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TÍTULO: Política criminal de la República Islámica de Irán para abordar la contaminación del aire.

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RESUMEN: Este estudio describe los delitos de contaminación del aire de acuerdo con la Ley de Aire Limpio del año 96 y evalúa una variedad de respuestas a este respecto para brindar nuevas soluciones. Los hallazgos muestran que la institucionalización de la cuestión del aire limpio, la creación de terreno para la realización de plataformas y el uso de medidas preventivas y culturales para combatir el fenómeno de la contaminación del aire puede ser fructífera.

PALABRAS CLAVES: Política criminal, contaminación del aire en masa, respuestas, ley de aire limpio.

TITLE: Islamic Republic of Iran Criminal Policy in addressing Air Pollution.

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ABSTRACT: This study describes air pollution crimes in accordance with the Clean Air Act of the year 96 and evaluates a variety of responses in this regard to provide new solutions. The findings show that institutionalizing the issue of clean air, providing ground for conducting platforms, and using preventive and cultural measures to combat the phenomenon of air pollution can be fruitful.

KEY WORDS: criminal policy, air pollution mass, responses, clean air law.

INTRODUCTION.

Protecting clean air is one of the basic values of society and one of the concerns of the legal system of any country. To find out its value, it's enough to say that if people can survive for a few weeks without food, they cannot tolerate the lack of air for more than a few minutes. Therefore, the right to a healthy environment and the right to clean air that is a subset of the right to the environment, along with other transcendental values such as the right to life, the right to health and the right to life, are standard.

Air pollution is one of the first human environmental problems that emerged as a dilemma with the discovery of fire since the caves discovered it and then, with the increasing use of fossil fuels and inventions and the increasing production of cars and the expansion of various industries, especially in crowded and crowded cities, it has long been in need of control. Also, the issue of air pollution from the health aspect is also important because it is a serious threat to human health and public health, especially children and the elderly.

According to the World Disease Report (2013), air pollution is the fourth leading cause of death in the world and also the seventh risk factor in Iran (Nardari et al, 2017; Parvizian et al, 2015; Ingavale, 2013; Mathumathi & Senthil Prakash, 2017). Therefore, the policy of the criminal system as part of the legal system should be considered in the light of the objectives and principles of criminal law in

this field and by eliminating the conditions of aggression and clean air by adopting appropriate measures and policies.

In the present study, the library and documents methodology has been used to evaluate the types of responses in Iran's penal policy and, according to the above, it can be said: Iran's penal policy for air pollution includes cases such as lack of prediction of absolute responsibility, lack of guarantee of implementation or lack of effective implementation guarantees, lack of proper infrastructure in the implementation of clean air law, lack of specialized agencies in handling, neglect in dealing with air pollutants and the fragility of the participation of NGOs is suffering from environmental problems, as the challenge is to fuel the perpetrators of this crime and the increasing frequency of air pollution offenses, which is a serious threat to the environment (Zhatkin, 2018; Oliveira et al, 2018; Pokhriyal & Kaushik, 2019)¹.

DEVELOPMENT.

The first: the basics of airborne crime.

Criminal lawyer allows interference in a behavior with criminalization of that behavior to criminal law. In fact, crime is a process by which the legislator, by taking into account the basic norms and values of society and by relying on its accepted theoretical bases, prohibits the act or the current abandonment and provides for a criminal sanction. In general, there are three criteria for the criminalization of an act in customary criminal law, which includes the principle of harm, the paternal law, and the ethics of legal ethics (Aqa Babaei, 2005; Mohsenzadeh & Samii, 2009).

The theme of the environment, and in particular the clean air, is a human habitat that not only survives and continues, but the promise of healing is dependent on the existence of a healthy, non-degrading environment and clean air.

¹ **Harm Principle.**

Hence, criminal law has the task of criminalizing and determining the guarantees for violations of laws and their implementation, in fact, environmental crime, in particular air pollution, is also affected by the criminal law, which has been considered as the ultimate tool in protecting clean air. In fact, in the subject of the environment and air pollution, acts have foundations that reflect the degree of danger and their threat to society. In light of these explanations, we will look at the fundamentals of air pollution:

First Paragraph²: The principle of Harm.

Equals this principle when it is appropriate to criminalize, harming others. In fact, the basis of crime in this principle is the material of its victims; for example, in air pollution crimes, given that the victims of those organisms are humans, plants, animals and nature as well as non-living organisms, in addition, there is a potential victim.

In order to prevent the occurrence of the damage to these perpetrators, the legislator expresses the form of crime in the form of a criminal offense, either action or the current one which causes them harm (Mashhadi, 2013; Rolston, 2003).

² "The principle of harm is that once society and government have the right to interfere in the lives and liberties of individuals, they can interfere with injury and harm to others. Therefore, it is impossible to limit the value of the right and justice or the title of goodness and goodness for the people of the community or resort to the use of force." Paternal affairs mean that they act in the light of the goodness of the people without being satisfied with them, such as parents who act in their own right regardless of the satisfaction of their children. In fact, legal patriotism means that the government, in order to prevent people from harming oneself, condemns it with a crime of behavior, thereby protecting and protecting the people against them. In other words, they protect their health and safety by limiting their freedom. In this measure, like a father who cares for his children, the government is also responsible for protecting the health of its citizens, and to this end, in order to maintain personal interests, it is committing criminal acts that harass their health and safety. One of the most important criteria of criminalization in the ordinary criminal law is legal morality. That is, governments and communities have always tried to uphold the level of individual and social ethics, which sometimes assists non-formal and informal non-criminal instruments such as mass media, education, the family, and religious institutions and when they resort to criminal justice instruments, they try to protect and protect individual and social morals. In fact, the criterion of morality in criminalizing means that the law must be in the service of morality, and the legislator determines the actions against morality as a crime, as well as their punishment".

The Second Paragraph: Beneficial life.

Since the environment, as well as maintaining clean air and preventing its pollution as a subset of environmental issues as a valuable and expedient foundation that deserves support, has come into criminality, so in criminal systems a large number of criminal offenses in this area.

Obviously, in traditional criminal law, ethical and religious principles must be protected as fundamental rights such as property, freedom and the right to life. But with the emergence of new interests that have different foundations, including human rights, criminal law has a technical and technical aspect. Therefore, the environment, and in particular the right to clean air, is important as one of the examples of the third generation of human rights and also a phenomenon that has the inherent right of protection (Halsey & White, 1998).

The Third Paragraph: The Right of Commons and Subjects.

Also, given that preserving green space and preventing its destruction, which is considered a natural resource and common heritage of mankind, in fact, destroying a forest region produces destructive effects not only on the air quality of the area, but also on destructive impacts on other areas, and even the entire world. Also, since the use of destructive and ozone-depleting substances in a country (a common heritage of humanity and the right of the posterity) affects the whole world, therefore, in line with the emphasis of Article 50 of the Constitution, this can be considered as the basis of the criminal offenses of air pollution.

The Fourth Paragraph: The Human Pivot.

There are various philosophical theories and approaches concerning the status of man in nature, which is one of the pillars of the criminalization of air pollution.

In the human-centered approach, emphasis is placed on the subjective, biological, and moral superiority of humankind on other living and non-living beings. This approach has important and wide-ranging implications for the definition of air pollution damage and its criminalization and types of responses.

The human-centered approach means that there is a clear moral separation between humanity and the survival of nature and that humanity is the only major source of value and meaning in the world and that inhumane nature is an end in itself but to humanity. Therefore, in this attitude, inhuman nature is at the service of man and that it can best serve the interests of human beings and all inhuman creatures such as plants, microorganisms, water paths, soil and air, etc., are important and important for the benefit of human beings.

Humans do not have a responsibility to preserve natural resources such as mountains, rocks, rivers, animals, and clean air, and they protect only those benefits that are in their interest. In fact, a human-centered person believes that imposition of obligations to protect the environment and clean air is based on the welfare of human beings. The basis of the criminalization of air pollution based on this approach involves some specific environmental hazards and, consequently, some air pollution damage, in order to eradicate structural problems in this area.

The fifth Paragraph: Biological axis.

There is a biogeocentric view of mutual respect for all living things, and as much as keeping human beings is important, the maintenance of other living things and natural benefits is also important. In fact, the provision of humanitarian benefits must not cause rape and damage to the vital needs of other species. The question now is what determines the vital needs of other species? There are many discrepancies in this regard, but what the advocates agree on is that all inhumane species such as mountains, rocks, seas, and especially the air, regardless of whether they are accepted by human

beings, have intrinsic ³and moral value. In fact, the environmental philosophy supported by this approach is respect for inhumane nature, such as respect for clean air or what John Moore called "guilty guilty". Therefore, in line with this approach and as a basis for the criminalization of air pollution, the preservation and understanding of all species is equally and equally. Therefore, if behavior causes damage to clean air, it should be considered as an environmental crime, including air pollution.

The sixth Paragraph: Ecocentrism.

This approach believes in the inevitable and close connection of human activities with the preservation and survival of nature. This view "considers humanity as part of the global ecosystem that should be the subject of ecological rights. In fact, in this view, humans are not above or below the status of nature but also has a responsibility that does not exceed the limits of the resources of the planet; for example, with regard to percolation of the ozone layer and the warming of the earth and climate change, this attitude must stop and criminalize any human activity and actions that are intimidating and destructive to this. Therefore, if the activity produces air pollution, it is based on this approach as a basis for criminalization, as this would endanger the survival of the canopy values.

The Seventh Paragraph: Orbital Security.

Security and order in the social process are considered as two essential pre-requisites which legislators have always encouraged them to engage in actions and prohibit others from doing other things. In this regard, criminalizing the inclusion of certain acts, including action or abandonment of the action, and the determination of the guarantee of non-compliance, emphasizes their necessity.

³ The phrase "intrinsic value" is regularly used in writings related to environmental ethics and eco-philosophy, but it is difficult to explain it. Unfortunately, the problem is even worse, which means that the phrase is ambiguous and has two completely different meanings that make mistakes. These meanings are: (A) Intrinsic value: non-instrumental value, value attributed to something not because of its beneficial but also because it is worthy of its own. (B) Value is one thing independent of the existing value of value (human).

Environment and clean air, which is the centerpiece of human life and the ecosystem of the environment, including all its aspects and the only passage and place of survival of humans is along with other organisms, among the manifestations of the first security in the human dimension, every concept of security, such as social security, political, cultural, legal, etc., is dependent on it.

The concept of carbon dioxide-rich air and inadequate oxygen, endangered marine life that feeds human beings, the extinction of generations of forest and desert animals that the ecosystem of the environment needs is essential for their survival, Agricultural land infected with chemical and toxic substances from the activity of pollutants and other plants, although not important to some, puts human life at risk, objectively and tangibly. Therefore, this issue poses a threat to the security of human life and the threats posed by human infectious air pollution, which has led to the criminalization of all pollution and environmental degradation, including clean air.

The Eighth Paragraph: Orderliness.

In every thought and society, there are some issues that are not exceptional, in other words, in most countries, regardless of their attitude and thinking, they are considered as criminal phenomena. The category of discipline is a requirement for the survival and sustainability of a human society, the absence of which is nothing but a community.

One of the areas that can be considered in this perspective is the environment in the broad sense semantics field and, more specifically, the issue of air pollution and its relation to the social order as the basis of its criminalization. In other words, as damage to clean air and the ecosystem of the natural environment impairs the order of the human community, therefore, with special attention and precaution, the criminal organs consider criminal acts to be applied and abandoned in this territory and a criminal response to its perpetrators is required to restore order in the community:

- 1- Prohibition of the numbering of cars without complying with the emission limit value.
- 2- The issuance of fines for holders of vehicles without a certificate of technical examination.
- 3- Penalizing worn out vehicles.

The second issue: air pollution contamination.

The First Paragraph: The Legal Element of Air Pollution.

Since no current verdict or current abandonment is considered a crime, the lawmaker does not criminalize it and imposes a penalty, which is one of the basic principles of criminal law, entitled "The principle of the legality of crimes and punishments". The Clean Air Act is one of the most important laws passed in the summer of 1996 specifically about the criminalization of air pollution and its penalties, which are listed below under the criminal law provisions stipulated in this law:

- A. Refusal of the directors and authorities of relevant organizations and organizations of the declared requirements of the environmental organization in the event of an emergency (Note 2, Article 3).
- B. failure to perform a technical inspection of vehicles within the specified period (Note 1, Article 6).
- C. issuing an unauthorized technical examination certificate by the operators of these centers or officers and observers (Note 2, Article 6).
- D. Infringement of technical centers of the established criteria, activities and tariffs for conducting examinations (Note 3, Article 6⁴).

⁴ Note 3 - Technical inspection centers that violate the rules of establishment, activity and tariffs for conducting related examinations. With the declaration of the organization, the Ministry of Interior or the Ministry of Roads and Urban Planning, a fine of six categories of Article 19 (19) of the Islamic Penal Code, approved on 1/2/2012 is convicted and, in the case of repeated violations, the suspension of the license shall be suspended from one month to one year or the permanent cancellation of the license. Funds derived from the implementation of this article after the transfer to the Treasury within the framework of the annual budget laws for the organization, training and promotion of monitoring of technical inspection centers is being used by the Municipality and State Organizations of the country, and the Road Administration and Road Administration.

- E. Prohibition of traffic, cargo and passenger, issuance of technical examination certificate, allocation of third-party insurance (Article 8⁵).
- F. Establishing, developing, changing the production line and changing the location of production, industrial and mining units as unauthorized (Article 11⁶).
- G. Distribution of excessive contamination of industrial units, production of mineral resources, services, public works and workshops (Article 12⁷).

⁵ Article 8: Clean Air Covenant: "All natural and legal persons owning motor vehicles of light, semi-heavy, heavy, motorcycles shall be obliged to dispose of their vehicles after reaching the age of exhaustion and shall take their responsibility for this purpose. One of the domestic insurance companies insured under the supervision of the Central Insurance Company of the Islamic Republic of Iran. Determination of the age of wear and tear and insurance of motor vehicles. The subject matter of this article is based on the regulations that within three months after notification of this law, the Cabinet of Ministers shall approve the joint proposal of the organization and the Ministry of Industry, Mining and Trade and the National Standardization Organization of Iran and the Central Insurance of the Islamic Republic of Iran. Carriage of cargo and passengers, issuance of technical examination certificate, third party insurance, purchase and sale, transportation and transportation of worn out motor vehicles are prohibited. The traffic police and traffic police of the Islamic Republic of Iran are fined for wearing out worn vehicles for each day of the journey with the title of entering and crossing unauthorized vehicles in roads, areas and areas that are banned".

⁶ Article 11 - Any construction, development, change in the production line and the change of location of production, industrial and mining units requires compliance with the notification requirements of the organization. The organization is required to respond to inquiries about the establishment and operation license within one month, and if the organization does not agree, it will provide the reasons for the request in writing. Failure to respond within the above period is a confirmation. In each province, a commission is formed, with the appointment of one of the governor's deputies by the governor (chairman), director General of the Environment of the province (secretary), the Director General of the Standard and Industrial Research of the province, the director general of industry, mining and trade of the province, the head of Jihad Agriculture Organization of the province, the Director General of the Provincial Inspection and relevant Governor. In the event of a protest, the applicant for the abovementioned provincial authority will investigate the dispute within a maximum period of one month and in case of non-contamination (in accordance with the rules and instructions of the organization), issue an appropriate license and otherwise deny the application. The Secretariat of the Commission is based in the Department of Environmental Protection of each province

⁷ Article 12 - The organization is obliged to specify all centers and units of industry, production, operations, services, public works and workshops whose contamination exceeds the permissible limits and announces the degree by determining the type, extent of pollution, the extent of the area affected and the sensitivity of the area to the owners or agents or directors or the highest decision-making unit for a specific period determined by the organization, to eliminate pollution or change production or change the process of production or closure of their work and activities (based on the type of pollution and the nature of the control process). During the determination of the duties of these units, in accordance with the provisions of this law, the units shall be fined to create and disseminate pollution.

- H. Unauthorized disconnection of pollutant unit (Note 2⁸, Article 12).
- I. requirements of industrial units, production of mineral resources, services, public works and workshops on the use of appropriate fuels (Article 13⁹).
- J. Failure to transfer an installer who has no choice but to transfer it (Article 14¹⁰).
- K. Preventing the inspection of the organization's officers for sampling and determining the contamination level of the pollutant unit (Article 16¹¹).
- L. Disregard for owners or consignors of polluting units by written notice of the organization (Note 1¹², Article 17).

⁸ For a specific period determined by the organization, to eliminate pollution or change production or change the process of production or closure of their work and activities (based on the type of pollution and the nature of the control process). During the determination of the duties of these units, in accordance with the provisions of this law, the units shall be fined to create and disseminate pollution. The penalty prescribed in this Note applies for the owners, managers and managers of factories, units and workshops of production, oil and gas industries, power plants and other units of production, services and minerals polluting that after the closure, they reopened and continued their activities without permission from the organization.

⁹ Article 13 - Not later than one year after the entry into force of this law, all industrial, manufacturing, mining, service, public and workshops, both governmental and non-governmental, are required to use the standard fuel. In the absence of adequate fuel, the units are required to arrange, in any possible way, for releases of pollutants within the limits of the permitted emission of air pollutants.

¹⁰ Article 14 - In cases where the reduction or elimination of pollution caused by industrial, manufacturing, mining, service, public and workshops in the organization's diagnosis is only possible through the transfer of all or part of the production lines or installations or their places to the appropriate locations. Or the activities of these centers in the residential areas of health of residents of those areas are compromised, the owners and managers of the unit are obliged to act within the deadline specified in the transfer plan to transfer the unit concerned. The payment of a fine of three percent (3%) of the gross annual income of the same unit shall be deductible from the provisions of this article.

¹¹ Article 16 - Persons who are prevented from carrying out the inspection of the officers of the organization for sampling and determining the amount of pollution caused by the activities of industrial, manufacturing, mining, service, public and workshops or provide the documents and information required by the organization to them or provide false documents and information, will be sentenced to a minimum of seven-year cash penalty and, if repeated, to a minimum grade of four-fifth of Article 19 of the Penal Code.

¹² Note 1 - Owners, officials or heads of administrative, health, medical, service, public and commercial centers that cause air pollution, if, after a written notice by the organization, they do not take an action to eliminate the contamination within the deadline will be sentenced to a five-year fine in the amount of eight (19) of the Islamic Penal Code, as the case may be and in the event of a repeat, in addition to the maximum amount of the fine, they are sentenced to six months to two years' imprisonment with the application of the organization and the court order of the competent authority.

M. Accumulation of various types of waste in public and open spaces and burning them (Article 20¹³).

N. Prohibition of the emission of noise pollution by fixed and mobile sources (Article 29¹⁴).

O. Provide non-reported reports by trusted laboratories (Note 2, Article 16¹⁵).

P. Creating any noise pollution by fixed and moving sources (Article 29¹⁶).

In other laws, such as the Law on Environmental Protection and Conservation, also stated that Article 9¹⁷ of the Law of 53 and the Amendment of 1992 initially prohibited any action that would cause pollution of the air. Then, one of the contaminating cases, the dispersion or mixing of foreign materials into the air with the conditions described in the material, can be considered a legal element of the crime. In addition, in the Islamic Penal Code (Article 688¹⁸), although it was not stipulated for pollution, the threat to public health and environmental pollution has been criminalized. But since

¹³ Article 20 - Accumulation of hospital and industrial wastes in public or open spaces or burning them and accumulation of household and building wastes in public streets and open spaces outside the places designated by municipalities and harbours or burning them, as well as burning of plant residues in agricultural lands It is prohibited after harvesting and the offender is convicted, according to the case, for a six-point fine, subject to article 19 of the Islamic Penal Code.

The Ministry of Jihad-e-Agriculture is required to inform the farmers, nomads and natural resources of the provisions of this article, as appropriate.

¹⁴ Article 29 - The creation of any noise pollution by fixed and mobile sources is prohibited. In the case of fixed resources, the offender is sentenced to a seven-year cash penalty under the terms of article 19 of the Islamic Penal Code.

¹⁵ Note 2, Article 16: "Trusted laboratories and co-workers, in the case of non-disclosure, shall be sentenced to sixth article of the article (19) of the Islamic Penal Code and, if repeated, suspended or revoked".

¹⁶ Due to the fact that in the clean air law, in the definition of air pollution, the subject of sound is also stated, because the destructive sound waves also propagate in the air, hence the criminality of this law. Article 29: Clean Air Act: "The creation of any sound pollution by fixed and mobile resources is prohibited. In the case of fixed resources, the offender of grade seven shall be sentenced to the provisions of article 19 of the Islamic Penal Code."

¹⁷ Article 9 of the Environmental Protection and Enrichment Law: "It is prohibited to take any action that causes pollution of the environment. The meaning of contaminating the environment is to place or mixing foreign matter with water, air, soil or earth, to the extent that changes its physical, chemical or biological quality to the detriment of humans or other living organisms or plants or works and buildings.

¹⁸ Article 688 of the Islamic Penal Code: "Any action that threatens public health such as contaminated drinking water or distribution of contaminated drinking water, non-sanitary disposal of human and animal waste and waste materials, pouring poisonous substances into rivers, waste in the streets and unauthorized trapping of livestock, unauthorized use of raw sewage or water after-treatment of refineries Sewage for agricultural use is forbidden and the perpetrators will be sentenced to one year's imprisonment if they are not subject to more severe punishment under specific laws".

air pollution is a subset of environmental pollution and it is an example; we can point out the criminalization of air pollution in this article.

The Second Paragraph: material element.

The emergence of the element of matter, the external realization of the criminal phenomenon of air pollution. Therefore, self-aware and uninformed criminal thought is not punishable unless it has an external appearance, as is commonplace in other crimes. As a result of the existence of a series of external acts, such as action or abstract, for the occurrence of a criminal phenomenon of air pollution, it is necessary to state the following:

A. Physical behavior.

Typically, a positive material action is required to realize the mass of air pollution such as the issuance of unauthorized examination by the operators of the inspection centers or the agents and observers (Note 2, Article 6 of the Clean Air Act), the construction, development, alteration of the production line and the change of the location of production, industrial and mining units unlawfully (Article 11 of the Clean Air Act) , unauthorized unblocking a pollutant unit (Note 2, Article 12).

Given that the action is a refusal to perform a task that is a matter for the legislature, there is a question here and whether, in comparison with the law of clean air, the cracking of the action can also lead to the realization of the pollution of air pollution? We can say that since clause 1 of Article 1 of this law has been used in the definition of pollution from the term "publication", this is done either action or abandoned action; for example, the industrial unit, which, by leaving its action to install a suitable filtration system, causes the release of pollutants from its activities to the environment, is an example of the discontinuity of air pollution crimes, because it has caused the release of pollutants into the air and, consequently, contamination.

In other cases specified in the Clean Air Act, the transfer of an air pollutant unit, which is not an option other than its transfer, article 14 of the Clean Air Act and the Non-Technical Examination of the Car Subject of Note 1 to Article 6 of the Act, as well as the approval of the directors and authorities of the relevant organs and bodies of the declared requirements of the Environmental Organization in the event of an emergency (Note 2, Article 3 of the Clean Air Act) are examples thereof.

According to the writer, in the air pollution offenses, the same action is also likely to lead to action in relation to air pollution, because the result of the examples is, ultimately, the spread of air pollution to the environment, which is nothing more than acting as action; for example, an industrial unit that must filter out a suitable system to prevent the emission of pollutants from its single activity and by leaving this causes the release of air pollution is a clear example of this. In any case, criminal law is necessary to realize the material element of an elemental crime, such as verb, verb, causality, crime and crime, all of which are related to the mass of air pollution.

B. Crime instrument.

One of the components of the material element of the mass of air pollution is its perpetration. In some crimes, the offense is effective and sometimes exacerbates punishment; for example, the crime of kidnapping the use of vehicles increases the punishment of this crime, and it is also effective in committing crimes in the crimes of murder and fraud. However, regarding the mass of air pollution, although the cars and industrial facilities of polluting factories are somehow means of committing crime, they are not effective in realizing the crime and if by any means and manner in which air pollution is released to the environment, the phenomenon of the criminalization of air pollution has been realized. So that from a cigarette to an internal combustion device if it is inappropriately used and non-standard fuel can be considered a means of committing a criminal phenomenon of air pollution.

C. Criminal result.

In many crimes, in particular, intentional crimes for the commission of crime, the occurrence of damage and damage caused by action is necessary. Given that in criminal law, if a crime is required in order to fulfill our criminal offense, it is compound crime and if it is a criminal act for the purpose of committing a crime or punishing a verb or leaving the current regardless of the outcome in the outside world, it is called absolute crime. In other words, the realization of criminal responsibility for the pollution of the air depends on the outcome of the damage and loss.

In relation to the crime of air pollution in Article 2 of the Law on the Prevention of Air Pollution Act 1995, since at the top of the article, it is strictly prohibited to take any action that would cause air pollution, it can be deduced that the criminal phenomenon considered air pollution to be an absolute crime, and the mere fact that it was spent was a criminal offense, regardless of the outcome, but with the passage of the Clean Air Act.

According to the definition of air pollution in the matter, there is a clean air law that is release one or more pollutants in the open air with the phrase "in such a way" that the realization of this is conditional on the harmfulness of the health of humans and living beings and that this contamination leads to a reduction of public welfare.

In other words, with respect to this definition, it can be stated that the realization of the mass of air pollution in the clean air law and the definition of air pollution for the first time in the law of the person, the realization of which is conditional on one of the two conditions of harmfulness for the health of humans and living organisms, and the other reducing the level of general welfare. Therefore, in view of this definition, the result stated is necessary in order to attain it. Therefore, it should be censored.

D. Causality relation.

Since the causality relation is one of the components of the element of the crime element, therefore, it is necessary to correlate between the act of an individual who has caused the release of a contamination by an act or a deviation from it. and if a factor causes the termination of this relationship, the subject is not convicted of an offense. Therefore, the mere pursuit or abandonment of measures that are far from realizing and causing air pollution cannot be criminalized.

The Third Paragraph: psychological element.

The purpose of the psychological element is to acquire and intentionally commit an offense committed in criminal law in the form of deliberate and unintentional crimes. In fact, intentional crimes are said to be crimes committed by the will and consciousness of the result, committing a crime. But in the unintentional crimes, there is an error in the argument that the examples are unconscionable, disloyal, lack of skill and non-compliance with governmental systems. Some crimes do not require a psychological element and are merely considered to be a crime. They are referred to as mere crimes of crime or crimes with absolute responsibility.

In the crime of pollution, the Hunszigerma can be deliberately and unintentionally implemented. For example, someone who deliberately burns waste deliberately causes air pollution, but usually this mass occurs unintentionally. Or commit maladaptation is not a condition for the commission of a crime, such as the criminal offense of air pollution in the Clean Air Act for the carriage of worn vehicles. Article 8 of the Law and the prohibition on conducting the inspection of the organization's officers for sampling and determining the pollution level of the pollutant unit under Article 16 of the Law.

The third issue: types of responses to coping with pollution in Iranian Law with emphasis on Clean Air Law.

The First Paragraph: Criminal Responses.

The clear indication of the criminal liability for dealing with air pollution is a criminal offense that the legislator has specified, and in fact, the actual outcome of the criminal responsibility is considered to be a criminal act. Below are the types of punishment in the Clean Air Act:

A. Cash penalty.

1. The focus of criminal sanctions on air pollution is in a clean air law with a fine, and in fact, Iran's criminal policy in this regard is following financial penalties rather than other punishments. In the following, the following are punishable by a fine:
2. Violation of the technical examination centers from the established criteria, activity and tariffs for conducting the examinations (Note 6, Article 3).
3. Transport of worn out vehicles (Article 8).
4. Due to the decisions of the provincial commission regarding the construction, development, change of production line and the change of location of industrial, production and service units (Article 11).
5. Distorting the stoppage and closure of the pollutant unit (Note 2, Article 12).
6. Failure to transfer the pollutant that is inevitable from the transfer (Article 14).
7. To prevent the inspection of the officers of the organization or failure to provide the required documents and documents (Article 16).
8. Issue of untrue reports by trusted laboratories (Note 2, Article 16).
9. Notification of pollution after the written notice of the organization (Note 1, Article 17).
10. Accumulation and burning of all types of waste (Article 20).
11. Sources of persistent audio pollution (Article 29).

12. The issuance of a misdemeanor report by the officers and staff of the authorized checking centers (Note 2, Article 6).

B. Disengagement of service.

In the case of detaining punishment, paragraph 2 of article 3 of the Clean Air Act, when officials and managers of relevant organizations and organizations do not cooperate and comply with the declared requirements of the organization, are subject to the punishment prescribed in Article 576 of the Islamic Penal Code. In fact, the legislator has used punitive referral in this regard.

C. The flogging sentence.

As far as paragraph 2 of article 6 of the clean air law is concerned, if the officers and staff of the authorized technical inspection centers act in violation of the provisions of this article, the offense is subject to Article 540 of the Islamic Penal Code, in addition to the compensation for whipping up to 74 punishments or cash punishments¹⁹. They are convicted of cash. Therefore, as it is noted in this article, the commission of a criminal offense is entitled to issue a criminal offense and, in addition to the referral method, the judicial authority has the authority to choose either of the two dictates. In fact, there can be a criminological perspective in addition to the subjects of criminal law. This article was considered by the judiciary with the granting of authority.

D. cancellation or suspension of the license.

As mentioned in paragraph 3 of article 6 of the Clean Air Act, in the event of a repeated violation of the Technical Examination Centers, the terms of the establishment, activity, and tariffs for conducting the examinations, shall be condemned to the expiry of the penalty, suspending the license from one month to one year, or the permanent cancellation of the operating license.

¹⁹ Article 540 of the Islamic Penal Code: "For other false allegations that cause the loss of a third party or cause damage to the treasury of the state. In addition to compensation for the incurring of a whip, he will be sentenced to (74) whipping or paying two hundred thousand to two million riyals.

E. Temporary shutdown.

In light of the Note to Article 17 of the Clean Air Act²⁰, the intensification of punishment in the form of a repeat offense if the owners and officials of the administrative, health, medical, service and commercial centers, after the written notice of the organization, do not take effective action to eliminate the pollution. The second time they are repeated, they are subject to a temporary suspension from six months to two years in addition to a fine, which is somehow in line with the intensification of punishment in the form of repetition of the crime.

The Second Paragraph: Administrative and Regulatory Responses.

Criminal law Air pollution is part of environmental law, which ultimately must ensure that people who are involved in hazardous air pollution activities comply with clean air regulations. In fact, this means the ultimate force of the law, according to which the criminal law is the final remedy. And should not be used promptly. This principle is in fact in the interest of the founder and other things, such as administrative rights and civil liability. Therefore, it is not necessary to use the guarantee of criminal enforcement in this regard if the guarantee of administrative and civil actions will prevent pollution of the air and confront its perpetrators. Therefore, the administrative responses have the privilege that on the one hand the possibility of its proper implementation is possible, and on the other hand, it is prevented from reviewing and processing its formalities. In the following we will examine the types of these guarantees:

1. Fines.

The most common type of sanction is fines and penalties. If the air pollutants such as cars, factories, and air polluting works violate the provisions of the Clean Air Act and other laws in this regard, this

²⁰ **Note 1 - Owners, officials or heads of administrative, health, medical, public, and commercial centers that provide air pollution. If, after a written notice by the organization, they do not take an action to eliminate the contamination within the deadline, Article 8 of the Criminal Code is punishable by case and, if repeated, in addition to the maximum amount of the said fine, are sentenced to six months to two years from the closure of the competent court.**

guarantee will be enforced; for example, in the case of vehicles in urgent cases, under Article 3 of the Clean Air Act, which is subject to temporary and temporary restrictions and restrictions, is mandatory. If there is a violation of the stipulated obligation, the fine imposed on the joint proposal of the Environmental Protection Agency and the law enforcement agency shall be taken from the perpetrator²¹. Also, in line with the Note to Article 6 of the Clean Air Act. If a vehicle passes without a certificate of technical examination or after the expiration of its deadline, traffic police may stop paying the vehicle for every day of the journey by issuing a fine²².

2. Temporary, spatial and temporal constraints.

According to clause 5 of the article, a clean air law, in a situation where air pollution in a city due to atmospheric quality and sustained atmospheric stability based on the announcement of the Meteorological Organization or increasing the concentration of pollutants, identified by the Ministry of Health and Medical Education, conditions in some way endanger human health and the environment in a short term, The Environmental Protection Agency, in cooperation with the Ministry of the Interior, imposes temporary prohibitions or restrictions on the location, location and type of pollution sources of air and informs citizens through public media immediately.

3. Prevention of vehicle traffic without technical examination.

One of the other competencies that under the Clean Air Act is for administrative authorities, including law enforcement, is the prevention of the movement of vehicles or lacked a technical

²¹ Article 3: Clean Air Act: "In an emergency, the organization, in cooperation with the Ministry of the Interior, and the approval of the Council of Ministers, shall establish temporary restrictions or prohibitions to prevent harmful effects and to deal with pollution sources and publicize the mass media through the mass media immediately with the elimination of the emergency conditions and the reduction of air pollution, the organization informs the public about the ban and restrictions imposed, and measures and measures accordingly".

²² Note 1, Article 6 of the Clean Air Act: "The period for exemption from technical inspection, from production, for public and private vehicles, for four years and for public transport vehicles, shall be set at one year". The guidance and driving of the police force is obligated to refuse the visit of technical inspection centers and technical examination certificates if the vehicle owner has the subject of this article after the expiration or expiry of the validity of the certificate of technical examination and at the same time stopping the car, in exchange for every day without this certificate, proceed with the issuance of fines in accordance with the law on the handling of driving violations for the vehicle owner".

examination certificate or expired during which, and on the basis of the Note to Article 6 of the said Law, Guidance and driving police is required by law enforcement, in the absence of a certificate of technical examination or expiration of the period of exemption and expiration of its validity and failure to renew the certificate, while stopping a car for every day of the journey without a certificate, charge a fine in accordance with the law on driving infringements from the vehicle owner.

4. Issue an administrative notice to the air pollutant unit.

Warnings issued by administrative authorities to air pollutants are considered as one of the administrative guarantees. Also in the Clean Air Act, which specifically addresses the criminal phenomenon of air pollution and dealing with it, it has been given responsibility for the notice issued by the administrative authorities in Article 12 that while Identifying all the centers and units of industrial, manufacturing, service, etc., whose contamination is more than allowed, by determining the type, amount of pollution, the extent of the affected area and the sensitivity of the area to the owners or authorities of the units subject to the degree of implementation of the appropriate measures to eliminate pollution and in case of non-removal of pollution, civil and criminal enforcement is also anticipated²³. Also, in the Note to Article 17 of the Clean Air Act, it is also stipulated that the officials

²³ Article 12 Clean Air Act: "The organization is responsible for identifying all the centers and units of industry, production, mining operations, services, public works and workshops whose contamination exceeds the maximum permissible duty and determine the levels by identifying the type, amount of contamination, the extent of the area affected and the region's sensitivity to the owners or agents or chief executives or the highest decision making authority of the unit that for a specific period determined by the organization, to eliminate pollution or change production or change the process of production or closure of their work and activities (based on the type of pollution and the nature of the control process).

Note 1 - Decisions on the full closure of the work and activities of factories, large mines and large pollutants that have national and regional impacts is by the headquarters of the Ministry of Industry, Mines and Trade are the head of the organization, the governor and the highest authority of the relevant body.

Note 2 - If the provisions of this article are not implemented, at the end of the deadline, the organization will prevent them from continuing their activities and introduce the offender for prosecution, in accordance with the provisions of this law, to a competent judicial authority. In addition to compensating for damages, the production unit is punishable by a fine of three to five times as much as the damage to the environment.

The penalty provided for in this Note regarding owners, managers and managers of factories, units and workshops of production, oil and gas industries, power plants and other production units, services and minerals polluting, which after the closure, without permission from the organization, Reopen and continue to operate.

Note 3 - The permitted limits for the emission of air pollutants by the organization are proposed and will be approved by the Cabinet of Ministers".

of the administrative, health, medical, service, public and commercial centers that provide air pollution are subject to written notice and in the event of non-removal of the pollution, the warrant of execution is stipulated²⁴.

The Third Paragraph: civil rights-based responses.

The main goal of civil responses is to protect victims from the harmful effects of atmospheric pollution and the need to compensate for the damage caused by air pollution. Here's a question: Is it possible to deal with air pollution in the form of compensation under the current legal regime governing liability and guarantee of its implementation?

It can be stated that civil liability is not much used in relation to air pollution and coping with its offenders, which, of course, requires a fundamental change. Because of the widespread damage and its widespread extent in the air pollution and that its effects are manifested in years after the criminal act, therefore, it may not be possible, in proportion to the damage done to clean air, to take damage and to use civil-rights guarantees. Although it is possible to commit air contamination in the form of administrative and private contracts directly or in terms of the condition. It can also be used for guarantees such as restoring the status quo, eliminating the source of losses, and repaying cash from damage caused by the air polluter, both legal and legal, and in the form of repairing the damages suffered to the detriment of restorative justice.

²⁴ **Article 17 - All users of fixed air pollutants shall be required to observe emission limitations in their engine rooms and combustion systems. Also, these centers are required to take appropriate measures (preferably urban gas) in order to prevent the release of pollutants in the open air and are required to conduct an annual technical inspection of the engine room system and combustion systems by accredited companies from the national organization. Iran's standards are in accordance with the permitted emission limits.**

Note 1 - Owners, officials or heads of administrative, health, medical, service, public and commercial centers that cause air pollution, if, after a written notice by the organization, they do not take an action to eliminate the pollution within the deadline, they are sentenced to eight (eight) points of the penal code of the article of the Islamic Penal Code according to the case and in the event of a repeat, in addition to the maximum amount of the fine, they are sentenced to six months to two years' imprisonment with the application of the organization and the court order of the competent authority.

CONCLUSIONS.

Considering the necessity of maintaining clean air as one of the most important human rights and coping with any factor causing it to be contaminated and since criminal support in this regard should be used as the last resort.

Despite the drafting of the Clean Air Act as a codified law to support this specific environmental and criminal offense, clean air violations, issues such as the spread of air pollution in the closed environment, the construction and operation of unauthorized industries, the beginning of the mass of air pollution and burning and accumulation of waste in the places designated by the municipalities and village managers are of those that have not been massacred.

While items such as Note 4, Article 11 of the Law on Self-Declaration and Clause 1 of Article 16 on the requirement for units of 50 upwards in the use of environmental specialists, despite the provision and requirement of a lawmaker without a guarantee of execution, is one of the important principles of criminal law.

Among other regulatory challenges, the lack of prediction of absolute criminal responsibility and the imposition of this crime are a criminal consequence of the definition of air pollution in clean air law, which is also due to the extensive and irreversible damage of air pollution and the problem of determining the result.

The reason for the time gap between the occurrence and the discovery of its effects, which sometimes emerge several years after the spread of individual disease, we need to anticipate this type of responsibility in air pollution crimes. Also, the lack of implementation of administrative infrastructures in administrative responses, as well as the nature of air pollution crimes, are faced with challenges in assessing damages in civil response. Moreover, because of the perpetrators' position that they are typically offenders and perpetrators, they will be confronted with insecurity.

It is necessary to eliminate these problems in the penal policy of air pollution crimes by planning according to existing facilities and using the ability of other institutions to promote public opinion and the culture of maintaining clean air.

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