

## The principle of lawful protectionism and preventing unintentional crimes

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### ABSTRACT

*Legal protectionism is a kind of patriarchal and paternalism behavior towards the society, based on which the legislator as the society's father with the aim of security seeks to forcibly forbid any harmful actions to the individuals. Regarding the significant social evolutions, people are more likely to be influenced by harmful behaviors that may occur not intentionally but due to recklessness; in fact, when the person does not care about the consequences of his/her action though s/he is able to think and, hence, disturbs the public order. Therefore, the protectionism principle seems to be a suitable option for criminal procedure to protect people against undesirable consequences of unintentional behaviors. In fact, it is a type of preemptive measure with provident approach to preserve the public security. Using a descriptive-analytical method, this study examined the concept of this principle as well as its effect on preventing unintentional crimes. The study's findings indicated that this theory emphasizes the positive effect of criminal procedure in protecting "desirable behavioral" methods and "trusting statute" in the light of prohibition of harm objection and, thereby, attempts to reduce undesirable behaviors in the society and forces the delinquent to become law-abiding through evaluating and predicting the harmful consequences of the behavior.*

*Key Words: Legal Protectionism, Harm-oriented Criminalization, Unintentional Crimes, Public Prevention.*

### Introduction

One of the important principles of criminalization is the loss (harm) which in most of legal systems is accepted as a reasonable basis for limitation of personal independence and allowance for interference of criminal law. In one hand, the presumption is the human's right to life and freedom, and applying limitation is an exception (Habib Zade and Zeinali, 2006:3); on the other hand, in the criminalization process of an action, the government foundations, prohibits or authorizes an action by regarding the social norms or other requirements on the basis of theoretical, and determines an assurance for criminal execution to support its orders (Mahmoodi Janaki, 2003: 30). The important issue is that what structure should be used by governments to prevent autocracy and power-mongering. In order to answer this question, the accepted presuppositions in any society should be first considered. Because the consensus is that committing crime is a social phenomenon and each society has criteria to explain it according to its principles and norms. Therefore, combating crime in various economic, political and social areas must follow a coherent and specific policy. In other words, the organization of combating crime and criminals has not been resulted from an accidental and extrinsic affair but is principally influenced by intellectual principles and attitudes of legal system in criminalization.

In all stages of their development and evolution, the societies sought to combat or eliminate criminal actions or at least to reduce them. The latent nature of behavioral disorder towards the social norms and values allows the government to inspect criminalization and determine insurance of criminal or non-criminal execution. According to the importance and value of these norms, each society inspects them in different manners. "Sometimes the action is not such important that requires criminal interference and

rather is more concerned with moral issues and the assurance of its execution is in form of collective blame and indecency” (Mahmoodi Janaki, 2003: 181). Sometimes an action overflies rubric of social norms and becomes such perilous that finds "intolerable properties"; thus, it must be stopped. In this context, the society fails to withstand such an action and chooses criminalization and criminal sanction to respond it. And the criminal justice system permeates the citizens' “domain of behavioral freedom” and expands the domain under its control.

In philosophical and legal tradition, one of the most important principles known as the “restricting principle of freedom” and “principle of persuasion legitimacy” is the “principle of legal protectionism” that has been accepted in most of the legal systems as the reasonable basis to limit personal freedom and to allow the criminal procedure. According to this principle that is in liberal recitation that states human is free and should act freely and the domain of his freedom is so expanded that includes his body, life, and properties, the only thing that limits his freedom is “harming others”. That is, human will be supported as long as the others' rights are not violated (Jafari, 1991: 455).

Analyzing unintentional crimes and regarding the role of harm in process of criminalization of these crimes as well as the harm(s) and their properties that can be imposed to individual and society, the “principle of legal protectionism” as the main foundation of criminalization is investigated. In this sense, the present study first provided a definition of unintentional crimes and then investigated the element of “loss (harm)” on it and finally studied the role of legal protectionism in preventing these crimes.

### **Unintentional crime**

Typically, people believe that unintentional crimes accidentally occur and, therefore, the committers should not be considered responsible. However, these crimes are defined differently in criminology and criminal law. In particular, the advances of technology and the emergence of mechanization require the expansion of these crimes through criminalization and organizing them. Concepts such as “incaution”, “indiscretion”, “derelection”, “negligence”, “violation of safety regulations” and so on are of great importance in developing the world. In the past, an animal or a human might be injured due to a coachman's incaution, but now hundreds of people are at risk due to a pilot's carelessness. So that, a large part of the criminal laws and regulations are allotted to such crimes because they are committed without the criminal intention but by the committer's “intellectual error” (Mohseni, 1996: 245). What is neglected by the perpetrator is the consequence of that action (Ardabili, 2002:245). “Intellectual error” is regarded as a lower level of intentional action because the person has an intention behind the harmful action; nevertheless, materialization of harm is not the person's want. In fact, the consequence or the occurrence of an event resulted from the action is predictable, but the perpetrator did not think or care about the consequence while committing the harmful actions. This negligence in thinking caused the occurrence of the crime. Nowadays, unintentional crimes are so various and extensive since the legislator has obliged people in all conditions to act with care and show prudence in their actions; otherwise, the person shall be found guilty for the harm s/he caused (Ibid). In criminology, different kinds of violations including traffic, construction, urbanism, occupational safety, production and distribution of food and medic products, environmental, athletic activities and so on that nowadays are committed due to negligence, despite of awareness and knowledge, reflect the perilous conditions of a perpetrator. Various kinds of crimes that happen in working place are interpreted as accidents though they have lots of physical, financial and social harms in the society and the committed crime is also denied just because accidents cannot be prevented, regardless of the fact that the accidents are the result of “systemic negligence of regulations” (Slapper & Thombs, 1999: 258). This factor is the main explanation for criminalization and criminal law's interference, in that people need to be protected against the harms they cannot protect themselves and the culprits are blamed for their harmful behavior. A variety of evidence and reasons indicated that such accidents are avoidable by using the prudence power and being circumspect.

The legislator has emphasized different kinds of unintentional crimes in the Islamic penal code and various issues including public regulations (article 145), blood monies (articles 504 & 495), and chastisements (articles 616, 714, 715, and 716). They have been mentioned in other regulations, out of the Islamic penal code's scope, including the former public penal statute (articles 174 and 177), the

aggravated law for sentencing the offending drivers, criminal law concerning the crimes in railways (article 6), the penal statute of hecklers in petroleum industries (article 8), the former chastisement law (articles 149, 150, and 151), and, in recent years, in crimes against environment, the law of protection and exploitation of forests and pastures (articles 46, 44, and 42), the amended law in some articles related to hunting and fishing law (articles 8 & 13), protection and exploitation law of aquatic resources (article 22), industrial crimes, the law for eating, drinking, cosmetic and health products (articles 7 & 18), crimes against intellectual possession, the law for supporting the rights of authors, composers and artists (article 23) and so on. All of these laws and regulations emphasize the compensation of harm and protection of people against these harms.

### **The principle of loss: the basis of unintentional crimes criminalization**

“The principle of loss” is a reasonable criterion to interfere in the individuals' freedom. The approach of maximizing freedom and minimizing the criminalization and appointing punishment allows the citizens to choose and do their individual and social responsibilities. In this approach, government is considered as the “necessary evil”. The bigger this evil be, the more limited the citizen's activities and freedom will be. (Heidari, 2009: 11). In their point of view, personal freedom is the basis of moral development and should be wholly supported and protected. As John Stuart Mill asserted, “curiosity killed the cat” is the same answer that should be given to every government or society that restrict the people's traditions and recreation based on what they decided (Mill, 2009: 1221). “The Harm principle” is the border between criminalization and freedom and is considered as the most known “limiting principle of freedom, which is extensively accepted by the liberals (Fienberg, 1984:26). As stated before, this principle has a long and honorable history in liberal tradition. A liberal person is free to do whatever s/he wishes as long as his/her action is not harmful to others (Stuart, 2013: 1264).

The “principle of loss” was first proposed by “Stuart Mill”. According to the attitude toward freedom and its necessity for mankind's prosperity, Mill considered this principle as the only principle of “legitimization”, based on which the public thoughts or power can control mankind's behavior by “force” or “supervision” (Ibid: 191-238) \*1.

Governments apply force to control the community, on the basis of the principle of loss. The force that is applied through sanctions must have a legitimate reason. The government can apply force in order to prevent people from harming the others if it is first, used to prohibit loss and, second, necessary. Punishment is not the only suitable and reasonable device to protect the interests of the society and all the non-criminal devices should be analyzed and measured before applying it (Nowbahar, 2011: 104).

\*1. In 1982, a government document in Canada entitled as “Criminal Law” in Canada and similar to Stuart Mill's ideas emphasized: “the criminal law should be applied only to an action that cannot be controlled by other means of social control. It can interfere in the individuals' rights and freedom only to achieve its goals. Because the purpose of establishing a safe community is to deal with, through a system of prohibitions and sanctions, the reprehensible behavior that can cause or threaten to cause serious harms to the people in the community”. For more information, see AbdulFattah, Ezzat (2002) “What is crime and what are the criteria of criminalization?” Translated by Esmaeil Rahimi Nezhad, Legal and Juridical Publication of Justice, no. 41, p. 157

There are critics to this theory, including the ambiguity in the “concept of loss”. Besides, the communities cannot tolerate the actions with obvious harms for a person or the community. The majority of countries criminalize and severely punish unintentional crimes according to the principle of loss. In addition, they use other principles including “moralism”<sup>\*1</sup> and “legal protectionism”. In this context, the present study aimed to investigate the latter principle in unintentional crimes.

### **Unintentional crimes and legal protectionism<sup>\*2</sup>**

Protectionism is a kind of authority exercised by higher power to protect people from harming themselves. In this approach, the legislator as a father is expected to determine good and evil for the individuals and protects them against threatening perils since s/he cannot rely on their prudence and forethought.

Protectionism is one of the criminalization fundamentals that can be discussed in criminalization of crimes. This principle has been negotiated in different liberal and moralist perspectives. According to these perspectives, human is free and the government cannot deprive him of this right. Due to their concerns of decreasing the scope of individual freedom and considering the fact that the government seeks to decrease people's freedom under the pretext of helping them and protecting their expediency, the liberals and moralists ask the government to blame the person who committed an evil action (Mill, 2009: 242). In most of the work accidents, workers are blamed because of carelessness and breaking the regulations (Slapper & Tombs, 1999: 221), or in most of the industrial, medic and cosmetic crimes, women who consume these products are blamed since they used such products causing changes in their bodies.

In analysis of Count's words: "no one can force me to be happy according to his/her taste. Protectionism is the worst kind of autocracy that can be imagined", Isaiah Berlin said: "it is applicable to a person who is in disagreement with his/her freedom as if the person is a slave in his/her peace-maker benevolent, who has to be formed as the master likes." (Berlin, 2001: 257). He continued: "under what name can I justify and make them to do what they don't like".

It is only possible under the name of a higher value than human beings but as Count argued all values are the result of human's free action. There is no value higher than the person... So any attempt to control and shape the human is regarded as refusal of humanism and human's values (Ibid: 257). Berlin used the concept of positive freedom as "individual autonomy" and acting according to intellect. According to him, positive freedom is nothing but rational recognition, the necessity of following reason, and living according to wisdom, based on which people need to be protected, due to rationality defect (Nowbahar, 2008: 106).

\*1: This principle was first proposed by James Fitz Stephen in the 19<sup>th</sup> century and then was defended by the Judge Lord Patrick Devlin. Both challenged the principle of "loss" proposed by Stuart Mill, and discussed about "the legal obligation of ethics" instead of "the principle of loss". Unlike the principle of loss that considers the criminal law as a justification to prevent the citizens' loss, they believed that punishment should be used to prevent intrinsically immoral actions. See Murphy Jefrie. G. (1987), Does Kaul Have A Theory of Punishment, *Collumbia Law, Review*, Vol, 97,pp. 509-532

\*2: Paternalism, in Persian, means patriarchy, paternity and protectionism. It means behaving like a father or behaving with another person as s/he is a child. See Petter (2009). "Legal Paternalism". Translated by Jalal Adin Ghiasi and Fahim Mostafa Zade, *Constitutional law*, the sixth year, no. 11, p 375.

However, protectionism has positive effects that make the use of it not only permissible but also necessary; therefore, it can be used to explain the criminal necessity of unintentional actions resulted from carelessness and negligence harm the doer or others. From paternalist point of view, human is free and can act freely, but his freedom is not absolute but limited to conditions such as "preventing of self-harm" and "preventing harm to others". Freedom makes the human responsible; responsible to him and others. Fienberg considered the legal protectionism as a reason based on which people's actions that cause physical, economic and social harms are criminalized (Fienberg, 1990: 8). He believed that the nature of protectionism is based on the benevolence for citizens and the main reason behind such thought is that I know your goodness to you better than you do yourself ( Fienberg, 1986: 23).

There are different kinds of protectionism \*<sup>1</sup>. The most important division is "soft" and "hard" protectionism. Soft paternalism refers to the restriction of a person's freedom of will by the society due to the person's irrational action. For example, the police can help the person who is crossing a bridge that is obviously unsafe. In this case, the person's right to free will is not violated (Gray, 2010: 170). In other words, soft protectionism occurs when the committed action is not according to will, awareness, or rational thinking. Hard paternalism, on the other hand, does not consider such a difference.

Liberalists have not recognized protectionism and accepted it in a limited and moderate form. In fact, liberalism and paternalism are two flows of thought that contrast each other.

Liberalism was formed based on the principle of +952freedom and independence of human, while protectionism considers individuals as minor children who cannot differentiate between good and evil of

their actions. Hence, the liberals have prescribed protectionism as a supplementary principle. In unintentional crimes, the perpetrator is sometimes the victim of his actions (for example, failure to follow the safety regulations in workshops), and sometimes others will be the victims of a person's crime (for example, failure to follow the safety regulations by the employer); therefore, the strategy that prevents the harms of such an action in the form of criminal measures is "legal protectionism". Considering the breach of many regulations harmful and illegal, the governments confirm the criminalization of such actions. If it can be claimed that these criminals have accepted such a protection, a kind of protectionism called as "self-protectionism" or "satisfaction-based protectionism" is formed. In fact, it can be said that the person accepts patronization since s/he is satisfied (Subber, 2010: 380).

\*4: Protectionism may be requiring (determining the criminal sanction to perform an act) or depriving (determining the criminal sanction for omission). It is sometimes involved with welfare issues, and sometimes is dealt with moral issues. In welfare cases, protecting a person's interests such as improving the person's standards of living, especially physical and psychological status, is of the main focus. While moral protectionism is performed with the aim of defending the person's moral status, and is regarded as the basis to prohibit inappropriate action in itself.

See Dworkin, Gerald (2010). Paternalism, in *Stanford Encyclopedia of Philosophy*, available at: <http://www.Plato.Stanford.Edu/entries/paternalism>, p. 7

### **Legal protectionism and preventing unintentional crimes**

The principle of legal protectionism as an important principle in criminalization includes all the required fundamentals of prevention. Principally, the prevention resulted from criminalization is considered as general prevention (deterrence) (Ebrahimi & Rajabi, 2010: 16).

This principle can best explain the preventive approach of crimes, especially unintentional crimes, both in terms of morality and criminology. Breach of safety regulations and ignorance of occupational standards, production and distribution of products and unhealthy food or pharmacological products is a kind of "deliberate recklessness" that causes the greatest level of harm for all social classes. These harms lead to distrust in the legitimacy of authorities, governments, organizations, and their activities (Friedrichs, 2010: 52).

Regarding these effects and serious consequences in individual and social levels, prevention and dealing with these crimes should be a priority. The preventive approach of deterrence, in the light of paternalism (protectionism), presents various strategies to cope with unintentional crimes, of which the most important ones are "self-adjustment" and "informal social control".

### **The preventive approach of deterrence**

The preliminary views of deterrence prevention should be traced back to classic criminology and its utilitarian theories. Classic criminologists have assumed the inclination to committing crime for all people as their natural appetency to follow hedonistic behaviors. According to this perspective, this natural pleasure is intertwined with "rational choice". Prior to making decision to do an action, people weigh the benefits of crime and the predicted punishment for committing it and act if the benefit outweighs the harm (Simpson, 2002: 9). In these conditions, punishment will be useful if it prevents the perpetrator from repeating or committing the crime. This approach indicates two functions of deterrence at individual and public levels.

Individual or special deterrence warns the perpetrator about inappropriateness of the action because it led to a punishment that outweighed the benefits. Therefore, fear of punishment prevents the person from continuing the crime. Public deterrence prevents the occurrence of offenses through representing the horrible consequences of committing crimes and public intimidation (Ian, 2004: 8). In the late 1960s, with the emergence of neoclassic, changes have been made in classical theory. According to this theory, it was attempted to align deterrence with the results of experimental studies, providing the difference in the degree of deterrence in different offenses. So, there are two types of deterrence: objective and perceptual deterrence. The studies of objective deterrence attempt to directly measure the relationship between the punishments and different levels of offenses by using a set of different data. In perceptual deterrence, the

subjective judgements about the dangers and consequences of punishment and its effect on criminality are assessed.

The theoretical problems in objective studies of deterrence led many researchers to abandon this approach and turn to perceptual approach of deterrence. The perceptual approach seeks to find an answer to the following questions: is the use of the sanctions effective on the individuals' behavior?

This approach focuses on this issue that the deterrence of punishments must be assessed according to its effect on a person's "mind and thought", the survey method is preferred. For example, the person may be asked about the possibility of arresting him/her while committing a crime. Or if there is n percent possibility of arresting the perpetrator, will s/he commit that offense? (Simpson, 2002: 24).

In general, studies indicated that the criminal sanctions, due to some reasons, do not have deterrence effect on unintentional crimes. The most important reasons will be discussed as follows.

#### **A. Disability of criminal system in proving culpability**

Rather than challenging the deterrence pattern, this issue indicates that punishments are not enforced properly although nowadays different units of the national police force are involved in controlling unintentional crimes, and the police officers are well trained to deal with such crimes; however, identifying unintentional crimes is too complex in terms of imposed hurts and harms. Moreover, the high number of assigned obligations to these forces and many problems in providing personnel and facilities lead the police officers not to prioritize dealing with these crimes. Even after proving culpability, sentencing the perpetrator will be difficult because perpetrators hire the most skilled lawyers who use their expertise and prevent the officers from gaining sufficient evidence to prove their claims. Even if they fail to prevent issuing the verdict, they will decelerate investigation process and prevent investigating agencies from accessing the cases.

#### **B. Presence of alternative resources in controlling unintentional crimes**

Regarding the mentioned reasons that cause failure to properly enforce the criminal deterrence, the alternative mechanisms such as "self-adjustment" and "informal social control" are considered, and it is believed that these mechanisms play a key role in gaining goals such as forcing people to observe caution in doing actions, resulting in preventive approach of deterrence.

#### **The preventive Approach of deterrence in the light of legal protectionism**

The principle of legal protectionism has a close and significant relationship with the preventive deterrence model because, according to this principle, prevention refers to preventing the individuals from harming. According to this theory, prevention is sometimes enforced through criminal procedures by applying the criminal sanctions, as well as the mechanisms of "self-adjustment" and "informal social control". As a result, the perpetrator's attitude, actions and behaviors will be reformed as a law-abiding citizen. Various organizations across the country are professionally involved with unintentional crimes using the deterrence approach, including the Court of Audit, commission of article 90 of Islamic Consultative Assembly, the board of investigation and adaptation of government's approvals, Corporate Audits, General Inspection Organization, governmental discretionary punishments organization, municipalities and so on, indicating the abundance of the organizations that play role in criminalization of unintentional crimes in the light of protectionism. In explicating this principle, Fienberg believed that the government can prevent the individuals from causing any harm by protecting them and if necessary, regard these actions as crimes (Fienberg, 1986: 27). Though studies have indicated that criminalization of unintentional crimes, due to arousing the sense of rebellion, can have adverse results, the cooperation-based model can be applied to force unintentional culprits to be "cautious" and "prudent". This model includes "self-adjustment" and "informal control" plans. By the former plan, the employers, laboratories, companies and so on are obliged to apply the legal, safety and moral principles in their different parts, and also supervise the implementation of these principles. These plans have been proposed as a response to the inefficiency of official government regulatory plan and assumes that the employers, companies, laboratories and so on can supervise and control their system better than the government (Simpson, 2002:

103). They also prevent the government from interfering. Nevertheless, since there are always some offending employers, laboratories and companies that refuse to implement these plans in their systems, it is predicted that the government force the offenders to cooperate. But this theory has been criticized because the individuals who are convicted to break the rules are considered as the supervisors of law enforcement. The implementation problems of this plan are interesting for critics; thus, the plan of “informal social control” is proposed, which can play an important role in “promoting useful social actions” and “embarrassing the offenders”.

This model focuses on intra-organizational means through which the required norms are internalized and most of people follow them. Because they are aware that an action contrary to the norms leads to remorse and dangers such as loss of credibility and trust (Ibid: 106).

Criminal interference and formal control are the most ordered and interventionist ways of social control and should be noticed as the last resort. Therefore, informal social control is a priority, but the most important ambiguity in this type of prevention is “determining the proper scope” to interfere. This scope determines when to apply informal or formal control. In one hand, punishment of all offenders as the principle of protectionism asserts is not useful and rather can have adverse results. On the other hand, failure to punish some offenders can have adverse effects as well, according to informal control model. Thus, a link must informally connect the strategies of protectionism and preventive deterrence (punitive and non-punitive) through a pervasive attitude and analyzing the various aspects of unintentional crimes prevention. This helps to simultaneously consider the advantages of each strategy and predict the time to implement them.

### **Conclusion**

Studying the opinions of founders and advocates of legal protectionism theory, it can be said that people are prohibited from self-harm. However, due to the increasing process of occupations and development of economic activities that have created new chances for unintentional crimes to be formed (both in form of self-harm and harming others), the formation of a type of “uncontrolled freedom” that allows people to cause any harm to themselves or others and disrupt the public order has directed the legislator to use the principle of loss (harm) and the principle of legal protectionism. For example, most of people are less likely to wear a crash helmet and fasten seat belt unless there is a legal obligation, or they like driving fast or doing such similar actions, and even harming others by producing unhealthy food products. In these cases, the legislator’s interference in people’s freedom to prevent these harms that gradually affect the society, public order and people’s trust cannot be considered illegitimate or unjustifiable. There is no doubt that dealing with these crimes needs to be a priority for the responsible organizations, both formal and informal. Different kinds of such crimes are justified using a criminal approach and in the light of harm-based criminalization. And some of these crimes can be controlled and prevented by “self-adjustment” and “informal” plans. It should be noted that the criminal model has been derived from the principle of protectionism, but informal prevention is more emphasized. In the cases where unintentional crimes cannot be controlled by non-criminal strategies, the criminalization and criminal model are inevitable. Since excessive criminalization will lead to criminal inflation, it is used as the last solution to warn the potential offenders that they will be punished if they break the rules and behave recklessly and harm others.

## References

- [1] Abdol Fattah, Ezzat (2002) "what is crime and the norms of criminalization". Translated by Esmacil Rahimi Nezhad, legal and judicial publication of justice. Number 41, page 160-135.
- [2] Ardabili, Mohammad Ali (2002), public criminal law. Third edition, Tehran: nashre mizan.
- [3] Berlin, Isaiah (2001). Four articles about freedom. Translated by Mohammad Ali Movahhed, second edition, Tehran: Kharazmi publications.
- [4] Dworkin, Gerald (2010). Paternalism, instanford encyclopedia, of philosophy, available, at : <http://www.plato.stanford.edu/entries/paternalism/>.
- [5] Ebrahimi, Shahram & Rajabi, Ebrahim (2010). "prevention in criminology theories and the domain of their limitations". Criminal law courses. Number 13, page 15-38.
- [6] Fienberg, Joel (1986), Harm to self : the moral limits of the criminal law , oxford , university press .
- [7] Feinberg, Joel (1990). " Harm less wrong doing , the moral limits of the criminal law ". volume 4, oxford university press.
- [8] Feriedrichs, Davif o, (2010). Trusted criminals ,white collar crim in contemporary society fourth edition, wads worth change learning.
- [9] HabibZade, Mohammad Jafar & Zeinali, Amir Hamze (2005). "preluding to some of the practical limitations of criminalization". Legal letter, number 1, page 3-26.
- [10] Heidari, Ghasem (2009). Liberalism, investigating changes. First edition, Tabriz: Sotoode publications.
- [11] Grey, John (2010). The political philosophy of John Stuart Mill. Translated by Khashayar Deihimi, first edition, Tehran: Tarhe now.
- [12] Ian, Marsh (2004) , Criminal Justice an Introduction to Philosophies , theories and practice routledgs pub , USA .
- [13] Jafari, Mohammad Taghi (1991). Investigating in two global systems of human's rights. Tehran: the office of legal and international services of Islamic republic of Iran.
- [14] Mahmoodi Janaki, Firooz (2003). Foundations, principles and ways of criminalization. Thesis, Tehran University.
- [15] Mill, John Stuart (2009). About freedom. Translated by Mahmood Sanaei, first edition, Tehran: publications of illustrative and women's studies.
- [16] Mohseni, Farid (1996). Public criminal code. Tehran: ganje danesh.
- [17] Murphy, Jeffrie, G. (1987), "Does Kant Have a Theory Of Punishment", columbia law review vol 87.
- [18] Now bahar, Rahim (1999). Criminal support in public and professional areas. First edition, Tehran: Jungle publications.
- [19] Now bahar, Rahim (2011). "the principle of criminal code's application". Instructions of criminal code, Razavi University of Islamic sciences, number 1, page 91-114.
- [20] Simpson, Sally, S. (2002), Corporate Crime, law and sociel control cambridge university press .
- [21] Subber, Peter (2009). "legal paternalism". Translated by Jalal Adin Ghiasi & Fahim Mostaffa Zade, criminal code. Sixth year, number 11, page 351-378.
- [22] Subber, Peter (2010), Paternalism and Legal Moralism , available at : <http://www.pauljustipage.com>.
- [23] Slapper, G. & Tombs, S. (1999), Corporate Crime , london: addison wesley longman .
- [24] Stuart, Himish (2013). limitation of The loss (in criminalization). Translated by Ali Shojaei, cyclopedia of criminal science, collection of papers, first edition, Tehran: nashre mizan.