

Presumption of Innocence in the Crimes Traditional Drugs and Industrial

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Abstract

Narcotic materials offenses from the heaviest crimes of today is in the process of fair trial, is approved, the presumption of innocence, as one of the most practical principles, an important role in Narcotic materials offenses, to be allocated; in this study, the primacy of the presumption of privacy, the presumption of innocence, studied, and examples of the primacy of the presumption of culpability, the presumption of innocence, in traditional and industrial Narcotic materials offenses, including (poppy and coca Cultivation - recording mode of transportation - confiscation of property dealers - Distortion of traditional Narcotic materials and industrial), has been analyzed. The research is descriptive research divisions, with access to a library of data and documents, has been writing.

Key words: Narcotic materials crimes, Presumption of innocence, Synthetic Narcotic materials, The presumption of culpability, Traditional Narcotic materials

INTRODUCTION

Nowadays, drug trafficking, organized crime transnational, are considered. Distributors and consumers of drugs, gradually distribution and consumption, the traditional process on Psychotropic Substances (industrial and chemicals) have changed, and this change substantive law demands. The success of the fight against crime depends integrity, openness, and efficiency regulations Darcy criminal. Defendants' rights, the dignity and the dignity to him, the Cabinet proceedings are fair. Acceptance of the principle of presumption of innocence, the two perspectives is important. First, from the perspective of criminal policy and legislative justice, the accused person innocent is assumed to be Secondly, the task of proving culpability, to the plaintiff is. In some cases, the legislator by reversing the burden of proof, with the proof away from the prosecution over the defendant, and the shift of burden of proof, presumption of guilt and the presumption

of innocence took precedence is In different countries, in particular the Convention on drug-related offenses Act of 1988, due to the complexity of drug crimes in this Convention, the government recommended that, in accordance with the principles of their human rights, the burden of proof to reverse.“

Problem Statement

Realization of a fair trial requires compliance with certain formalities are, and to achieve a fair hearing requires, the rights of the parties and the principle of equality of arms is, the first pillar of the right of accepting the presumption of innocence, in the process of legislative and judicial; and the basic conditions of acceptance presumption of innocence, the principle of “ Burden of proof on the defendant “ is. In this respect the presumption of innocence, considers that, both in law and in terms of intellectual origin of a work is, and in the Islamic Republic of Iran, on crime, especially drug crimes, plays an important role; the including serious crimes are involved, in which the burden of proof argument is introduced, drug-related offenses is now, due to the progress of science, informatics and modern, the prevalence of drugs, plentiful and its availability, the process of proving this crime affected It is, to this effect from the effect of the presumption of innocence seems, three general criteria is concerned, first; measure Priority public interest over individual interest.

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Second, the complexity of some crimes, including the proceeds from drug offenses, the Convention 1988 of the United Nations, to combat trafficking in narcotics and psychotropic substances, the government has advised that, in accordance with the principles of fundamental rights, the burden of proof reverse; The third measure of the influence of circumstances surrounding the crime, which, in this study, is that, in the previous cases should be considered and analyzed to be. Culpability presumption Priority of guilt.

Research Objectives

The main purpose

Determine the priority of the culpability presumption Priority on the presumption of innocence.

Secondary objectives

Determining the priority of the culpability presumption Priority, the presumption of innocence, on drug charges.

Determining the Assumptions of ill general, in some instances of drug-related offenses.

Research Questions

The main question

The primacy of the culpability presumption Priority, the presumption of innocence in drug crimes means?

Specific questions

Examples of priority culpability presumption Priority, the presumption of innocence in drug offenses are there?

Are you ill general, in some cases drug-related offenses is given, and one of the crimes mere material is?

Hypotheses

The main hypothesis: the drug-related offenses, the principle of the presumption of innocence is

Sub-hypotheses

1. Shifting of burden of proof from the claimant to the defendant, in some instances drugs, the relative legal presumptions.
2. In some instances of drug offenses (Poppy and coca - Detention of transport - confiscation of property (smugglers), grudging general assumptions, and the presumption of iodine (capture), precedes the presumption of innocence is.

Methodology

This research purpose, an applied research, and in terms of data collection method, based on documentation and library. That the required information by referring to scientific sources, compiled, and relevant research,

including dissertation or thesis student, articles, books and chapters of scientific letters have been collected.

Background Research

In the context of the presumption of innocence in the country, research and thesis there are several, including the research, the presumption of innocence in the minds of law, presumption of innocence in European thought, doctor Ali Ghorbani - Jafar. movahedi, the presumption of innocence in criminal law – Bagher Sarmast Bonab, the presumption of innocence in history - Farnaz. Akbar Romani, the presumption of innocence and the presumption of guilt - Homeira Ghanbari, but in the context of the presumption of innocence, in addressing drug-related offenses, no academic research exists, and subject to the presumption of innocence in drug-related offenses, granted and new services.

THE CONCEPT OF PRINCIPLE

Literal Meaning

To principle of the Arab word, many meanings to be found, most of the meanings of the root, the foundation, root and foundation goes back, and many of these meanings, the same language and Persian literature has been entered, so that Saadi in this the poem of “things” in the sense of seeking and foundation work is closed. First thoughts now, and then the speech that Non-tight, without the walls (Sadri, 2013: 46) Among the meanings of the word principle, which means root and meaning of the Father, source, Kan., Element, source, origin, source and pearls (Sadri, 2013: 46). Some literal, meaning the foundation and the foundation, the lowest point in the (Sadri, 2013: 46). The meaning of the principle, rooted anything or what, else it is based, the principle of both reason and sense that, in terms of multiple meanings (Dehkhoda, 1998: 397).

The Concept of Principle in Jurisprudence

The law “principle” has been called in several meanings, general meaning can be traced to the same root meaning, and includes: what are the things on it, but something else is built.” (Sadri, 2013: 47). Essentially, the amendment of the law is the following: the rules when in doubt, the actual sentence holy lawgiver (legislator), to determine the outward religious, refer to it, so the basic requirement is in essence the principle that, when in doubt, see it we (Faraji, 2010: 223). Article on the principles of jurisprudence, following the rules is all about how judgments are discussed. Principles are twofold:

1. Principles of Verbal
2. Practical principles (Valayi, 2010: 152).

THE PRESUMPTION OF INNOCENCE

The Concept of the Presumption of Innocence

Innocence word in the dictionary means the erasure of the faults and slander, getting out of debt, dislike of something is deleted (Amid, 1998: 247). The presumption of innocence in the law means that, should therefore be assumed to innocent people, and the culpability of the prosecutor is to prove that, by providing legal reasons, in addition to a fair trial charged with the protection of human dignity, and the competent court on the basis of due process, the accused is proven guilty pursuant to a final judgment, and in each case compared to the crime, offenders, criminal responsibility and punishment doubts exist about the defendant guilty, should benefit and win be interpreted accused, and acquitted the accused be restricted interpretation. It seems, from the most fundamental principles of fair trial, the presumption of innocence which, guaranteeing the rights and freedoms of the individual, therefore, deny and restrict the freedom of individuals is contrary to the principle, and the need for the letter of the law. Of the most important principles governing the criminal evidences, the presumption of innocence. The presumption of innocence is one of the fundamental principles of criminal law, which is to defend first, and the right to defense deals. Today, new systems of justice, by developing the concept of the presumption of innocence criminal, from the functional to ensure a sense of security and freedom of individuals, and community members are expected.

In other words, the purpose of the concept of presumption of innocence criminal, or “presumption of innocence”, giving immunity to private individuals assaulted others, especially those in power, and representatives of public powers. The role of other public powers, including the legislature, the executive, particularly law enforcement and prosecutors, and prosecutors in criminal rule up to the presumption of innocence, is crucial (Javanmard: 248-247). In terms of Fundamentalists, the presumption of innocence is “the lack of proof of assignment for duty on the principle of assignment, be suspicious.”. That is, if a valid reason not implies the existence of a mandatory duty, although the possibility exists task, apparently ruling that the obligation in this regards no obligation and the obligation he paced Barry (Shari’ati, 2003: 76). The results of the presumption of innocence in criminal matters, is that: firstly, the accused is not obliged to provide proof of his innocence, and secondly, doubts must be interpreted in favor of the accused, Third accused of a crime, whether as criminal incidental, or repeaters have to be considered innocent of a charge until his guilt is proven (Ebrahimi, 1993: 134-132). In paragraph 2 of Article 14 of the International Covenant on Civil and Political Rights, the

principle is described in this way: Everyone charged with a penal offense has the right to be presumed innocent until guilt (crime), according to the law be proven. Article 11 of the Universal Declaration of Human Rights, with the same theme declares that everyone charged with a crime, it will be presumed innocent until his guilt is legally established. This important principle in addition to these documents, the American Convention on Human Rights in paragraph 2 of Article 8, paragraph 2 of Article 6 of the European Convention on Human Rights, paragraph B, paragraph 1, Article 7 of the African Charter on Human and Peoples’ Rights, Article 3, Article 21 of the Statute of the Court the former Yugoslavia, paragraph 3, Article 20 of the Statute of the Rwanda tribunal, Article 66 of the Statute of the international Criminal court (ICC), and paragraph (d), Article 75 of Additional Protocol I to the Geneva conventions, as well as on human rights, attention and emphasizes that, reveals the importance of this strategic principle (Hashemi, 1993: 41-40). Iran’s domestic law Article 37 of the constitution, said: presumption of innocence and no one is not to be held guilty unless his guilt is proven in court. Mentioned in Article 39: “Defamation and the fact someone who, arrested, detained, imprisoned or deported, in any form is forbidden and liable to punishment. In Article 4 Q. A. D. K. Approved a 2013 also, “the principle is presumption of innocence. Any act of suppliers, depriving the freedom and privacy of individuals, but to the rule of law and compliance, and under the supervision of the judicial authority is not permitted, and in any case these measures should be applied in such a way that the dignity and honor persons damage. Earlier in paragraph (2) of the Law Concerning respect for legitimate freedoms, and Protecting Citizens’ Rights Act stipulates 02/15/2004 “has not proved guilty by a competent court, and written opinions documentation, legal provisions or sources of law valid (in the absence of law) has been finalized, the principle of the presumption of innocence of the accused, and everyone has the right, in protection under the law is necessary.”

The Principle of Presumption of Innocence

Many authors, the presumption of innocence and the presumption of innocence in jurisprudence, criminal law as “human dignity”, “need to establish a balance between the parties,” “ensure the security of society”, “the principle of legality of crimes and punishments” “principle”, “principle and permissible”, “rule of stave”, “would rule Amnesty mistake, the mistake would punish” there has been a (Qorbani, 2011: 152-127). It seems that, should the presumption of innocence and the presumption of innocence, should be allowed to Separation, because the presumption of innocence, and the history of European origin, and that in terms of distinct, though it may seem, “the presumption of innocence “and” presumption of

innocence “be the same, but the two terms are not the same, and a common basis, but only account are literal. Among the principles that, in the above-mentioned “the principle of”, “permissible principle” rule of Stave’ “;” rule overcome “has been the root of Islamic jurisprudence, but” the need for balance between the parties, “” ensure the security of the population “ principle of legality of crime and punishment “, has European roots and origins, and the demands of European thought, and” dignity “and” the rule rather Amnesty mistake, the mistake would punish “both a religious roots and also has European roots, in other words “human dignity” and “the rule rather Amnesty mistake, the mistake would punish” the religious God-centered thinking, and the thinking person of European anticipated, but conceptions of human dignity, in the two different thinking, the legal thinking with God-centered view of human dignity, and European thinking person-centered perspective, the dignity of man (Qorbani, 1995: 1447). Finally, to determine the basis of the presumption of innocence, should seek acquittal, should seek to discover the roots of our religious ideas.

Therefore, the presumption of innocence, the concept of substantive and procedural applications. On substantive issues, the parties assumed not guilty unless proven otherwise.

In the form of assumed innocence of individuals, and no limit until proven guilty, is not applicable to the accused. This principle is based on the so rationally, and the presumption of innocence of the principle of non-originated, and the principle of non-require no proof. In criminal law, punishment process should certainly be subject, therefore Noting that the presumption of innocence must be proven guilty, and the burden of proof is on the plaintiff, and much more proof is certainly in the subject, and Ella suspect in a crime - crime, punishment and criminal liability rule runs Stave’, and the accused in accordance with the presumption of innocence, to be presumed innocent.

Scope of the Presumption of Innocence

The presumption of innocence, which represents and embodies the goodwill, social behavior, and avoid distrust of the people, and respect for Legitimate Freedoms and Protecting Citizens’ Rights is limited to the sentencing phase of his trial and will not be, but preliminary inquiry police and law enforcement, prosecution and crime detection in the court as well, in the covers. Although legal justice demands that, in the absence of reason, the presumption of innocence and the innocence of the defendant about the order, but in certain cases require the public benefits, the presumption of innocence presumption of guilt on the front. In this case, the process has changed, and in this way the presumption of innocence, alleged to be missing.

Breach of the presumption of innocence, mainly in cases arises: First offense caused severe damage to society, or be considered a serious threat against it. Secondly, evidence of the prosecution and the prosecution, to the subtleties of the crime, is not possible, deviate from this principle can be seen in two more areas (areas suspected of crimes against wealth Security) (Sarmast, 2008: 200-181). A way that can be reversed burden of proof, There are two possible, with a substantive way that, in the legislator exceptions, considered, and the burden of proof to the defendant imposed, and another way it’s like that, the legislator has discretion to judge that, if the evidence against the accused and circumstances, be able to reverse the burden of proof. Legislative approach (substantive), is applicable to three: 1. The legal assumption that, in the legislator to facilitate evidence, the prosecution, the case may be one of the pillars of spiritual or material, according to the supposed crime considers (Khosroazad & Chitsazan, 2016; Nosrati et al., 2013; Arvanaghi & Azimi, 2016). 2. Favorable conditions on the accused that, in the burden of proof on who is responsible, there is disagreement. Thirdly, emergency In Iranian law, cases can be observed that the burden of proof is reversed, but in this area there is no order in certain markets, because reversing the burden of proof first, without Understanding legislator, secondly, in multiple instances and scattered O, listed (Movahedi, 2014: 264).

THE CONCEPT OF THE PRESUMPTION OF GUILT

“Carnal literally means a sign, souvenir, called Night, passwords, implying expression” (Almonjad, 2000). Several definitions expressed in terms of statistics: in some carnal way, the real religious order that, for the ignorant to the true verdict legislation is, in other words, the legislator statistic in that it leads to suspicion is valid “(Feiz, 1987: 167). In another definition of circumstantial evidence, it’s one of the reasons you know, the basis of its authority, Discovery than real, and the same criteria as the legislator has authority. Emirates provisions can be religious orders, or issues. In terms of legal theory, statistics indicate the true principles of social reasons (Mohaghegh Damad, 2007: 24). Presumption Civil Code is divided into two types: legal and judicial. In 1321 Q.M article stated: Emirates accordance with the law, or the judge because of something known as” “Judicial jurisdiction is, the facts and circumstances which, in each particular case the judge does not indicate it, so that the results of reasonable suspicion, and a strong presence was unknown, so the judge the extent of conscience is satisfied that, in all probability to achieve true “(Omrani, 2011: 214). “Statistics legislation in criminal law, the presumption that, according to the legislator or an indication of the reason is unknown, and criminal judge in

the criminal justice process, and its execution, rules-based decision making and helps» (Akbari, Behnam- Ansari Moghaddam 91: 3). “Unlike in Criminal Matters of Civil Affairs, Justice Statistics is much broader than the legal Emirates. Also of Justice Statistics, the proof of the crime, if the judge is reassuring. But statistics are not legal proof of the crime, and the duty of proving the rule, the law makers. Examples of recent figures presumption of criminal intent, mental health, the presumption of guilt, lack of criminal evidence, and fingerprinting and blood tests can be instances of Justice Statistics. “(Saii, 2013: 97). The culpability presumption priority: evidences and objective signs (a) which, by law, is charged appearance on confidentiality. Noting that the criminal law is the principle of certainty and uncertainty, and doubt the fundamental principle of presumption of innocence is dominant. In a detailed criminal justice process, due process of proving criminal act plays an important role, one way to prove a criminal act that is legal Emirates, one of the examples of legal Emirates (presumption of guilt) is.

DRUG-RELATED OFFENSES

The Concept of Drug Offenses

“The word is the subject of drug name, which means slacker, anesthetics and sedatives. The word is the past participle drug, meaning weakened, numb and asleep. Both of which are capable of acting drugged, numb means, loosen and had to give. In addition to the drug, meaning veil, and by camouflage and cover the dark of night, and the meaning behind the drug, concealed, hidden in a tent is razed. Drugs known name on the material, since they have taken the first limb and Member loose, dull, hypnotic and will be prevented, secondly, the brain pulls curtains and veils, and people from thinking and reflecting upon open is. “(Hamidi, 1992: 29). In certain cultures, within the meaning of the drugs: “Their use of anesthetic drugs and general stupefaction or locally (such as cocaine, heroin, etc.), these drugs are often addiction” (Baseri, 1983: 41-39). According to the World Health Organization “In a general sense it, or substance, any substance or combination of several chemicals, of which the body needs for survival are not healthy, and taking them to change in biological function, and even raises the biological body “(Saki, 2001: 283).

In other words, “Drugs, whether natural or artificial, refers to materials, the use of which would impact on the brain and nerves, mode and mental and physical state of the consumer, will change” (Zebhi, 2014: 132). Some lawyers believe: “Drug offenses include any discovery, development and conversion, transfer, sale, storage and use of subterfuge and drug or intervention that, contrary to accepted legal norms. (Rahmdel, 2012: 32).

So whether traditional or narcotics industry, etiology that is, their use would be, on the faculty of reasoning and perception have an adverse impact Yi, and after entering the body have the effect of Stupor, causing lethargy and conditions such as euphoria, pleasure, gets sleepy.

Traditional Drugs

“Drugs that natural, plant origin, such as: (opium, hashish, cocaine, heroin, morphine)” (Shakeri, 2007: 100). Traditional drugs, the material is said, is of plant origin, and the nerves affect consumer and a person’s mental and physical activity are experiencing lethargy.

Synthetic Drugs

“Synthetic drugs (psychotropic) for the consumer to enter the body, mainly affecting the brain and mental, and psychological changes, psychological, such as: hallucinations, irritability and changes in perception and recognition are false “(Zebhi, 2007: 142). Psychotropic substances are substances that, stimulant and hallucinogen, and the thought and the will of the person affected, and he collapsed in a state of ecstasy use, which is at odds with reality. Psychotropic substances affect the central system, and behavior, consciousness or one’s mood, affect the day “(Saki, 2007: 81). Synthetic drugs (synthetic), natural, unlike drugs, are limited to specific geographic regions for the climate, can be produced in each region and country, increasing discover the secret laboratories manufacturing synthetic drugs, and their equipment, chemicals, as well as reports about the abuse of these substances. Synthetic drugs (combination), taking into account all needs and tastes different, they are easy to raw materials, low price and their cost, possible in every area of production, diversification of production, or have been, and lack of familiarity Full-fighting forces, with this production, which is a small corner of prevalence and spread of abuse of these substances, especially drugs, the kind of “amphetamines” are. Presence and emerged. Routine in the consumption of synthetic drugs, such as “amphetamines” and “Ecstasy”, present in various countries, including Iran become a concern. And consumption patterns tradition of opium and cannabis, the drug industry has changed. Organized groups and international drug mafia, as well as organized groups in neighboring countries, even internally to motivate different groups, in particular access to profits, synthetic drugs, and its production at low prices, the level Iran, in particular the distribution of middle and high schools. Now in drug abuse among the youth of the country Iran has reached its peak. To the extent that some experts have cited it as a security threat. Most importantly, new technology, the first synthetic drugs, with its captivating appearance under names such as Ecstasy (Eks- sex), crystal glass, speed, ice (ice), tablets love, Eve (EVE) Temgesic, D gestic, light imprisonment, crack, LCD, digital tablets, softener,

UFO, biscuits, discotheques, is the world of fantasy and emerging field.) (Esmaili, 2003: 193). Also worth noting, drug classification on the basis of impact on the organism, is as follows. The first group: Loose Suppliers Group lethargy-inducing drug that causes lethargy in the body is divided into two kinds: natural and artificial:

1. Natural causing loose materials such as poppy, opium and opium alkaloids such as morphine, Narcotic, papaverine, betaine, codeine, and heroin narceine
2. Artificial causing loose materials (like morphine), such as methadone, pethidine, and group of barbiturates Benzoid Yazpin.

Group II: Hallucinogens

The second group of hallucinogens that create illusions and fantasies and imagination of the consumer, and are divided into two kinds: natural and artificial:

1. Natural hallucinogenic drugs (cannabis and its derivatives) such as cannabis, hashish, cannabis and Grass
2. Synthetic hallucinogenic substances, including El. MS. DVD, dimethyl tryptamine and diethyl tryptamine, PCP - Fen Sykldin.

The Third Group: Shocking

Be causing substances that make consumer feel a sense of mobility and increased powers of detention, and is divided into two kinds of natural and artificial:

1. Power-generating material natural stimulants including cocaine and crack
2. The power-generating synthetic materials, including amphetamines and ecstasy.

PRIMACY OF THE CULPABILITY PRESUMPTION PRIORITY ON THE PRINCIPLE OF PRESUMPTION OF INNOCENCE IN DRUG OFFENSES

Noting that, following the legislator circumstances of the case, and the intellect principle of the presumption of innocence is established. And the primacy of the culpability presumption Priority on the principle of presumption of innocence, the important issue is drug-related offenses, in three titles (the concept of the primacy of the culpability presumption Priority, the presumption of innocence, drug crimes, - examples of the primacy of the culpability presumption Priority, the presumption of innocence in drug offenses), will be analyzed.

The concept of the Culpability Presumption Priority, the Presumption of Innocence (Reversing the Burden of Proof).

From The Perspective Of Lawyers, Reversing The Burden Of Proof means, "If a legislator about ways to remove

the burden of proof away from the prosecution and the defendant, it is said, the burden of proof is reversed." (Zebhi, 2010: 91-73). Others have said: "Everyone on the mere existence of evidence, or evidence of criminal charges, and due to that, it is necessary to study each constituent element of a crime community. So each of these pillars, and putting the burden of proof to the contrary by the defendant, the presumption of guilt is meant "(Poorzand Moghadam, 2000: 79). In other words, "moving the burden of proof, unlike the existing rules" (movahedi, 2013: 127). Due process, respect the right of the plaintiff and the defendant and the community is clear. One of the fundamental principles of due process, rights and dignity and the dignity of the accused is charged. And the presumption of innocence is accused of the pillars of the rights of defense (Salami et al., 2015; Jenaabadi & Mobasheri, 2014). In criminal law, one of its principles, the principle of certainty and finality of criminal law is, therefore, a matter that needs to be proven, crime who must prove the crime, the plaintiff (Burden of proof on the defendant, and right on, it denied the), and in doubts on the legal elements, physical, psychological, criminal responsibility and punishment in accordance with law, shall be construed in favor of the accused and Dar doubt on the principle of assignment, the principle of innocence. "Among the orders the Prophet (PBUH), says: Amnesty accused the judge was wrong, it is wrong to punish him. "(Shams Natri, 2002: 67). Lawyers say: Just as the criminal justice demands that, in the absence of the presumption of innocence and the innocence of the accused, the verdict is, in certain cases there is also evidence that the suspected crime by the accused boost demand for legal justice, and social interests take precedence culpability presumption priority, the presumption of innocence is "(Tadayon, 2008: 181-200). Eventually by applying the presumption of innocence in criminal matters and the realm of criminal law, the prosecution litigation (plaintiff - Prosecutors) the task of proving the elements of crime, the accused, but in some cases deviate from the presumption of innocence, if that rationale Emirates (legal - judicial), or assuring the strong suspicion against the accused, the accused prior to the presumption of innocence is presumed criminality, and dishonest judicial process, and the distortion of the presumption of innocence, the defendant has for his innocence You must provide the reason.

Culpability Presumption Priority on the Principle of the Primacy of the Reasons for Acquittal

The reasons for reversing the burden of proof, as follows:

- A) The need to protect the rights of society
- B) The need to facilitate the complexity and burden of proof crimes
- C) The necessity of circumstances

D) The need to strike a balance between the parties (equality of arms).

Necessity of protecting the rights of society

“In principle, individual rights and freedoms, as long as support is in conflict with individual rights and freedoms of others, and in public policy community is not” (John Stuart, 1984: 238-191). In cases where social interests, individual interests are more preferred, and the presumption of innocence to be considered in absolute terms, and can not be delimited it works in a way that, under the protection of the presumption of innocence could be charged severe damage, and serious threat against interests of individuals or society, the burden of proof was reversed (movahedi, 1984: 152).

Becesity facility, complexity and burden of proof crimes

“The complexity and burden of proof of certain offenses, in today’s world any threat to the presumption of innocence, and thus reverse the burden of proof is. An advance in technology, while material prosperity, for man has brought problems for the police and criminal organizations, has created for crime detection. Police to parallel progress in improving crime detection methods, - offenders also discovered that trying to complex, and even can be said before the police criminal act, hence the legislation, to support the police officials and prosecution of crime, In fact, in a position to fix the weakness of the police, comes to their aid, and by reversing the burden of proof, defendants are in a state of weakness. “(Rahmdel, 1984: 45).

Attention to the circumstances

“Presumption of innocence, the principle of rational and logical and legislation, according to the situation prevailing in the society, and that is basically the principle of no crime. The principle of the presumption of innocence is placed. In other words, the circumstances surrounding community, suggests that, no one is guilty unless the claim relating to the offense, the reasons began to prove to be more precise, reason dictates that the defendant, the crime be considered innocent until prove his claim claims. The reason the situation is that human beings live in it (Janfeshan & Nosrati, 2014; Sabaghi et al., 2016).

Accordingly, it can be concluded that in cases where circumstances change, reason will warrant a different way. The legislature is also considering the circumstances; in the case of certain offenses violate the presumption of innocence, and the principle of culpability puts (Rahmdel, 1984: 114).

The need for balance between the parties (equality of arms)

“In normal conditions, in the process of criminal justice, prosecutions by claiming that govern social security, and public order was violated, with many and varied tools and facilities, to prosecute the accused pays. The accused not only not benefit from the assistance of public power “, but the rule is not positive at him, and to punish him and almost, without any tools necessary facilities.” (Farahbakhsh, 1385: 121). “Offenders power over government, so as to form a parallel government, within a country, and also to undermine the power of the state against criminal groups, criminals use sophisticated techniques to commit a crime, and to consequently huge quantities activities, and even a private aircraft, and the airport in allocating and using these tools to commit a bad crime, especially drug trafficking, and the formation of strong cartels as it controls the administration of justice and the legislative one country, and approved the legislation by bribing or threatening, or bribing are not judicial killing “, having huge revenues, due to the extent of activities, so that has become an economic power, against the civil government, all and that there should be appropriate, humane society to deal with such problems, the fundamental choice to think, and offer new ways of fighting (Sadeghi et al., 2013; Nosrati & Karimi, 2016). Thus reversing the burden of proof, including the way things “(Bagherzadeh, 2008: 306).

THE EXAMPLE OF THE PRIMACY OF THE CULPABILITY PRESUMPTION PRIORITY, THE PRESUMPTION OF INNOCENCE IN DRUG OFFENSES

Priority examples of the culpability presumption priority, the presumption of innocence (Coca cultivation of opium poppies and Detentioned by transport - confiscation of the property of traffickers), which are analyzed below.

Poppy and Coca Cultivated

Article 2 of the Narcotics Act, 2010 amended the Expediency Council, has stated:

“Anybody who grow poppies or coca, or drug or psychotropic substance for the production of non-drug industrial hemp pay. In addition to the destruction of culture, in terms of culture, the following will be punished.” In this matter, the legislator poppy or coca, which is absolutely on any motive, is considered a crime. In other words, anyone attempting to poppy or coca, the crime is, unless the contrary is proven (presumption) Mental element involves knowing (Mental element involves knowing (of the order - knowledge of the subject), and ask (intentional Work - mainly as a result of (the crime bound) is. In the

process of knowing, if someone attempts to cultivate poppy or coca. The knowledge of the subject (nature of material culture) had not responsible. And this section of the culpability presumption Priority on the principle of presumption of innocence, the front and the burden of proof on the accused fights.

Detention of Vehicles

Legislator in Article 30 Drug Act, amended in 2010 states: “vehicles that carry drugs or psychotropic substances known industrial non-medicated, for the benefit of the Detention, and pass the anti-drug campaign, the explorer placed in organizations. If carrying drugs or psychotropic industrial non-medicated, without the permission of the owner, and inform the owner of the vehicle is made; the vehicle owner will be refunded. “ In this matter, the legislator knowledge of the owner of the vehicle, attempting to drug trafficking has assumed, unless proof of ignorance on the subject (traditional or industrial drug trafficking), is proof of the owner. It seems, on this matter of the carnal iodine (capture) that, when the car in which the drugs shipped, originally the owner’s knowledge, because based on Giving priority and overcome, your car owner in the hands of every driver Untrusteddoes not, therefore resulting in a person due to his fault, the precautions are not responsible. (Ward off possible risk, rationally is obligatory).

Property Confiscated of Drug Traffickers

Legislator in Articles 4, 5, 6 and 8 Drug Reform Act, passed in 1987 stated: “All property of the sentenced person could be confiscated. Whether through drug trafficking, or to be acquired by legitimate activities.” Unfortunately, legislators in drug law in 1987, contrary to the fundamental principle of presumption of innocence and progressive absolute and cannot be ruled out, and put drug offenders based on guilt, and this conviction with the exception of property (cost of living standard), whether the source property of the lawful and legitimate, education or illegal, it is confiscated. It is clear examples of a prior conviction, is the presumption of innocence. But legislators in drug law reform combat ready in 2010, to amend this rule, and in Article 28 states, “All of the properties that the trafficking of drugs, psychotropic industrial or non-medical education, as well as the defendants’ property Ferrari, the subject of this law if there is sufficient evidence for confiscation, in favor of the state recorder, and subject to Article 53 of the constitution, the government is not private property. “ In this article legislator of the confiscated property of traffickers, distinguished between legitimate and illegitimate property, and the proceeds of the drug, can be confiscated. Insert the words “if there is sufficient evidence to confiscate, exactly reflects Fear of reversing the burden of proof, in dealing with drug crime is, why is that, in the current

situation cannot, in the revenue produced by drug offenses, the issue of reversing the burden of proof believed “(Qorbani, 2007). The big question is, are found drugs in his possession of the person subject to service charge, and hide. puts, whether to spend the latest drug material in the possession of the person, can be eventually to the conviction and sentence and he punished?

“It seems the drug, the drug was spent in personal disposable, and the jurisprudence of culpability, the alternative is the presumption of innocence, the legal basis for this mode of operation, can be” Already appearing “contract. In this explanation, the case law on the grounds that, in terms of intellect and rationality and common sense, anyone who is in possession of something, the nature and characteristics of the object is familiar, and accordingly it is seized, according to the operates, and assumes the occupants, subject knowledge, and with knowledge of its subject, is taken “(Rahmdel, 2008). Important questions that come to mind, is if in the possession of the accused and iodine, heroin, and the accused is alleged, the defendant claims that the presence of drugs and opium is acceptable, but there is no heroin notice, is charged with possession of heroin in iodine, and the huge gap between the two types of drug penalties, assignment judicial authority mean? On the principle of precaution (employment obligation), in the process of quasi-obligatory one, exemplified by the least and most are overnight, and it is when, among the general knowledge, be more limited than the other one. Noting that, in principle, of the drug, according to the principle of the presumption of iodine (capture), there is no doubt, and the accused accepts the principle of traditional drugs, but the type of drug seized, and the issue of alleged crime akin to ignorance the type it has raised. It is worth noting, with regard to the principle of certainty and finality of criminal law, and if the origination overnight, have no income and narrow interpretation of the laws of gray, is dominant. Therefore, examples of questions asked, like, the least and most is the science brief, and Fundamentalists popular opinion, in accordance with the principle of non-indulgence, is innocence. Therefore, Eventually with regard to the principle of legality of crimes and punishments and Article 120 of the Penal Code, and the rules and drive carefully (ignition obligation), in this case, the judicial authorities must have the evidence (seized), a drug originally, doubt and no doubt, but it’s kind should be investigated. If the investigating and prosecuting result not happens, and the reason for the denial of the accused’s claim was not discovered, according to the presumption of innocence and the absence of much evidence, and the areas of science, at least briefly, the subject of crime (drug) is.

CONCLUSION

1. One of the characteristics of a fair procedure, in compliance with the presumption of innocence, as is my principle and this principle is in line with the principle of legality of crimes and punishments. In the process of evidences, the duty of prosecution, to provide a proven guilty and, therefore, the product of the presumption of innocence, if that legal justification, legal or judicial statistics, the adoption of suspicion (Objective Individual) be.
2. Adapt legal principles, the principle of the presumption of innocence, and no one legally not guilty unless his guilt is proven in court. Therefore, reverse the burden of proof, because it is an anomaly and should be narrow interpretation.
3. Reversing the burden of proof, because the rights of European countries, more can be seen in organized crime (Palermo Convention, ratified in 2000), and in jurisprudence as well as examples of them, can be seen at the base of the filth. Legally, reversing the arguments disputing the need for the letter of the law. (Poppy and coca, - Detention of means of transportation of drugs)
4. Seem legislator in drug offenses, on the reverse the evidences, the issue has been extreme. In poppy and coca, and transportation of narcotics seized, the courts assume absolute evil, and so that proof to the contrary from the defendant, is not possible.
5. Legislator in drug offenses in the process of evidences, has been the target of preventive and repressive.

From the perspective of prevention, than those who have the intention of committing such crimes, by applying this method more people are caught in the strap criminal justice system, and from the perspective of repression, people who commit drug-related offenses are more likely to in paragraph release them.

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