Characteristics of Discourses in the Process of Criminalization of Bribery in 1360s

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Abstract

Every human-related phenomenon is the result of the interaction and conflict. In the same way, the process of criminalization as a regulatory mechanism for social behavior originates from some discourses. Identification of these discourses can illustrate the status quo of this process formation. This study by detecting the characteristics of every discourse in the process of criminalization of bribery, seeks to discover the existing relationships that make up this process. Illustrating the issue, the policy-stage method based on defining the problem, providing the solutions, and making them legitimate is used and in every stage the characteristics of discourses are mentioned.The content analysis of the proceeding *negotiations* of the *Parliament* on important Acts about bribery revealed that, in considering the multidimensional nature of this phenomenon, various discourses in the process of its criminalization with diverse and specific characteristics on defining the problem and suggested solutions had been formed. In the end, these relationships and characteristics showed that the criminalization of bribery in the 1360s had been affected by the political and social discourses. Parliament representatives had largely tended to develop the scope of criminalization in this area. They also had been to identify every instance of this crime as disrupting economic system. However, limited intervention of criminal justice approach could control this view.

KeyWords

Discourse, Process of criminalization, Bribery, Problem-solving process

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Confidentiality in the Criminal Mediation Process

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Abstract

Confidentiality is an important component of criminal mediation. Without observing the principle of confidentiality of the mediation process, it is impossible to have a meaningful dialogue between the victim and the offender. If the mediation environment does not guarantee the principle of confidentiality, it may be up to the perpetrator and victim to not participate in the process, Therefore, ensuring the participation of the victim and the offender is one of the main reasons for the nature of the confidentiality of this process. The principle of confidentiality of the mediation process is recognized in international documents and treaties and in the laws of different countries. Most criminal mediation regulations have stated that this is a confidential process, but in some cases the information and conversations and documents presented may not be generalized or disclosed, or in some cases, the mediator has a duty to disclose it or maybe There is a conflict between the rules of confidentiality in the mediation process and other criminal and legal rules. Therefore, mediators should warn participants in mediation hearings that, other than the necessary information in the case, any acceptance of past crimes, such as confessions for offenses or threats of future offenses, may not be considered confidential and the court will use these evidences and grounds for subsequent proceedings.

Keywords

Criminal Mediation, Confidentiality, Victim, Offender, Mediator

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Consideration in Crime of Negligent Bankruptcy

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Abstract

Negligent bankruptcy is a crime against property that its criminal title has specified in article 541 and 542 of Iran Commercial Code, and it has been criminalized in article 543 of that code. Its current punishment is specified in article 671 of Tazirat code of 1996. Through time passing, business requirements and legislative policies are subject to change. That is why different and scattered legal opinions in concept, elements and position of this crime, along the concept of bankruptcy, have extended to judicial procedure, although changes of criminal law have been effective in this matter. Due to the differences in doctrine and judicial decisions in dimension of this crime (including intentionally or unintentionally and etc…), and the new approach of criminal law to accept criminal liability of legal entities, and having ratification of new commercial code, it is necessary in addition to exact consideration in concept and elements of this crime(part 1), we are studying criminal liability of commercial legal person and capability of certain punishments imposed on him as well(part 2).

Keywords

Negligence, Bankruptcy, Criminal liability, Negligent bankruptcy, Criminal responsibility.

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Intervention of Third Party in Criminal Proceedings

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Abstract

In the Code of Criminal Procedure, rights of litigants have been always the focus of attention lawmakers. However, rights of third parties have not been considered in any criminal proceedings yet. One of the challenges faced by third parties is their presence rejection in criminal courts and also the lack of unique precedent in this regard. The aim of this study is introducing aspects of the intervention of third parties and barriers to this intervention. The methodology of this study is based on the description and analysis of third parties literature review, the observation of court process in this regard. Findings of this research demonstrate that the most important deficiency of the Criminal Procedure Code in the regards of intervention of third parties in criminal cases is the lack of clear legislation. However, according to some legal provisions such as Article 418 of Code of Civil Procedure, Article 215 of Islamic Penal Code and Article 148 of Code of Criminal Procedure, indicates the importance of a third party in criminal procedure and its adoption by the legislator. Analyzing of Res Judicata Reflects the lack of complete terms of realization of this principle in relation to financial aspects of criminal judgments, is. Solutions that can be offered to reduce conflicts of the vote, is to consideration judicial procedures accepting third party and inspiring from them, As well as paying attention to the content of mentioned articles and not emphasis exclusively on stipulating in law; because judicial interpretations is as an appropriate solution in this field.

Keywords

Third-Party, Criminal cases, Protest, Res judicata.

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Jurisdiction to Investigate over Crimes on the Plane Flight Mode on Iran and the International Criminal Law

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Abstract

Territory sovereignty as a diagnostic criterion of territorial jurisdiction, including area, land, sea and air. Air area, in the territory jurisdiction airspace that the criterion for detecting it is the aircraft flying over the area Because this device is floating which may be due to the floating space to pass several country and the variety and complexity of other related issues, the importance is high (In addition to the aircraft that follower the principle of flag this means that under the sovereignty of the State aircraft flag). Sometimes crimes committed in the airspace of a country's territorial jurisdiction find may all the factors involved in it; internal or external elements which may cause or be involved. When all the factors involved in crime, domestic, in the country competent to handle, the dispute does not occur. Caused controversy when a foreign element is involved in crime. This is where the question arises of the country in addressing crime. In fact, if the various countries under various international principles such as the principle of territorial jurisdiction, or personal or universal competent to handle their know-how methods of settlement? Iran's own laws and international conventions and treaties to determine what solutions have predicted the competent country? This article, taking into account Iran's domestic law and international conventions and treaties, analysis of laws and treaties related to airspace territorial jurisdiction to review the types of crimes committed in the territory covered and the procedures for settling disputes between countries will tell.

Keywords

Sovereign territory, Airspace, Crimes committed on aircraft, Territorial jurisdiction

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Legal Analysis of Declaration of Crime in Criminal Prosecution

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Abstract

Nowadays, in order to increase the speed of prosecution of crimes, the legislatures have tried to place a foothold in the community, NGOs, government agencies and their employees in order to cope with the delinquency of the perpetrators and increase the protection of some victims. To this end, the acceptance of a position for the activities of the NGO's was in Article 66 of the 1392 (Rev. 1394), with the complete annulment of the indictment in criminal proceedings and the necessity of its legal analysis. On the one hand, the offense is compared with concepts such as complaints of crime and mass media reports that do not adequately address the issue of the separation of legislatures; on the other hand, the legislative prediction of a crime is based on examples such as the person who declares the crime, the crime of the proclamation And which competent authority receives the final recognition of a crime requires comprehensive recognition. Finally, the conditions that should be envisaged in the laws to increase the effectiveness of the declaration of crime are from the method of announcing a crime to guaranteeing non-proclaimed performances, declaring a crime with maladministration, as well as declaring a non-principled crime as important issues as the lack of The analyzes are perfect in them. In the same vein, it seems that the need for a precise and accurate prediction of a crime to be distinguished from a crime report, as well as a reference to the guarantee of non-prosecution actions for public statements, can provide effective judicial procedures.

Keywords

Declaration of crime, Crime announcer, Crime report, Criminal prosecution, Legal conditions.

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Preventive Justice: Controlling Crime through the Legal System

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Abstract

The duty of the government in regards to crime is not to merely penalize the criminals using means of punishment. Rather, governments are supposed to take timely measures to prevent harm to individuals, especially to their right to life and physical integrity, the compensation of which is difficult and often impossible, according to the rule of law and fair trial principles. Contrary to the conventional view influenced by writings on crime prevention in criminology which attempts to limit preventive measures to non-coercive interactive measures, in different countries, based on the structure of judicial system and patterns of exercising criminal justice, there are different measures for countering dangerous circumstances and for "direct prevention" of damaging behavior and prevention of the occurrence and continuity of crime under "coercive preventive measures". Considering the formation process and legal order governing the said measures, which is the main topic of "preventive justice paradigm", law has never been a stranger to preventing the risk of crime, but has always used various means to use its mandating and constraining powers in order to defend the society against the danger of crime.

By introducing the historical origin and performance of the preventive measures that have found their way into different parts of the legal system, including public and civil law; The "preventive justice paradigm" which stresses on direct prevention of crime and defending individuals against being victim of criminal behaviors, as one of the methods of encountering crime, investigates the justifying foundations and limitation in using the said measures in light of the fundamental principles of law, depicts the rules governing "preventive law" and develops its processes in the form of an effective law order.

Keywords

Coercive preventive measures, Direct prevention, Mesures de srûeté, Safety measures, Prevention crime law

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Expressing Minimalistic Criminalization in the Light of Moral Aspects

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Abstract

Principally, rules of law are composed of the sentences and the guarantees of the performances, and each legal ruling is supported by one or several sanctions, so that the book of law does not become a mere recommendation, and the sanctions system will guarantee the implementation of legal acts. Since these legal imperatives undermine the freedoms of individuals, they are simply necessary in the need of social life. On the other hand, much of this sanction, which is allowed only in cases of necessity, is non-criminal, and only a small portion of the sentences require strong support, including criminal sanctions. On this basis, it can be said that in minimum law making, the criminal law making will be the minimum of this minimum. This viewpoint can be explained and described with various approaches, including an ethical approach. Ethical look at the community does not require legal regulation and affects the free will of individuals in fear of enforcing sanctions. Extending the ethics in society and creating a platform for committing moral acts requires the freedom of the will of individuals in the pursuit of their intentions, so that if a famous verb and monk have left the refusal, this verb and the verb is due to the moral sentiments of individuals, and not from legal fear. We must have a society with ethical behaviors consisting of ethical people.Human beings that are not legally performance but with complete freedom of way. This interpretation, which results in the denial of legal requirements and in particular of the penal requirements, is a radical approach from the few who chose the anarchist approach, and the modification of this theory could serve to serve minimalistic criminalization.

KeyWords

Minimum Criminal Law, Limited Criminalization, Morality, Anarchist, Freedom.

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