

A COMPARATIVE STUDY

5.1 Decriminalization of Drugs

- **Movement for decriminalization:**

The penal law is neither the unique instrument nor the best instrument to fight against criminality. So, the movement which was initiated by the school of new social defense was the beginning point for the emergence of the ideas on limiting the application of penal system.

This movement was expanded in a hasty way from 1970 to 1980 and it has maintained its effects even today. Now, it should be seen that what were the causes of creation and development of that movement? In reply, four reasons can be enumerated:

1. The multiplicity of the penal crimes in the society to an infinite level particularly in the economic and social fields.
2. Lack of implementation and even inability of implementation of a main part of penal codes.
3. Faith in securing defense of the society through lighter and faster methods apart from the methods of penal law.
4. Lack of welcome on the side of social and political environment towards discipline-seeking and obligatory ideas.¹

These four reasons had two reflections and consequences. On one side it gave rise to the flourishing and developing the idea of restricting the penal realm and control of radicalism in criminalization and on the other hand, by formation of associations, foundations, unions and international society of social defense brought about the exchange and cross of ideas and creation of new views of "abolitionism", "resorting to non-penal methods" and "alternatives measures for penalty".²

By passing the time, the specific prohibitions of criminal law was more or less associated with change of social consensus on "what is correct or wrong" and "what is public or private?" As the society was in the process of expanding, its standards were also changing and the behaviors which were defined as crime in a period of time, after this period were not the subject of the penal enforcement guarantee (punishment) any more.³

In line with acceleration of this process which is so called, "Decriminalization", the proponents of reducing the crimes in the canon under the backdrop of expansion of decriminalization at a broad level along with the developments in the North America have considered the attainment of basic objectives of penal law as equal to just observance of the individual freedom and the realm of penal law as a technical small island in a sea of prudence thinking.⁴

In this very direction, the Report of the Council of Europe has also considered the Decriminalization as "the totality of processes through which the competency of determining and imposing the enforcements guarantee (punishments) as a reaction are negated

from the penal system" ⁵ and reminds that the actions which were rebuked in the past and now are considered as "equally the same behaviors" for the public opinion are entitled to be decriminalized.⁶

As it was stated, the Canadian Commission of Correction of Law, published a document entitled "The bases of the future criminal canon of Canada" in 1976 under the title of, "Our Penal Law" and in that document, it announced that "only in the last stage, one should resort to the criminal law".⁷

In another document, this Commission under the title of "Studies on the prison penalty" in 1975 which is a very typical American thought notices the penalty of prison not only from the viewpoint of justice and humanity, but also from the economic point of view, because, the economic price of the penalty negating freedom is not merely limited to the construction and maintenance of prisons but also economic principle makes it necessary to diminish the rate of the costs which is imposed on society, penal system and also the convicted individual including his/her relatives.⁸

Anyway, despite the distance in the viewpoints of two different thinking in the movement of social defense, one from Gramatica who intends to omit and abolish the concepts of offense, responsibility and penalty fully and the other from Marck Ansel who is determined to maintain the framework of the penal law- on the necessity of limiting the scope of classic criminal law is common and the same which according to Pradel, the French jurist, it can be said that inside the school of social defense , there is a deep unity among its advocates.⁹

The above movements for decriminalization issue in the Europe and the North America which have had main share in this discussion and even in case of homosexuality, due to lack of attention to the religion and ethics, they have tended towards radicalism and also they have announced the 3rd of July as the world day of decriminalization ¹⁰, now, looking at the subject of "decriminalization of drugs" which is one of the most important examples of decriminalization in the system of the western penal justice to make a comparative study of the details foundations of micro views and canons rounds it. Despite the difference of cultures and ruling values on the western and eastern societies, discussion on this issue is very broad, and is also common at the international level including a very large population of the global due to addiction to drugs which is a cause of concern internationally. So, without doubt it is one of the biggest dilemmas of the global society and the subject of drugs is considered to be an "international abnormal phenomenon".

Today, a considerable part of the penal files are allocated to the crimes of drugs directly or indirectly and the majority of the crimes comprised of the offenders of drugs. The major work of the police, security services, and judiciary in different countries are directed at identifying, neutralizing and fighting against the crimes in relation with drugs.

Anyway, what makes this sample important and outstanding is the shocking statistics of the numbers of addicts and types of drugs, prisoners, cultural, political, social, economic, security and judicial

challenges resulting from the drugs misuse, production, smuggling buying & selling of it at the global level.

On the other hand, great efforts have also been made in relation with the decriminalization of crimes involving drugs in the western societies. The views of the western writers including the sociologist of penal law or criminologists and also researches and report of discussions being expressed by them on the necessity of decriminalization of drugs crimes and that they have created alternatives solutions in line with that and in fact they have motivated a changing doctrine by putting forth the issue of decriminalization and have developed it all confirming this view.

Thus, the necessity of giving attention to research and comparative study on "phenomenon of drugs" is increasing several times more and we are forced to express motivations, reasons and legal measures and its other necessary cases precisely.

- **Decriminalization of Crimes involving drugs:**

More than anything else, it is necessary to have knowledge on the concept of drugs. The relationship between drug, crime, addiction and its impact on criminality and also historical background of using drug, global industry of drug smuggling and international activities on control of trans-national crimes resulting from drug smuggling. By elaborating the dimensions and corners of these issues specify the framework of theoretical concepts, legal gaps and needs. On one side, it directs the views and attitudes in line with the rate of "limiting the realm of the system of penal justice"

and on the other hand, it orients and coordinates the "selection and determination of the type of the mechanisms of restorative justice" and quality of their usage which are needed.

The legal system identifies and studies the sociology and criminology of the countries on drugs and brings about the elaboration of different aspects of the control system and prevention. This includes, enforcement of effective criminal policy confronting with different aspects of the phenomenon of drugs. Finally, it prepares necessary introduction for" a comparative study of decriminalization of drugs" between the system of the penal justice of the west and the criminal policy in Iran and brings about the presentation of appropriate strategies which are based on the scientific findings and experience of society.

- **The concept of drugs, classification and its types:**

Any material which is misused in a society or its consumption is harmful to the consumer, family and society. It also creates a state of relaxation and thoughtlessness for the user. The customs of the people [with regard to the culture and conditions of each society which is changeable] also recognize it as a narcotic drugs is called narcotic drugs which in the terminology of the World Health Organization, (WHO) the Drug Abuse ¹¹ has been considered as mis-consumption and or illegal use of drugs and is a criminal act.¹² Perhaps it might be possible to call any kind of material with the exception of food which casts its effect on the matalistic structure and organic performance of living animals due to its chemical nature as drugs.

- **Classification of Drugs:**

The drugs can be classified into following categories:

1. Regular drugs such as tobacco, which is used for hookah", tea, coffee and pharmacological tranquilizers such as barbitoric.
2. The alcoholic or intoxicative drugs such as cannabis, hashish, and..., also hallucinatory drugs such as LSD, D.M.T, Mescaline and Peslosiyeen.
3. The killing drugs such as morphine, heroine and Pargouric Codeine which are taken from Kuk-Nar ¹³ bush and are the derivatives of opium. ¹⁴

In the international regulations also those groups of drugs which are killing and psychotropic are considered illegal.

- **Types of drugs:**

- i. Cocaine:**

Cocaine is the resulting alkaloid from the leaves of Coca cultivated in the South American countries such as Peru, Bolivia and Colombia. These leaves were chewed by the natives in order to remove fatigue without creating any disease. By chewing the leaves of Coca, they could live without food for a long time and climb the mountainous regions for many days. Sigmund Freud who was aware of their medicinal properties used it for treating some of the psychological problems.¹⁵ This white material (Coca) was

detached from Coca in 1855 by Gaedeke, the German chemist and was used as a stimulant.¹⁶

Cocaine creates relaxation in the addicted person for 5 to 6 hours and at this state, the patient feels peace and satisfaction and finds mental pictures of salvation within and feels fortune .Following that, and after diminishing its impact, sometimes, this feeling is replaced with headache, dizziness and restlessness up to the level of madness it also creates other symptoms of intensive psychosismic state along with audio, visual and sexual dreadful hallucinations.¹⁷

Most of the artists, for the purpose of creation of happiness and joy in their lives and to enhance efficiency in their own artistic performance, on others' encouragement have begun using Cocaine. They consider the recklessness and excitement resulting from that as their own artistic creativity which in this trend, gradually, the psychological dependence on Cocaine and various hallucinations are replaced with their art. ¹⁸

ii. Hashish:

Hashish¹⁹ like Marijuana²⁰ has also a destructive impact on the brain of the addicted person and gradually creates a state of relaxation along with increase of self confidence, peace and mostly a feeling of flying within the addicted person.It impose damages on the time imagination, ethical judgment and common sense of the sick person and reduces the mental and movement capability of the individual.²¹

Under the influence of hashish, the addicted person usually become verbose and feels an extraordinary force in himself/herself and considers oneself to be stronger than what really is and thus many offenses and incidents of crime accrue which is a result of very deviatonal feeling, lack of competency and lack of self confidence of the addict. In some addicts, it also creates signs similar to drunkenness of alcohol and madly intensive reactions. For example, some composers resort to drug for changing and correcting the monotonous tone of their work in music.²²

iii. Morphine:

Morphine was made in 1805 by Ser Turner, of Germany from Alkaloid of opium and he called it Morphoos which means "The Goddess of Dreams". When Dr. Wood from Edinburgh in 1843 invented under skin needle (syringe), he lost his life as a result of injecting morphine and its resulting poisoning.²³

Though, Morphine is consumed to relieve the hard pains and as a drug for pre stage of unconsciousness in the patients who are in need of surgery operation and is used to remove the post operation pains including the cancer pains, chronic and intolerable diseases, but after 15 to 30 minutes from consumption, the narcotizing drug effects over the nerve system and in proportion with the rate of consumption and the addicted person is put under the hilarity resulting from consumption. At the same time, it leaves destructive impacts on the digestion system, blood circulation and also make disturbance in the heart beats and intestines , creates reduction of blood pressure, diminishing the power contraction of muscles and

gradually the patient is inflicted with a kind of psychological darkness, and lack of interest in life and faces carelessness in vision.²⁴

iv. Heroine:

Heroine which derivates from the word "Hiroish" in Germany means the very strong and effective factor taken from the word "Heroique" which means hero was produced for the first time in 1898 by Bayer factory in commercial scale²⁵ and is 6 to 7 times stronger than Morphine and 10 times stronger than opium. Initially, it was supposed that Heroine is not addictive and even it was used to confront with morphine addiction, but later on, by proving its addiction power, many countries including America prohibited its consumption.²⁶

Heroine breaks the strong and balanced characters too and freeing from the claw of addiction to it is very difficult. So that the one who is addicted to Heroine, in order to get his/her desirable drugs is forced to contact and interact with the shrewd and mischievous persons. So, from the social point of view, this addicted person will retrograde which will finally be rejected by the society.

5.2 The relationship between drugs and crime:

The relationship between drugs and crime is reflected at least in three kinds of crimes.

1. The defined crimes related to drugs such as holding, misusing or sale of the deterrent drugs which are under the control and monitoring of government.
2. The crimes which are done by the users of drugs in order to earn money or buy further drugs or the crimes being done by the drugs addicts.
3. The organized criminal activities in the industry of smuggling of drugs such as money laundering or political corruption in supporting the business of drugs, ...

Whenever, the drugs finds link with another crime and are mixed with it becomes the subject of crime and are criminally prosecuted, because, studies show that only a small percentage of thefts and the bullying are related with drugs. And on the other hand, the review of the high rate of crime also indicate that many individuals have started their criminal activity before using prohibited drugs.²⁷

- **Addiction and its impacts on criminality:**

Despite the fact that in the year 1964, the World Health Organization came to this conclusion that the term addiction is not a scientific term and recommended pharmaceutical dependence instead of it. However, addiction is a complex and social phenomenon which is reinforced on the basis of two elements of behavioral and physical dependencies.

Thus, it can be said that the term addiction is the subject of sociology. According to the views of the experts of UN,

"addiction" is a constant and frequent poisoning which is created as a result of a natural or an artificial drug which finally leads to the creation of physical, psychological disturbances or psychological dependencies in an individual and the addicts shows a great interest in being under influence of drugs.

In addition, he has an intensive desire to increase the consumption and finally it cause his/her physical-psychological reliance and dependency on drugs.²⁸ More than 3% of the total population of the world and 4.2% of the population over 15 years of age in the world are addicted to drugs and amid this, 60% is the share of Asian continent, 20% that of the European continent and 20% is the share of other continents. Thus, their population amounts to 200 millions people, i.e. the consumers of hashish is over 144 million people, Amphetamines²⁹ 30 million people, Cocaine 14 million people and Heroine and others are 13.5 million peoples.³⁰

According to the studies which have been done on 1500 students of the age groups of 7 to 12 in Alaska, they have put three incentives for their addiction to drugs:

1. Compatibility and Adaptation with environment
2. Experiencing drugs
3. Influence in the same age group³¹

Addiction and consumption of drugs among the street children is also prevailing issue. In Toronto and Montreal, 100% of street children consume drugs and frequently, more than 600 poisonous materials such as nail vanish, butane gas are used for gaining

pleasure by these street children of which more than 30% are consumed in the American continent. 70% of the 40 millions of street children of Latin America are also addicted to glue. In the southern America, out of 10 street children, 9 supposed that they are dependent on glue.

The study and review of 550 street children in Egypt, Alexandria, Mumbai, and Rio de Janeiro confirm their use of materials ranging from alcohol to other drugs.³²

In Pakistan also, the poppy plantation is done to be converted into Heroine and part of the Afghanistan's opium is also imported into Pakistan in a cheap price, but it must be admitted that Morphine and Heroine of the western world are mostly supplied via Pakistan. The drugs are carried from Karachi by ship or by airplane to London, Frankfurt, New York, Chicago, Huston and Montreal. In Pakistan, every one minute, one person is addicted to Heroine and more than 1/300/000 addicted persons exist in it.³³

In 1984, in Israel, at least 350 thousands of Israeli's soldiers had exchanged their weapons with drugs and this phenomenon is broadly increasing in the army.³⁴ With a sociological view at the famous triangle of epidemiologic of diseases and disturbances, a comprehensive and general-oriented view about the involving factors in the formation and emergence of one disease or new situation under investigation is obtained.³⁵ According to the sociologists, in order to control the disease of addiction, it is necessary to review the type and quality of the situation of disease, disorder and also the facilities related to maneuvers and strategies

of prevention or treatment and by defining and interaction of three polar of the host (consumer), agent (addicting materials) and environment (social texture) to comment the research data and then make programming and implement it.

In line with this, the strategies of prevention for the control and correction of social behaviors of the addict has been recommended as a superior public model in the health of the society.

- **Factors of addiction:**

Today, the supply of drugs for non-medical purposes and its use by illegal consumers has resulted into a growing industry.³⁶ The consumption of these drugs has also affected the life of many people, in particular the youth. Usage of drugs is considered as a criminal behavior or a crime without victim of offense and the addict person finds a criminal character, i.e. his/her aggression is performed against himself/herself which is created as the result of individual's physical and psychological dependence on a drug. This physical dependency becomes apparent through disturbance and anxiety resulting from the depravity of the drugs and the psychological dependency is also manifested within the framework of attachment and irresistible desire to use the drugs. The gradual necessity of increase in the quantity of the drugs consumption which is done aiming at deterring the indisposition and anxiety is another factor which brings about desire and dependency.³⁷

The psychological reviews indicate that the situation of physical power and state of diseases and degradation of character which is

seen in addicts are mostly result from the psychological concerns such as losing the social position and also the fear of loss of wealth and their personal respect.³⁸

On the other hand, statistics show that from the time that motivation for addiction can comes when parental care among youth reduces.

The students of intermediate high schools and the young adults who go out of home without being accompanied or controlled by the elders, or young adults who feel insecure their bond where not given love with their family got disturbed and their view have been defeated in life or love and also the individuals who participate in wining and dining and ignorance parties are constantly more than others exposed to the danger of addiction.³⁹

- **The impact of addiction on criminality:**

Nevertheless, addiction has impacts on two forms on criminality directly and indirectly.

A) The direct impact which emerges in forms of crimes against individuals at the time of inebriety resulting from the usage of drugs, crimes against assets to buy drugs and crimes resulting from imprudence.

B) The indirect impacts which might emerge within the framework of crimes resulting from buying and selling drugs and other criminal behaviors such as prostitution and homosexuality.⁴⁰

- **The historical record of consumption and smuggling of narcotic drugs:**

One of the first references to opium could perhaps be found in the book of "Odyssey" of "Homers" in which there is a reference to a story where the king of Egypt offers a gift of narcotics under the name of "Nepenthe" to "Helen", "the king of Troia".⁴¹

In the legends of Homer, the name of an island has been mentioned in which the heroes of Odyssey were entangled in the cheerfulness of addictive materials and their release from this problem was not possible easily.⁴² This Greek poet has talked about poppy flower in his works and considered it as part of decorative flowers in the Roman gardens in 600 years B.C. Out of the remains of 7000 years ago, it is learned that the Sumerians were the discoverers of opium and consumers of it. They used to term it as "happy-making plant".⁴³

Poppy was famous as "Betaika" in Egypt⁴⁴ and the Greeks knew opium as "opium"⁴⁵ and in the old Hebrew it was termed as the salty material of "Rosh".⁴⁶ It is supposed that "vinegar mixed with Rosh" has been also offered to the Jesus Christ when he was crucified.⁴⁷ The ethnic European knew about opium in the beginning of Christian history and were using it as a medicine. The Hungarian botanists also knew poppy since 1200 B.C and were using its residue.⁴⁸

The Hindus, in the religious ceremonies were using Cannabis and it had medical usage among the Indians.⁴⁹ But addiction to opium

was laid down in India by the Portuguese. Some centuries later, the British spread and promoted it.⁵⁰ During the time of Mongol rule, the war elephants in India were given opium. At the time of occupation of India by the Englishmen, the Indian soldiers were addicted on the basis of a certain plan to feel less pain if being injured. Inside Taj Mahal, also an agate decorated vapor set is seen by which "Shah Jahan" used to convey opium into her own blood.⁵¹ According to some historians, among the ethnics, the Arabs and Mongols used to consume opium. In the ancient Iran and before Arab conquest, no record of opium is seen. But in the fifth century B.C., the Arab businessmen were importing the seed of poppy as a medicine into Iran and then were conveying it through Iran into China.⁵² However, some of the archaeologists put forth that the history of opium in Iran dates back to the time of Achaemenids, because they have found images of poppy on engraved rocks, but no further definite evidences have been found.⁵³

However, despite the familiarity of the Iranian in the old time with narcotic drugs, they were not addicts.⁵⁴ The Iranians were familiar with the usage of opium before the attacks by the Mongols and the consumption of opium among the people for medical consumptions and the supposition of its useful effects were prevailing. Moreover, Aboo Bakr Mohammad Ibn Zakariaye Razi and Sheikh al Reis Avicenna who were living before the aggression of the Ginghiz were fully aware with opium and its medicinal properties.⁵⁵ Some also believe that the spread of drugs in Iran made the disintegration of Safavid dynasty in 1135 A.H.⁵⁶

In the west also, the founders of America, Thomas Jefferson and George Washington were growing Cannabis and John Han Cook used to smuggle drugs in the period of marine siege by England.⁵⁷

In the record of the European colonizers also, it can be clearly observed that for greater influence of their colonizing policies in the Asian countries, the spread and promotion of opium and drugs business among the peoples of this continent are considered as their important programs and in fact, it becomes the starting point of the real expansion of opium and origin of the creation of addiction and the initial record of drugs smuggling at the global level.

The British East India Company was founded in 1612 and became active in the field of production of opium in Bengal as well as export to China. The main part of maintenance of the English naval force was obtained by selling opium to China. The business of opium in China is possibly one of the largest businesses of its age of which there is no parallel for it in any society.⁵⁸

The Chinese, while giving attention to this criminal action, quickly destroyed the warehouses full of opium in Canton port and prohibited the arrival of opium and banned its use.⁵⁹ As a result of opium wars (1839-1842, 1859-1860) the Chinese government was defeated and forced to accept the Nanking pact and freedom of business with the western and the colonizing state.⁶⁰ It was in these conditions that the export of opium to China amounted to the limit of 60/000 cases and the number of Chinese addicts also increased to forty millions.⁶¹

Thus, the westerners were delivering opium to the public in a cheap price and were buying its burned residue at exorbitant price for a long time and after becoming assured of vast contamination, suddenly, they gave up buying and left the big issue of addiction among the eastern nations.⁶²

LCN, i.e. the Italian criminal groups (La Cosa Nostra Or Mafia) were also emerged in Sicily since 1800's. At present, they are the pioneers of drugs smugglings in Italy and are the largest criminal group in America which due to potential interests in the drugs smuggling in organized form, compete with each other in its market.⁶³ Today, however the region of golden triangle including Burma, Laos, and Thailand and the region of golden crescent including Afghanistan, Pakistan and Iran are famous in the world for plantation, reaping and transit of opium⁶⁴, but at the top of pivots and basic networks of production of hashish and its derivatives such as L.S.D., Marijuana and ecstasy tablets, there exists American countries in particular South America.⁶⁵

- **The global industry of drugs trafficking and foundations of belief in decriminalization of Narcotic drugs in the West:**

Trafficking means to import or sending out (export) of goods whose arrival or exit (into a country) is prohibited or is under the monopoly of the government.⁶⁶

In accordance to the Conventions 1961, 1971 and 1988, the smuggling of drugs has been defined as a group of activities including plantation, production, making, distribution and illegal

sale of drugs and the organization, management and or financial administration of these activities have been considered as crime.

In England, in 1857, a bill was taken to the Parliament as the "Bill on Poisons" to control on the sale of medicines which contained opium. After a long series of discussion about it, in the year 1860, opium was recognized as a medical and social dilemma. It was placed in the row of other poisons. In 1861, the Parliament approved a canon on this case and that canon can be considered as the first legal record of drugs smuggling in England.

In 1906, the Americans approved the law of food and net medicines which the implementation of law associated with smuggling and legal ban of drugs.⁶⁷ In 1999, the production of drugs in the whole world amounted to 5795 tons. Amid this, more than 78% of this production was allocated to Afghanistan.⁶⁸ The government of Karzai which came into power after the 11th of September, from the very beginning did not wish to bring about the dissatisfaction of 200 thousands families who were relying on opium trade, because in Afghanistan, each hectare of lands under the poppy plantations creates job for about 9.5 people, so that in 1999, the lands under plantation in this country amounted to over 90 thousands hectare which created job for one million people.⁶⁹ On the basis of the suggestion made by the World Health Organization in 1964, addiction is called pharmaceutical dependency and it causes chronic and returning mental disturbance whose durability emerges on the basis of the element of behavioral and physical dependency.⁷⁰ The industry of drugs smuggling is one

of the organized crimes and subject of convention of 1998 in Palermo which has been signed by the Iranian government in 2000 but still it has not become part of the country's canons.⁷¹ The term of drugs smuggling [trafficking] entered into the literature of countries' criminal law since the end of 18th century.⁷²

- **Classification of countries in the global industry of drugs:**

In the global industry of drugs, countries and regions are divided into some categories;

1. The producing countries such as Afghanistan, Myanmar and Peru
2. Transiting countries such as Mexico, Thailand and Turkey
3. Preparing countries ⁷³such as Pakistan and Columbia
4. Servicing countries such as Panama
5. Large consuming and distributing cities and regions such as Bangkok, Hong Kong, Huston, Istanbul and New York

Amid this, the trans-national criminal organizations play the role of linking circles among these three categories of countries.

The tans-national criminal organizations are comprised of organizations ranging from superior structure to small networks and are flexible, dynamic and different. Some of them are comprised of a clear, professional hierarchy with in trained members and with a global reach directly active in the industry of drugs. These organizations become highlighted mostly by a good

business understanding and also an effective and efficient managerial system based on generous financial assistance and heavy fines with intelligence and counter-intelligence capabilities and considerable and trans-national jumps.⁷⁴ When an organized crime passes the national borders of one country, the organized crime is called transnational crime.⁷⁵

In the definition of organized crime, there is no consensus in the UN. The European Union has also prepared a list consisting of eleven features.⁷⁶

The Latin America has a long experience of dealing with an organized crime having strong influence through continuation in the sector of the system of local of regional and also national economy and in the new liberal systems of Central and Eastern Europe, due to social and political instability resulting from quick transfer of power, these organizations have been developed from mono party systems to the system of multi parties.

The Scissile Mafia of Italy , the organized gangs of Russia, the three fold criminal groups of Chinese Tirade, the drugs trafficking groups of Nigeria, armed forces of Jamaica, Japanese Yakooza and Columbian cartels are the most eminent trans-national criminal organizations in the world which deal with the illegal activities such as drugs trafficking, buying and selling of nuclear materials, human, children and women trade (trafficking), buying and selling of precious metals, stolen cars, members and organs of body, consumption of dangerous rubishes and so on.⁷⁷ The below Table shows 19 types of organized transnational crimes:⁷⁸

<ol style="list-style-type: none"> 1. illegal trafficking of drugs 2. money laundering (cleaning the illegal incomes) 3. terrorist actions 4. stealing the artistic and cultural works 5. stealing the rights of intellectual properties 6. illegal smuggling of arms 7. hijacking 8. piracy 9. rubbery 10. tax fraudulence 11. computer crimes 	<ol style="list-style-type: none"> 12. crimes related to environment 13. human trafficking 14. illegal trafficking of members of human body 15. false bankruptcy 16. Influence in legal and legitimate business 17. bribery and suborn of political officials and representatives of people 18. bribery and suborn of governmental officials 19. other committed crimes by organized criminal gangs
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• **The factors for the emergence of drug trafficking gangs:**

The emergence of trans-national criminal organizations and drug trafficking gangs are a result of three factors: Opportunities, pressures and incentives, global and national resources.

The first factor) Opportunities; These opportunities are noticeable in two global and national scales:

a. In the global scale:

The speed and easiness in international transportation have increased the capability of traffic and transfer of goods and services from the national borders. For instance, Venezuela traditionally has played an important role in the marine transportation of goods from South America to USA. Thus, the drug traffickers have benefited. Amid this, the role of Hong Kong also, as a center of storing goods which has been changed into a center for distribution of the smuggling of Heroine to USA and West Europe should not be ignored. The growth of global business also along with gradual evolution of global financial networks has made difficult for the government to control the movement of traffickers within their national borders. Some cities in this economic and financial global system has been substituted with the former port cities and mostly with the establishment of different economic and social networks and by facilitation of border transactions in fact have provided a ground for the development of criminal organizations.

The growth of global financial system also has caused the weakness of the control of governments towards the financial network and monitoring of the money laundering and on the other hand, it has provided this possibility for the transnational criminal organizations that they send out and launder easily and with a relative immunity the income and financial resources resulting from their illegal transactions in electronic form quickly. The

mutual dependence of the process among countries, end of cold war, ill-accumulation of arms too are among the opportunities at the global scale.

b. At the national scale:

The existence of weak, passive, corrupt governments has created the grounds for the criminal organizations. In the South America, such as Bolivia, Columbia and Peru which were not having state government control, the large organizations of drug trafficking, due to lack of the legitimacy of government and weakness associated with the government, have become the realm of invasion, advancement and resistance of the industry of drugs and thus, in Columbia, they created greatest opportunity for Medellin and Cali cartels. The rebel groups such as M19 group who attacked at the Justice Palace of Columbia have found joint interests with these large organizations and for stabilization of their political position are directly involved in drugs trafficking and or indirectly, through taxing towards contrabandists to use its interest. The reconciliatory relations with other governments too, in terms of needs, were of other tactics of Columbians cartels. The countries enjoying the territorial integrity, such as Bahamas as a transit country and Panama as a country, place of sale are the arena of their corruptive activities.

On the other side of the world, the heroine industry like cocaine exists mainly in two countries of Afghanistan and Myanmar which are two main producers of opium in the world, due to the weak, instable and troublesome government.

In Shan province, which is the most important region as far as the production of opium is concerned, the rule of Myanmar government is weak, because opium has become an instrument for the possibility of equipping and made the different armies of the ethnic and revolutionary groups and has made this country into the large producer of heroine. The Chinese criminal organizations in Hong Kong and Thailand have reinforced and developed the key relations and linking bridges between the exporting countries of opium and consuming countries of heroine. The Triad K14 of Hong Kong traditionally has the heroine business to the Netherlands under its ruling.

By dissolution of Communism in the Soviet Union and disintegration of criminal justice system, the criminal organizations in the newly independent republics have showed themselves strongly and the groups under the pressure of Communist party have become so active. About 3000 criminal gangs, in almost 150 Russian confederations got absorbed in the Azeri and Chechnya groups whose activities are not only on drugs, but also nuclear materials, metals, arms and even members and organs of body too. The judicial officials and the police in Germany have reported that in 1993, they have prosecuted and investigated more than 230 cases of smuggling claims of nuclear materials and also smuggling of 300 ton of magnesium from Russian Federation to the Western Europe which has been the subject of activities of the contrabandists.

In Pakistan, the government does not impose any limitation on opium trafficking and prosecution on this issue is done very little. Due to the lack of powerful government, the production and trafficking of drugs are having, ideal local grounds for the transnational criminal organizations.

Narco-crazy, in the early of 1980's was directly related to organization of trafficking of Roberto Suarez and thus the government was deeply involved in narcotic drugs business and in this situation, freeing the military government from the chain of smugglers was impossible.

The second factor) Pressure and incentives for the creation of criminal organizations:

a. At the global scale:

What was recognized in USA as relative non-harmful narcotic drugs cause the increasing growth in demand and further inclination towards narcotic drugs and became an incentive to enter into the business of drugs trafficking. The establishment of obstacles for less import and anticipating a heavy punishment created an unbearable combination. Therefore, the illegitimate ways of economic progress became an interesting and attractive alternative way of earning for poor & destitute, for example, what will be indeed the selection of the villagers of Bolivia, Myanmar and Peru between selection of poverty and production of cocaine and opium? In addition, the traditional instabilities of the markets of goods of agricultural sector as compared with cocaine and

opium which enjoy a rather intensive and high demand provide ideal business conditions which provided incentives to the farmers towards plantation and cultivation of cocaine and opium. The global financial system which place emphasis on free business than justice encourages the increase of production of drugs paved the way for the emergence of transnational criminal organizations in the developing countries. In addition to this it indicates the crippling economic problems among developing countries. The survival and success of Cali cartel as a trans-national company proves this fact. For this very reason, some believe that the further economic stability and increasing progress of Colombia in the end of 1980's and early 1990's are indebted to the active cartels in Columbia. The global economic inequalities, instabilities of markets of goods and condition of financial system also should be included to the factors, responsible for growth of drug trafficking and international pressures.

b. At the national scale:

Poverty, economic disparity political riots and social displacement are of the most important reasons for the emergence of trans-national criminal organizations. The economic disorder creates conditions that causes these criminal organizations to emerge as positive force rather than been seen negatively, because, in order to reinforce their physical presence, they need to justify their activity and to employ new forces. The Medellin cartel, as the center of industry of cocaine smuggling, by adopting its policy of degradation as a producer of textiles, could achieve to the least rate

of sympathy with the people of the region, because in this case, in addition to reinforcing of its counter-intelligence capabilities, it brought about a situation to deter any effective measure by the government against organizations related to it and thus made any confrontation with that also more difficult and more complex. In Nigeria also, in which the reduction of prices of oil gave rise to the establishment of transnational criminal organizations, suddenly, the people from all aspects found themselves facing intensive limitation and consequently , it brought about the emergence of criminal organizations which was in fact a reaction to the economic hardship of people.

The third factor) Resources of criminal organizations:

a. At the global scale:

In addition to the previous issues, different human resources and existence of migrated ethnic populations and growth of ethnic networks have been very influential in increasing the measures of transnational criminal organizations. The Columbians in America, The Turks in the Western Europe, the Pakistanis in the England, Northern Ireland and USA, the Nigerians in the whole South East of Asia, West Europe and USA are spread and have easily allocated part of their human resources towards the internationally organized crimes and they have created and reinforced the structured network of preparing the illegitimate goods. The Chinese and Pakistanis, with a greater talent, by being active in the business and commerce fields, have created appropriate a coverage for the activities of the criminal organizations. These ethnic networks also

enjoy other features such as factors like language and culture which create internal-made defense mechanisms.

The Nigerians, despite their eloquent English speaking have different local dialects which in fact reduce the power of control of the electronic care of sets and also the profitability of the eavesdropping about their criminal gangs. In other words, through non-technological ways, they paralyze the implementation of the super-technology canons. The sensitivity of implementation of canons related to the rights of minorities is also another deterring factor in confronting with drug trafficking in some countries.

b. At the national scale:

Culture and tradition are of the other important resources of these transnational criminal organizations. The Nigerians whose country was the colony of England have grown in an atmosphere that has encouraged business, traveling and communication. So after the growth and progress at end of the 1970's in oil industry of Nigeria, the business in that country also developed. But by supplying more than oil demands, at the early 1980's and following that the fall of prices, a number of skillful and tough young businessmen and dealers tended to criminal activities and heroine trafficking through credit cards.

In Columbia also, the trafficking and business of goods have root in the period of Spain colonization. The industrialization increased the process of smuggling at the end of 1980's. The incomplete enforcement of codes by the governments, lead to industry of drugs

trafficking, corruption of governmental institutes are among the other local factors in the field of the resources of criminal organizations. One of the large obstacles to enforcement of code in USA is the corruption resulting from taking bribes by the Federal, States representatives and the local police agents, judges, attorney general and political officials. Enormous amounts have been supplied by the Colombians cartels.

The geopolitical position of a country and language are also of the sources of criminal organizations. Jamaica and Mexico, due their geopolitical positions have been converted into the points of natural transfer of cocaine. At the same time, as it was stated, language has had an influential and determining role. The Nigerians have taken broad measures in USA and Britain and the Columbians also due to common language have converted Spain into the large gates of cocaine trafficking in the Europe.⁷⁹ By viewing and analyzing the aforementioned materials, it is concluded that three factors of opportunities, incentives and also resources, have created such a link at the global and national levels that not only have brought about the creation and emergence of transnational criminal organizations and drugs trafficking gangs, but also they encourage and help them in the national and international activities.

- **The activities of UN to control the transnational crimes:**

In relation with control of narcotics drugs crimes at the international level also, some measures have been adopted. With the beginning of the activities of the UN to control the transnational crimes in 1975, the sector of prevention of crime and penal justice

of UN, "CPCJD", suggested the plan in order to reinforce cooperation on taking measures against laundering, the illegitimate capitals including illegitimate capitals resulting from drug trafficking and established an internet network for the development of basic data.⁸⁰ On the other hand, holding world conferences, 1975 Geneva, 1980 Caracas, 1985 Milan, 1990, 1992 and also from 21 to 23 November 1994 in Naples, are a set of efforts which have been conducted for prevention and control of transnational crimes by the UN. The documents of UN on children also have an emphasis on fighting against drugs and respective crimes. The Convention of 1988, considers the act of victimizing or using the children and the young adults in the field of drugs as the intensifying reasons of a crime.

At the same time, under the supervision of mafia network, thousands of children and young adults have been organized in particular to distribute narcotics drugs and carry and transport the Arms. The Pakistani children in Saudi Arabia have been detained for the accusation of activity being arranged in carrying and moving drugs inconspicuously with adult criminal groups.

The Council of Europe in the year 1984 also approved a resolution against misuse of drugs and its trafficking in which a specific attention has been paid to the children and young adults.⁸¹

As it was said, in the year 2000, in Palermo, another protocol on drugs trafficking and confrontation with organized transnational crimes was approved and in the year 2002, also the Commission of

Drugs of UN (UNDCP, INCB) with change in the title as "UNODC" was approved and established.

- **Foundations of belief in decriminalization of narcotic drugs in the west:**

Now, it is the turn to deal with the details of the reasons and foundations of belief in decriminalization of drugs from the viewpoint of reformists in the west.

As it was stated, today, more than about five percent of the population over fifteen years are addicts and addiction and drugs trafficking cause spending enormous costs in diverse dimensions. On one side, it has created the costs of the system of penal justice in fighting against contrabandists, and on the other hand, it has created pressure of costs on health indexes of the society due to treatment, correction and rehabilitation of addicts. On the other side also, it creates social corruptions resulting in the disintegration of families and damages the living environments and academic fabric.

Despite these investments, the situation is still unpleasant. Amid this, a group believes that through decriminalization and inclination towards withdrawing and non-suppressive strategy, the addicts should be corrected and treated and the costs on human and financial resources would also decrease. They say that the imprisonment punishment is not the correct way for confronting with its consumers, because they argue that, the individuals should be also imprisoned for smoking or obesity or telling lie which are harmful to them. Prison does not correct the addict, but also its damaging consequences including depravity of freedom, family,

friends and career also entangle the addict. In addition, the non-ethical environment of the prison also pulls him and even his family into the abyss of annihilation. The enforcement of punishment is against the foundations and principles of free society to implement justice because the penal codes and enforcement of any kind of policy for punishment should have a just justification.

According to Husak, "despite determining and enforcement of very heavy punishments, 40% of the youth over 12 years old and 60% of the students of high schools in America have experienced it and more than two millions were in prisons of America in 2000 which shows a tree times increase as compared with the statistics of 1980 and this indicates the social crises, extension of penal policy requires greater capacity of prisons leading to unprecedented rise of costs.⁸² Most of these prisoners accumulated in the American prisons are related with drugs which is shameful!"

He adds, "detering of drugs in America is due to high budget and cash liquidity which that country in addition to cost, on personnel incur the cost of constructing more prisons and administer them. The war against drugs in practice has not reaped any fruits, because fear of punishment has not deterred the consumption and drugs trafficking".

Statistical results show increasing trend of drug addiction. The question is raised whether there is basically a need to such a fight?

On the other hand, a group of the jurists and criminologists believe that though punishment on drugs should not be abandoned, but

through decriminalization of drugs for recreational use, the policies should be directed towards rehabilitation and treatment and not punishment. They feel that obligatory treatment is a kind of punishment. Since Plato also philosophers have tried to explain the nature of just punishment in a civil society as a value. Some of the philosophers such as Andrew Weil have speculated that the desire to alter consciousness periodically is an innate normal drive and have paved a radical way in their orientation towards drugs and believe that it is necessary to have a tendency towards change the temper of mind.

Coleridge, the poet also says that his artistic creativity and versifying lofty poems were indebted to opium.⁸³ So, this group believes that if recreational use of drugs causes spiritual enlightening, it has positive value and the government does not have many reasons to enforce prison punishment and the policy of prohibition and iron rule also will have damaging results. These damaging results are:

Waste of the costs, corruption of the police through addiction and taking bribery, tendency of consumers to purchase or procure for personal consumption, through illegal means, increasing the price of drugs and the flourishing the economy of drugs smugglers, application of racist policies in fighting against drugs by the police in particular on the case of the negroes, decrease of the mortality rate in particular among the black, because on one side consumption of drugs and on the other side, due to the fact that canon deals with them stricter, this becomes the factor of their

death. Though, this trend of thinking believes that strictness towards consumption of Marijuana which at present is less harmful than other drugs, might lead to the creation of another more dangerous.

The codes of drugs should be just and logical keeping in view the philosophical, psychological, social and economical aspects. Such policy is beneficial which requires the review of the stringent penal policies.

The viewpoints of this trend of thinking, is not having a consensus on presenting a specific definition on decriminalization and legalization of drugs in the west. There are some relevant questions. How the code can be considered as a just law? What are drugs or what are considered as food? And if a food or a plant is a bad medicine and have negative impact on body, how should it be defined in the policy of drugs? Does drugs have a medical objective or non-medical one? What could be the punishment of the second category? Cash penalty or imprisonment? Should the recreational consumption or consumption of a little quantity of drugs have punishment too? Should using the energetic or sexual force stimulant which might have impact on brain be considered as part of drugs? So, in this case, should the athletes or consumers of them to be delivered to prison too? How about the medicines being used for committing suicide? And that a medicine for what and to what quantity should be prescribed by a physician is by itself an issue. Does decriminalization of drugs lead to the possibility of production of less harmful drugs by pharmaceutical companies?

Does the concept of decriminalization of drugs mean that all things should be free or does it consider only a specific limit and to a certain extent? Does decriminalization mean education, prevention, rehabilitation, correction and treatment? What are the obstacles of decision in making an effective and efficient decriminalization? Is decriminalization of drugs the same as of legalizing an act ? And finally by decriminalization, what would be the destiny of the producers, sellers and contrabandists of drugs?

Putting forth such questions by reformist's trend, indicate that in the west it is not possible to find an integrated and comprehensive definition of decriminalization and or legalization of drugs.

- **An Overview:**

It is observed that the disciples of decriminalization believe that with regard to the social changes which is occurring, and on the basis of the health considerations and psychological and social health and public interests, by measuring the merit and demerit of decriminalization from the social and economic points of view, firstly the realities of drugs should be clarified and then in the next stage, the more correct and more comprehensive policies such as mechanisms of restorative justice should be designed in collaboration with the international community on drugs. They believe then the policies based on aforesaid consideration will not only be just but also will be convincing from the ethical point of view.⁸⁴

- **The reasons put forth by the cons:**

The critics of decriminalization of drugs in the west also believe that the psychological and physical damages resulting from consumption of drugs by the patient individual and others is such considerable that its usage must remain as a crime and even its method of medical consumptions should be monitored and its impacts on long term should also be reviewed. From their point of view, many of individuals due to the enforcement of code do not move towards drugs and those who add fuel to the decriminalization are in fact the same consumers of drugs which even it is possible to be among the officials and white collars too. Among the reasons put forth by this group, at least two main reasons can be mentioned:

- 1. From the cultural and social point of view:**

With regard to the scientific proof of damages of drugs, its usage will damage and destruct the life of people in particular the youth of the poor communities and even, the consumption of limited quantity of drugs can bring about addiction and is destructive and the lack of confrontation with its consumption will make its repetition. So that decriminalization of materials such as Marijuana is a gate to enter to consume harder and stronger drugs and to remove the punishment is not the solution to the problem. Moreover, it should be modified and decriminalization of drugs and omission of punishment have some consequences which bring about concerns.

2. From the political and economic point of view:

The irregularities resulting from the consumption of drugs misuse, in addition to rising the rate of its consumption, will cause increase of affiliated costs too. For example, the usage of drugs by the pregnant women. If the drugs to be decriminalized, or to be legalized, the tax system is also applied and in that case, not only one should think about mechanism to reduce the damage of drugs on the society, but also the price of drugs increases and lead to great profits in the sector of underground economy. In addition, decriminalization of drugs can cause regional and international reactions and can have negative impacts on the economy of the decriminalized country.⁸⁵

5.3 Decriminalization of drugs in the European Union, U.S.A., Iran and Islam:

The criminal policy of Europe:

a. Drugs and social situation at the level of countries of the European Union :

The European Union has about 1.5 millions of addicts. Between two to seven people of per thousands inhabitants whose ages are between 15 to 64 years old, are consumers of problematic drugs. These individuals are mostly addicted to heroine and in addition, they are addicted to cocaine (along with alcohol), amphetamine, ecstasy and also strong consumers of hashish.

The models of consumption of drugs also are changing, and so that, the ratio of referring of addicts in particular the youth to the medical centers for treatment of cocaine and hashish is to some

extent growing. But the treatment of heroine is reducing. The referring people to the treatment centers are usually men between the ages of 20 to 30 years. The possibility of damages of nerv resulting from the intensive consumption of ecstasy is also increasing. Most of the consumers are deprived of primary education to the professional teachings, career and accommodation.⁸⁶ In the prisons of the most of the member countries of the European Union, drugs are consumed. Some of the prisoners experience the consumption of this drug from prison and 70% of them also use shared syringes. In order to prevent of epidemic diseases and dangers resulting from common needle, the organization of Spain prisons in 1999 recommended that the possibility of replacing the syringe in all prisons to be possible.⁸⁷

The density of criminal population, lack of training of the staff of prisons and lack of follow up of treatment after freedom of inmates has also created many problems. In the European Union, the consumption of drugs can be pointed out in some of the ethnic margin inhabiting groups. The depravity of these minorities from specific services in relation with drugs which have been created as a result of difference in language and their specific culture has brought about many problems. In the second half of the 1980's and beginning of 1990's , the mortality rate due to over dose of drugs and poisoning resulting from that had increased gravely, however, the trend of this diagram has remained stable at present, but in the countries which are members of the European Union, its curve is flexible.⁸⁸

b. The criminal policy of the European Union:

In order to shape the monitoring models and successful treatment of increasing applicants of misuse of drugs, in September 1999, in Helsinki, the five year strategy of drugs of the European Union with six main strategic objectives was approved. Which are as follows:

1. To increase cooperation among the youth organizations, social organizations and also traditional organizations of drugs for treatment.
2. To give special and specific services to pregnant women, mothers, children and also prostitutes in all countries of the European Union.
3. To increase treatment of concurrent consumption of a few drugs by the public health and psychiatry department.
4. To expand treatment based on replacing in terms of applicant and type of using drugs.
5. To increase awareness towards the necessity of monitoring addicts discharged after the treatment centers or prison and or for the individuals who are under the long term alternative treatment.
6. To deliver increasing conditions of treatment for the addict prisoners so as to deter them to return towards addiction and committing crimes again.

Greece, Spain, Ireland, Austria, Portugal and Finland have made massive efforts to save the addicts and help them to return to the bosom of family and society and their rehabilitation. In addition, also German, Greece, Spain and Ireland have included basic training and technical courses of agriculture and labor skills with computer in their programs and thus, they have put the support to the released prisoners of drugs at their blueprint. Because, in this way, on one side, it will deter the misusing of drugs and on the other hand, it will make the return of prisoners of drugs to the society possible.⁸⁹

‘Alternative treatment of prison’ and ‘mechanism of decriminalization and de-penalization’ adopted by the European Union are as follows:

i. Alternative treatment of prison:

In the end of 1960's, the consumption of drugs was very prevailing. In order to reduce the damaging consequences of drugs consumption, the European Union by adopting different methods replaced treatment with prison to achieve the effective and faster treatment of drugs addicts (either those who are in prisons or those who have not entered into the penal process).

In this process, the addicts under treatment (including the narcotic drugs or non-narcotic drugs) by consuming alternative medicine, [Anty Egonist] or Egonist⁹⁰ which are similar to the drugs being regularly consumed by them are de-poisoned. These medicines also eradicate the effect of the narcotic consumed drugs or consumed

Opioid. This support extended to the process of reduction of drugs consumption continues up to the time of reaching to zero of the endangering behavior of addict and even it may be continued in a long term process. In this treatment method, the possibility of concurrent use of medicines such as Methadone or Buprenorphine which have both Egonist and Anty Egonist properties also exist.

Though, the "alternative treatment" is welcome by the European Union, but presenting these services in Greece, Finland and Sweden has covered a limited geographical region and even in the prisons of the member countries of the European Union , the alternative treatment services are also flexible and despite the increase of assessments on alternative treatment, in the last five years, most of the member countries have announced the lack of a qualitative control system of monitoring and assessment of individual programs.⁹¹

ii. Mechanism of decriminalization and de-penalization:

Decriminalization of drugs is another method which has occurred in most of the countries of the European Union and is in the process of evolution. This theory as was stated is opposite to imprisonment of the consumers of drugs due to their addiction and despite the approval of the Convention of the year 1988 ⁹², it recommends the alternative solutions of prison. Most of the European countries believe that in confrontation with consumption of drugs, one should take steps with greater prudence.⁹³

The enforced policies in this field, by some of the European governments are samples of such an attitude which are reviewed.⁹⁴

-Germany:

a. Criminal policy of Germany:

The canons (1973-1981) considers the possession of drugs for its consumption specifically as a crime and from the legal point of view, it will have a punishment of between 3 to 6 years of imprisonment. If the consumer of the drugs has started treatment, it is possible to suspend the implementation of the punishment for at least two years, though, the consumption of drugs has not been specifically criminalized.

b. Judicial performance and procedure:

In April 1994, the Court of the German Constitution in Karlsruhe, while admitting the criminal characteristic of the act of possession of drugs recommended that the holding and carrying a small amount of cannabis for its consumption should not be prosecuted any longer. In this country, keeping narcotic drugs for trafficking or illegal business of drugs, some punishments have been provided in the codes; the imprisonment from 1 to 5 years and in the case of the aggravating circumstances, up to 15 years imprisonment are applicable.

-Italy:

c. Criminal policy of Italy:

Carrying drugs and its sale or buy have been subject to punishment every times. So that the principle of illegality of drugs is not reconcilable. Fighting against drugs has not been associated with success in the policy of Italy. Since 1988 to 1990, the Socialist party had an important role in legislating rules. With the increase of the victims of heroine, on 11 July 1990, two viewpoints of punishment and treatment were put forth. The conducted researches in relation with the two mentioned viewpoints and increase of inmates caused that the pros of change of law to be increased and finally the mechanism of treatment was selected instead of prison.⁹⁵ During 1990 to 1993, despite the prohibition of the consumption of drugs, the canon had not considered any punishment for it. At the time span of these years, at the time of arrest of addict person, two expert-advised measures were applied on the addict:

1. to review and to determine the exact quality of drugs in possession
2. to confirm the existence or lack of existence of the status of dependency on drugs.

This system of reviewing, due to complexity was defeated. By holding the referendum of the year 1993, the consumption of drugs was decriminalized, but determining its quantity was shifted to the

discretion of attorney general. The general governor also enforced the consumer to treat himself.

d. Judicial performance and procedure:

The canons (1975, 1990, and 1993) have shaped the base of the function of the judicial organization on the issue of drugs. The suspension of driving license, cancellation of passport and dispatching to do public utility services are the administrative implementations of punishments for an addict were the measures taken against addict who refuse to treat himself. Possessing cannabis will have an imprisonment from 2 to 6 years and in the case of other drugs, also imprisonment punishments ranging from 4 to 15 years have been provided.

-Austria:

e. Criminal policy of Austria:

In the approved canons of (1971, 1977, 1985), drugs consumption has not specifically criminalized in Austria. Possessing drugs for its consumption does not come to be criminalized but possessing drugs under the title of trafficking is an act criminalized under the penal code. Up to five years imprisonment has been forecasted for the punishment of keeping drugs under the title of smuggling and its illegal business.

f. Judicial performance and procedure:

In this country, in the cases that the consumer, accepts the addiction treatment, the attorney general has right to give up his prosecution.

-Spain:

a. Criminal Policy of Spain:

The canons approved in 1983, 1988, 1992 on drugs are the bases of the functions of courts. The canon of 21st of February, 1992 has considered all drugs including cannabis. In this country, earlier the consumption of heroine was free. (This has brought about sorrowful consequences). The consumption of drugs in the public places is a crime and possession of it for consumption is subject to administrative punishment.

b. Judicial performance and procedure:

Fine or suspension of driving license is the punishment of drugs consumption in public places which are imposed by the mayor in the small cities or by general governor in the large cities. Fine, suspensions of driving license and so on are also the punishments for those who possess drugs for consumption are imposed in the same way by mayor or general governor. Usually, the nature of drugs determines the grade of intensity of administrative punishments. The courts, award punishment for possessing drugs and smuggling. 10 to 17 years imprisonment for cannabis and in

the case of other drugs 14 to 23 years imprisonment punishment is enforced.

-England:

Annually, 800 thousands people are arrested in England in relation with drugs.⁹⁶ Also the English young adults tend to heroine from 15 years old onwards and every year, more than 600 people are added to their numbers.⁹⁷

Half of the British people also consume ecstasy at the weekend.⁹⁸ At present, the consumption of heroine has decreased among the people of having age between 21-40 years. The research was conducted for reviewing the policy of fighting against drugs. Such research was conducted by studying 20 dangerous materials (including 15 illegal drugs and 5 legal drugs) by two groups of the physicians and psychiatric experts and its results have been presented in form of the following Table, all show that despite the legality of using alcohol and tobacco, their consumption is rather more dangerous than consumption of ecstasy.⁹⁹

Narcotic Drugs	Study ranking	Legal classification
Heroin	1 (most harmful)	A
Cocaine	2	A
Barbiturates (sedatives)	3	B
Methadone (opioid)	4	A
Alcohol	5	Legal
Ketamine (anesthetics)	6	C
Benzodiazepines (sedatives)	7	C
Amphetamine ("Speed")	8	B
Tobacco	9	Legal

Buprenorphine (opioid)	10	C
Cannabis	11	C
Solvents	12	Legal
4-Methylthioamphetamine (derivatives)	13	A
LSD	14	A
Methylphenidate (i.e.Ritalin)	15	B
Anabolic Steroids	16	C
Gamma 4-hydroxybutyric acid (anti-depressant-relaxation-rape drug)	17	C
Ecstasy	18	A
Alkyl Nitrites (Nitrites inhalants, "poppers")	19	Legal
Khat (plant-derived stimulant)	20 (least harmful)	Legal

Three main standards for classification of these drugs, from the viewpoint of their dangerousness were:

1. the degree of bodily damage on consumer
2. reviewing the potential of drugs to create deviation or dependence
3. degree of destructive and sinister impacts of drugs on society

a. Criminal policy of England:

It must be said that the most important canons in relation with the control of drugs in England include:

Code of Misuse of Drugs (1971), Code of Criminal Justice, (international cooperation 1990), Code of Crimes of Drugs

Business (1986) and Code of business (smuggling) of Drugs (1994).

In order to remove the complexities of crimes of "possessing", the England Parliament approved the Code of Misuse of Drugs (1971). According to this code, the dangerous substances are subject to criminal regulations. The Code of Misusing of Drugs (1971) have been applied to following three classified groups:

Group a:

Most dangerous drugs that includes opium and natural derivatives of its synthetic such as morphine, heroine and cocaine.

Group b:

Drugs including cannabis and amphetamine.

Group c:

Least dangerous drugs which include Pemoline stimulant.

In defining of the term of "controlled drug", the Law of Misuse of Drugs of 1971 reads:

The controlled drug include any kind or product which at present have been specified in the parts 1, 2, and 3 of the list 2 of this code [Part 2(1)]. Also production and supply (or offer to supply) of the controlled drugs is illegal [Part 4(1)] and possession of controlled drugs is also against the canon [Part 5(1)]. Planting of plants of the type of cannabis is also a crime [Part 6(1) and (2)]. Also in part 9 [subject of prohibition of some of the activities related to opium]

reads: With regard to the Part 28 of this code, someone who smokes the prepared opium or use it in another form or stroll at the place of smoking or possess opium is criminal and this will bring about the sealing of the used instruments or the instruments which were intended to be used or the others who have been given permission to use those instruments. Admitting the addiction, following detainment of the person in England will lead to a heavier punishment.

In addition to this canon, in accordance with the Act of Crimes of Drugs (1986), when a person benefits from the business (trafficking) of drugs and is convicted for the respective crime, the court issues a decree to detain him, "the financial judgment debt" is the revenue resulting from the business of the offender. Also, the code of Business and Trafficking of Drugs (1994) reads; production or supply of a controlled drug in the case which production or supply violates the Part 4(1) of the Misuse of Drugs Act (1971) or an equal code to it, either in England, or Wales or other spots is considered as a trafficking act [Part1(1)].

In accordance with [Paragraphs B, C, D. E, G of Part 1(1)] , transport or storing, importing or exporting, making and its supply, using ships for illegal business, using a property to produce or do business of controlled drugs are considered crimes too.¹⁰⁰

a. Judicial performance and procedure:

With 316 in favour 160 votes, the status of Marijuana has been changed from the drug of the class B into class C. This measure has

been conducted by the approval of House of Common and has been enforced since 2002. However, this measure is incomplete, but it is considered an important step towards decriminalization. According to this canon, the police don't arrest those who consume this substance any more, but the punishment of Marijuana sale increases, an issue which might pushes the consumers towards heroine sellers.¹⁰¹ Also, in England, in order to reduce the consumption of drugs, the treatment method by resorting to the medical model and also treatment model during the penal process and exercise of punishments are used too.

The physicians have no specified limitation in prescribing Methadone and mostly, Methadone is supplied by the retailing drug stores with the aim of unmonitored consumption.¹⁰² The issue of illegal supply and possessing of controlled drugs is considered as "a social evil" by the British courts which justifies the imposition of a little responsibility.

In the case of MPC against Warner, the House of Lords stated that the Canon of Deterrence and Misuse of Drugs (1964) upon which illegal possessing of banned drugs are considered crime, concerning the type of drugs being at the disposal of defendant, (the accused person), the crime creates full responsibility but it must be proved that he had known that "something" was at his disposal. So that if the drugs has been put into his pocket, he could not be offender, because he was not aware that he holds something. However, if he had known that he had a kind of package but had not known that it contained powder of cocaine, it is necessary to

pay attention to know about the type and quality of the contents of package. In case, he by mistake he was sincerely thinking that the package containing boiled candies instead of cocaine, it is learned from the remarks of the majority that he will be acquitted. However, this issue might depend on factors such as: the opportunity of defendant to check the contents and existence of factors which might create a suspicion in his mind that it is likely that the package contain narcotic drugs. On the other side, if he was aware of the type of package contents, but he was in mistake about its quality, for example if he thought that the package contains sherbet powder, he might be convicted. Part 5 of the Act of the Misuse of Drugs (1971), considers the ownership of controlled drugs as a crime which according to its Part s 28(3)(b)(i) even after the attorney general has proved this issue, the defendant should be acquitted if; "...he/she proves that he/she had not thought or guessed or had not any reason for awareness that the respective drug...was a controlled substance". It must be said, that defining the theory of "possessing" is still creating some problems.¹⁰³

-Belgium:

a. The criminal policy of Belgium:

According to the existing canons (1921-1975), the collective consumption of drug is a crime and subject to punishment and for the case of possessing drugs for consumption, criminalization has not been made but holding it for trafficking or its illegal business is considered a crime and it is subject to punishment for which from 3 months to 5 years imprisonment has been forecasted and in the case

of the existence of aggravated qualities, this punishment will be enforced up to 20 years of imprisonment.

b. Judicial performance and procedure:

The instructions of 26 May 1993 emphasizes distinction between the temporary consumers (recreational consumers), regular users (permanent) and also the retailers. In the courts, the penal conviction of those who have consumed for the first time is suspended or delayed. But in the following cases, only in the case of acceptance of treatment of addiction by consumer, it is possible to suspend or postpone the enforcement of decree.

-Portugal:

a. Criminal Policy, Judicial performance and procedure:

According to the canon, since July 1st of 2001, decriminalization of drugs such as heroine and cocaine has been enacted only for personal use. This measure has been enforced in continuation with different prevention policies. The government also offers healthy needles along with social facilities to the consumers.¹⁰⁴

-Denmark:

a. Criminal policy of Denmark:

In the approved codes of 1955-1976, the consumption of drugs has not been criminalized specifically, but possessing it for the consumption is equal to holding drugs under the title of a trafficking and is considered a crime and its punishment is up to 2

years of imprisonment. In the case of existence of aggravated features, up to 6 years imprisonment has also been forecasted.

b. Judicial performance and procedure:

Warning, fine and/or short term imprisonment punishment along with suspension have been provided for the consumers of cannabis. Possessing other drugs will face very intensive punishments.

-Sweden:

a. Criminal Policy, Judicial performance and procedure:

According to the canons of this country, addiction has been decriminalized and it is not considered a crime anymore and is not subject to any punishment, whereas the execution punishment has also been abolished. At the same time, the punishment of drug traffickers is 10 years imprisonment at maximum.¹⁰⁵

-France

a. Criminal policy of France:

In accordance with the codes (1970-1987), the consumption of drugs in this country is crime and is subject to more than one year imprisonment. Concerning decriminalization of drugs for recreational usage, there is a dual view. Heroine, cocaine and crack will remain still illegal on the basis of the views of the Specific Commission. But using or possession of a little cannabis (hem) will be legal. The supporters of decriminalization believe that it is better that this program be implemented experimentally and after two

years, decision to be made about it again and in this process, for those who commit a crime , it is necessary that various forms of punishments apart from imprisonment to be exercised.¹⁰⁶

b. Judicial performance and procedure:

In accordance with the Article 268 of the set of canons on public health, the attorney general of the town can order including the bearing the decree of addiction treatment for those who consume drugs in unauthorized form. Also, he can ask these people to put themselves under the "medical supervision". Paragraph 1, Article 627 of the Set of Codes of Public Health and Article 706-32 of Code of Penal Procedure, 16 December 1992 also provides for crimes of drugs.

Article 222-37 of it also considers the act of transport, spread, present or illegal use and usage of drugs as crime and has determined a ten-year imprisonment and its cash penalty for 50,000,000 Franc.

Part A(3) of the mentioned code also considers spread and transport of hashish or marijuana which is the herbal essence of the narcotic plant by boat, or ship inside the borders of France without proving and acceptable regular preliminary justification is classified considered a kind of drugs trafficking.

This canon also considers the physician as an offender who prescribes the drugs (Subject of List B), under medical prescription and as anesthetized drug for pain (pain killer), and think it as sedatives after surgery operation and unwillingly prescribes it for

use which makes the patient addict. The patient is also forced to get access to it by any means and can not abandon its illegitimate use and its usage also cause the patient's satisfaction and pleasure [Shambery 25, March 1987, Judicial Journal, 1987].

20 years of imprisonment has been provided as the punishment of smuggling drugs or its illegal business in France. This punishment in the case of existing aggravated features will have up to 30 years of imprisonment too.

-Ireland:

a. Criminal policy of Ireland:

The consumption of drugs and also possessing it in order to consume it specifically has been under criminalization in the canons of the years 1977-1984. From the legal point of view, the punishment of consumption of opium has been provided to be for 14 years imprisonment. Possessing light drugs also for the first time and second time (two consecutive times) will be subject to fine punishment, but in the following times, their punishment would be 3 years of imprisonment. Possessing other drugs, including cannabis, from the very first time will be subject to up to 7 years imprisonment.

b. Judicial performance and procedure:

The suspension of punishment enforcement, in the case of acceptance of treatment by the addict consumer will be possible. There is also the possibility of imposition of treatment. In this

country, for possessing of drugs under the title of trafficking and/or its illegal business, a punishment from 7 years to life sentenced will be enforced.

The criminal policy of USA and Latin America aa

- **Drugs and social condition in America:**

The American youth consume drugs more than the European youth. In America, there are 40 millions addicts. 60% of the high school students have experienced drugs and 43% of them are infected with morphine and 50% of the students are also addicts. Amid this, 20% of the total addict populations are women. According to the studies in the SAMHSA institute and NHSDA institute, 90% of the youth at the middle ages of 12 to 17 years have consumed drugs in 1999. Amid the age group of 18 to 25, misuse of drugs has had an accelerating course since 1994 and recently, this ratio has remained fixed in the fixed figure of 18.8%. The numbers of the prisoners of drugs crimes have had the highest percentage of growth and form 63% of the total prisoners.¹⁰⁷

Whereas, annually, more than 1.5 billion dollars is spent on costs to fight against drugs trafficking in this country,¹⁰⁸ more than 200 thousands of planters in America spend billions of dollars annually on plantation of marijuana illegally .The usage of cocaine which in the past was exclusive of the millionaires have also been prevailing among the mass public and is imported into this country in smuggling form. It is also sold in the black market in tens of tones, and the police agents can not proceed any action anything against it

too.¹⁰⁹ Despite the fact that teachings on drugs begin from the primary educational period, but annually, 375/000 children in America are born from the parents who use drugs illegally.¹¹⁰ Daily, more than 25 thousands inmates suffer from the psychological diseases and disorders resulting from misuse of drugs and annually, also, more than 550/000 of prisoners of federal, while being sick, unemployed and dangerous are freed from prison and return to the society. More than 350/000 of two thirds of them, during the 3 years after freedom from the prison are arrested again and according to the report of the criminologists in the European Union, by appropriate treatment during the prison or as an alternative and continuation of treatment after release, this level can be reduced.¹¹¹

In accordance with the released statistics from the National Strategy of America, in 1999, 2.6% of the tuberculoses patients and 25% of the men and 27% of the women infected with AIDS, have been affected with these kinds of diseases through misuse of drugs. On the other hand, the problem of crime in the USA is more than a single problem .The crime is a great problem. Most of these crimes are committed by the "low classes" and "rejected" and "self-destructing" individuals. The crimes related to drugs are one of the first of these problems. In this country, the issue of drugs crimes by using transport and smuggling... encompasses a great number of related crimes with each other.

The two information sources– collected by the Federal government- prepare the necessary data about crimes in the USA.

1. **FBI**; which in fixed annual reports about crimes (U.C.R) presents some estimation of the apprehensions and crimes being reported to the police.
2. **Ministry of Justice of America**; also orients a national poll about the victims of crimes (NCVS) which is the product of annual random sampling of the families. [This "poll gives some information about the crime and not their report to the police"]¹¹²

The report by U.C.R. also includes two parts:

- B) The crimes of section 1 [section of the list of crimes] which are reported on the basis of the identified crimes for the police [the crimes which have been reported to the police] and also in terms of the conducted arrests.
- C) Crimes of the section II which includes some "crimes without victims" and since the citizens do not report the crimes without victims, the police faces difficulty in discovering them.

In 1966, the branches of enforcement the canon made about 15 millions arrests for crimes of the section II. The highest numbers of apprehensions were for the offenses of 'drugs misuse', stealing, "driving while being drunk" which each included 1.5 millions persons.¹¹³

The report of N.C.V.S. which is prepared by the Ministry of Justice and included the families' polling [including interviews with 100 thousands people in 50 thousands households and is done every

two years], also during its report of the year 1995 announces," the use of drugs has been decreased, but the illegal usage of drugs among the young adults of 12-17 years old has increased in 1990-1995. The second polling is the " program on forecasting the use of drugs in 1995(DUF) "which collects the periodical samples and self-presented data of the individuals about drugs usage from the arrested people and announces that most of the arrested men in the American cities who have given drugs test have had a positive result which means, majority of them have been addicts. ¹¹⁴

- **The criminal policy of America:**

- Resorting to criminalization:**

In this country, in order to fight against drugs and its misuse, different canons, regulations and commandments have been prepared, approved and issued for implementation.

The first main canon against drugs was the "Code of Harrison" [1914] upon which the identification of these individuals was in need of observation of those who were dealing with drugs bargaining, such as morphine, heroine, cocaine and its derivatives and their names were registered as drugs addict in the federal government.

"The code of control" of 1970 to make a comprehensive deterrence of misuse of drugs forms the foundation of the present efforts of federal. This canon has adjusted five plans which distinguish the medicines on the basis of the possibility of their misuse from drugs.

"The canon of society free of drugs" approved in 1977, "the canon

of fighting against the misuse of drugs" approved in 1986 are also of other important codes related to drugs misuse and ways to confront with that. In 1988, the republicans leader of America intensified fighting against drugs. He approved "the canon against the drugs misuse" which increased basically the punishments of the recreational consumers of drugs. According to this canon, the authorities and responsibilities of the Office of National Drug Control Policy (ONDCP) were expanded. The main increasing realm of the authorities of ONDCP include:

1. Preparing priorities,
2. Enforcing the national strategy,
3. Determining the federal budget of control of drugs,
4. Developing the long term national strategy of drugs
5. Presenting an update report on activities and control of drugs to Congress,
6. Establishing "fathers-mothers consulting council on drugs misuse.

Of other important federal canons are the "Federal Crime Control Act" of (1990) and Canon of "Violent Crime Control and Law Enforcement Act of 1994".

The following canon also provided 245 million dollars for the efforts related to fighting against drugs and counter-crimes in the rural regions.¹¹⁵

- **Decriminalization of drugs:**

In 1970's, the consumption of cocaine increased and the Carter administration put forth the proposal of legality status of marijuana consumption at the personal consumption level.

In this decade, many western countries also have established commissions to review the effects resulting from the use of marijuana. The experts in these commissions began to study the subject. The general view was that the ban of the marijuana consumption has greater effects and social damages on the society as compared with its free status and it is necessary to decriminalize the possession of marijuana for the personal consumptions. These studies showed that freeing the consumption of marijuana will not increase the rate of consumption, but these findings have not still been used by many countries.¹¹⁶ The history of dealing with the drugs in America indicates the concerns over public health, punishments and disciplinary measures. In the 1980's, America announced a war against drugs, because, drugs had spread more than limit in the society and thus, the sale and possession of drugs was announced as a crime and caused the increase of number of cases in the courts.¹¹⁷ However, in 1973 to 1978, only eleven states decriminalized the possession of an insignificant quantity, but, the possession and personal consumption of a small quantity of marijuana for recreation use in many states is a crime.¹¹⁸ In some cases, the punishments are slight, i.g. the suspension of driving license, and the police are permitted to issue the fine bill and notice to those who breach violate.¹¹⁹ In Baltimore, the suggestion made

by the Supreme Judicial Board on prescription of little dose of drugs by the physicians in order to decrease the street sale and buy.¹²⁰ At the same time, many security codes on drugs are also harsh and intensive and since the consumers impose damages on themselves and others, they are punished.¹²¹ The possession of 5 grams or less quantity of marijuana can have a one month imprisonment and its propagation is also prohibited.¹²²

The criminal law of America about drugs considers the possession of cocaine as a crime and holds that using it is harmful to the public welfare, even if it is likely that a specific person claims that he has been offended as a result of the use of drug by other person.¹²³

The punishments of crimes related to cocaine are also more severe than those whose crimes are related with cocaine powder. The federal regulations consider a particular quantity of cocaine equal to hundred times of cocaine powder. The black consumers prefer cocaine, whereas the white consumers like its powder. Regarding the federal courts, the African-American origin accused persons state that discriminatory codes are legislated on the basis of type of race and these courts violate the "amended Article of 14" which indicate the equal support of codes extending to the citizens and the statistics show that all individuals being charged with possession of cocaine are the black users and those who are accused of possessing powder of cocaine are the whites which confirms this claim.¹²⁴

The George Bush administration had also announced the uprooting of drugs as part of its agenda and for this purpose , it used all

methods such as reinforcing the executive agents , training by focusing on prevention of consumption and treatment and also uprooting the plantation inside and outside the country and also intensive control of the American borders. ¹²⁵

This administration considers the legalization of drugs as a social catastrophe and believes that its approval will bring about the increase of consumption and greater addiction. But the opponents of this view in America believe that if the government is sincere and ponders on the health of the people, in the first stage, it should re-organize the issue of employment and box sleeping individuals in the country. ¹²⁶

The legalization of marijuana does not have a standard definition, but some are against it. Legalization is a stage further ahead of decriminalization. In other words, decriminalization is the first stage for legalization of drugs consumption.

The American businessmen spend millions of dollars to import industrial hemp (hashish, cannabis) from Canada, China and Europe. These types of drugs consumed in the food industries, protecting the body, clothes, paper and even automobile and medicine. It is claimed that the plantation of this material is in conflict with the codes of ban on drugs use. ¹²⁷ At the same time, in America, the supporters of decriminalization say that it is better that the use of a little quantity of hemp and possession of insignificant quantities be legalized as test case and after two years, decision to be made about that. In this process, also for those who commit crimes, some forms of punishment instead of imprisonment

should be imposed.¹²⁸ And in fact, the alternative methods of punishment should be used.

- **Judicial performance and procedure:**

The report of the American national strategic plan for the control of drugs which was published in 2000 admits that no single solution has capability to confront with the complex challenge of drugs solely. So, in this national approach, preventions, treatment, research, suppression, protecting the borders, reduction of supply of drugs and international cooperation have been noticed. Amid this, spreading, encouraging and resorting to the treatment method as an effective approach has been recommended instead of resorting to the system of penal justice and exerting punishment.¹²⁹

The bases of national strategy of America are relied upon on the following foundations:

1. Prevention along with treatment is the only way to reduce the misuse of drugs and remedy of addiction and mobilization of medical, training, social and financial mechanism to deter from the spread and its treatment is necessary. The prevention costs is also more logical and more economic than treatment or punishment.
2. Planning for the treatment of disorders for which the addicts are entangled in three stages,
 - A) During the imprisonment,
 - B) After being released from prison

C) Before his entrance into the society once again.

Because, treatment minimizes the effects of addiction both for the addict and the society.

3. Along with social and health service systems and penal judicial systems, the institutes and associations be created to encourage the addicts to abandon the habit and to create a society free from addiction.
4. Treatment within the judicial-penal system will cause the reduction of drugs misuse and committing the related crimes.
5. The alternative measures of reducing the addicts and prevention of occurrence of crime are as important supplementary of treatment and will bring about the distance of addict from the crime through training the social and individual skills and vocational training which will finally cause their return into the bosom of family, environment and society as a creative individual and self reliant persons.
6. Due to the relation of drugs with crime , it is necessary that the system of penal justice is activated to cooperate with the treatment and rehabilitation organizations in order to have progress made in reducing the drugs misuse and the relation of drugs with crime may be removed.

7. Treatment will cause the regain of the lost job and also to have a clear future for the addicts. Thus 40% of the assimilated power of addict returns to his job the first stage of treatment.

At the same time, the most important obstacles and difficulties of implementing this plan can be enumerated as follows:

1. Limitation of information at the national level which has caused the limitation of presenting treatment services.
2. Lack of government capability in implementing treatment for the addicts needs urgency of treatment services.¹³⁰
3. Discrimination in providing services to ethnic and racial minorities.
4. Limitation of resources and excessive costs of treatment which has made the government use the private sector and civil institutions in the process of treatment.
5. Restricting codes and policies.
6. Lack of use of effective treatment methods.
7. Resistance against treatment among a group of needful addicts.¹³¹

The government of America had also considered some provisions for further services in the national plan of the year 2000 which included:

1. increasing the budget of prevention and treatment in particular in the sector of group-therapy.
2. increasing the budget of CTN TV network in particular the addiction treatment.
3. increasing the services to underprivileged strata in particular those infected by AIDS.
4. presenting effective treatment method such as code of using Methadone.
5. placing the citizens under equal insurance coverage.
6. assessing and presenting data such as estimation of volume of demands and resources of treatment in order to present the best treatment method.
7. resistance against the consequences resulting from abandoning addiction.
8. further emphasize and attention on treatment of the young adults.¹³²
9. Specific attention to presenting treatment services to women.
10. presenting a new model of treatment services in order to make the concurrent treatment of drugs misuse and mental disorders.
11. Inclusion of addiction treatment within the framework of the system of health cares.¹³³
12. Observing justice in treatment.¹³⁴

- **New methods of treatment of addiction:**

Methadone is used for the traditional treatment of addicts of heroine which developed since 1960's,¹³⁵ on the recommendation of the National Institute of Drug Abuse in America (NIDA) it is given by the experts to the individuals addicted to heroin. The method of addiction treatment by using Nicotine, ORLAAM, and also Buprenorphine-Naloxone on the recommendation of the Organization of Medicine and Food may be implemented. Lofexedine and Dextromethorphan are also of the new non-narcotic drugs which cause the soothing and reduction of consequences poisoning and help in abandoning of narcotics. Its clinical testing stages are in progress.

Behavior-therapy and group-therapy, which reduce the epidemic diseases among the injecting addicts to drugs through training to the professional addicts are of other treatment policies of USA.

The treatment of addiction will cause the reduction of about 40 to 60 percent of drugs consumption and to a great extent, the reduction of criminal activities during the treatment period or even after the treatment periods.¹³⁶ Treatment and reduction of dangers are made by applying other strategies by change of methods, reinforcement and development of treatment systems, link with the service and research centers and giving attention to the problems of the labor force. These strategies are developed through National Treatment Plan (NTP) in America.¹³⁷

- **Performance of drugs courts:**

The drugs courts or treatment-oriented courts were established for the first time in 1989 in Florida State and in the beginning of the 1990's, as an alternative to penal methods on crimes related with the drugs. Since 31 October 2000, seven hundreds drugs courts have been formed at the national level to investigate the crimes of drugs and 456 other courts have also been at the stage of planning. These courts have been formed with the objective of reducing crimes related with drugs and presenting appropriate and effective responses to the drugs addicts' criminals. The methods of treatment, correction and re-adaptation are practiced in these courts in order to achieve the best solutions on crimes related to drugs and to help with the reduction of imprisonment of the non-tough addicts.¹³⁸

These courts transfer the non-dangerous criminals of drugs from prisons into treatment centers and pursue to reduce their use of drugs and reduce their penal behaviors and thus, they support the continuation of the treatment of drugs offenders. Article 5 of the canon of control of crimes and police approved in 1994 grants power to the general attorney in order to help the states and local governments in establishing the drugs courts.¹³⁹

- **The process of courts:**

Due to the fact that the rate of consumption and type of crime are different, thus, many of the convicted persons are entitled that their crimes to be shifted from penal courts to specific courts of drugs. In

this procedure, the addict person initially goes under treatment program and during the treatment, if the consumption test is positive or if he commits new crime in this period, he will be introduced to the penal court. Of course, this issue does not happen frequently, because in this intelligent method, the objective is to treat the criminal and it is practiced on the basis of the realistic principles. Some of the offenses of the offenders are also predictable. During the period of treatment, some quantities of drugs are given to the addict and in that period, he enjoys a kind of judicial immunity. The staffs of the units of control are bound to report any kind of violation of canons of consumption during the respective period. Usually, the treatment period is one year, but sometimes, it prolongs a longer time. These courts accept the convicted persons who do not have the record of wickedness and violence and principally this very condition cause the receiving of financial assistance from the Ministry of Justice. There are always individuals who are entitled to use the drugs courts who due to limitation are deprived of such a facility. The common feature of these courts is their limitation in the domain of action and transfer of criminal from penal court into the treating system under monitoring. The documents of patients are also considered confidential, so that they can spend the period of treatment in relaxation and without any anxiety and having access to these records will be possible only on the basis of the decree of the court.¹⁴⁰

- **Decriminalization of drugs in the Latin America [Venezuela]:**

In the Latin America also, the government of Venezuela intends to decriminalize of drugs. In new reforms, possessing a little quantity of drugs, for the personal consumption will not be considered as crime and the traffickers also will be punished on the basis of the weight of drugs. Article 283 of new criminal codes, considers the personal consumption of drugs as the average of 5 days of individual's consumption. Also, the sellers are not allowed to supply more quantity than 10 days consumption. The violation of law attracts, imprisonment from 4 to 20 years. In addition to prison, cash penalty has also been provided in the code. In the Latin America, usually the cash punishment is calculated on the basis of minimum daily wage. Of the criticisms leveled at current codes is that both consuming and supplying individuals of drugs are treated equally.¹⁴¹

- **Overview of the criminal policy of the west:**

Reviewing the aforementioned materials, two general results can be stated precisely:

The First: The macro viewpoints in relation with the drugs criminalization:

No country has fully legalized the sale, possession and supply of drugs. In most of the countries, addiction to drugs is considered as a crime and subject to penalty such as imprisonment but the idea of penal interference for addiction has been abolished or

decriminalized and in some countries , the penal alternative methods have been used.

The key idea about drugs decriminalization is this belief that no body should be sent to prison for the drugs consumption and the consumers should be dealt by resorting to penal alternative policies including treatment, at the stage of exposure and before judicial investigation and or after trial and or issuance of decree.

It attention is not paid towards addict and no treatment method is employed, it will bring about the increase of problems and damages resulting from addiction. The governments are obliged, on the basis of "legal paternalism" to put the addict in the process of penal-treatment model despite its difficulties even in an obligatory form to make him abandon addiction. Also, in addition to the obligation method in the penal-treatment model, treatment on the basis of medical model, without interference of penal system is increasingly expanding.

Some of steps, which have been taken, are given as follows:

Creating awareness that drug addiction is susceptible to danger, placing the addiction treatment in the system of public social health, offering specific services to the young adults, youth and women and orienting them to the specific centers for drugs abandonment, reinforcing and enriching the training programs of the family, placing the addiction treatment at the category of treatment insurance network, increasing awareness towards the necessity of the cares after discharging the addicts from the

treatment centers or prison, delivering the conditions of treatment for addict prisoners, supporting the released prisoners by implementing primary training, agricultural courses and technical vocational skills to return them to the society once again are among other measures which despite maintaining the ban of misuse and illegality of addiction and even its criminality can deter the statistic of addiction and rate of those addicts who tend to repeat the crime.

The Second: Foundations and reasons in relation with drugs decriminalization:

The criminal policy of the west in relation with drugs decriminalization is based on pillar of the following views and reasons:

1. Applying prevention policy through reinforcement of international cooperation, assessing strategies, guaranteeing the conditions of treatment, training and educating the addicts to abandon addiction and fighting against money laundering and drug traffickers.
2. The consensus of the opinion of majority is to decriminalize its consumption to a certain limit by the legislator and not to de-penalization of its preparation and production and to fight not only against traffickers and violators of canon, but also against sale and purchase.
3. The financial and human resources should not be spent on adventurously, but it should be spent on solving the problem of drugs and its victims, increase of arrests and prisoners

will cause the corruption of the police system and will be followed by the spread of non-ethical methods and goods smuggling.

4. Ban of drugs consumption will cause more damaging impact on society as compared to the freeing its consumption. Thus, decriminalization will cause the reduction of drugs consumption.
5. The disciplinary codes are not in harmony with the drugs crimes and it the individuals of the society would susceptible to adopt means creating conditions not conducive for the soeity. The codes has an effective impact on reduction of consumption but make its consumption more difficult and more costly.
6. The police role in fighting against drugs is inappropriate. The addiction is a kind of disease, so it should not be considered as a crime and it is necessary that the public health and its treatment mechanism should be adopted and some centers should be established for providing the social and psychiatric services.
7. After decriminalization of drugs by imposing tax, the governments can reduce the hands of the middle men and also economic and criminal motivation and have impact on its market.
8. Some drugs are not addictive as compared with heroine, they must be decriminalized. However it is likely that the number

of consumers to be increased, but since the method of consumption is limited and recreational, the number of addicts will not increase.

The criminal policy of Iran

- **Iran:**

Iran is situated in the region of golden crescent and from geographical and geopolitical view; it is located among the countries which are the places of production and exchange of drugs in the world. In its eastern part, there exist Pakistan, a country with a high population, with political instability unsound economically and lack of natural resources and also Afghanistan, the old birthplace of production of opium.¹⁴² With 1925 kilometer joint and long border and in its west, there locates Turkey, a country which is the producer of drugs and one of the largest centers for exchange and smuggling of drugs in the world. This geographical situation has caused Iran to be noticed by the international drugs traffickers as an important and strategic bridge and linking circle of Asia to Europe. The existence of desert plains, mountains, valleys, and arduous roads encourage and tempt them for the selection of this strategic rout. By employing the most trained individuals¹⁴³ and equipping them with new instruments and weapons and even using addicted camels to pass the specific routs in order to convey their consignment to the Europe.¹⁴⁴

Due to historical and cultural reasons and also the existence of natural resources, Iran in a recent century has always been exposed

to the plots of the foreign powers and amid this, addiction has been one of the most important methods of advancement of destructive policies of colonizers in this country. In Iran, since the time of the government of Naser al Din Shah of Qajar dynasty in 19 century, addiction in its real meaning was started. During the period of Naseroldin Shah [king] rule, vast lands were allocated to poppy plantation and the plantation was increased and in addition to supplying the local consumption, a considerable quantity was also exported to the colonies of England annually and gradually its business was under the monopoly of kings and courtiers of Qajar. The staffs and representatives of colonizers and even their agents were publicizing and showing openly in the market the methods for using opium. It led to spread of opium smoking.¹⁴⁵

With the start of Pahlavi kingdom, the spread of drugs entered into a new era. By encouraging and granting prize to farmers, the plantation of opium, with a view to generate income, spread leading to increase of addiction. Since 1955 also some of the courtiers of Pahlavi regime entered into the scene of drugs trafficking industry and by importing heroine, they created a turning point in the history of drugs in Iran. Of 20 million of the total population of the country, 7% of them, i.e. 1.5 million people became addicted and daily, about 2 tons of opium were used. The results of the medical tests in 1935 in relation with 7614 drugs file showed that 3982 cases of them were related to opium and 3285 cases were related to heroine and 347 cases were related to Hashish. And in that year, 65880 grams of heroin had been

uncovered too.¹⁴⁶ It can be said that since 1970's, heroin almost became the absolute ruler in the world of addiction in Iran.¹⁴⁷

After the victory of the Islamic Revolution in Iran, great efforts have been made in fighting against drugs, so far, 2400 have been martyred in fighting against drugs. From the very beginning , with the approval of the temporary cabinet in the year 1971, the plantation of poppy was prohibited and 33000 hectares of these lands which were under poppy plantation were destroyed and the useful plants were planted. In continuation of this trend, also the lawmakers have considered death penalty punishment. Despite the fact that the growth of addiction in some countries amounts to 5% of their populations, in Iran this percentage has reduced by about 2% after the victory of Islamic Revolution. Whereas in the previous regime, the rate of addiction amounted to 8% of population. In the year 1982, the number of the addicts of Iran were announced as one million people which annually were using drugs in a figure more than 360 billion Tomans (equal to about USD 360,000,000). Whereas the suggested budget to the government to administrate the country in the war conditions in the year 1983 were over 353 billion Tomans (about 353,000,000 USD).¹⁴⁸ On the other hand, the surveys researches of a sample student population in high schools of Tehran which was done in 1995 indicated that the rate of drugs consumption was less than rate of alcohol consumption. Thus they have experienced 1% of heroine and hashish, 2.5% opium, and 18% of alcohol. And the consumption of drugs and alcohol among girls has been much less than boys. Though drugs were easily accessible.¹⁴⁹

Statistics show the number of addicts differently. Some statistics in 2000 have estimated their number as 1,200,000 people of addicts and 800,000 people as recreational consumers.¹⁵⁰ But the estimation of some others is as follows:

- A) Main addicts includes the addicts to opium and opium residue 800,000 people, addicts to burned residue 100,000 people, addicts to heroine and morphine 250,000 people.
- B) Recreational and incidental addicts including addiction to opium was estimated to 700,000 while is 15% of them are incidental consumers), addicts to residue was about 70,000 people (40% of its consumers are incidental) and addicts to heroine and morphine was 110,000 people (10% of them are incidental).
- C) Uncountable addicts (including hidden, recreational and incidental addicts) totally about 500,000 people.¹⁵¹

The representative of UN fighting against drugs in Iran also has estimated the number of addicts with difficulties between 600,000 to 1,200,000 people and the number of recreational consumers of drugs between 3 to 8 million people.¹⁵² The latest official statistic which has been published by the Headquarter to Fight against Drugs in 1998 indicates the existence of more than 1,200,000 addicts in this country. Assessments on drugs shows that in some cities of Iran (Yazd, Bandarabass, Shiraz) which were selected as the statistical sample population, the consensus of public attitude on drugs consumptions has been negative to a great extent.¹⁵³ Due

to lack of solving the infrastructural problem and despite using heavy penalties, 96% of those who have abandoned addiction have again tended to drugs and 60% to 70% of the prisoners of the country are comprised of the drugs traffickers and the number of drugs traffickers have increased from 24584 in 1989 to 81087 people in 1998.¹⁵⁴

The comparison of statistics and information shows the growth of drugs crimes, number of arrested addicts, as has been accepted by the Rehabilitation Centers. The number of arrested individuals of drugs has had an accelerating trend. During 1980 to 1997, totally 1,296,386 people have been arrested in relation with drugs of which 46% were addicts. In 1997, 197 tons of various types of drugs were discovered of which 76.2% were opium, 8.8% hashish and 2.1% were also heroine. The number of admission of addicts was 5579 in 1983 and in the year 1997, it increased to 29467 528%. The outpatient treatment centers which started their activities since the middle of the year 1996, treated the addicts numbering 2558 people in 1996 and 16602 addicts in 1997.¹⁵⁵

- **Criminal Policy:**

The criminal policy of Iran in relation with drugs can be observed within the format of approved canons.

These canons are divided into two general categories:

1. Pre-Islamic Revolution Canons:

Which includes:

- 1-1. The Act restriction of opium approved 12 Rabi al Avval, 1329 A.H. In this Act, not only the usage or trafficking of drugs is not put forth but the government is also considered as the competent authority to distribute the drugs. It was prescribed that after a seven-year period, the usage of opium to be banned by adopting certain measures, but this policy was not enforced in any time.
- 1-2. Article 275 of the Act provides public punishment being approved in 1925 which considered the open usage of opium, opium residue, morphine and Indian hemp juice as crime and provided the disciplinary imprisonment from 8 days to 3 months and cash penalty from 10 Tomans (100 Rials) [equal to 0.4 Rupees] to 50 Tomans (500 Rials) [equal to 2 Rupees] too.
- 1-3. The act of governmental monopoly of opium being approved on 17 June 1928 upon which all transactions, maintaining, storing, preparing, transportation, export of opium and ... including local or foreign consumption were merely under the control of the government and in accordance with its Article 15 also, the government was obliged for 10 years to procure the instruments of abandoning opium addiction and then following that on 7 August, 1928, the act of punishment for perpetrators of trafficking was approved. The approvals

of the years 1929, 1933 and 1949 was associated with the legislation of rules on carrying, maintaining, method of deterring opium smuggling and developing the law of those who commit drugs trafficking.

- 1-4. Act of ban on poppy plantation and usage of opium was imposed on 26 July, 1955. Using public venues to consume the mentioned substances and making or importing of the related substances was considered as an offense. In 1959 ban on plantation of poppy and usage of narcotic materials in 1963 was imposed. Through an amendment of the act of 1963, permission to plant a limited amount of poppy and export of opium was given.
- 1-5. Enhanced punishment to the main perpetrators of crimes was provided through an Act of reform of "code on ban of poppy plantation" and the reform required to stop the prosecution and implementation of the punishment of other perpetrators of the mentioned crimes on 1 July 1969 in its Paragraph "H-1". It provided the execution of punishment for the drugs traffickers if they possess more than two kilograms of opium and or more than 10 gram morphine, cocaine or heroine illegally. In the Act, the investigation on drugs issues came within the purview of military courts on the basis of Paragraph "V".¹⁵⁶
- 1-6. With the approval of the National Consultative Parliament, on 9 July 1972, the Iranian government adopted Article 51 of the Convention of Drugs (held on 30 March 1961 of New

York). The last legal approval related to drugs before the Islamic Revolution was the approval of the canon related to psychotropic materials (12 Articles) on 28 April, 1975.

2. Post-Islamic Revolution Canons:

Which includes:

- 2-1. An approval on annihilation of narcotic substances and drugs in 4 Articles on 21 May 1979.
- 2-2. Legal bill on formation of Discretion Competency Board to investigate the files related to drugs (3 Articles on 18 May 1980).
- 2-3. The legal bill containing 25 Articles on 9 June 1980 provided for enhancement of punishment of the drugs crime perpetrators and security-treatment measures in order to treat and creating avenues for the employment to addicts in 25 Articles on 9 June 1980.
- 2-4. The Act bearing 35 articles were approved by the Expediency Assembly of Iran on 25 October 1988 and on 12 December 1989 in order to fight against drugs. The procedure in this code has still pursued the penal policy of suppression in order to confront with drugs.
- 2-5. The Act for reform of the canon for fighting against drugs adding 42 Articles and 25 Notes on 8 November 1997 was approved by the Expediency Assembly and following that on 12 January 1999, its Executive Code of Practice was also

approved in 34 Articles and 28 Notes by the Headquarter for Fighting against Drugs.

2-6. On 16 June, 1998, an Act for adopting Article 33 of the Convention on Psychotropic materials on 21 February 1971 of Vienna was approved within a Single Article by the Islamic Consultative Parliament which indicate the attitude of Iranian government towards international relations and its commitment for implementation of understandings and regional and global cooperation and confrontation with drugs.

2-7. On 24 November 1999, Iran adopted Article 34 of the Convention of UN for Fighting against Drugs and Psychotropic Medicines approved at Vienna 20 December, 1988.

2-8. Finally, the implementation of Articles 33 and 34 of the act of reform on code of fighting against drugs being approved by the Expediency Assembly. The code of practice of prevention of addiction, treatment of addicts to drugs and supporting the individual exposed to risk of addiction was taken up on 9 February 1999 by the Headquarter for Fighting against Drugs provided under 14 Articles and 4 Notes.

It must be said that the most important canons in relation with control of drugs in Iran are the canon approved 8 November 1997 by Expediency Assembly and Code of Practice for Prevention of Addiction on 9 February 1999 by the Headquarter for Fighting

against Drugs. According to the Article (1) of this canon, each of the enumerated cases of the following lines are considered as crimes:

Plantation of poppy and coca, importing, producing, making, maintaining, carrying, buying, distributing, concealing, transiting, sending and exporting, supplying and selling drugs, its usage in any form and any methods, establishing or running places for its usage, marinating instruments related to making and usage drugs, helping with the flee or sheltering the convicted and accused persons who are under prosecution or arrested ones, annihilation or hiding the evidences of crimes of offenders of drugs and putting drugs or its using instruments in a place with the intention of accusing others are considered crimes.

According to its Article 2, plantation of poppy or coca or plantation of hemp to produce drugs, by addition of area of which were officially destroyed, were subject to cash and bodily punishments and two to five years of imprisonment.

Also, Article 4 reads, importing, sending and exporting of drugs, in any form of producing, making, distributing or selling or selling up to fifty grams will be subject to cash and physical punishments. And from fifty grams to five hundred grams will be subject to cash and physical punishments and 3 to 7 years of imprisonment and more than 5 kilograms, will be sentenced to execution punishment and also confiscation of assets with the exception of providing the expenditure for regular life for the family of the accused person.

In the case of lack of success of criminal in distributing or selling the drugs which is 20 kilogram or less, and the crime perpetrator doing it for the first time, by considering the whole of these conditions, only the execution penalty will be converted into life imprisonment. But in weights over 20 kilograms, under any condition, the perpetrator will be sentenced to death.

Article 11 of this canon has determined the punishment for committing drugs trafficking as execution to be enforced at the view of the public and at the living place of the culprit.

Article 12 of it has specified the punishment for "importing" of drugs into the prison, detention center or rehabilitation camp and place of keeping addicts. The governmental staffs, in addition to the prescribed punishments in Article 4 to 9 were liable to lose their job.

According to Article 14, the license of an industrial unit or permit of commercial or service units was liable to be cancelled if a residential unit, industrial, business or service units where drugs were prepared or used for storing, producing or distributing or for this purpose was given to other person by the owner, or his representative (by owner's information or permission), in addition the property was to be also confiscated by the government. On the other hand, according to this canon, the decrees of execution will be absolute and enforceable after the confirmation of the Head of High Court or Attorney General. If the issued decree, according to the view of the Head of High Court or General Attorney is against the religion or canon, or the judge who has issued decree did to

make the investigation properly, there is a right to ask of appeal and right to get the quashed judgment (decree) quashed in accordance with Article 32 of this canon but the existence of this right will not prevent of certainty and enforcement of judgment (decree). The recent part of the Article 38 also has there is a provision for request of forgiveness or abatement of punishment of execution to the Pardon Commission. In Article 42, the legislator has put the responsibility of keeping the convicted persons in specific camps (in rigorous conditions) instead of prison.

- **Different Attitude:**

Article 15 of this canon considers "addiction" as a crime, but the addicts are given permission to join authorized centers to get treated and corrected and in the course of treatment and rehabilitation they will be exempted from penal prosecutions. The costs of the treatment periods on the basis of the approved tariffs are undertaken by the addicts who must pay it. The government also annually provides the costs of diagnosis, treatment, medicine and rehabilitation of penniless addicts. Measures are taken to revive and create rehabilitation camps for drugs addicts by the government.

Also, in accordance with the Article 33, in order to prevent of addiction and for fighting against drugs trafficking... a headquarter, in centralized form will pursue all administrative, judicial operations, preventive programs, public teachings and propagation against drugs under the jurisdiction of the President.

Each year, the government is obliged to allocate budget to prevent of addiction and to fight with drugs trafficking.

On the other hand, on this basis , and in accordance with the Article 34 of this very canon, the code of practice of prevention of drugs addiction, treatment of the drugs addicts and supporting the individuals exposed to the risk of addiction has been approved with the objectives on 26 January, 1998 whose most important ones include prevention of addiction to drugs and psychotropic medicines, treatment and rehabilitation of addicts by developing and equipping the professional centers, procuring necessary facilities and equipments including the supply the required medicines, activating health and treatment networks for addiction abandoning, procurement and training the specialized cadres of rehabilitation and treatment centers, establishing specialized course exclusively for physicians, psychologists, psychiatrists, and aid workers on mental pathology and improvement of addicts' situations, designing and regional implementation of comprehensive programs of prevention of addiction, presenting necessary facilities after freeing, adopting appropriate measures to immune individuals exposed to risk and conducting cultural, propagating, and orienting measures, and helping with the reduction of demand for drugs, holding training courses of different strata such as children and young adults, education cadres, parents, trainers and liaison workers of health, quantitative and qualitative expansion of consultation and supporting centers for groups exposed to risk, preparing grounds to conduct specific training, cultural-propagating programs and implementing specific cultural

plans and equipping libraries of schools and expansion of consulting centers for students and determining the duties of ministries and other organizations such that they could play a role and also conducting necessary measures to implement the conventions of 1961, 1971 and 1988.

In fact, this is another face of the criminal policy of Iran in relation with drugs which has been noticed.

In addition to these cases, two other materials should be added to these measures:

- A) The national Charter of Control and Fighting against Drugs in 25 year another long-term and comprehensive plan and program which has been developed in order to prevent, treat and fight against drugs in Iran by Headquarter of Fighting against Drugs up to the year 2021 when the Iranian population will be 119,826,000.¹⁵⁷
- B) In 2007, the Act of Prevention and Fighting Against Drugs has been prepared by the Headquarter for Fighting against Drugs and put in the course of approval stages in 8 Chapters and 134 Articles and the objectives of this Act are as follows:

A treatment-oriented attitude, supporting the return of the addicts to the society again, doing correctional disciplinary punishments such as training courses and alternative punishments, making efforts to create a proportion between the punishments and crimes, including the nature of crime

in fighting with organized crimes and inflexibility against the criminals, developing the domain of fighting against drugs by participating peoples' and civil institutions.

- **Judicial performance and procedure:**

The Iranian law for drug control has paid attention to the intensive action and enforcement of aggravated punishments. However, in the canons, the issue of prevention and treatment methods of addict offenders have also been provided, but this policy is implemented by adopting the methods of deterring from reaching drugs and negation of freedom. In other words, the treatment of addict will be possible if he join to the authorized centers voluntarily to abandon his addiction and for his rehabilitation and become exempted from penal prosecution during the period of treatment. So that, in the Iranian law, as a "legal obligation" neither there is an obligation to abandon addiction for addicts nor authority for the rehabilitation centers in enforcing the addicts to abandon addiction.

The judicial procedure in 19 types of crimes of drugs and prescribed punishments which are practiced in the revolution courts exclusively for drugs in Iran are presented in Table (A). This classification includes the most important counted crimes in the canon of 1997¹⁵⁸ which have been categorized on the basis of review of legal Articles.

Table A

Row	Crime/subject	Number of Article	Punishments				Remarks
			Cash punishment	Lash	Imprisonment in years	Execution/Confiscation	
1	-Plantation of poppy, hem, coca	2	-First time 10-100 million Rials equal to 1030-10300 \$	-	-	-	-If plantation has been done on the order of the owner or tenant of the owner or their legal deputies and, the one who orders is more responsible and (his/her crime is higher than the undertaker) of plantation, it will be led to the punishments prescribed in this Article and the undertaker of plantation who is conductor will be only sentenced to 10-30 million Rials (1030-3092 \$) and sentenced to 15-40 strokes of lash.
			-Second time 50-500 Million Rials equal to 515-51546 \$	30-70 strokes	-	-	
			-Third time 100million to 1 billion Rials equal to 10300- 103092\$	1-70 strokes	2-5	-	

			-	-	-	-Fourth time: Execution	
2	-Maintaining, hiding, and carrying of the loads of poppy, coca and hem	-3	1-30 million Rials(103-3092\$)	1-70	-	-	-Concerning hem, the intention of their production of drugs should be proved
3	-Trafficking, opium, burned residue, waste, bhang, Indian hashish, grass in terms of quantity	4	-up to 50 gram: up to 4 million Rials (412\$)	-Up to 50 strokes	-	-	-If the drugs do not surpass 20kilogram, and committing the crime is for the first time and the drugs are not distributed or sold, the perpetrator will be sentenced to life imprisonment and 74 strokes of lash and confiscation of assets
			-from 50 to 500 grams (from 4 to 50 million Rials) (512-5154 \$)	20-74 strokes	-Under the discretion of the court up to 3 years	-	
			-from 500 gram to 5 kilogram: 50 to 200 million Rials	50-74 strokes	3-15 years	-	

			(5154-20600\$)				
			-more than 5 kilogram	-	-	-Execution and confiscation of assets	
4	-Buying, maintaining, hiding and carrying opium, residue, burned, waste, bhang, Indian hem, grass in terms of quantity	5	-up to 50 grams: up to 3 million Rials (309\$)	Up to 50 strokes	-	-	-If the perpetrator of these crimes, is a member of organized gang and the drugs to be intended for the consumption inside the country will be subject to the punishments of Article 4 and if one of these two conditions does not exist, he/she will be sentenced to determined punishments of this Article.
			-from 50 to 500 grams: 5-15 million Rials (515-1546 \$)	10-74 strokes	-	-	
			-from 500 grams to 5 kilogram 15-60 million Rials (1546-6185 \$)	40-74 strokes	2-5	-	
			-from 5 to 20 kilogram: 60-200 million Rials (6185-20600 \$)	50-74 strokes	5-10	-Repetition of the second time: confiscation, Repetition of third times: execution and confiscation of assets	

			-from 20 to 100 kilogram :60-200 million Rials for 20 Kilo and two million Rials for each kilo Surpassing that	50-74 strokes	5-10	-Repetition : Execution and confiscation of assets	
			-More than 100 Kilogram:60-200 Million Rials for 20 Kilo and Two Million Rials for each kilo suppressing that	50-74 strokes	-Life imprisonment	-Repetition: Execution and confiscation of assets	
5	-Heroine, morphine, cocaine trafficking , holding, hiding and carrying them in terms of quantity	8	-Up to 5 Centigram :500 Thousand to 1 million Rials (51-103\$)	20-50 Strokes	-	-	-Note 1: If drugs are not surpassing 100 gram, and it is committed for the first time and drugs are not distributed and sold, and the intention of distribution or sale of it inside the country is not proved, the
			-More than 5 Centigram to 1	30-70 strokes	-	-	

			gram: 2-6 million Rials (206-618\$)				perpetrator will be sentenced to life imprisonment and confiscation of assets. Note 2: In all cases, if the perpetrator is a government staff ,will be sentenced to depose of governmental services permanently.
			-From 1 to 4 gram: 8-20 million Rials (824-2061\$)	30-70 strokes	2-5	-	
			-From 4 to 15 gram: 20 to 40 million Rials (2061-4123 \$)	30-74 strokes	5-8	-	
			More than 15 to 30 gram: 40-60 million Rials(4123-6185\$)	30-74 Strokes	10-15	-	
			-More than 30 grams	-	-	-Execution and confiscation of assets	

6	-Armed trafficking	11	-	-	-	-Execution	-If it is in the interest, the execution is done at the venue of living of the perpetrator and in public view.
7	-Trafficking drugs into prison, detention center or rehabilitation camp of addicts (on the basis of case)	12	-	-	-	-	-The severest punishments mentioned in Articles 4 to 9 in terms of case -If the perpetrator is the government staff, he/she will be sentenced to permanent dismissal too. - If being committed as a result of negligence of agents, in accordance with the case, it will have degradation of rank, temporary dismissal and permanent dismissal.

8	-Allocation of guild, business, service or residential units for storing, producing or distributing drugs	13	-	-	-	-	-Permit of utilization is abolished and the respective unit is confiscated
9	-Establishing or running the premise of drugs usage	-14	5-10 million Rials (515-1030\$)	20-74 strokes of lash	1-2 and constant dismissal of governmental services	-	In the case of repetition, the punishment is intensified 2 to 4 times. -If it is the producing, business or service unit, utilization will be abolished for one year and in the case of repetition, the respective unit will be confiscated in favor of government

10	-Addiction	15	-	-	-	-	-The possibility of referring to treatment centers willingly with payment of costs of treatment will be undertaken by the government if the addict is underprivileged. In the course of treatment, he/she will be exempted from penal prosecution of addiction.
11	-Addiction to drugs mentioned in the Article 4 and Article 8 in case of lack of willingly reference for abandoning	1	1-5 million Rials (103-515\$)	1-30 strokes, Repetition : Up to 74 strokes	-	-	-Permanent dismissal of agent from the governmental services- there exists the possibility of employment after rehabilitation fully by passing employment stages

12	-Usage of drugs by non-addict individuals	19	-Drugs of article (4)1-5 million Rials (103-515\$),	20-74 strokes	-	-	-
			Drugs of Article (8) and 2-10 million Rials (206-1030 \$)	50-74 strokes	-	-	-
13	-Importing, making and transacting instruments of production or usage of drugs	-Top of the Article 20	1-5 million Rials (103-515\$)	10-50 strokes	-	-Confiscation of instruments and tools	-Antiques are excluded from the inclusion of this Article.
14	-Holding, hiding or carrying special instruments of drugs usage	-Blew Article 20	-In lieu of each drugs 100-500 thousands Rials (10-51 \$)	5-20 strokes	-	-Confiscation of instruments and tools	-

15	-Cooperation with the criminals of drugs during apprehension (sheltering-fleeing)	21	-From 1/5 to 1/2 of punishment of the main culprit and dismissal of governmental services for the governmental staff	-	-		-If the punishment of main criminal is life imprisonment, the punishment of perpetrator will be 4-10 years imprisonment and if the punishment of main criminal is execution, he/she will be sentenced to 10-15 years imprisonment and 30-74 strokes of lash
16	-Cooperation with culprits of drugs after apprehension or conviction (sheltering-helping with fleeing)	22	-Half of the punishment of the main culprit and permanent dismissal of governmental services for government staff	-	-	-	-If the punishment of the main culprit is life imprisonment, the perpetrator will be sentenced to 10 years imprisonment and 30-74 strokes. -If the punishment of the main culprit is execution, the perpetrator will be sentenced to 20 years and 30-74 strokes lash and if the perpetrator is the agent

							of government, he/she will be sentenced to 25 years imprisonment and permanent dismissal.
17	-Deciding on properties resulting from smuggling of drugs and the assets of the fugitive addict convicted persons	28	Confiscation in favor of government	-	-	-	-The confiscated assets are not subject to the Principle 53 of the Constitution. The means of transportation are confiscated in favor of operating organization and for confiscation, there must be sufficient evidences.
18	-identifying the means of transportation which carrying drugs	-Top of the Article 30	-They are confiscated in favor of government and if it is done without awareness of owner, it will be returned to him/her.	-	-	-	-

19	-Taking measures to make, prepare and conceal drugs in the means of transportations	Below Article 30	-They are sentenced to the punishment of abet of the committed crime	-	-	-	-If the decree of complicity of crime is not issued by the court, in that event, the perpetrator will be sentenced to 3-6 months of imprisonment and will be sentenced to 10-50 million Rials cash punishment (1030\$-5154 \$) on the basis of the case.
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The issue of punishment of each crime which must be in proportion with the grade of danger resulting from that crime is a necessity that if not being observed, can reduce the efficiency of punishment and even encourages the culprit to commit a crime. Since the punishments prescribed in the canon of the year 1997 are severe, so that in dealing with drugs crimes, the revolutionary courts, specific of drugs, practice the judicial policy and procedure of "modification of aggravation of punishment". For example, in a case in the year 1996, the court, after obtaining the defenses of convicted person which indicated the acceptance of the accusation of possessing opium in net weight of 530 grams and with reference to the Paragraph 3 of Article 5 read with Article 6 of Canon, he was sentenced to bodily punishment of 74 lash strokes and though the offender was 60 years old.

This verdict was criticized and the Public Prosecutor's Office of High Court gave expert advice with regard to the contents of file and considering the net weight of uncovered opium which was 495 grams, the reference of the verdict of the court under Paragraph 3 of Article 5 of Canon quashed.

In another case, in the year 1995, the court, in addition to sentencing the convicted person to cash punishment of 200,000 Rials (about \$20) and physical punishment of 75 strokes of lash for the crime of possessing 4.5 gram opium under Articles 6 and 19 of Canon, and further, he was sentenced to spend 2 years obligatory stay (exile) in Zanzan (one of the western provinces of Iran) in accordance under Article 19 of the Code of Islamic Punishment¹⁵⁹.

Due to lack of proportion of punishment with crime, the verdict of the court is objected and the assistant to the public prosecutor of High Court suggests," that the respectable judge of decrees enforcement has not observed the contents of Article 20 of the Islamic Law Punishment.¹⁶⁰ Necessary judicial reasoning and by considering the quality of his committed action on drugs usage, the judge could have dispatched him to the rehabilitation centers by implementing Paragraph B of Article 15, so that it could also create distance and separation between him/her and the existing inappropriate environment for some times and also brings about penalization and lack of repetition of crime.¹⁶¹

Concerning the criminal law of Iran in relation with drugs, some other points may be mentioned which are followed the judicial procedure and performance of revolutionary courts.

1. In the canon of 1997, only the general attorney and head of High Court of the country have a right to ask for appeal and quash of judgment (decree).
2. The issued execution verdicts by virtue of Article 32 are indefinite and subject to appeal, and without any request by the losing party, the verdict-issuing judge sends it for the suggestion of the head of Supreme Court or general attorney of the country.
3. Concerning other decrees (decrees apart from execution), if according to the view of the head of high court or general attorney, the decree is suspicious to be as something against Shariah or law, or the judge who had issued decree is not qualified, then the Head of High Court or general attorney has right to revise and quash the judgment, but the existence of this

right will not be an obstacle for the certainty and enforceability of the decree.

4. Appeal (Revision) by the head of High Court or general attorney is not limited to a certain time and a due date.
5. After quashing the judgment on issued decrees, the competent authority for re-investigation is the court which has issued the first instance decree.
6. In the current procedure, the objection of losing party or his lawyer if being rejected by the judge who enforces the decree; they will submit their objection to the general attorney of the country directly.
7. The competent authority has the discretion for reinvestigation to enhance the punishment which has been determined by the first instance court.

Some cases has been considered as exception and are considered outside the scope of ‘Criminalization. Thus these exceptional case fall in the realm of ‘decriminalization’.

1. Paragraph 5 of Article 1 of Canon 1997 has considered the usage of drugs in any forms and ways as a crime, with the exception of the cases which have been excluded by the law.
2. Paragraph B, Article 15 of Canon of 1988 has prescribed that all addicts who are less than 60 years old are obliged to abandon addiction. So that the situation of individuals over 60 years old is indefinite and according to the view (No. 7/2290), 13 October, 1991 of General Legal Office of Judicial Branch, these kinds of

addicts are not subject to prosecution and the writ of prohibition of prosecution is issued for them.

3. Note 1, Article 7 of the legal bill on aggravation punishment of the perpetrators of drugs crimes of 1980 has excluded opium, morphine, heroine, cocaine, industrial and chemical drugs, Indridstick, and Chlorsteel for medical and industrial consumption from the inclusion of law.
4. Article 8 of this bill authorizes drugs usage with medical permit.
5. Article 9 of it also has considered the injection of drugs without the necessity and having medical permit as a crime. If the patient injects drugs without permit and a physician or non-physician identifies the necessity of injection and proves this as necessity, his action can be considered as a justified action. In other words, in the case of provability of "emergency", the "penal responsibility" will not be directed at a person who has a justifiable excuse.

- **Conclusion and solutions:**

The penal policy of Iran about relating to addiction is a combination of penalty and treatment, leaving no scope of "decriminalization". On the other hand, the mere adoption of the policy of suppression and increase of punishments can have local and international irretrievable consequences and problems, because. In fact addiction is a reflection of social problems. Cultural and economic crises such as unemployment, poverty, expensiveness, lack of elaboration of realm and introduction of law and legitimate freedoms for the youth and young adults, lack of existence of sufficient constructive, scientific, cultural and sport

programs and healthy, spiritual and physical recreations are in general among the main factors and incentives of inclination of the youth and the young adults towards drugs which reminds the necessity of precise and pervasive confrontation with this ill phenomenon.

In order to remove these complex problems, various suggestions have been put forth by the jurists and experts of criminal science (criminologists), and these approaches are:

1. Poverty eradication
2. Preparing a comprehensive plan for prevention of addiction
3. Activating the monitoring of law making organization in relation with the implementation of duties of ministries and respective organizations on addiction.
4. Expansion of supporting and consulting centers for individuals who are exposed to risk
5. Activating the urban and rural councils in prevention affair
6. Making a more careful review on the mutual relation between fighting against drugs and the rate of increase of its distribution
7. Considering the contents of international conventions of 1961, 1971 and 1988 and promotion of the level of international relations and cooperation in line with prevention of addiction and reduction of opium drugs demands.

8. Supplying financial resources from the international assemblies on prevention and fighting against drugs and using the multinational forces in fighting against drugs
9. Revision in the structure and organization of equipments of the police and promotion of the level of technology of judicial branch and the police in confronting with the drugs trafficking.
10. Monopolizing the sale and distribution of drugs to the addicts by the government

Preparing a full, comprehensive legal bill in relation with drugs, investigation on drugs crimes in public courts, providing the right of appeal for the condemned persons in accordance with the Article 21 of the canon of public and revolution courts ¹⁶² and Article 233 of the penal procedure approved in 2000¹⁶³ are among the other suggestions which have been considered by some criminologists as very useful and essential. ¹⁶⁴ As it was stated, addiction is a disease and thus, the legislator has decriminalized of addiction in many penal systems of the world.

However, using the mechanism of decriminalization in the criminal policy of Iran vis-à-vis drugs is a complex issue which demands deeper studies and it is not suggested to withdraw the legal ban or the criminality of addiction, however there is sufficient scope for limiting the realm of the system of penal justice and more inclination towards non-suppressive measures in this relation is an undeniable.

- **Steps of National Strategy:**

Before proposing suggestions, the first steps should be noticed; the steps upon which the pillars of national strategy should be placed:

The first step: Classification and division of the drugs consuming groups in order to determine the penal policy.

The second step: Identifying and collecting data on the rate and the number of drugs consuming groups.

The third step: Estimation of resources, equipments better suited legal edifice threats in order to determine attracting local and international cooperation and supports.

The fourth step: Determining the criminal policy vis-à-vis each of the drugs consuming groups.¹⁶⁵

Of course, another section of this review of foundations should include confrontation with the industry of drugs trafficking and fighting against obtained illegitimate incomes from it and money laundering and other crimes related to (direct or indirect) addiction such as (plantation, production, import and carrying of drugs...).

The new policies can be on one hand serve as a complementary to the penal policies and on the other hand, to modify them. In line with this ideal, this national policy and strategy can be suggested in this form:

Extensive inclination toward preventive measures by using the alternatives actions for punishment and adoption of non-penal methods to treat, correct and rehabilitate the addicts. And also extensive use of

reducing educational measures and methods of addicts through establishment of the camps of correction, and rehabilitation and prevention of crime repetition including technical, vocational, agricultural, industrial, sport and artistic camps and by using the organization of Bassij Resistance Forces.¹⁶⁶

Collecting necessary data and making evaluation in order to plan and present treatment services in two sections, (The First Section), urgent treatment services, and (The Second Section), allocation of resources and using effective and constant treatment methods in order to develop the treatment model outside the penal system.

The study and observe new patterns and methods of addiction treatment, in order to do a concurrent treatment of drugs abuse and mental disturbances resulting from addiction abandon (such as behavior therapy and group therapy, using new alternative medicines).

Increasing the budget for prevention and treatment of addiction¹⁶⁷, more emphasis on and attention to the treatment of the young adults and women, allocation of budget to run T.V. network exclusively for addiction treatment.

The obligatory treatment of addicts within the framework of judicial-penal system and using effective treatment methods for three stages of "during the period of bearing prison", "after releasing from prison", and "before returning of the individual to the society".

Replacing cash punishment with bodily punishment in order to maintain the global fame of the country, mandatory imprisonment punishment for "potentially dangerous criminals" and using the "alternative punishment

of suspension and monitoring" instead of imprisonment for drugs consumers and "less dangerous criminals" and also using electronic monitoring devices (electronic handcuffs) or if necessary the enforcement of multi-stage imprisonments or semi-detention or quasi-imprisonment such as working outside the prison detention at domicile and keeping in institutions outside prison (placement in institutions in free places) and imposing work and public services at specific cases in certain forms at least in discretionary penalties.

There is no doubt that using the successful experiences of others and establishing more coordination between penal codes and international conventions is less costly which must be performed maintaining the jurisprudential foundations of Islam.

Having an effective and just criminal policy demands more careful study of "etiology" of addiction issue. This study is important because it causes coordination and more adaptability between codes and factors of criminality and also conditions of crime occurrence. The study may be conducted by the criminologists and criminal technicians with a greater delicacy.

The criminal policy of Islam

- **Viewpoint of Islamic sects:**

Time and place are two determining elements of Ijtihad in the Islamic jurisprudence and the Mujtahid (jurist) should have dominancy over the issues of his time. An issue which has had a judgment in the past, due to policy, society and economy may become subject to a new judgment, that is to say that, by exact knowledge on economic, social and political

relations, the same subject which apparently is different from its old situation, in fact is converted into a new subject which inevitably demands a new judgment and decree. ¹⁶⁸

But it must be known that the passing of the time and place never changes the judgment (decree) directly, but other factors require changes in the judgment, such as the unlawfulness of buying and selling of blood in the past, becomes lawful but today, because it saves a human from death. ¹⁶⁹

Since the creation of addiction problem in the Islamic societies in particular through colonizers, the jurists of Islam from different religions (sects) started expressing jurisprudential views on addiction on the basis of religious teachings by analyzing and doing research about it and thus, in this regard, the first penal teachings also emerged. Many of Sunni and Shiah jurists have reviewed this issue and have clarified their jurisprudential views as follows:

- **The jurisprudential views of Hanafi scholars:**

Shams al-Din Sarakhsi (d. 483 A.H.) states, Ibn Abbas stated; Intoxicating drinking is unlawful... medical treatment with henbane is correct but as far as it degrades the human's intellect, it is not appropriate to use it. In summary, whatever is intoxicating will be unlawful, and indeed is there any exception with regard to the unlawfulness of wine either small or big quantities! [When] the holy prophet (p.b.u.h.) says wine is made from five things:

1. Date, 2. Grapes, 3. Wheat, 4. Barley, 5. Corn, it does not mean that they are real wines, but the intention is to make a comparison with wine and that drinking each of them is prohibited.¹⁷⁰

The judge, Hasan ibn Mansour Uzjandi (d. 592 A.H.) under the title of "Fasl fi Tasarrofat Alsakaran" writes, "If the human' intellect to be destroyed as a result of using henbane and horse's milk, his possessions will be discredit and it has been quoted from Abu Hanifeh and Sofyan Souri that if someone loses his wisdom by eating henbane and give divorce to his wife, if at the time of taking henbane, he had been familiar with the identity of henbane, the divorce is creditable and if he was not familiar with the identity of henbane, the divorce is not occurred."¹⁷¹

Najm al-Din Zahedi (d. 658) also states, whoever considers hashish as something lawful is infidel and killing him is permissible.¹⁷²

Abd al-Aziz Dehlavi (d. 1245) believes that using opium is unlawful and then he reasons that firstly due to the fact that it is a poisonous substance which is also harmful to the body as the medical sciences proves it. Secondly, it causes the infirmity in organs and Imam Ahmad, in "Mosnad" and Aboo Davood in his "Sonan", quoting from Hazrat Umeh Salamah have narrated that the holy prophet (p.b.u.h.) has prohibited the intoxicating because of this reason opium, hashish and other narcotics are unlawful. Concerning the quantity of consumption, there are different opinions among the scholars.¹⁷³

The scholars of Hanafi and Shafei also have consensus on this view that if someone uses hashish and then divorces his wife, his divorce occurs and since in the beginning, there had been different opinions and when the modern scholars observed the prevailing corruption of this harmful

substance, they issued a commandment on its unlawfulness. In the book of Tas-hih of Qadoori, it has been quoted that if someone becomes intoxicated as a result of using opium and henbane, he will be subject to prosecution and discretionary punishments, unless it has been used for treatment purposes and in that case, no judgment punishment is applicable on it.¹⁷⁴

- **The jurisprudential views of Shafei scholars:**

Imam Qazali (d.505 A.H.) writes, three kinds of plants are unlawful:

1. The plants which cause removing the reason such as hashish and wine,
2. The plants which put an end to the life such as kinds of poisons,
3. plants which endanger the health of human such as using medicine at an inappropriate time.¹⁷⁵

"Ibn Hajar Asqalani" (d. 852 A.H.) also states, Ahmad said that "Abd-Allah ibn Edris" expressed this tradition that he had heard from "okhtar ibn Felfel" who stated; I asked the "azrat-e Anas" Then he stated, The holy prophet (p.b.u.h.) has prohibited from the tar sealed container and added, every intoxicating substance is unlawful and the document of this tradition is in "Sahih written by Imam Muslim". The knowledge of the followers Imam Muslim who came after him was greater about this issue and for this very reason, "bdollah ibn Mobarak" has used the application of the tradition "كل مسكر حرام" (all intoxicating substances are unlawful) and stated; whatever is intoxicating is unlawful even. So, in this rule, hashish and opium and so on will be included in the category intoxicating substances.¹⁷⁶

Also, "hmad ibn Hajar Heysami" (d. 974), in "Alfatavi al Kobra al Fiqhiyah", in response to the question on unlawfulness of eating opium writes; eating (taking) opium is unlawful, unless someone has been accustomed to it and has a fear that if he does not use it, he will die. It is allowable at the time of emergency and necessity and not absolutely and it has the same judgment on eating the meat of dead animal at emergency here and he will have a right to use an insignificant quantity, up to the time when he abandons this harming addiction gradually.¹⁷⁷

And in the continuation, he narrates that "mam Noovi" in the "Sharh al Mohazzab" and "Sheikh Abu Ishaq" in "Al Tazkarah fi Alkhelaf" and "Sheikh Taqi al-Din ibn Daqiq al-Eid" in his annotation on "Foroo by Ibn Hajeb" and "Rafei" in "Bahr al Mazhab" and "Ibn Emad" and "Zarkeshi" and "Ibn Bitar" in the book, "Aljameh Leqavi al Adviyah" and "Mavardi" believe that hashish is part of intoxicating substances and its consumption is unlawful and like "Sheikh al-Eslam Ibn Teimiyah" and "Qarafi" state a consensus on unlawfulness of hashish. Moreover, they have termed anyone who considers cannabis a lawful substance as an infidel... and its business and plantation is also unlawful..."

- **The jurisprudential views of Hanbali scholars:**

"Abdollah ibn Ahmad ibn Mahmood Qodamah" (d. 620 A.H.) writes, Divorce of intellect losing person when is not as a result of intoxication will not occur. The scholars and scientists have consensus that the divorce of someone who has lost his reason, when it is not as a result of intoxicating substances will not take place."Hazrat Aboohorairah" narrates from the holy prophet (p.b.u.h.) which the Hazrat stated; All divorces are creditable with the exception of the divorce by an idiot who

has lost the power of discretion of his wisdom... there is no difference that the degradation of intellect is as a result of madness, sleeping, drinking medicine, or as a result of drinking by reluctance and force or drinking something which removes reason but he is not aware of it. But if he has lost reason as result of henbane and as likes, where he is well familiar with that and uses it as a pleasure, so that its judgment (decree) is the decree of the human who has lost his intellect as a result of drinking wine.

Also, "Sheikh al-Eslam Taqi al-Din Ibn Teymiyeh Harrani" (d. 728 A.H.) is asked about hashish consumption. He says, eating (taking) hashish is unlawful, there is no difference if it is intoxicating or not. And intoxicating hashish is unlawful in accordance with the collective views of the Muslims and whoever considers it lawful will be asked to repent. If he repents, he will be abandoned and if not, he will be killed on the charge of apostasy and funeral prayers will not performed on his/her body and will not be buried in the cemetery of the Muslims. ...

- **Jurisprudential views of Maleki scholars:**

"Allameh Abd-Allah Manoofi" (d. 900 A.H.) also considers hashish and opium as unlawful and intoxicating and says; the addicts to opium and hashish sell all their assets and liabilities to achieve these two, so that it indicates that for addicts there are pleasure and joy in the consumption of these kinds of drugs.¹⁷⁸

Also, "Alhottab" (d. 954) says: The intoxicating substance is unlawful either in a small or a big quantity. These substances are in four types:

Wine, hashish, opium and Joza [a kind of narcotic substance]¹⁷⁹

• **The Views of Recent Sunni Scholars:**

Among the recent jurists, also "Sheikh Abdolmajid Salim" (Egyptian Mufti) in 19 April 1940 in response to the religious commandment on drugs said:

1. Usage and consumption of all drugs including hashish, opium and cocaine is unlawful.
2. Business of drugs and using it as a career and means of business is unlawful.
3. Farming and planting hashish, poppy and as likes in order to obtain drugs for personal use or business as unlawful.
4. Profit and interest resulting from business of drugs is unlawful and impure and spending it in the path of God and approaching God is not acceptable to God and is unlawful.¹⁸⁰

"Abd-al-rahman Aljaziri" also writes: Usage of what is harmful for body and reason is strictly unlawful such as opium, hashish, cocaine and all harming drugs and killing poisons.¹⁸¹

Also, "Vahbah al-Zoheili" says, "whatever of non-liquid drinking such as henbane, hashish and opium which bring about eradication of reason is unlawful, but it is not subject to prescribed punishment but its users are subject to discretionary punishment. The insignificance and small amount of its consumption for treatment is allowable, because its unlawfulness is not substantive but it is due to their harms, the Islamic ruler can prevent of plantation of drugs."¹⁸²

- **Jurisprudential views of Shiah Esna Ashari scholars:**

"Mohammad ibn Noaman al-Akbari" known as "Sheikh Mofid" (d. 413 A.H.) states: Whoever makes a human unconscious by dissolving henbane or other things in his food, and then steal his assets, to any extent which the judge discerns, he can make a discretionary punishment for this action on the thief and return the stolen assets to its owner and if henbane or the narcotic thing has had an ill effect on body, reason, and psyche of him, the feeder should compensate that. ¹⁸³

Also, "Aboo Jaafar Sheikh-e Toosi" (d. 460 A.H.) writes: Whoever makes a human unconscious by putting henbane or other things in his food, and then steal his assets, the judge can punish him to any extent on his discretion and punish him for this action and return the stolen asset to its owner. If the henbane or narcotic thing has had a negative effect on him, the feeder of henbane will be responsible for that work and the resulting felony. ¹⁸⁴

"Ahmad ibn Edris Helli" (d. 598 A.H.) also says: Whoever makes a human unconscious by henbane or other things which has been put in his food, and then steal his assets, the judge can punish him to any extent which he discerns and returns the stolen assets to its owner and if the henbane or narcotic things has had a ill impact on him, then he is liable for that effect and the resulting felony. The lethal poisons will be unlawful both insignificant and big quantities. ¹⁸⁵

"Mohaqeq Helli" (d. 679 A.H.) considers the lethal poisons in small or big quantities as unlawful, but in the case of the necessity of treatment for some diseases and dominant view for health, taking one or two

tablets has been mostly considered as without any problem (allowable) and he does not allow surpassing this quantity which reach to the level of danger and harm.¹⁸⁶

"Hassan ibn Yousef ibn Ali "known as Allameh Helli (d. 726) also states, Every kind of intoxicator is unlawful, whether solid or in liquid form Hashish which is unlawful and one who feeds henbane or intoxicating drug to someone, will be liable.¹⁸⁷

Also, "Zein al-Din Jabaee Ameli" known as Shahid-e Sani, (d. 966 A.H.) in "Alrozah Albahiyyah" states, What will be harmful for body either insignificant or great quantity, its usage will be unlawful in any condition. And also there is no difference whether or not this damage reach to the level of loss, but it is sufficient that it has an ill effect in the morality and behavior of the user and if the excess use of a substance to be harmful, but its insignificant use is not harmful, in this case, its prohibition will be limited to quantity. In case of opium a person by his own experience or on the basis of opinion of skillful person or physician may determine the quantity as insignificant. The excess consumption of opium is unlawful and its insignificant quantity of consumption is not unlawful.¹⁸⁸ Since it is not lethal, a little quantity of consumption is allowed for treatment.

"Moulana Mohsen Feiz Kashani" (d. 1091A.H.) also does not consider treatment by using intoxicating substances or any kind of substances which has an intoxicating feature as correct.¹⁸⁹

"Ayatollah Mohammad Hassan Najafi" (d. 1266) says, the usage of poisons and lethal substances is absolutely unlawful, but those group of substances whose low consumption is not lethal, such as opium, its use

will not be unlawful as long as it is not harmful to the body but when it reaches to the level of harm, its use will be also unlawful.¹⁹⁰

"Ayatollah Seyed Kazem Yazdi" (d. 1337 A.H.) considers hashish as part of intoxicating substances and considers it as unlawful.¹⁹¹

- **The Views of Recent Shiah Scholars:**

"Atyatollah Syed Hossein Tabtabaee Boroojerdi" (d. 1380 A.H.) also states, "...whatever annihilates the reason is unlawful in Islam ..." and it is necessary that not only the Muslims but also the whole wise people save themselves from the lethal poisons (such as opium, residue, morphine and so on).¹⁹²

Imam Khomeini (d. 1409 A.H.) also in responding to the inquiry on drugs, said: The usage and consumption of any kind of drugs or any kind of addictive materials is not permissible and its buying and selling or transaction depend on the regulations of the Islamic government and it is not allowed to breach it. The money of heroin is unlawful and obtaining daily bread from it is not permitted and its distribution is also not permitted.¹⁹³

"Ayatollah Seyed Abolqasem Al-khooei" (d. 1413 A.H.) also considers the use of lethal poisons which is harmful to the body such as opium as unlawful.¹⁹⁴

Also, the Leader of the Islamic Revolution of Iran, "Ayatollah Seyed Ali Hoseini Khameini", in response to the inquiry states, "They usage of drugs is unlawful because of its ill effects for this very reason, gaining income by them via transportation and keeping, buying and selling and other forms are also unlawful".¹⁹⁵

- **Conclusion:**

1. The issue of drugs in the modern world is a colonizing trend which the enemies of Islam employ it to annihilate the forces of the youth in the Islamic countries and to weaken the power of Islamic Ummah.
2. On the other hand, the foundation of Shariah is to protect the public interests of the society and to repel the corruptions and to support individual and body of the society. The consensus the jurist of Islam hold that consumption drug for pleasure, and its business, farming, plantation and production should be criminalized and in such crimes "discretionary punishments" may be awarded and some also believe that for the reasons of unlawfulness, prescribed punishment should be given as is given in case of wine.
3. There is different opinion regarding the consumption of certain type and quantity of drugs. Jurists hold that if the drug is used for healing and treatment purpose, limited use at the time of energy have been excluded from this commandment and "decriminalized"
 - The criminal policies in the field of:
 - Abortion
 - Suicide
 - Alcohol

- **Prostitution and Homosexuality**

Today decriminalization has found a broad scope within the framework of limiting and lack of interference of penal system and has incited a changing teaching.

- **Decriminalization of abortion**

The subject of decriminalization of *abortion* which aims at prevention of damage on women and reduction of crimes and having effects on the ratio of the number of victims, criminals and control of women over their own reproduction and deterring from unwanted children birth, and having right of selection of one's own child have convinced the lawmakers of today in many countries to take steps for decriminalization of abortion.¹⁹⁶

In the system of criminal law of Islam, abortion to reduce or control the increase of population is discarded and maintaining the rights of parents and also the right of embryo life are emphasized. The legal system of Islam severely prohibits committing any action which will lead to abortion¹⁹⁷ and on the basis of different stages of evolution; the embryo creates criminal responsibility for its perpetrator.¹⁹⁸

The Islamic jurists also have permitted resorting to it in case of the existence of conditions such as saving the mother's life and due to medical necessity.¹⁹⁹

Before the Islamic Revolution in Iran and also in accordance with the amendments which took place in 1973 in the Law of Public Punishment [Penalties] approved in 1925, abortion was considered a crime and the

perpetrator was subject to punishment. Exemption of woman from punishment was provided if she had committed abortion as a result of following the influence of husband furthermore, medical abortion was also permissible under Article 42 of that law.²⁰⁰

After the Islamic Revolution, these regulations were developed in accordance with the criminal jurisprudence of Islam. On this basis, the act of abortion either intentionally, quasi-intentional and pure mistake are considered crimes in the Iranian Criminal Law and have penal responsibility. The legislator has permitted the medical abortion which is necessary in accordance with the consent of the individual or her parents or their legal delegates and by observing technical, scientific and governmental regulations, but obtaining consent in emergency cases is not necessary.²⁰¹

- **Decriminalization of suicide:**

The other issue is the phenomenon of committing suicide which is the result of a sick and unhealthy mind. The contemporary society also has developed its tolerance on this case gradually. In Europe, in particular England, in the Middle Age, committing suicide was a kind of double murder, because the person who commit suicide, in addition to the annihilation of his body, he was considered to have destroyed his soul too and in fact, he had defied his creator. The punishment of committing suicide was to pull the body of the demised person on the ground, his assets were confiscated and it was not transferred to his inheritors.

This method of treatment was being abandoned gradually between 1823-1870 gradually and at the age of "Joseph, the second" it was stopped and gave rise to formation of thinking that committing suicide

could likely be permissible in some cases too. Up to the year 1961, effort to commit suicide was subject to punishment but today in many systems, they consider this act as a legal action and the physicians interfere in the death of the patient to reduce his pains and sufferings and speed up the death. They consider it as a kind of medical treatment.

Though, the opponents of decriminalization of suicide believe that protecting life is a divine duty and consider the practice of this action as a result of a mad mind. They believe that a person should not be allowed to commit suicide in any condition as commission is against human's nature.²⁰²

In all religions, committing suicide has been considered a prohibited action. The followers of religious cultures believe that faith and belief in religion has impact on reducing the rate of committing suicide. Emile Durkheim believes that the religion is likely a deterrent factor in committing suicide. Further, social thinking is formed accordingly.²⁰³

In accordance with the verse: *ولا تلقوا بأيديكم الى التهلكه*²⁰⁴ The Islamic jurists also believe that committing suicide is in fact brings one to a dangerous situation intentionally and is in contradiction with the command of God and is prohibited. So, from the worldly and religious points of view, it is considered a crime and is unlawful.

In the Iranian criminal law, though from legal point of view, the suicide is not under a criminal title, but taking inspiration from penal foundations and teachings of Islam, committing suicide in this country is intensively forbidden and indecent. On the other hand, the regular and authenticated data is not accessible to specify the impact of

revolutionary, and war changes, economic recession and other factors on suicide in recent decades in this country.²⁰⁵

In India, since ancient times, in accordance with Hindu religion, the Brahman wise figures who were pursuing perfection and reaching the eternal goodness (Nirvana) used to commit suicide during the religious festivals frequently to free from all pains and to enter into the world of absolute annihilation.²⁰⁶

Though from the ancient time up to the middle of the 20th century also the act of live burning of women after the death of husband was prevailing²⁰⁷, but today, committing suicide in the Indian Penal Code is considered an illegal act and a crime and its punishment is from one year imprisonment and cash penalty and or both of them.²⁰⁸

In a study by Lodely, S. and Gregory, R.F. on the population of India, the main causes of suicide have been presented as financial problems and issues related to marriage and perhaps, the most prevailing causes leading to committing suicide are depression, physical diseases and poverty.²⁰⁹

- **Decriminalization of alcohol:**

The supporters of decriminalization of alcohol argue that alcoholism is purely for recreation purpose. It does not any harm to the society, instead it creates entrepreneurship, job, business even was leading to collection of tax for the state. They consider this action as a distinctive feature of the development of social, economic and cultural urban life.

In opposition, the cons believe that there is a definite and complex relation between alcohol and crime and it reduces the power of deterring

and controlling of the self within and becomes the factor of crises, social disorder and feloniously actions. Decriminalization of alcohol brings about social tensions and causes the creation of other crimes such as spreading drugs abuse, prostitution, committing suicide and beggary too.
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In the criminal jurisprudence of Islam, in accordance with the exact wording of the Qur-an and tradition [Sunnah] ²¹¹, drinking wine and intoxicants is unlawful. ²¹²

Following the criminal method of Islam, Article 165 of the Law of Islamic Punishments of Iran considers drinking intoxicants and beer as crimes and if proven, the male or female perpetrators will be subject to eighty lashes. This Law does not enforce prescribed punishment against a person who has drunk wine but claims that he had been unaware of the command or a person who drinks wine essential quantities to save the life or to cure his severe diseases.²¹³ Also, making, preparing, selling, buying, transporting, supplying alcoholic drinks and procuring instruments to use it as a result of encouraging, alluring and cheating are also crimes and subject to punishment. The prescribed punishment can be withdrawn from the wine-drinker only if he repents before the witnesses' testimony. ²¹⁴

In India, during the pre-independence period, Mahatma Gandhi himself issued several strong statements against the sale and consumption of alcohol .At present, despite the government's policy in getting taxes, 15%-20% of the Indian youths consume alcoholic drinks and the concerned policy has not had any impact on reduction of its consumption .²¹⁵

- **Decriminalization of *prostitution and homosexuality*:**

The argument justifying criminalization of prostitution are made highlighting, with respect to the prostitute, various kinds of harms, such as, venereal disease, mental deficiency or neurotic impairment, incapacity to orgasm and vulnerability to exploitation by pimps. With respect to patrons alleged harms include venereal disease, neurotic impairment and sexual dysfunction. The criminal prohibition has thus been justified on the basis of protecting people from these kinds of self inflicted harms. Further, the prostitution is justified because of the number of crimes such as theft and assault of patrons, trafficking heroin, and the enlarged scope of organized crime operation, which are said to occur incident to prostitution and of which prostitution is alleged to be the genesis. The critics of criminalization of prostitution argue in support of decriminalization of prostitution argue that none of the aforesaid consideration justifies the criminalization of prostitution; indeed, to the contrary, criminalization itself foster these evils by forcing prostitutional activities into the clandestine criminal underground, the coverless of which breeds incidental crime. If prostitution is tolerated by the law in certain areas of community, as, for example, it is in West Germany and Netherlands, the public visibility of prostitution world enable the police to cope more effectively with whatever violence or fraud exist. Thus, the argument is made that infact the decriminalization would cause reduction of human trafficking and exploitation and slavery of women. Decriminalization will help in securing their social security and welfare, legal support extending to prostitutes and obtaining capability to restore their rights [administration of justice] through competent officials (as it was practiced in the Netherlands and Nevada, USA), conducting health

cares and prevention of infectious epidemic diseases, helping with the economic, social and bodily health of those who does business with their body.

The supporters of decriminalization of homosexuality believe that committing this action brings about the creation of a lovely link between them since there is the mutual desire and satisfaction of two adults. So they must also enjoy all rights related to marriage and legal supports should be extended to these individuals. They would be able to use the health and welfare services, creation of self confidence in them for a sustainable social living and in opposition, the opponents consider decriminalization of homosexuality as destruction of ethical values and believe that the link of marriage is not a personal issue and have impacts on the society and the institution of family is established, the children take roots in that institution and grows up with love and they serve to others.²¹⁶

The issues of prostitution and homosexuality have been introduced under the concepts of fornication (committing adultery or rape), sodomy and lesbianism which are subject to the crimes with the prescribed punishments.²¹⁷

Fornication is an unlawful action for which the fully responsible believers have been asked to avoid it absolutely²¹⁸ and its punishment according to the exact wordings of Islamic Shariah is sending to exile, lashing and stoning to death.²¹⁹

The Law of Islamic Punishment of Iran considers committing fornication (rape) crime and the mature, wise, one who is free in one's action and aware of the verdict and its subject, if committed fornication

and it is being proved, he/she will be entitled and subject to the prescribed punishment.²²⁰

Comprehending the exact wordings of the Qur-an, sodomy action has been prohibited in the Islamic Shariah and is unlawful.²²¹ In the jurisprudential books of Islam, it has been mentioned that sodomy is Vaty [وطى] and sexual intercourse of two male sex with each other is considered as part of prescribed punishment crimes and committing that is subject to punishment.²²²

The Law of Islamic Punishment of Iran also considers the act of sodomy a crime. Prescribed punishment has been inflicted for both perpetrators.²²³

Also, lesbianism which includes female homosexuality has been prohibited by the holy legislator of Islam and is subject to punishment.²²⁴ The Law of Islamic Punishment of Iran also considers lesbianism a crime and if being proved, the punishment of hundred lashing has been forecasted for that.²²⁵

With regard to the culture and ruling values in each society, the laws of countries are different on these aforementioned issues. These issues can be comparatively studied by "the penal law and criminology innovative researchers" in details even in comparison with "the penal teachings of Islam" and to be the subject of other research.

In the Indian Penal Code, the subject of prostitution has been considered an immoral act²²⁶

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60. Amid this, other countries such as France, Spain, the Netherlands and Portugal put the business and smuggling of opium to China at the blueprints of their government and in particular America, by imposing the principle of Most Favored (acceptance of equality in behavior and indiscrimination in the Wang Hiya pact) to China, after England, is considered as the second exporter of opium to that country.
61. Baseri, Aliakbar, A Scientific and Applied Research on Narcotic Drugs, p.193.
62. On the dilemma of addiction and restrictions on supply of opium in the year 1909, a convention was formed in collaboration with 13 states in Shanghais. In the continuation, it led to the Convention on Limiting the Supply of Opium in 1912 to 1914 in the Netherlands and with the signature of 14 states. Then in the years, 1925, 1931, 1936, 1946, 1948, 1953, 1961, 1971, 1972, 1988 and 2000 in Palermo, a great numbers of conventions and other protocols were approved on smuggling drugs and in confrontation with organized crimes and also the Commission of Drugs of UN (UNODC) was founded in 2002.
63. Lyman, M.D. & Gary, "Drugs in Society", p.263.
64. Etelaat [Information] Newspaper, No.18668, p.5.

65. Shakarmi, Abdolhossein, op.cit. p.34.
66. Abachi, Maryam, Supporting the Children against Addiction, p.164.
67. Asaadi, Hassan, Addiction and Drug Smuggling, p.114.
68. UNDCP, 2000.
69. Raees Dana, Fariborz, Market of Narcotic Drugs of Iran, p.156.
70. Kaplan, H.I. et al, "Synopsis of Psychiatry", 1994.
71. Assadi, Hasan, op.cit. p. 113.
72. Ibid, p.114.
73. Preparer, provider (rubbing and to form into tube of opium)
74. Williams, P. et al, Trans-national criminal organizations and drugs smuggling, p.267.
75. Bouloukos Adam, C. et al, Organized Crime and Drugs Trafficking: Efforts of the United Nations, p.240.
76. Ibid, p.237.
77. Ibid, pp.241, 242.
78. Alder, 1996.
79. Williams, P. et al, op.cit.p. 267 onwards (With an abridgment and amendment).
80. <http://www.Ifs.Univie.ac.at:/Uncjin>
81. Abachi, Maryam, op.cit. pp.161, 168.
82. For further information, see: op.cit. pp.46, 48.
83. Ibid, pp.128, 129.
84. Ibid, pp.130, 178.

85. For further information, see: Marneffe, p., "Against the legalization of heroine", And also: www.drugwatchinternational.com quoted from S. Bent, Sandara And also: www.Studyworld.Come/Newsite/Robert Essay/Socialissues/drug%5Decriminalization -of -381048.htm.
86. The Report of the Year 2000 on Situation of Drugs Issue in the European Union.
87. Ashoori, Mohammad, Alternatives of Prison or In-between Punishments, p. 442.
88. The Report of the Year 2000 on Situation of Drugs Issue in the European Union.
89. Ibid.
90. The alternative medicines with the feature of Egonist activate the receiving nerves of brain and reduce the impact of drugs consumption. The Anty Egonist medicines also while activating the receiving nerves of drugs in brain, annihilate the effect of other narcotic drugs or consumed Opioid.
91. Ashoori Mohammad, op.cit. pp.460, 461.
92. Convention of the year 1988 prescribes that the member countries of the European Union should implement harsh disciplinary policies towards the smuggling and also consumption of drugs. These countries have also joined to the Convention of Single, approved in 1961, Convention of Psychotropes approved in 1971 and the Annexed Protocol approved in 1972 too.
93. Ashoori, Mohammad, op.cit. p.463.
94. These canons have been legislated in the European Countries in relation with the consumption of drugs and method of its treatment and it has also been reflected in the World Report in the UN Plan for the International Control of Drugs too. For further information, see: Ashoori, Mohammad. op.cit. pp.477, 479.
95. Arnao, Giancarlo, "Italian referendum deletes criminal sanctions for drugs users", 1994.

96. Decriminalization comes to Britain, House of Commons Passes Cannabis, 2003.
97. Letter of Islamic Revolution, No.25, p.49.
98. Husak, D. Legalize this! the case for decriminalizing drugs, London, verso, 2002, p. 146.
99. Layton, J., "Is alcohol more dangerous than ecstasy?" or <http://health.howstuffworks.com/drug-ranking .htm/printable>.
100. For further information, in addition to the mentioned codes, see: Canon of Supply of Intoxicants (1985), [Part 1(1)], Code of Approved Medicines (1968), Code of Food Immunity (1990) [Part 1(1), (2)], Code of Deterrence and Use of Drugs,(1964).
101. Decriminalization comes to Britain, op.cit., 2003.
102. Ashoori, Mohammad, op.cit. pp.443, 453.
103. See: R v Lewis, (1988), The Times, 16 February.
104. Http://www.drugtext.org/index_html
105. Letter of Islamic Revolution, No.25, p.54.
106. Cozlan, Marc, "France Wavering about Decriminalization of Drugs", p.376.
107. Ashoori, Mohammad, op.cit. pp.446, 454.
108. Letter of Islamic Revolution, No.25, p.50.
109. The Police of Revolution, Article on Narcotization and Addiction in the Land of the Great Satan, p.59.
110. <Http://web.ebsc.host.com/ehost/detail?vid=19&hid=122&sid=e7aaoda-6dae-4ff7-b7...01/12/2006> quoted from Nicholson, Rachel, H.
111. World Report of the year 2000, Headquarter for Fighting against Drugs and International Plan of Drug Control.
112. <Http://www.hamshahri.net/hamnews/1381/810823/lifew.htm>

113. [Http://www.hamshahri.net/hamnews/1381/818021/lifew.htm](http://www.hamshahri.net/hamnews/1381/818021/lifew.htm)
114. [Http://www.hamshahri.net/hamnews/1381/810826/lifew.htm](http://www.hamshahri.net/hamnews/1381/810826/lifew.htm)
115. [Http://www.hamshahri.net/hamnews/1381/810828/lifew.htm](http://www.hamshahri.net/hamnews/1381/810828/lifew.htm)
116. Report of National Organization of Correction of Law of Marijuana. November 2005.
117. Armstrong, A. Comments, 2003.
118. Ibid.
119. Husak, D. et al., "Legalization of Drugs"
120. Experts differ over effect of decriminalization, Report, 1995, p.6, 1/3p.
121. Sher, G. "on the decriminalization of drugs".
122. [Http://www.pediatrics.org/cgi/content/full/113/6/e632](http://www.pediatrics.org/cgi/content/full/113/6/e632) Quoted from Joffe Alain
123. Scheb, John Malcolm et all, op.cit. p.27.
124. [Http://www.hamshahri.net/hamnews/1381/810819/lifew/htm](http://www.hamshahri.net/hamnews/1381/810819/lifew/htm)
125. Miller J. Mitchell. et al, "Drug Enforcements Double Edged Sword", pp.245-267.
126. Husak, D. Legalize this! the case for decriminalizing drugs, London, verso, 2002, p. 151.
127. [Http://capitalfax.blogspot.com/2006-08-01-Rchavehtml...out/25/2006](http://capitalfax.blogspot.com/2006-08-01-Rchavehtml...out/25/2006). and also see: [Http://au.messages.yahoo.com/news/top-stories/237964...out/25/2006](http://au.messages.yahoo.com/news/top-stories/237964...out/25/2006).
128. Gozlan, Marc, op.cit.
129. Ashoori, Mohammad, op.cit. p.447.
130. According to the estimation of the year 1998, within the framework of the national project of drugs misuse NHSDA, the

numbers of the addicts under treatment have been 2.1 million people out of the 5 million of addicts who need such services.

131. Ashoori, Mohammad, op.cit. p.450.
132. Of each ten young adults in need of treatment services, only one person receives these services.
133. In the last 40 years in this country, the system of addiction treatment has been outside the framework of the system of health cares. The treatment methods and plans "by the addicts at the process of abandoning" has been performed via using the a 12-stage model so called "Minnesota". These addicts have always been outside the system of health cares and in lack of treatments services equipments and action of addiction abandoning of them has been taken place in isolation and in the group-therapy method.
134. Ashoori, Mohammad, op.cit. p.451.
135. Maintaining Methadone is of the effective and secure methods to reduce the illegal consumption of drugs and related crimes with that. The study and review of the Americans, in particular, the research made by Ross in the middle of 1991 of the six plans in New York, Philadelphia and Baltimore shows that out of 32 freed offenders from imprisonment who have not maintained Methadone or received it, they have had 53 times of further possibility for the return to prison and have 92 times of greater possibility the heroin consumption again. The method of maintaining the treatment has been introduced as more economic, because against the costs of crime reduction which is about USD 13 per day, it needs a cost about USD 6 per day.
136. Ashoori, Mohammad, op.cit. p.447 onwards, (With a slight changes and amendments)
137. Ibid, p.454.
138. Drugs Courts: The Scottish Parliament (The Information Service), RN/91/1 November, 2000.
139. Ashoori, Mohammad, op.cit. p.455.

140. Drugs Courts, The Scottish Parliament (The Information Service), RN, 91, 1 Nov. 2000.
141. [Http://www.Stopdrugwar.org](http://www.Stopdrugwar.org)
142. 80% of the world opium is produced in this country. For further information see (UNDCP, 2000)
143. "the ants" is the prevailing title of these individuals in the business of drugs.
144. Despite the efforts of the last two decades to harness and reduce the addiction in Iran, due to the increase of the process of production and plantation of drugs in the region of golden crescent, the drugs are imported into Iran from Pakistan and Afghanistan in form of opium residue, morphine and heroine about ten times more as compared with the past.
145. Shakrami, Abdolhosein, op.cit. pp.45, 46, 57.
146. See: Saba, Manoochehr, Addiction.
147. Ourang, Jamileh, op.cit. p.44.
148. Qaemi, Ali, Damages and Social Consequences, p.94.
149. Serajzadeh, Hossein, "Muslim Religiosity and Delinquency", 1998.
150. Report of the then Head of Rehabilitation Organization to the International Seminar on Addiction, 11-12 May, 2000.
151. Reis Dana, Fariborz, op.cit. p.153.
152. Norooz Newspaper, Wednesday, 17 October, 2001.
153. Research of Rehabilitation Organization, 1998, (A), (B), (Yazd).
154. For further information, see: Kashani, Mahmood, Assessment of Legal Structure of Fighting against Drugs. pp.3, 4, 18, 19.
155. For further information, see, Report of the Headquarter for Fighting against Drugs, (A), (B), (G), (D) in 1998.

156. Shakarami, Hossein, Quoted from the report of the First Seminar on Addiction, pp.76-78.
157. See: Statistical Report of Economic and Social Commission of Asia and Pacific, (ESCAP) in 1998.
158. Badrian, Fakhroldin, Complete Collection of Drugs Canons and Regulations, pp.57-62.
159. Article 19 of Islamic Punishment Canon: The court can deprive of social rights for some times [someone who has been sentenced to discretionary or deterring punishment because of committing an intentional crime] and also enforce him/her on residing on a certain place and or lack of residing (prohibition of staying) in a spot or certain spots as supplementary (completion) of discretionary or deterring decree. (According to the view 7/8481-8 March 1995- General Office of Legal and Compilation of Judicial Branch's Canons: determining imprisonment penalty for the losing party as supplementary to the discretionary or deterring decree is against canon)
160. Article 20: "Depravity of some or all social rights and obligatory residing in a certain spot or ban of residing in a certain place should be in proportion with crime and features of criminal in a certain period..."
161. Badrian, Fakhroldin, op.cit. pp.632-633.
162. Article 21: (amended on 17 April 2002) reads; The appealing authority of the revisable judgments (decrees) of the public, legal, criminal and revolution courts is the appealing court of the province that those courts are in the judicial domain of that province. The decrees of the provincial penal courts and those groups of the judgments of provincial appealing courts can be appealable in the High Court of the country within the due deadline for appealing.
648. According to the Article 233: The authority of appealing the judgments of public and revolution courts of each judicial domain, is the appealing court of the province, with the exception

of the following cases in which the authority for their appealing will be the High Court of the country;

- A) The crimes whose punishment is execution or stoning to death.
- B) Crimes whose legal punishment are amputation, retaliation or retaliation of punishment of intentional injury.[Atraaf]
- C) Crimes whose legal punishments are imprisonment more than ten years.
- D) Confiscation of properties

164. See: Kashani, Mahmood, op.cit. pp.19, 20.

165. The European Council in 1972, classified the characteristic of the crimes being committed by medicine receivers for the preparation of drugs as follows:

1. Regular consumers,
2. Encouraging-oriented consumers,
3. Consumers who distribute drugs without any intention to make profit,
4. Consumers who make bargain on drugs at the level of personal needs,
5. The criminal consumers in other crimes in direct link with oneself's addiction (forging prescription, forced and violated stealing from drug stores),
6. Criminal consumers in an indirect link with their own addiction,
7. Regular criminals who have been pulled towards addiction.

For further information, see: "Driot de la drogue, Francis Cabailcro, *Precis Dalloz*, No.393, p.499 and also Goldooziyan, Iraj, *Proceedings of International Conference of Judicial Branch, I.R. of Iran*, p.43.

166. All Volunteer Force (AVF), Bassij Resistance Force is a para-military organization which is established by joining the young men and women voluntarily and with religious and revolutionary

motivations in order to serve with the construction of the country (at the time of peace) and or confrontation with local and foreign threats (if necessary) and are employed by the armed forces (Islamic Revolution Corps).

167. In 2007, the amount of 7 billion and 400 million Tomans (USD 7.400.000:00) has been allocated to addiction treatment which shows a 80% increase as compared with the previous year.
168. Adapted from Moosavi Khomeini [Imam Khomeini], Rooh-Allah, Sahifeh Noor, Vol.21, pp.91,98.
169. Barfi, Mohammad, From Pubs to Mourning House of Addiction, p.150.
170. Altoosi, Mohammad ibn Alhasan, Almabsoot, Vol.24, pp.9, 17.
171. Barfi, Mohammad, op.cit. quotation from "Alfatavi Alkhanayah (Fi Hamesh al Fatavi al Hendiyah), Vol.3, p.234.
172. Barfi, Mohammad, op.cit quotation from "Alddor al Mohtar, Sharh-e Tanvir al Absar" (as an annotation), Vol. 6, p. 458.
173. Reviewing drugs in the Islamic texts, p. 195 quotation from Fatavi Azizi, Vol.2, p.119.
174. Ibn Abedin, Mohammad Amin, Annotation [Hashiyah] Radd al Mohtar Ala a-Ddor al Mokhtar, Vol.3, p.240.
175. Katani, Mohammad ibn Jafar, Hokm al Tadkhin End al Aemmah al Arba-ah va Qeirahom, p.88.
176. Study drugs in the Islamic texts, p. 139 quotation from Fath al Bari, Vol.10, p.37.
177. Ibn Hajar Makki, Abolabbas Ahmad, Alfatavi al Kobra al Feqhiyah, Vol. 1, p.42.
178. Maosooah al Fiqh al Eslami, Vol.12, p.57.
179. Reviewing drugs in the Islamic texts, pp.148-149 quotation from Mavaheb al Jalil, Vol.4, p.233.
180. Jame, Hamed, Almokhadarat fi Raay al Islam, pp.72-74.

181. Aljaziri, Abdolrahman, *Alfiqh ala Almazaheb al Arbaah*, Vol.2, p.4.
182. Alzoheili, Vahabah, *Alfiqh al Islami va Adelatahoo*, Vol.4, p.34 and Vol.6, p.166.
183. *Reviewing drugs in the Islamic texts*, p.55 quotation from *Almaqnaah*, Vol.1, p.805.
184. Altoosi, Mohammad ibn al Hasan, *op.cit.* Vol.5, p.52.
185. *Reviewing drugs in the Islamic texts*, p.71, Quotation from *Alsaraer*, Vol.3, p.511.
186. Alhelli, [Mohaqeq Al Heli], *Abolqasem, Sharaye al Islam*, Vol.3, p.176.
187. *Reviewing drugs in the Islamic texts* , p. 73 quotations from *Qavaed al Ahkam*, Vol.2, pp.157-159.
188. Jabaee Ameli, Zein Adin, [Shahid Sani] *Alrozah Albahiyah Fi Sharh Dameshqiyyah*, Vol.2, p.282.
189. *Reviewing drugs in the Islamic texts*, p.83, quotation from *Almafatih Alsharaye*, Vol.2, pp.97, 229.
190. Alnajafi, Mohammad Hassan, *Javaher al Kalam*, Vol.36, p.376.
191. Yazdi, Tabatabaee, Kazem, *Orvah al Vosqa*, Vol.1, p.69.
192. *Reviewing drugs in the Islamic texts*, p.99.
193. Moosavi Khomeini [Imam Khomeini], *Rooh Allah, New Jurisprudential-Medical Treatise*, Vol.2, p.114 and *New Commandments (Jurisprudential New Questions and Answers)*, p.135.
194. *Reviewing drugs in the Islamic texts*, p.91.
195. Hoseini Khamenei. Ali [Atyatollah], *Resalah Ajoobah Al-Esteftaat*, Question 1403.

196. For further information see: Berk Richard A. et al, "The legalization of Abortion and Subsequent Youth Homicide", 2003.
197. The Qur-an of Mohammad (p.b.u.h.) , Surat Esra, Verse, 31:
(ولا تقتلوا اولادكم خشيه املاق نحن نرزقهم و اياكم ان قتلهم كان خطا كبيرا)
198. The Qur-an of Mohammad (p.b.u.h.) , Surat Momenin: Verses 12-15 :
(لقد خلقنا الانسان من سلاله من طين ثم جعلناه نطفه فى قرار مكين ثم خلقنا النطفه علقه فخلقنا العلقه مضغه فخلقنا المضغه عظاما فكسونا العظام لحما ثم انشناه خلقا اخر فتبارك الله احسن الخالقين)
199. For further information , See : Najafi , Mohammad Hassan , Aljavaheer al-Kalam , Chapter 4, Volume 43 and also See Helli , Mohaqeq, Sharye al Islam, Lavaheq Diyat and See: Mousavi[Imam Khomeini], Rouhollah, Tahrir al-Vasilah, Volume 2, Lavaheq Diyat[
200. For further information see: Articles 180 to 183 , Public Punishment Law , approved in 1925 and its amended articles.
201. For further information see: Law of Islamic Punishment in Iran , Articles 487 to 492 and 622 to 624 and 715, 716 and also Article 59 of it.
202. For further information see: Vandekerckhove L., "The Decriminalization of Suicide in 18th Century Europe", 1998 and also Heide Agnes Vnder et al., "Doctor-assisted dying: What difference does legalization make?", 2004.
203. Durkheim, Emile, Suicide, pp. 186-189
204. The Qur-an of Mohammad, (p.b.u.h.), Surat Baqarah, Verse 195
205. Sheikhavandi, Davar, Collection of Articles, p. 31
206. Murrehn Pierre , Suicide, Emergence, Causes and Treatment, p. 10.
207. Durant, Will , The East Land , The Cradle of Civilization, p. 566.

208. For further information please see: Indian Penal Code (IPC), Section 308&306.
209. Dehgan Pour et all, Proceedings of Scientific Conference on Social Injuries of Iran, Quotation from gregory, RF. (1994) V 131:16-17 and ledely, S. (1994), pp. 497-507.
210. For further information see: Jayne M. et al., "Drunk and Disorderly....", 2006 and also Clapp J.d. et al., "Drunk in Public, Drunk in Private...", 2006.
211. The Qur-an of Mohammad(p.b.u.h.) , Surat Baqarah, Verse 219 and also Surat Maedah, Verses 90 and 91 انما الخمر و الميسر و الانصاب (و الازلام رجس من عمل الشيطان فاجتنبوه) and also the prophet (p.b.u.h.) stated :
- (ما اسكر كثيره فقليله حرام) and also (كل مسكر حرام)
212. For further information see: Udah, Abdolqader, Criminal Law of Islam, Volume 1, p. 159
213. Claiming ignorance of law can be considered by the court if its contradiction has not been proved.
214. For further information, please see: Code of Islamic Punishments, Articles 165 to 182.
215. www.altlawforum.org
216. For further information see: Sullivan B., "Commercial Sex and the Law", 1995 and also Benoit C. et al., "Critical Issues and New Directions in Sex Work Research", 2006 and also US Anti-Prostitution Pledge Decreed "Unconstitutional", 2006 and for further information on punishments of mentioned crimes in Islam, see: Tabasi, Najm-addin, Rights of Prisoner and Cases of Prison in Islam.
217. In the discussion on criminal law of Islam in the previous Chapter, it was stated that in the jurisprudence of Shiah, sodomy and lesbianism are among the crimes of prescribed punishments and no prescribed punishment has been determined for their perpetrators.

218. The Qur-an of Mohammad (p.b.u.h.), Surat Esra, Verse 32 (ولا تقربوا الزنا انه كان فاحشه)
219. In the jurisprudence of Esna Ashari Shiah, killing has been also murdered which can be applied on the fornicators in three conditions: 1. Incest, 2. Committing fornication with a female Muslim by an infidel,3. Rape
220. For further information refer to the Law of Islamic Punishment of Iran, Articles: 64, 67, 73, 74, 75,81 to 89 , 100 and 106
221. The Qur-an of Mohammad(p.b.u.h.), Surat Araaf, Verses 80,81 and Surat Hood , Verses 78 to 82 and Surat Hijr , Verses 56 to 77
222. For further information see: Ahmad Ibn Hanbal , Almosnad, Volume 4, p. 257 and also Beyhaghi, Sunan Alkobra, volume 8, p. 232 and also Termazi, Sahih, volume 6, p. 240 and Mohaqeq Helli, Sharaye al Islam, volume 4, p. 159
223. For further information see: Code of Islamic Punishment of Iran, Articles 108 to 126
224. For further information see: Beyhaqi, Sunan al-Kobra, Volume 8 , p. 233 , Mohaqeq Heli, Sharaye al-Islam, Volume 4, p. 160
225. For further information, see: The Code of Islamic Punishment of Iran, Articles, 127 to 134.
- 226 . See: immoral trafficking (prevention), Act (No.104 of 1956).