace of mind. People from fear, threat and anxiety and to protect their life, property, honor, identity and beliefs from any threat and attack.

Crime Prevention:


In his book "Criminal Sociology", Fardi has presented many such suggestions. But it does not go much further in the case of prevention. Fardi's ideas introduced the concept of "deterrent crimes" into the subject law. But he himself believed that "criminal substitutes" are useful, these measures do not make it impossible to commit crimes. Therefore, individual measures are also suggested by preventive criminology, a branch of applied criminology whose subject is to determine the most effective means to ensure the prevention of crime on the scale of the whole society or a more limited population, for example, a city or a district of a city. Knowing this branch of prevention is very important. Because crime prevention is one of the most important subjects studied in the world today. Raymond Gessen writes about preventive criminology: "Preventive criminology, like clinical criminology, was initially a simple branch of legal criminology. Later, and probably from the beginning of the 1930s in Chicago, and certainly from the beginning of the 1960s, this thought gradually accepted the existence of a new branch of applied criminology and called it "preventive criminology." . Raymond Gassen, *Applied Criminology*, translated by Dr. Kenya, Translator's Publishing House, first edition, 1370, p. 133.

Crimes caused by the use of drugs and psychotropic substances

Let's assume that the use of psychoactive substances is not a crime. We do not consider its production, distribution and transit to be a crime, but the use of psychoactive substances itself is a crime. Because these materials sometimes, according to their nature, give a person an aggressive state. In other words, some substances have a stimulating property and when people are affected by that drug, they find a different situation from other people, and the norms become pale for them and they have factors that lead them to crime. Of course, all materials have this feature, and some of them give the user a softening state. In such a case, the person may not be in an aggressive state, but after he is out of the influence of the drugs, his physical and mental dependence on these substances puts him in an aggressive state. Therefore, it seems that the possibility of violent crime increases, although this is not absolute. It may have a low price in the countries that produce it.

Distribution of drugs, intentional or unintentional crime

According to Article 440; In the realization of intentional crimes, in addition to the perpetrator's knowledge of the subject of the crime, his intention in committing criminal behavior must be established. In crimes whose occurrence depends on the realization of the result according to the law, the intention of the result or the knowledge of its occurrence must also be established. This article is new and did not exist in the previous law. The head of the article is about absolute crimes, and in limited crimes, in addition to the conditions of the head of the article, the intention of the result or knowledge of its occurrence is also a condition, which is stated under the article. The meaning of knowledge about the subject of the crime includes knowledge about the subject on which the crime is committed and knowledge about the conditions and circumstances necessary for the realization of the crime. According to Article 40, the realization of unintentional crimes depends on the guilt of the perpetrator. In non-intentional crimes, including pseudo-intentional and pure mistakes, the provisions of the Book of Retribution and Dayat are applied. The note of this article mentions the fault of carelessness and carelessness. Permissiveness, negligence, lack of skill and non-observance of government systems and the like, depending on the case, are examples of carelessness or civil negligence. This article corresponds to Article 550 of the former law, which stipulated: "When two riders collide, their vehicle is damaged, such as a car, if the collision is attributed to both and both



are at fault or neither of them is at fault. Each of them will be the guarantor for half of the damage of the other vehicle, whether the two vehicles are of the same type or not, and whether the amount of their fault is equal or different, and if one of them is at fault, only the one who is at fault is the guarantor. According to this article, fault is realized only by carelessness and carelessness, and four other cases and similar ones are considered as examples of these two; Carelessness in action and recklessness in leaving the action. In the realization of non-intentional crimes, the presence of fault is a condition, and if there is no fault, basically no crime is committed, but in the realization of non-intentional crimes, in some cases, the presence of fault is not a condition, and the perpetrator is the guarantor of paying the ransom and damages.

Responsibility of the distributor in the death of the consumer

As mentioned at the beginning of the research, the meaning of criminal responsibility is the effects and results that are caused by the guilty person from secret acts. In other words, every person who commits criminal acts is responsible for his/her own criminal behavior and not another person, so justice rules until the guilty person is punished. Therefore, the distributors who have the power of understanding and have reached the age of maturity will be criminally responsible in the death of the consumer. Therefore, the issue of criminal responsibility will be raised when a person has committed a criminal act and must be punished according to the law. Therefore, people who have not reached maturity and lack the power of understanding, like insane people, will not be held criminally responsible in this matter. The conditions of criminal responsibility should also be established to establish justice between the parties of the dispute, if the distributor has conditions that will prevent criminal responsibility and justice will be established in this case. So, in general, criminal responsibility is a type of personal responsibility that can be attributed to another person when he is responsible for the criminal acts of the person according to the law or the result of the criminal acts of the other person is guilty. Therefore, the criminal responsibility is directed at real persons and it will be directed at legal persons only in circumstances that are the legal representative of a person and commit a criminal act in line with his goals and in his name. It is obvious that if the criminal responsibility falls on a legal person, this responsibility will not be removed from the natural person. Therefore, in order to fulfill the criminal responsibility of the distributor in the death of the consumer, the distributor must have criminal capacity and this capacity is summed up in reason, maturity and free will. It means that only a wise, mature and independent person can be punished, and if one of these three characteristics is not present in a person, he will not have criminal capacity. According to the Holy Sharia of Islam, the Civil Code and Article 490 of this law, the age of puberty for boys is 15 full lunar years and for girls is 9 full lunar years, and people who are under this age are not criminally responsible. Also, people can be questioned if they have the ability to understand and distinguish between good and bad actions. Perception and distinction in the term of criminal law is the ability to understand the nature of actions and understand their effects and consequences and the ability to distinguish between good and bad and permissible actions. The meaning of discretion is to have free will. A person who has free will thinks before doing anything, considers its good or bad consequences and measures them, then acts. According to Article 40, criminal responsibility is personal. One of the principles governing punishments is the principle of personal punishment and criminal responsibility, which the legislator has specified in this article. The concept of the personal principle of criminal responsibility is that everyone is responsible only for his own actions and no one can be held responsible for the actions of others. This principle is a reaction against the idea of collective responsibility that has been prevalent in different societies for centuries. According to Article 420, "Criminal liability due to other behavior is established only if a person is legally responsible for other actions or commits a fault in relation to the result of another committed behavior." Being is punishment. That is, the person who is punished for another act is actually the "spiritual agent" of the criminal act, and his responsibility is added to the responsibility of the main criminal who committed the act and is the material agent of the crime. Therefore, except in the cases determined by the legislator, the imposition of criminal liability is not due to an incorrect act. Article 420 is an exception to this statement. According to this article, in order to be able to place the responsibility of another's act on someone else, there must be three conditions: first; Criminalization of the committed act




means criminalization of the act of drug distribution. Second; Having a duty to another. Third; Committing a fault on the part of the person who is supposed to take responsibility.

Analysis of drug-related punishments

The rule of proportionality of crime and punishment, which is one of the rules governing punishments, requires that the society's reaction to drug crimes is a reaction that is compatible with the nature of the crime, because some of the effects of drug crimes, such as their use, are mostly due to the harm caused to a person enters, it is prohibited, so a reaction should be taken that is beneficial for the reformation of the criminal (security and educational measures) and in crimes such as selling drugs due to the damage to the excellence of the society, attention should be paid to countering the goals of the criminals. The punishments related to narcotic drugs are from the same series of deterrent punishments. The purpose of applying deterrent punishment is to prevent the perpetrator of an act or omission that is known as a crime and to prevent it from repeating and to serve as an example for others to commit. The punishments related to drugs are of a deterrent type, the purpose of applying deterrent punishment is to prevent the perpetrator of an act or omission that is known as a crime and to prevent him from repeating it, and to serve as an example to others to avoid this act. Drug addicts often resort to crimes such as theft to get the drugs they need t, assault, injury, murder, prostitution, etc. The least crime committed by all addicts is harming themselves, which is forbidden in Islam and considered a great sin in our culture, and any act that is a sin is a crime. According to it, a deterrent punishment should be considered in the law for it. Therefore, addiction is considered an abnormality in itself. Often, it is the prelude and cause of the forbidden act and the commission of crimes, and in any case, it is considered a sin and a crime from the point of view of jurisprudence and law.

-Defining the civil responsibility of the anti-narcotics police

The police may perform their duties by performing the act that Sometimes it is accompanied by a mistake and sometimes without a mistake, or abandoning the duties it is responsible for, as an omission, causes damages to persons, including the accused, criminals, or other innocent persons. Considering that the police has many and varied duties. ; Therefore, the mentioned civil responsibility is more diverse than other jobs. The civil responsibility of the police in the fight against drugs is based on the demand-oriented concept. Demand reduction programs include all levels and areas of prevention, from showing distaste for initial use to reducing the negative health and social consequences of drug abuse. These programs should be accompanied by comprehensive policies regarding the promotion of healthy life skills, health promotion, improvement of welfare and social security, training of job skills, creation of employment and improvement of economic activities, improvement of healthy leisure, development of sports activities, etc. be completed so that we can hope for their effectiveness in reducing the demand for narcotic drugs. The demand reduction strategy is highly dependent on cultural and social foundations, and therefore the participation of people and civil institutions in demand reduction is extremely important. Therefore, in the demand reduction programs, efforts are made to identify and deal with the negative and threatening lifestyles of different groups, especially the youth, and at the same time, to increase public awareness about the dangers of drug abuse. In general, the program Demand reduction measures should include all aspects of the drug phenomenon and include the prohibition of the first use of drugs to the reduction of the adverse social and health consequences of addiction, its side effects and the return of the individual to society and education, treatment and rehabilitation services (Nuri, 1395: 11) .) Most of the efforts in the field of demand reduction (according to the World Narcotics Report) have been made in industrialized countries, that is, North American countries, Western Europe and Australia. The largest investment in understanding the problem of addiction and the implementation of prevention and treatment programs in the last decade has been made by the United States of America. Investments related to demand reduction programs, including studies, prevention and treatment, are considered a very high figure based on global standards. Also, this figure is a third of all the expenses that are spent in the fight against drugs in this country. The investments in the demand reduction sector have increased more than four times. Parallel to the increase of investments in this field, the abuse of drugs, including the annual prevalence as well as the current use of all drugs, as shown in the annual survey of families, has decreased by 41%. This is despite the fact that the reduction of cocaine abuse



has decreased by 70% between 2000 and 2018. It is clear that the change in human behavior cannot be attributed to a single cause. But in the case of America, in-depth studies have shown that the huge efforts made in the field of demand reduction have played an important role in preventing drug abuse, and the efforts of developed countries in terms of demand reduction are very instructive and practical. Especially considering the case of the United States of America, we can understand the importance of demand reduction strategies. The success of these measures shows that the demand reduction strategy has a theoretical foundation and justification, and for this reason, importance should be given to the demand reduction strategy with a systemic approach, as well as attention to the cultural context and social realities in Iranian society, and the continuation of the military-based model. Mere efforts in drug control have provided the prevention of the initial conditions or the basis for the emergence of social harms, including addiction. The explanation of these initial conditions is based on the pathology of family, school and government institutions on the one hand and the psychological pathology of the Iranian individual on the other hand. Based on the systemic approach, drug abuse is the product of the relationship with conditions, factors and variables that demand reduction strategies are basically aimed at manipulating, intervening and changing their tune, so that by changing the type of their structural interactions and modifying and adjusting the damages, the increasing rate of drug abuse Reduce drug use. Demand reduction is generally three approaches: prevention, treatment, and harm reduction.

Preventive programs are implemented with the aim of reducing the consequences of high-risk behaviors and preventing personal and social harm from drug abuse, and in any case, they consider the future. Treatment programs or withdrawal or harm reduction programs are carried out with the aim of returning the person to the desired state of the past and are used when the person has turned to abuse for several reasons and has become physically and psychologically dependent with the continuous use of addictive substances. The results of the studies indicate that only those preventive measures are effective that are multi-sectoral and continuous, and among these measures, the only effective ones are those that look at addiction as a chronic and recurring disease. In other words, only long-term treatments and care are effective in controlling drug addiction and abuse. Also, due to the unpreparedness of many addicts in accepting treatment and the spread of deadly diseases such as AIDS and hepatitis that are transmitted through the joint use of injection devices, adopting harm reduction methods that are based on the application of health principles without the obligation to quit Other programs are considered to reduce demand.

CONCLUSION

Crimes related to narcotics and psychotropic drugs and deaths caused by the abuse of opioids such as heroin are one of the problems of the world community, especially developing countries. The importance of this issue increased when we take into account that our country is a neighbor of a country that is a mass producer of drugs. In the meantime, various ways to fight crimes related to these substances were considered by the legislators of all countries of the world, the most severe of which was the death penalty. This punishment, which has been mentioned by some countries to fight crimes, has been approved by the Iranian legislature, meanwhile, considering the statistics of victims of drug abuse, the issue of criminal responsibility of drug distributors is the main focus of this research. formed The criminal liability of these people is based on the Islamic Penal Code and Penal Code. According to the historical course of legislation in this field, it became clear that Iran's big drug problem cannot be solved by applying the most severe punishment, even though there was no convincing reason to show that the death penalty is more than Prison prevents crime, on the other hand, due to the consent of the user, deaths caused by drug abuse are usually forgotten without criminal charges. Also, with the alarming explosion of heroin production and distribution both in Iran and abroad, especially in Asia, Iran's drug problem and the number of deaths caused by drug use increased. Those who were most at risk of execution for the charges of drug crimes were often considered from the most deprived sections of the society. Those with few economic opportunities and often from ethnic minorities who were discriminated against in practice and law in Iran, or foreign nationals who were mostly from countries with limited economic opportunities. Some of them might



have been tricked to carry drugs for others. The execution of such people had no effect on solving the fundamental problems of many people and left no chance for reform and left more hardships on the family.

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