

The Study of Near-repeat Method to Predict Burglary; The Possibility of Applying the Method in Iran

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(Received: 12/1/2022 - Accepted: 13/3/2022)

Abstract

In the last two decades concepts such as prediction of crime and predictive police have emerged. Among place-based methods of prediction of crime, the near-repeat method, inspired by epidemics and earthquakes, has shown great efficiency. Based on the committed crime, it is forecasted that in a near place and time another crime will be committed. This method has been practically examined in three German cities in the so-called Precobs project, Malmö in Sweden, Chicago and many other USA, UK, Australia and New Zealand cities. The application of it in Iran confronts the obstacle of secrecy of the criminal statistics and reluctance towards change and requires technical and human fundamental preparations. Technical foundations include producing indigenous software, justifying the operators and holding classes. Human foundations consist of honoring Law enforcement, plus sufficient training and dignifying the actual and potential victims. Applying this method, paired with the participation of citizens in reporting crimes and better self-protection will contribute to targeted prevention and reduction of burglary rate. The article tries to respond to the question if the near-repeat method, considering the limitations, can be applied in Iran and how the obstacles can be prevailed through proper foundations.

Keywords

Prediction of Place of Crime, Near-repeat Method, Targeted Situational Prediction, Predictive Police, Future Studies in Criminology

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Forgivability of the Crimes in light of the Basis of Criminal Law

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(Received: 3/8/2021 - Accepted: 13/3/2022)

Abstract

From theoretical perspective criminalization and penalization are mostly justified via objectives and concerns such as execution of justice or maintenance of social order. Accordingly, crimes and punishments serve public non-forgivable function and the “forgivable crimes” phenomenon, as provided in the Iranian criminal legislations, has not been adverted and is an outsider to the theorizing tradition. Even the novel restorative justice notion, regardless of its pure models, which basically focuses on the rights of the victim, includes crime as a public phenomenon unforgivable. Promoting compromising in the process of restorative meetings, regardless of the philosophical controversies behind it, does not omit punishments and the policy of some criminal justice systems lies upon implement of the mitigating constitutions or alternatives to imprisonment in case of reaching compromise. Excessively making crimes forgivable during the last years, the Iranian legislator has ignored the public interest. Such attitude being contradictive with the fundament of criminalization, may lead to the commodification and privatization of the criminal law and bargaining on the punishments by the parties and may in practice aggravate the pressure on the victims or deceive them. The proper alternative would be decriminalization of such acts along with civil adjudication or the application of mitigating constitutions in cases of forgiveness or reconciliation.

Keywords

Criminalization, Punishment, Forgivable, Forgiveness, Criminal Plaintiff, Victim

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Typology of State Crimes Based on Illegal and Illegitimate Laws

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(Received: 15/3/2022 - Accepted: 13/3/2022)

Abstract

Violation of the fundamental rights of citizens in various forms of violation of political, economic, social and cultural rights and areas related to health and education, by states that are primarily responsible for guaranteeing them, in terms of criteria can be called as "state crime".

This descriptive-analytical article aims to focus on a specific dimension of the concept of state crime, in form of a "crime as harm" approach to the crimes committed by state such as political, cultural, environmental crimes, crimes against health, which are based on the harmful and power-oriented structure of the government, citing some objective examples and complaints received by the Board of Supervision of Law Enforcement Fundamental, discusses., legislators, by enacting laws that violate fundamental rights of citizens, including discriminatory laws or laws restricting constitutional rights or harmful laws, the phenomenon of "illegal laws" and "laws without legitimacy." which means laws that are contrary to justice and fundamental rights; Even if those laws have undergone formal legal formalities to become enforceable. Therefore, by infringing on the fundamental rights of their citizens and by adopting various policies, especially in the political, economic, cultural and judicial fields, governments inflict many harms on their citizens in various fields. These violations have in many cases relied on the law or are behaviors that, due to the monopoly of governments in the field of legislation and despite being harmful, have not been prohibited by actors in the field of legislation.

Keywords

State Crime, State Harmful Behaviors, Illegitimate Laws, Types of State Crimes

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The Relation between Right to Privacy and the Duty to Transparency in Prevention of E-money Laundering

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(Received: 11/1/2021 - Accepted: 13/3/2022)

Abstract

The statement "As much as new technologies have made it easier to commit a crime, it has become even more difficult to prevent crime." is especially true of e-money laundering. Apart from technical aspects, this phenomenon also has two other sides. The second side is the principles and values governing the confidentiality of financial and monetary data of individuals that financial and monetary institutions are obliged to support, and the third side is the multiplicity of criminal policies facing e-money laundering due to weak global cooperation in the region.

E-money laundering is the realization of money laundering through equipment and electronic platform. Although legal systems ultimately prefer the task of transparency to confront M.L, in practice prevention of M.L faces a high wall of privacy, which the requirements of cyberspace, the attitude of financial and monetary institutions to the rights of customers, as well as the relations of countries in pursuing E.M.L in a global context, has introduced it as a serious competitor to the principle or task. This article tries to examine the challenges of preventing e-money laundering from the perspective of two equal values, namely the value of confidentiality and the value of financial transparency, and concludes that the emphasis on creating a balance between these two values are such that the principle is to maintain the confidentiality of financial and monetary data and the principle of transparency is exceptionally and justifiably can deprive the right to privacy in the face of e-money laundering.

Key Words

E-money Laundering, Prevention of Crime, The Right of Confidentiality, Principle of Transparency, The Conflict of Right and Principle

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An Explain to Non-Disclosure of Sexual Abuse by Victim Children and Strategies to Deal with It

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(Received: 3/11/2020 - Accepted: 13/3/2022)

Abstract

The precondition of the use of judicial and non-judicial protection measures is the detection of crime, and the most effective method to do so is the conscious disclosure of the crime by the victim. Factors that affect the non-disclosure of sexual abuse by children or delay causes in this disclosure can be divided into two general categories: interpersonal and intrapersonal factors. By interpersonal factors we mean: the analysis of messages that the child receives from others, the more negative meaning these messages have, the less it's likely for this crime to be disclosed. Social exclusion and labeling, blaming the child, and inappropriate parental response to the child's initial disclosure can be considered as interpersonal factors. On the other hand, in many cases, the reason for non-disclosure goes back to the child himself/herself and his/her level of awareness. Lack of awareness about sexual abuses, how to disclose it and the reason to do so are considered as internal causes. Strategies also come from within, so reforming social structures, changing meta-narratives, and raising awareness are some ways to escape non-disclosure. This article describes and analyzes the reasons of non-disclosure of sexual abuse by victims under the age of 18 and the strategies to deal with it, and if possible, its localization by using quantitative and qualitative studies in this field.

Keywords

Sexual Abuse, Child, Non-disclosure, Intrapersonal Factors, Interpersonal Factors, Sexual Victimization

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A Study on Expert Position in Commodity Smuggling Cases

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(Received: 7/1/2022 - Accepted: 13/3/2022)

Abstract

In international documents and the Code of Criminal Procedure, the right to request an expert is recognized for the accused. The more technical and specialized crimes are, the more it is necessary to use expert opinions to identify the issue and bring it in line with the law, and in the meantime, to deal with economic crimes, including smuggling of goods; with its dynamism and complexity, rooted in the confusing business, banking and customs affairs, it requires professional and impartial experts. The legislature has adopted a policy of criminalization and maximum detection and speed of proceedings with a minimum of acquittance to combat the smuggling of goods, without explicitly prohibiting referral to an expert: The provisions of Article 47 of the Law on Combating Commodity and Currency Smuggling in 2013 have been interpreted as follows: The courts have deduced the legislative will on the "prohibition" and, in practice, have closed the way to refer the experts to the accused of smuggling goods. However, if approved by the Constitutional Council; We will see the imposition of differential rules in the blatant violation of one of the defendants' rights of defense. In this study, by examining the rules and procedures of the courts, the roots of the theory of "prohibition of referring technical issues of smuggling cases to experts" are examined.

Keywords

Expertise, Customs, Official Expert of Justice, Smuggling of Goods

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Ambiguity in Criminal Law with A linguistic Approach

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(Received: 24/4/2021 - Accepted: 13/3/2022)

Abstract

The present study, based on linguistic construction with a semantic_ pragmatics approach investigates the types of ambiguity in criminal law. Vagueness in a sentence is due to linguistic ambiguity. Accordingly, the aim of this study is first to examine the ambiguity meanings and then to focus on vagueness at both lexical and syntactic levels and subgroups of each focusing on the words and sentences are the Islamic Penal Code and the Code of Criminal Procedure as a body of data. This research, with a new look and with a descriptive-analytical method, shows that at the level of lexical polysemy; homonymy, synonymy, technical and specialized language, the use of a foreign language (Arabic) has had the greatest impact on the ambiguity of criminal law. At the syntactic level, we can mention lexical omission, citation, the existence of long and complex sentences, frequent use of unusual Arabic expressions, non-observance of the principles of punctuation and Arabicization.

Key words

Semantics, Pragmatics, Ambiguity, Polysemy, Vagueness

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Penological Analysis of Death Row Phenomenon in Drug Offenses (in the light of Temporal, Physical Experiential Components)

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(Received: 26/12/2021 - Accepted: 13/3/2022)

Abstract

Death row inmates typically spend years waiting for execution. Using a penological perspective, the purpose of this study is to examine under what conditions the long waiting process for execution undermines the legitimacy of the death penalty. In this study, qualitative research methods have been used. The content of documents, including cases of death sentences in drug offenses (60 samples) between 2010 and 2020, have been analyzed. In addition, 26 cases of in-depth interviews with death row inmates of drug offenses, judicial activists, and lawyers have been conducted. The findings show that in Iran, death row inmates of drug offenses spend an average of three to four years in prison waiting. Some of the Death row inmates experience harsh conditions, such as overcrowding and lack of health care services in prisons. Furthermore, death row inmates experience increasing death anxiety for years. These components of the death row phenomenon can turn the death penalty into a cruel, inhumane, unusual, and at the same time double punishment. In this regard, recognizing the sufferings of the death row inmates as a basis for mitigating the death penalty, improving conditions of death row, and increasing access to mental health services can be a way to alleviate the unfavorable/inhumane situation of death row inmates.

Keywords

Execution, Death row Phenomenon, Drug Offenses, Condemned to Death, Delay

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Money Laundering and Cryptocurrencies: Challenges and Initiatives

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(Received: 15/11/2019 - Accepted: 13/3/2022)

Abstract

One of the legal challenges of cryptocurrencies- called “revolutionary money circle”- is its use in money laundering which in spite of trade prevalence, is a hurdle against cryptocurrencies acceptance by Legislature. In this study, we’ve tried to answer the questions about "cryptocurrency role in money laundering " and "methods of cryptocurrency money laundering " through a comprehensive analysis. They have been included in the money laundering process based on their inherent features such as “facilitation” and “diversification”. In this way, “coin mixers; illegal currency exchange; cryptocurrency ATMs; pre-payment cards; gambling websites” work as tools for cryptocurrency money laundering. Thus, along with criminal codes, governments and different organizations have played active roles and have established rules that require financial service providers to identify customers. Also, FATF has emphasized, in its updated guidelines, that cryptocurrency service providers must be regulated by money laundering and terrorism financing fighting policies. It's obvious that the implementation of such regulations by legal regimes’ support and development of solutions such as “customer identification” can contribute to solve the problem of anonymity of trading parties. Therefore, in money laundering fighting process, the problem is more about tracking technologies rather than legal gaps. In conclusion, the government should be equipped with the required technology.

Keywords

Cryptocurrencies, Blockchain, Money Laundering, Modern Crimes, FATF

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A Study on Corporate Crimes against Consumers; Challenges and Solutions

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(Received: 23/12/2020 - Accepted: 13/3/2022)

Abstract

Commercial companies are powerful institutions that, as much as they can, cause harm to their consumers' well-being, physical and financial rights. Despite the high rate of criminality of companies in the field of providing goods and services and the frequency of their victims, the rate of detection of crimes, prosecution and conviction in the Iranian criminal justice system is very low. The development of the activity of commercial companies in the Internet space, especially in the field of international trade, does not reflect the turtle movement of government courts in handling consumer complaints and relying on inefficient and traditional reasons. The available findings indicate that several reasons such as lack of proper and systematic control over the process of production and supply of goods and services, Poor and uncoordinated performance of corporate crime detection activists and ambiguity in the duties of judicial and non-judicial authorities, superior power of companies in the criminal process and the weakness and incoherence of regulatory bodies are considered a serious obstacle in the way of detecting such crimes. The present research, through a descriptive-analytical approach, with applying comparative studies and conducting in-depth interviews as well as referring to various documents, including jurisprudence, attempts to develop solutions to overcome these challenges, the most important of which are: clarifying the companies' operation, increasing the level of consumer awareness and the synergy of multiple and parallel regulatory bodies.

Keywords

Corporate Crime, Discovering Crime, Consumer, Good and Services

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The Criterion of Determination of Unity or Plurality of the Body Injuries; An Attempt to Go Back to Civil Liability Regulations

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(Received: 31/8/2019 - Accepted: 13/3/2022)

Abstract

Sometimes, different injuries happen to one person. For instance, as the result of a battery, both the ear and the sense of hearing of the injured person are damaged. The question is whether, in this case, the injured party is able to claim compensation for one or multiple damages. While in Islamic jurisprudence (Feqh), it is generally believed that each injury results in a separate blood money (not cumul principle), four theories exist in this respect; in one theory, injuries which are alongside with each other are treated differently from those which do not have this qualification. One theory takes the place of various injuries into consideration. One, focuses on the relation and dependency of the injured parts and finally, one differentiates between injuries occurred by one or multiple hits. Considering the principle of full compensation, it seems that the plaintiff is liable to seek compensation for each injury unless according to civil liability regulations, they are counted as one. The current penal code accepts the not cumul, which reinforces the full compensation principle. However, claiming one or multiple blood money depends on the judgment of civil liability's general rules and existent theories are only presumptions.

Keywords

Losses, Blood Money, Corporal Losses, Overlapping

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A Study on Self-defense as a Criminal Law Excuse in case of Cyber-attacks

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(Received: 22/7/2020 - Accepted: 13/3/2022)

Abstract

Self-defense provisions as an excuse in criminal law, in the Iranian legal system like other systems, are provided with a classical view. However, nowadays increasing the number of cyber-attacks in the cyberspace and the development of technology to oppose these attacks, prior of the intervention of state and irreparable damages of cyber-attacks, makes this question if it is possible to invoke self- defense to confront with cyber-attack as an excuse in criminal law? This paper seeks to scrutinize the possibility of generalization of classical self-defense provisions to new kind of attack in light of the philosophical foundation of self-defense and eventually to examine whether the provision of sec. 156 of the Iranian Islamic penal code is sufficient in this respect. Finally, it concludes this generalization is possible and the foundation of traditional self-defense can justify the self-defense in cyber-attacks. Moreover, this paper recognizes the self-defense as a right of users in cyberspace to protect their computer system and data such as a non-cyber space.

Keywords

Cyber-space, Cyber- attack, Self-defense, Cyber- attacker, Cyber- defender

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