

PRINCIPLES OF CRIMINALIZATION OF SEXUAL BEHAVIOR IN IRAN AND ENGLAND CRIMINAL LAW WITH AN EMPHASIS ON PREVENTION STRATEGIES

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Abstract: Criminalization of a sexual behavior can prevent its occurrence in society. But sometimes In addition, behaviors that are the introduction of an abnormal behavior occurrence are also considered as crimes and the bigger crime can be prevented. But this may lead to indulge in criminal or penal inflation. Given the definition of the crime, criminalization can be called the selection process in which legislators with regard to social norms or other necessities and based on the theoretical foundations of acceptable behavior prohibits or binds a behavior, and ultimately to support it, provides criminal sanctions. Criminal law is a relative concept in terms of misdemeanor and felony society and is subject to change at different times and places.

Key words: Criminalization Principles, sex crime, preventive strategies

1 Introduction

The current paper is designed in several sections. First of all, we will provide the reader with a brief introduction to sex criminalization concept. Then, the paper investigated the United Kingdom approach towards criminalization of sexual behavior and the causes and motives in their criminal law in addition to concept and principles of sex criminalization in Iran. Later, we will discuss the issue of prevention. In fact, the current paper tries to answer the following questions: "Is it possible to provide Iran and the United Kingdom with the same preventive measure despite the differences in the principles of criminalization?"; "are the sex crimes are the same for both Iran and the United Kingdom? And is the knowledge of foundations of sexual behavior from the perspective of criminology preventive strategies effective to treat such deviations? What is certain is that it cannot be expected to achieve accurate and efficient preventive measures without the identification of the root causes of crime. Factors affecting sexual abuse must be recognized in order to adopt appropriate measures in reducing the violence. No doubt that sexual desire satisfaction motivation may vary depending on the characteristics of the offender and the victim and even the type of society.

2 First discussion: introduction

2.1 Criminalization

The criminalization is the process of prohibition and or permission of an act by the legislator based on main social norms and beliefs, relying on acceptable theoretical foundations with stipulated criminal sanctions. Accordingly, Criminalization is a second order science based on other disciplines including law philosophy, political philosophy and social sciences. Criminalization is classified into three categories:

- a) Legislative criminalization, which is the main and most logical type and proceeded by the universal principles of criminal law and punishment of crimes.
- b) Judicial criminalization, which is recognized both overt and covert. Its overt form is that of the votes by the General Board of the Supreme Court's precedents; and the covert form is the personal criminal justice by judges that is conducted in the face of uncertainty and brevity of law and to avoid rigid frameworks and rules sometimes considered to the service of the community.
- c) Criminalization accredited by fatwas and jurisprudence resources, which is based on Article 167 of the Constitution emphasized by article 214 of the Criminal Procedure Code (Tohidi and Fazli, 2014).

2.2 Sex crimes rules

Sex crimes in Iran rules are derived from the Shia jurisprudence and are discussible in two categories of "hodod" and "tazirat". In other words, the criminalization of sexual crimes in Iran should be traced in jurisprudence law. In the crime sections the crimes against chastity under the titles of adultery in Article 63 of the Penal Code, sodomy in Article 108 of the Penal Code, panderism in Article 135 of the Penal Code and false accusation of adultery or sodomy in Article 139 of the Penal Code have discussed the category with the specified sanctions or punishment based on the quantity and quality crime based on the Sharia law.

The legislator should criminalize sexual offenses to prevent crime in the community. Iran and the United Kingdom legislators and theorists are trying to take necessary actions for the prevention of sexual offenses.

Europe criminal law on sexual offenses has faced major changes of vision in the recent decades. For example, the new Labour government, a few years ago, provided a bill entitled Justice for All proposing that that the victims must be at the center of the criminal justice system. Sexual crimes include a wide range of decriminalization in terms of legislative changes, as well as crime and sexual deviancy as "sexual assault" (or even incest and adultery with minors) have been reduced and by expanding the decriminalization of these issues, prevention is limited to the fight against sexual violence in the form of legal. Provisions relating to the criminalization of sexual behavior in the United Kingdom mainly amended by the Sexual Offences Act, passed in 2003. Sexual assault is the sex crime that has attracted public attention much more than other sexual crimes in the penal system in the United Kingdom with the maximum penalty of life imprisonment.

3 Causes of sexual crimes

3.1 Personal factors (direct)

The personal factors include factors related to the criminal and considered an expression of personality traits and character with direct impact on their tendency towards the crime. These factors can include two sets of psychiatric factors and sexual dysfunction.

3.1.1 Psychiatric disorders

Quest for sex with violence and without regard to the needs and the rejection by the partner is affected by aggressive and unbalanced personality. All those who have a brief overview on the perpetrators of rape confirmed the presence of some rare abnormal behaviors and personality traits. Even a glimpse into the ways of the invaders and their degrading behavior or injuries inflicted and killings after the rape sometimes we hear in the media, it concludes that they are people with personality problems and mental disorders (Razmsaz, 2013; Ahmadi, 2005).

3.1.2 Sexual dysfunction

Human sexual behavior and tendencies so complicated and interwoven with characters that is with a major impact on psychological characteristics and relationships with others. These issues have occupied the minds of many thinkers, especially psychiatrists and psychologists to find the hidden aspects of human sexual desires and behaviors and have been pioneered by Freud. There is no precise definition of sexual dysfunction and researchers classify and describe some dysfunctions directly. For example sexual dysfunction is classified into three categories: Trans sexualism disorder, diffuse sexual dysfunction and sexual dysfunction (Owhadi, 2001).

According to psychiatrists transsexual people experience a gender identity that is inconsistent with, or not culturally

associated with, their assigned sex, and desire to permanently transition to the gender with which they identify.

3.2 Social and cultural factors

Today, no one denies the effective and highlighted role of the social environment and communication on the crimes. Durkheim finds the causes of all abnormal behaviors in the social environment, and some as Lakasani because went to extreme in this regard so that they say "All people of the world are guilty with the exception of criminals" (Gozón, 1995). Cohen and Ahlin believe that crime is a certain form of collective solutions adopted by the lower class that arises from frustration. According to these two sociologists there are specific types of offenders entitled sociologist contentious group that commit rape as a tool for establishing their social status.

4 Prevention

The term prevention literally means to prevent, deter them, and take precautions to prevent bad and unwanted events (Sadeghi, 2013). Although there are ample definition and classification of prevention by experts in criminology, but in a nutshell it can be said that crime prevention is to avoid going to crime and disorder commitment (Gozón 1995).

5 The second discussion: Foundations and the reasons behind criminalization of sexual behavior in Iranian and the UK criminal law

According to Iranian criminal law, satisfaction or dissatisfaction do not have a role in the criminal nature of these deviations, while reviewing the fundamentals of criminalization of sexual behavior in other countries, especially the United Kingdom in the pages ahead show that there is a big difference in this regard between Iran and the United Kingdom. In fact, criminalization of sexual behavior in the majority of countries with different traditions and beliefs is of the founding principles of the criminal policy of the government. The legislator always criminalize a number of behaviors keeping in mind the principles and reasons. However, the legislator usually not be stipulate the principles and reasons, and the legislated rule does not explicitly points to the criminalization foundations. In other words, criminal law experts are constantly investigating the fact that what behaviors should be considered criminal and what behaviors should be excluded. Accordingly, in the criminalization of acts incompatible with chastity, all penal systems, including Iran and the UK do not act in uniform manners, for example ,in many countries sodomy and adultery, which is done by mutual consent, is decriminalized; however, the vast majority of these countries, have criminalized rape in their laws, and respond strongly with various foundations, including the preservation of generations, human dignity, the principle of patriarchal rule, and finally, the principle of legal ethicist.

It seems that all western legal systems are making efforts to modify abnormal behaviors as one of its main objectives in the criminalization of these behaviors.

Iran and The UK criminal law have discussed specific punishment measures. So officials have to adopt policies and practices to prevent the occurrence of these crimes and prevent corruption in the society. Agencies and other institutions of society should cooperate with the government for crime prevention. All members of the community are responsible in the prevention with more effective measures to prevent sexual offense unlike the criminal measures stipulated by the legislator. If social communities fail to adopt appropriate measures then the legislator should criminalize sexual offenses and act to prevent crime in the community.

The UK criminal law in relation to sexual offenses focuses on the accused unaccepted behavior, not the physical damage that may be caused. In addition, although many sex crimes can cause psychological harm to the victim (and this may be the main reason) but is not required to prove the damage. The charged is responsible in case of committing a forbidden action (material

element), with the capabilities necessary to blame (mental element. Moreover, the regulations prior to Sexual Offences Act 2003, was somewhat naive and incoherent. Mainly there was only two crime of sexual assault against adults, which included sexual assault (with a maximum punishment of life imprisonment) and a gross invasion (with a maximum penalty of ten years' imprisonment).

The survey of the basis of sexual behavior criminalizing in the UK criminal law implies that contrary to penal policy based on jurisprudence and Sharia law to criminalize sexual behavior by the Iranian government, the UK government has adopted a different solution or alternative basis for the criminalization based on liberal politics (Mosavati Azar, 1995).

In the UK criminal law, the first priority for the criminalization of sexual behavior is primarily that the sexual relationship must be without consent or occurred on a child under 12. Proof of this is very difficult, because defendants often claim that she was satisfied, and the discovery of the issue in court, negatively or positively, can be very difficult.

6 The third discussion: Strategies to prevent the sexual crimes

Prevention of crime in the world today is as an activity must comply with series of laws and regulations that is a factor in achieving the desired goals and to do that in good faith or devotion is not sufficient. Prevention is in fact part of the responsibilities of all local and state institutions and especially the councils of citizens in the neighborhoods can play an important role in the regulation of the prevention of crime in their individual and collective levels. The following crime prevention strategies can be used:

- 1) Inform public about crime and criminal practices and techniques that are used through the mass media (How to steal a car in remote places or roam criminals and thieves in the neighborhood in order to monitor vacant homes for burglary)
- 2) Forecast projects and group projects
- 3) Provide specific age groups with training at schools, universities and the neighborhood mosques (for example training youth about the effects of drugs and psychedelic effects on the mind and body).
- 4) Changes the lives of people living in those neighborhoods (widening the streets and increasing the amount of light in the environment)
- 5) Encourage and assist private companies for the manufacture and supply of safety equipment at more affordable prices
- 6) Anticipate ways to expose the hidden activities that provide context for offense;

So far, we got familiar with the principles of criminalization of sex crimes in Iran and the UK and figured out that the principle or rule of losses is the issue in Iran criminal law and consent of any sex offender's acquittal would be ineffectual in Iran penal system and sexual relationship outside the marriage bond itself bears the title of crime. Unlike the criminal policy of the UK, that only action in the absence of the victim consent is a crime. But despite these differences, both countries adopted measures in the criminalization of sexual behavior somewhat with different reasons and motives.

7 Conclusion

We, given research conducted in the prevention of sexual offenses in the criminal policy of Iran and the UK, realized that although the root causes and the criminalization of sexual behavior in the two criminal systems looks somewhat different, always the same solutions can be provided to prevent this crime. Sexual behavior defined in Iranian law is somewhat different from sexual crime in the penal system of the UK, but the preventive measures , including situational prevention where it is believed the offense was predictable and regardless of who

committed and what was affected, the crime can be controlled by reducing opportunities is the same in both penal system. I think, the criminalization of sexual behavior in Iran is more severe with strict sanction enforcement compared to that of the UK only because of the root cause of religious jurisprudence in Iranian law and a ban on having sex without parity interest.

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