

## Smuggling by False Statements and Documents in Iranian Criminal Law

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### Extended Abstract

Smuggling in Iranian criminal law is infraction or economic crime. Smuggling by false statements and documents is a kind of smuggling crimes. Complexity of economic affairs, lack of legal analysis about the constituent elements of this crime and new adoption of these statutes make analysis of this crime inevitable.

Smuggling is defined in law dictionary as: "import or export of goods illegally for example without paying customs" (Curzon, 2002: 392). Smuggling is a crime and in various statutes and bills in the Islamic Parliament such as the bill of "Establishment of Anti-corruption Agency" is named as "economic crimes". One of the most important types of smuggling as discussed in this article is smuggling by false statements and documents. The main problem of this issue is the definition and the elements of forming this crime.

This crime does not fit the crime of smuggling in common definitions (Pazhooyan, 2006: 46/ Jafari Langroodi, 1998: 51) Because in this crime essentially a commodity may not enter or exit. So only offering and presentation of False Statements and Documents make the action of the person smuggling. On the other hand, definition of smuggling refers to the laws that in them some acts are considered smuggling or has the smuggling sentences, while the purpose of definition basically is to demystify the terms. So, in definition, the term should not refer to the laws.

According to the description above, the definition of this kind of smuggling is: "submitting false documents or declaration to customs on arrival or departure of the goods or vehicle, so that there is a possibility of harm to state."

The legality of crime and punishments principle implies that actus reus and mens rea must be determined in statutes (Sadeghi, 2014: 57).

In Iranian law, smuggling by false statements and documents are criminalized in various laws: Paragraphs "a", "b", "c", "d", "c", "d", "e", "f", "g" of article 2 of the act of "combating smuggling of goods and exchanges", articles 93 and 94 and paragraphs "a", note of "b", "c", "d", "e", "f", "g" of article 113 of "customs act" and the article 24 of the "health promotion of administrative system and anti-corruption"

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act.

On the implementation of the act committed by legal provisions, first we must refer to “combating smuggling of goods and exchanges act”, since it is enacted earlier than other statutes. Then we recourse to the “customs act”. However, it should be noted that none of the customs act articles have explicitly or implicitly been abrogated by “combating smuggling of goods and exchanges act”. In the third level, if the act is not subject of the penalties set forth in one of these two laws, we must refer to the article 24 of the “health promotion of administrative system and anti-corruption Act”.

The actus reus of most crimes has three components: physical behavior set of conditions and circumstances and results. Physical behavior of this crime is a submission of the false documents, false declaration or non-declaration.

The criminal responsibility of who made omission is based on a duty to act, but he has not fulfilled its duty (Sadeghi, 2013: 31).

Among the conditions of this offense, four conditions are all important: First, the documents or statements must be false. The term “false” means contrary to the fact which may be in the material or content of the documents. Submission of false documents or declarations to the competent authorities (Ahmadi, 2012: 81) and being the subject of smuggling the goods or vehicle are the second and third terms. The possibility of harm to government revenues is the fourth condition in committing this crime.

This crime is a conduct crime and merely false declaration and submission of false documents may form this crime, whether the goods or vehicle exit from the customs organization or not. It is also sufficient to commit this crime by any mens rea and makes no difference whether the documents or statements are untrue deliberately or unintentionally. It is called “strict liability crimes” that some jurists believe that may happen without any mens rea or fault (Goldouzian, 2007: 414/Sadeghi, 2014: 435).

Attempt to crime in smuggling by false statements or declarations are considerable, in spite of the view of some jurists (Noorbaha, 2005: 223/Ardabili, 2013: 316).

### **Methodology**

This article by analytical method, on the basis of literal and conceptual interpretation of the articles of smuggling by false statements and documents in the various regulations, study the constituent elements of this crime. Also, domestic judicial decisions and legal practices in some countries are applied to explain this study more.

### **Results and Discussion**

As a result, it is safe to say that the legal element of this crime sporadically are some articles in several regulations. This crime has strict liability and committed by action and omission. The false document or statement, its submission to authority, goods or vehicle issues and possibility of loss to the state are the terms that should be considered in formation of this crime. Strict liability of this crime makes demonstration of mens rea needless.

### **Conclusion**

According to the necessity of complete criminalization, it must be mentioned the punishment of smuggling through false documents or statements in the customs act. Criminalization of a conduct in an Act and determining its punishment in other acts is in contrast to civil rights and the principles of criminal law.

The use of vague and general terms such as "false documents", without specifying the objective manifestations of a false document is in conflict with the principles of criminal law, including the principle of legality of crime and punishment. Transparency of the legal terms and avoidance that term from ambiguity are the essential requirements of the legality of crime and punishment principle.

**Key words:** False statement, Customs crime, Economic crime, Corruption, Customs smuggling

JEL Classification: k3, k34

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