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The regulation drug approach in Afghanistan and its impact on regional criminal

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Abstract

The aim of the study is to investigate the regulation drug approach in Afghanistan and its impact on regional criminal via comparative qualitative research methods. As a result, by the regionalization of criminal policy in the form of transnational interest-based practices, not only the convergence of regional criminal law evolves, but provides the context for the development of regional pluralism. In conclusion, regarding the actions of the ECO countries, what is currently considered to be the framework for cooperation between ECO member countries for organized crimes, especially narcotics, is the mere synchronization approach.

Keywords: ECO, Organized Crime, Drug-Regulation.

El enfoque de la regulación de drogas en Afganistán y su impacto en el crimen regional

Resumen

El objetivo del estudio es investigar el enfoque de la regulación de drogas en Afganistán y su impacto en la criminalidad regional a través de métodos comparativos de investigación cualitativa. Como resultado, mediante la regionalización de la política criminal en forma de prácticas transnacionales basadas en el interés, no solo evoluciona la convergencia del derecho penal regional, sino que también proporciona el contexto para el desarrollo del pluralismo regional. En conclusión, con respecto a las acciones de los países de ECO, lo que actualmente se considera el marco

para la cooperación entre los países miembros de ECO para los crímenes organizados, especialmente los narcóticos, es el mero enfoque de sincronización.

Palabras clave: ECO, crimen organizado, regulación de drogas.

1. INTRODUCTION

Today, the powerful networks of transnational criminal organizations, with a wide range of coordinated activities in the form of organized crime, are considered to be one of the most important concerns in national, regional and international societies all over the world, with a great deal of influence in various fields, so that not only has posed a threat to political, social and economic security, but also has been known as a major threat to the world system. The geographic area of the so-called ECO countries in Asia, with an area of about six percent of the world, and given its strategic nature, is considered as one of the most susceptible areas in Asia, in which the largest and most organized crime is realizing. Afghanistan is, as a rule, the largest producer of drugs, especially the opium poppy; especially its main market is in Europe. Smugglers with all sorts of harassment, including imposing custodians on coping with this crime, ultimately, weaken the sovereignty and national authority and, with the great money that they receive from the crime, will inevitably commit new crimes such as money laundering, fawn and forging. For this reason, such crimes are typically committed organizationally, and perpetrators, with influence in various state institutions, overcome the national authority, the health of the people and the economic system. (Najafi, 2017; Muslim, 2019). Ultimately, if the world system is considered as the basis on democracy, economics and security, global crime will be inseparable from their relationship. Due to the high volume and scale of organized

crime in the area, the region can be called the Strategic Area of Organized Crime in Asia.



Figure 1.

Source: UNODC, world drug report 2016, June 2016, pp. xii-xiv; UNODC, world Drug Report 2015, may 2105, pp. xiii- xiv, 46.

In 1999, the ECO countries began to create a part in the ECO structure, in order to prevent and combat organized crime, especially drug based on the criminalization drug approach, in 1999. Since the formation of this unit, many activities have taken place between members and these activities generally include: (1) regular meetings of officials and experts from member states from the presidential level to interior ministers, judiciary chiefs, police chiefs and prosecutors of member states; (2) formulating a plan to combat organized crime and drug control, and finally formulate a joint strategy to combat drug, terrorism and organized crime. The result of all these activities is the continuation of the criminalization drug approach among members of the ECO; as in domestic criminal law,

most members have also reflected as a strict criminal policy against the drug.

In spite of all ECO activities in the fight against organized crime, Afghanistan is considered as the largest producer of drugs in the world, and ECO countries are considered as a safe way to transit these materials to Europe. Since 1999, the Organized Crime and Eco-Coordination Unit (ECO) has been formed, to this day, not only the prevention and combating of the drug phenomenon has not diminished in the region, but also we seeing its significant increase on the other hand, these crimes are also widespread in the region, due to the close relationship between the phenomenon of drugs and other organized crime, such as terrorism and money laundering, and other forms of smuggling. In the domestic arena, there is also a repressive criminal policy based on the drug phenomenon's criminalization approach among members of the Eco-organization. (Akbari, 2014). This domestic policy has not, in practice, had a positive effect on preventing and combating the phenomenon of drugs. (Farani et al., 2017).

According to the author, the continuity and development of drug crimes in the region are directly linked to the ineffectiveness of the pure-mindedness approach of drugs in the domestic laws of the member states and the regional policy. The change in the criminological approach of drugs from crime to regulation is not only the most important factor in preventing and combating drug and related organized crime, but also changing this approach in terms of functionalism theory as an effective factor in enhancing regionalization of criminal policy in the eco, because, based on the Bifurcation theory and gradual theory derived from the

functionalism theory, cooperation in a field gradually leads to collaboration with other sectors. That is, cooperation in a sector, which has emerged as a result of need and has actually been successful, necessitates cooperation in other sectors. (Omidi & Aslani, 2009). In the following, while reviewing the drug policy in criminal policy of Afghanistan (first chapter), the impact of the drug policy strategy in Afghanistan on the regionalization of the eco-crime policy will be addressed. (Second topic).

2. FIRST TOPIC: THE DRUG-MAKER'S STRATEGIES AND ITS LOCATION IN AFGHANISTAN'S CRIMINAL POLICY.

Crime-related strategies can include criminalization, decriminalization and regulation drug. Each of these strategies will be discussed in the framework of Afghanistan's criminal policy framework.

2.1. First speech: Criminalization strategy

At first and in many countries, the use of drugs was more of a medical aspect, so governments were reluctant to suspect activity related to this phenomenon. But over time, after the first signs of drug abuse in societies became apparent, the serious community action begins with the criminalization of this phenomenon. The criminalization of the drug is "Including all acts related to drug as crime" (Mahmodi, 2008: 34), including the cultivation, production, use, possession, smuggling or other things. In Afghanistan, the General Penal Code of 1302 is the oldest

codified legislative text in relation to criminal matters. In this regulation, the attitude that the legislature has had with the drug at that time is significant, since not only the cultivation of drugs, such as scum and bang, has not been considered a crime, but it is considered as one of the products of the country, which is also permissible to be exported to foreign countries. The only ban that the legislator has shown in relation to this phenomenon is that it prohibits the use and sale of such drugs inside the country (Article 125 of the General Penal Code).

The 9th Assad Act of 1335 and the Planting, Commerce, Buying, Exporting, and Applying Opium Act of Afghanistan dated 2nd Circuit of 1336 were considered as the first regulations of the country, which has specifically dealt with the drug problem. Of course, this policy has continued. The Smuggling Prevention Act of 1348 should also be considered a part of these laws. The law also criminalizes the production, import, export, purchase, sale, maintenance and transportation of prohibited property. Prior to the internal changes and conflicts and Taliban domination in Afghanistan, the fight against drug on (12/03/1990) was signed by the President of the time Najiballah. The first is a comprehensive law that is made in conjunction with the drug. The law states that all stages of the cultivation, production, maintenance, smuggling and drug use crime have been listed in accordance with the international convention on drugs and their derivatives.

Since then, until Taliban domination, there are no specific rules for this conflict due to internal conflicts. Until in the year 1973 AH, the Taliban regime published a law on counter-narcotics in official journals. In fact, the text of this law is the law on the struggle against drugs in 1990,

which, by adding the word sharia in the fourth article, have given the Islamic aspect to this law. Other than this law, Mullah Omar, the Taliban leader, issued separate dissenting instructions, and prescribed severe punishment for perpetrators, for example, in a decree issued by Mullah Omar on 13/1/1971. Article 1: 1- Bang bunting is strictly prohibited throughout the country. 2- To those who are busy with the bang, a severe religious punishment will be given. After the internal transformations and changes and as a result of the collapse of the Taliban system and the formation of government structures, the law of struggle against drugs came to pass in 2003. This law, in addition to defining and classifying the drug, cultivation, smuggling and drug use have also been criminalized, and has focused on preventative and therapeutic measures for drug addicts.

Two years later, in 2005, the same law was revised and re-published with many changes and additions. In the new law, while classifying and reforming in this regard, what is noteworthy is the separate chapter in the text of this law for the purpose of handling drug crimes, which has given it a two-dimensional identity (Substantive and Formal). The next law is the law on combating drugs and intoxicants, which was approved by the National Assembly of the National Assembly and published on 22/3/2010. The law also maintains the criminalization of drug crimes in the past, and in the fourth chapter it deals with crimes and drug punishments. As the name implies, the addition of intoxicants along with drugs is the only difference that this law has over the previous law in this area. Al-Nahime is the latest and most recent law, the Afghan Penal Code, which was approved by the Legislative Decree in 2017. The basic differences between the Code of Criminal law and the previous law are the issue of crimes which was removed from the drug chapter, and replaced by

psychoanalysis along with drug, the total sentences for imprisonment was increased from twenty up to thirty. And along with imprisonment, the criminal punishment was reintroduced. Overall, in terms of criminalization, we are seeing a development in the criminalization domain of drugs; however, the predicted crime rate for each crime is milder than the law of 2010. For example, the confiscation of the vehicle, which was included in the 2010 Law, including embedding, concealing, and transporting, in the code only involves embedding and hiding the drug.

2.2. Second speech: Decriminalization strategy

In relation to the concept of decriminalization, different views have been put forward; black decriminalization's legal culture is the process of regulating an illegal act, such as ethics. Some also consider it to be the elimination of all guarantees of criminal acts, and others believe in the reduction of this guarantee of performances in this sense. Others only believe in the transformation of the implementation guarantee from the criminal aspect into civilian guarantees in explaining the concept of decriminalization. The meaning is that most of the attention of lawyers is to eliminate all criminal offense guarantees, because the other concepts presented are actually punishable and not decriminalization. Thus, decriminalization in this sense is a process by which the jurisdiction of a criminal system to enforce performance guarantees is denied a response to a particular form of behavior, that is, a specific criminal act. Decriminalization is seen as one of the ways in which criminal law is abandoned, which is made by the legislator formally and lawfully, or by

the judiciary and the institutions of the justice system. Here, the meaning of decriminalization is the same as the formal or legal decriminalization that the legislator acts as the only competent authority in this field. An important point which has been proven is that decriminalization does not always mean that certain behavior is removed from the jurisdiction of the criminal system, and that it does not fall into the domain of individual freedom or the circle of judges, because in this assumption it is just one of the forms of decriminalization.

Other items that are considered under this title or in its completion are defined in other titles, such as punishment and denial of judicial review or detention, which cannot be equated with decriminalization; although their circle can be in contact with or extend overly to the extent of decriminalization. The policy that the Afghan criminal system has continued, albeit with fundamental political transformations, from the beginning to the present, has been the policy of criminalization and its completion and broadening. So, considering the course of legislation in this regard, at least in terms of legislation, the scope of the criminalization of the new law has always been wider and more developed than the previous one. And the struggles generally have both criminal and non-criminal aspects in line with the legislature's policy. Thus, in Afghanistan's law, we have witnessed the development and evolution of the criminalization approach towards decriminalization in relation to drug crimes, and in fact, the decriminalization theory in this regard has not been functional so far.

2.3. Third speech: Regulation strategy

Regulation in the word means legitimated or legalized. Or allowing or justifying by the Black Law Dictionary in the term regulation means the process of controlling the law to bring a particular activity that was previously illegal and prohibited. (Decriminalization in Europe? Recent developments in legal approaches to drug use).

Some believe that regulation is the removal of all restrictions on the production and sale of drugs and psychotropic substances except for children. In the sense of regulation in this sense, government control is based on the system of civil justice (and not the criminal justice system) on the production and sale of and use of drugs, and uses the criminal justice system to control the behavior of individuals (such as controlling the behavior of individuals about the use of alcohol). In the other sense, the government makes the many drugs that are now illegal, available to adults, and provides drug control to the needy, offers drug education programs to children, and sales or prohibiting the use of a drug without a medical prescription and it is considered a crime (Viano, 2008: 50).

What is apparent from the Afghan Legislation in this regard implies the use of both concepts of regulation. In other words, in some cases, we see the regulatory distribution of narcotics from law enforcement agencies for drug addicts, of course, in the form of medical treatment, as well as in the fields of the cultivation, production, and even export and import of drugs in some legislation, according to a legal license, the permission has been given to individuals and legal entities. The regulatory veins in the Afghan legal system are clearly from the very first regulations on drugs to

the new laws. As mentioned, in the first comprehensive criminal code, the Public Penal Code of the country, it is explicitly mentioned as the product of Afghanistan of cannabis and bang, and only its cultivation has been allowed, but its buy and sell to foreign countries had been permitted. The only ban in this law is the mere use and buy and sell of these materials within the country. Four years later, the Criminal Code 1306 also confirmed the same procedural law for drug trafficking. The only difference in this regard in the new law is that the new law is legitimate in relation to those who use drugs and whose age is more than fifteen years old. For people under fifteen years of age, have created a judicial system of justice and removed the effective advice provided in the previous law.

Dr. Najib's presidential decree 1990 has also emphasized the ban on cultivation, smuggling and other related crimes. The only thing that can be mentioned in this law about regulation is Article 13 that the legislator has authorized the Ministry of Health to deal with certain cases in order to meet the medical needs. As mentioned above, the law on combating drugs during the rule of the Taliban is in fact derived from the law of 1990, except for changes that reflect the rule of the Taliban. The law has also given the Ministry of Public Health, the same authority, in the field of drug, and has considered the elimination of medical needs as authorization of this discretion. In addition to the medical needs, Article 12 of the Taliban era includes a ruling that It seems that the government has also tended to regulate drug-related activities. In 2003, the law of struggle against drugs, the effects of regulation drugs can also be clearly identified. In the beginning, this law categorized drug in four different classes based on medical use and severity of control in four separate tables, and in other

materials than the tables, they have provided a different approach to the form of regulation.

Regarding Table 1, the regulation approach, like the previous rules, is licensing or regulation of cultivation, and other steps for medical purposes. The difference in this law with other laws is that, in addition to medical requirements, the legislator has also authorized the work in relation to Table 1 to the Ministry of Health for the purpose of scientific research and education of certain persons. The Alnahayeh in sixty-ninth article has obliged the Ministry of Public Health to complete a comprehensive medical plan for the purpose of regulating the activities of the Ministry in the field of drugs. And in conjunction with the second and third tables of the annex to the law on combating drugs, which are used in medicine, but strictly controlled, the legislator retains the same regulatory approach and any activity related to the materials mentioned in these two tables is subject to the official approval of the Ministry of Public Health. In this regard, the legislator has allowed both natural and real persons to operate, and that the permission covers all stages from cultivation to even the use of the materials covered by these two tables. In addition to the activities of individuals in the domestic arena, the legislator is also authorized to operate private companies for international trading and import and export of materials subject to the second and third tables. The only condition that the legislator has referred to for international trade is the compliance with the license of these companies with the United Nations Office for the Control of Drugs and Crime, issued by the Ministry of Health with the advice of the struggle with drug directorate.

Regarding Table 4, the chemical raw materials used as compound materials in the drug derivatives, the legislator, in addition to being inclined to the regulation approach, has also tried to take caution. Therefore, individuals who want to produce, import, and export and supply the drugs listed in Table 4 must be licensed separately at each time. Also, any entry and issue of this category of drugs should be recorded in the register of deeds. The regulation approach in the Law on Counter Narcotics 2005 can also be clearly and even wider observed than the previous law. The second paragraph of Article II considers the purpose of this law to monitor the regulation and control and prevent illegal use of drugs. And in contrast, it considers medical, scientific, research and industrial purposes legal. What is new in this law in relation to former laws is the regulation of the use of narcotics for industrial purposes. According to Article 8 of the third article, industrial use "... is a sole use in an operation of the manufacturing process" (Hajizadeh, 2014: 18). The legislator has not referred to the type of manufacturing operation, but naturally, it should be for the production of pharmaceutical materials. The law, like its predecessor law, has divided narcotics into four categories in four tables. The only difference in this law to the former law is that in Table 4, the mental disorder is added along with the narcotics (Askaripour, 2008).

In addition to the above, what is the most recent in the law 2005 is the establishment of a committee called the Narcotics Regulatory Committee, which, in addition to substituting the Ministry of Public Health in this regard, also has special competencies in controlling narcotics. Another feature that distinguishes this law from other laws is the inclusion of a separate chapter in the regulation of narcotics. Chapter III:

Granting of planting license, preparation, production, distribution, trade and use of plants, materials and citrus contained in tables (3.2.1 and 4). This license is granted by the Committee under article seven. The committee also has the discretion to limit the license to a specific place and a specific type of activities related to narcotics. However, the committee also has the power to grant license for non-medical and scientific purposes, provided that the applicant proves that production and use of the product is essential for the industrial process. Clause 5 of Article 7: "The Committee may authorize the production and use of the Articles in tables (1, 2 and 3) for the purpose other than medical and scientific purposes, provided that the applicant proves that the production or use it is essential for the industrial process" (Kulai, 1997: 18).

Paragraph 2 of Article 10 The following persons and governmental agencies can, without applying for a license, purchase and maintain plants and drugs set in the tables (1,2 and 3) of this Act, in order to meet their professional requirements: 1. Pharmacists... 2. Pharmacists of private or public hospitals or health institutions... 3. Pharmacists holding a license that is responsible for private or public parts. 4. Hospitals or health institutions without responsible pharmacists ... 5. Doctors and surgeons in dentistry and animal medicine... and in clause 4, the midwives and nurses holding the license are also added to this list and they also have the right to keep the necessary amount. But what the amount is necessary, the legislator does not make a statement about this. The Law on Combating Drugs and Narcotics 2010 has also maintained the process of regulation in the field of drugs. And the drug is divided into four tables. And in this law, the Committee on Drugs also has the authority to grant permits to activate in this field. However, according to this law, unlike the previous law, the

applicants for a license do not have the authority to activate in all areas of the drug. While according to the law 2005, people with a license had the right to activate in all areas, from cultivation to maintenance and sale. While according to paragraph 1 of Article 11 of the Law o2010, solely governmental institutions, for the purpose of treatment, medical and scientific research, and advancement of scientific affairs and industrial purposes, have the authority to activate in all the fields referred to in article 3 of this law, from cultivation to purchase and sales and maintenance. And according to paragraph 2 of this article, other persons by having license have the right to activate in these fields except for the cultivation and production of narcotics (Kalantari, 2015).

The terms of granting license have been referred to a separate regulation, contrary to the previous law, in accordance with paragraph 3 of this article. In addition, there is no mention of the extensive powers provided in law 2005 for pharmacists, dental surgeons, midwives and nurses in order to have drugs without permission. Therefore, such persons are subject to paragraph 2 of article 11 of the law 2010. Therefore, the scope of legislation in the law 2010 seems to be more restrictive than law 2005, especially in the field of planting, which only governmental agencies also have the right to plant drugs for specific purposes. However, the procedure of the regulation is maintained in this law. Finally, the law on combating drugs and narcotics 2017, which is enforceable in non-criminal cases, has not only maintained its regulation approach, but also Article 10 explicitly titled Legal plant of plants generative of drugs has stipulated the issue of regulation. On the other hand, the existence of the narcotics regulating committee has also been maintained in this law, and in the twelfth article of this law, the issue of granting license of planting,

production, preparation, processing, purchase, sale, maintenance, distribution, import, export, the use and storage of the materials listed in the tables (2.1 and 3) for treatment, medical and scientific research, and the advancement of educational affairs and industrial purposes, has only been stipulated to governmental departments. Of course, in paragraph (2) of this article, with the exception of planting narcotics has allowed other things for other applicants (Dahl, 1999).

Based on the studies, it was specified that the criminal policy adopted by various Afghan legislators in different periods was generally based on two approaches of criminalization and regulation. The criminalization approach has been used throughout all legislation periods; the only difference seen in this regard between laws and regulations is the difference in the level of criminalization. Thus, in Regulation 1302, only domestic drug use was considered a crime. And in the next stages, the scope of criminalization becomes wider. The beginning of criminalization at the level of international standards has begun with legislation in 1990 and has become the basis for subsequent legislation periods. Legislation approach is also an approach that has a special position in different legislation periods, which has been used in different levels and forms. The process of using this approach from the beginning to the present day represents a kind of upward and downward trend in this approach. The cornerstone of this approach is started from law 1923, by considering hashish one of the products of Afghanistan, and according to the law 1990, the Ministry of Public Health was given the authority to activate in all fields of drugs, in line with medical purposes. This approach is seen in the Taliban era, while the Taliban government could allow individuals to

activate tacitly with the permission of the Taliban emirate (Zolfaghari & Jafari, 2016).

In accordance with the law 2003, individuals were allowed explicitly permission to practice, of course, by obtaining a license for medical, research and education purposes. In addition to preserving this approach in the law 2005, the scope of permission to activate has reached its peak and extended to industrial activities, while the range of people also extends and includes pharmacists, dental doctors, and animal medicine and nurses. And even according to the law, private individuals were also given the right to export and import on special terms. Law 2010, while continuing regulation in this field, has considered that the planting restrictions are solely for government agencies for specific purposes and that any other activity is also subject to licensing by non-state persons. So, as you can see, since the beginning of regulation about drug, legislators have used both different methods of criminalization and regulation simultaneously. Of course, the criminalization approach reached its peak with the law 1990. And since then, it does not make much difference, because it was set up under the International Convention Combating Narcotics. But the regulation approach has had up and down trend. Since before the law of 2010, with the coming of every new law, the scope of the regulation of narcotic activities has been increased, so that we see the widest scope of activity from the public sector, especially the Ministry of Health, the private sector and individuals and non-governmental organizations. But with the adoption of the law 2010, this move has trended towards downward. Again, with law 2017, the legislation process, with the exception of the cultivation of narcotics in other cases in the non-state sector, is raised, and, moreover, for the first time, a separate material

entitled the legal cultivation of plants generative narcotic is stipulated in this law (Burani, 2014).

3. SECOND TOPIC: THE IMPACT OF THE AFGHAN DRUG REGULATION STRATEGY ON THE FORMATION OF COMMON REGIONAL CRIMINAL POLICY IN ECO

In this topic, firstly, the ways of forming a common regional criminal policy will be discussed, and then the dimensions of the impact of the Afghan drug regulation strategy on the formation of common regional criminal policy in ECO will be analyzed.

3.1. First speech. The methods of formation of common regional criminal policy.

Experience of methods of reaching to common regional criminal policy patterns has generally been raised in the form of three approaches, assimilation, harmonization, and unification.

3.1.1. Unification

Under the strategy of unification, a set of legal regulations in a specific geographic area is drafted, based on the rules and principles of criminal law, the most important of these principles is the principle of the

legality of crimes and penalties, the guilty principle or the fault as the basis of responsibility and the principle of proportionate to the severity of the punishment and the danger of crime. (Delmas, 1997; Fakhruddiana & Utomo, 2019). Regarding the adaptation of this approach to the situation in ECO region, it seems that in the adaptation of the two principles of criminalization and proportionality of crimes and penalties, organized crimes will face fundamental differences and challenges based on the criminal systems of the member states. By taking a look at the national laws and regulations of the ECO countries, it is conceivable that, firstly, all countries do not have the same status in terms of criminalization of organized crimes. In the case of examples of organized crimes, there is no equal criminalization between the Member States. Even in some criminal laws, it cannot be found a chapter tilted organized crimes, but it is sporadically seen examples of organized crimes. For example, Central Asian countries, Turkey and Pakistan have sporadically referred to organized crimes in their criminal law. On the other hand, regarding the principle of proportionality, despite the similarities of criminal systems, it cannot see the same criminal response among these criminal systems, as there is a lot of distance between the execution in Iran, the confiscation of properties in Turkmenistan with the imprisonment and cash penalty in Afghan as a drug producer.

3.1.2. Harmonization

The purpose of harmonization is that the national (internal) rules of the state are different than each other, but it is tied to the rules to be close to each other as much as to be compatible (Delmas, 1997). Therefore, in

this way, we do not have any other concerns about the non-compliance of internal regulations, but rather, it is tried while preserving national regulations internally, these regulations to be also in some way compatible. Especially this necessity becomes more important when there is a need for a broad co-operation on a single issue. So far, the highest level of regional cooperation on organized crimes, especially drugs in the ECO region, has been done based on the harmonization approach, which can generally be summarized in the following areas.

- Creating a part in the form of the ECO structure called the (ECO – DOCCU) Drug and Organized Crime Coordination Unit. Initially, in 1999, the ECO acted to create a part called the Drug Control Coordination Unit, and in 2009 the name of the department changed to the Drug and Organized Crime Coordination Unit. The most important steps that have been taken by the unit since then include the design and creation of a database on the drug situation in the region, as well as effort to close the counter-narcotics action strategy, exchange information, strengthen legislation on drug crimes and police actions. (Booklet on the Economic Cooperation Organization, Drug & Organized Crime Coordination Unit (1999-2012),).

- Regular meetings of officials and experts from member states from presidential level to interior ministers, head of the judiciary, police chief and prosecutors of member states.

- ECO Action Plan for Drug Control: In 2008, the Action Plan is adopted by ECO members and its main objective is to focus on the combating drugs in the ECO region. And ways to achieve this goal

include: promoting domestic legislation on drugs, strengthening the structure of national and regional institutions, exchanging information, information and experience, exchanging the official between members, and eventually capacity of staff at the regional level.

- Joint strategy on counter narcotics, terrorism and organized crimes: This strategy is, in fact, known a program or comprehensive plan of cooperation for applying coordinated operations against all forms of organized crimes, including terrorism, drugs, human trafficking, and money laundering and so on. ... Based on this strategy, regular meetings between experts of members are foreseen to achieve this goal.

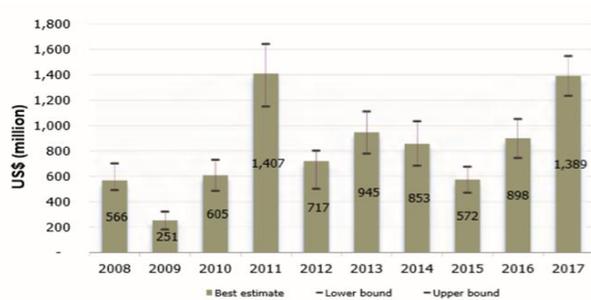
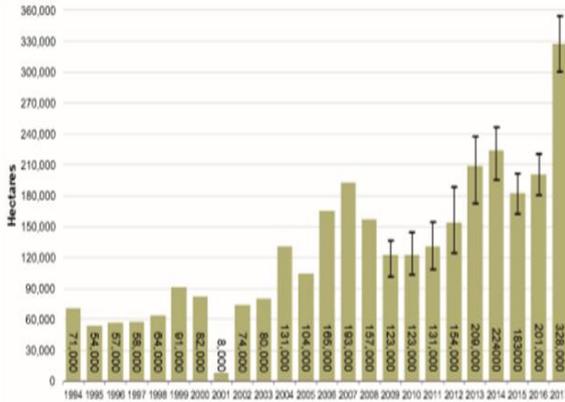
- ECO Action Plan for combating organized crimes. In 2010, members of the ECO approved the plan and, based on it, according to the need for regional cooperation to combat organized crimes, the members are asked to develop their efforts to combat organized crime from the national or two-way level to the regional level.

What is evident from the total acts of the ECO Organization and bilateral agreements between members on organized crimes, especially narcotics, is the stopping and non-development of regional relations from the level of harmonization approach to other methods of criminal regionalism. In other words, the activities of ECO member countries within the framework of the Drug Organized Crime Coordination Unit are based not only on the harmonization approach, but also remain on the same level without actually observing its development and evolving from

this approach to other methods of regional cooperation. It is the most important feature at this level.

3.1.3. Assimilation

What is important in this strategy is the development of domestic competence through the integration of transnational interests or interests of other governments with national interests, as German law has stipulated the assimilation principle of the interests of European society with national interests (Delmas, 1997). But the adoption of this approach among ECO members for all organized crimes may not be possible, despite the fact that regional benefits require the effective fight against all organized crimes. For example, it seems that in relation to some crimes, such as the issue of terrorism and the benefits that already received for Pakistan (Rafi, 2014), it cannot be, based on the method of assimilation, achieved the common regional criminal policy. Nevertheless, it seems that according to the definition of regional interest-based convergence: membership in an organization for gaining benefits that are obtained at a higher cost without converging membership and participation, or may not be obtained at all; it is called convergence. With regard to the narcotics issue and the change in the fundamental approach of criminalization to regulation to this phenomenon by unity of national interests and transnational interests, it can close the criminal policy of the member states. In Afghanistan, 71,000 hectares of narcotic lands were cultivated in 1994; it increased to 328,000 hectares in 2017 (Table 1), while the same amount of drug proceeds from 2008, \$ 566 million, has risen to \$ 1,389 billion in 2017 (Table 2).



These statistics clearly indicate the ineffectiveness of the criminalization approach of drugs in Afghanistan. Because not only farmers and drug traffickers directly benefit from cultivation, but indirectly, local and central governmental officials also consider their interest in cultivating narcotics. Transit and smuggling of Afghan drugs continue through neighboring countries. It seems that in spite of all regional and national strict penal policies and actions based on the

criminalization approach to drug crimes and the high cost of combating this phenomenon, we continue to observe the development of criminal behaviors based on statistics. If we consider national benefits including actions that create profit for a wide range of people. Therefore, changing the approach from criminalization to regulation, based on the unification of transnational interests with national interests, can play an effective role in responding to this phenomenon; in particular, the phenomenon of narcotics is directly related to the issue of security and civil and regional war.

Afghanistan by having a history of regulation in its criminal law structure can provide a suitable basis for implementing this approach, but it alone cannot move towards this approach. The ECO consensus on this can play a key role in this process. The adoption of this policy not only creates the ground of control and legal uses (research, industrial, Pharmacy and ...) of drugs among eco-region members, but, on the other hand, the high cost of combating the phenomenon of drugs is also saved. And also given that the phenomenon of narcotics has created a suitable context for the realization of other organized crimes, such as the financing of terrorism, money laundering and other forms of smuggling, this change of approach provides a good basis for controlling and preventing these crimes. Ultimately, this change of approach will provide the appropriate context for the development of regional criminal policy from the level of harmonization to the level of assimilation on the basis of transnational and national interests.

3.2. Second speech. Dimensions of the impact of the Afghan drug regulation strategy on the formation of a regional criminal policy in the ECO.

The most important dimensions of the impact of the Afghan drug regulation strategy on the formation of regional criminal policy in ECO can be considered as follows.

- Controlling the phenomenon of drugs and organized crimes related to it: The first and most important influence of drug regulation can be considered in controlling the phenomenon of drugs and its related crimes in this region. By regulating drugs, not only cultivate, produce and maintain it, but also develop, purchase, sell, and even use drugs will be under the control of the region. As the policy-making in countries is practiced towards the regulation of the use of drugs for addicted persons. On the other hand, by controlling drugs, drug-related crimes, such as money laundering and other economic and drug-related crimes, will also be controlled by regional criminal policy.

- Eliminating the main source of terrorist financing in the region: According to a new report by the US Inspectorate for the reconstruction of Afghanistan, 60% of the Taliban's income is from drugs of Afghanistan. Also, according to this report, 76% of the income from the cultivation of narcotics is for drug traffickers in the region, and farmers receive only 24% of the crop's profits. Also, according to this report, Taliban earned a huge sum of \$ 400 million in drugs between 2011 and 2012. Therefore, the main income of terrorist groups and criminal organizations in the region is arising from drug controlled by them. It is natural that the main source of

the financing of terrorism and organized crimes will be eliminated by the process of regulating narcotics from Afghanistan and the countries of the region.

- The consolidation of regional security stability, regional security in the area discussed, is one of the most important challenges in the region, and these regional concerns are so intertwined that they cannot be separated from each other. (Alison, 2010). In this case, if regional security is defined as a problem that increases the possibility of conflict between countries, or increases instability within them, thereby raises external interference. In such a situation, the growth and development of regional cooperation, in particular, joint cooperation in the field of offenses against security, can have an effective role in regional security and reducing the bad effects of regional insecurity.

- The growth and development of legal pluralism in the region, according to Deleh, a French professor, globalization cannot be summarized in terms of common legal rules in a legal system separated from each other. He considers the common rights of humanity to be pluralistic, because pluralism contains peaceful coexistence. Therefore, by the regionalization of criminal policy in the form of transnational interest-based practices, not only the convergence of regional criminal law evolves, but provides the context for the development of regional pluralism.

- Exiting from the minimum to the maximum stage of regional cooperation, based on the actions taken in the organized crimes in ECO, despite the establishment of a unit to fight organized crime and the

formulation of a strategy for combating organized crimes and a plan of action, according to the methods of regional criminal policy formation, the ECO remains practically at the minimal level of synchronized strategy. Adopting a narcotics regulation strategy in the form of assimilation based on national and transnational interests causes to leave from the minimum to the maximum stage of regional cooperation in the region.

4. CONCLUSION

1. In the geographic region known as the ECO countries, various types of organized crimes, such as drug smuggling crimes, human smuggling, antique smuggling, drug smuggling, goods smuggling, arms smuggling, terrorism, corruption offenses, and economic crimes, such as money laundering, etc. are realizing widely.

2. Merely national criminal policy, although done by spending large costs, cannot be regarded as an appropriate response to organized transnational crimes, because when organized crime is transnational, merely national criminal policy cannot be responsive. Therefore, a transnational criminal policy is needed.

3. Regarding the actions of the ECO countries, what is currently considered to be the framework for cooperation between ECO member countries for organized crimes, especially narcotics, is the mere synchronization approach.

4. Although the synchronization approach is considered a good context and starting point between ECO members in relation to organized crimes, due to the variety of organized crimes in the area, stopping in this approach also cannot be considered a suitable context for combating organized crimes. Therefore, the change in this approach is essential.

5. Therefore, changing the approach from criminalization to drug regulation based on the approach of assimilation of national and transnational interests will not only lead to the prevention and control of drug and related organized crimes, but also at the ECO level, we will observe the development and evolution of common regional criminal policy.

REFERENCES

- AKBARI, A. 2014. **Reviewing and criticizing the criminal policy governing drug crimes in Iran with an emphasis on the revision of the Law on Combating Drugs of 2010**. Criminal Law Research Law. Vol. 5, N° 2. UK.
- ALISON, R., & LENA, J. 2010. **Central Asia Security, New International Framework, Translator, Mohammad Reza Debieri**. Political and International Studies Office, Tehran, Second Edition. UK.
- ASKARIPOUR, H. 2008. **Complete collection of domestic laws and international rules of drugs**. Tehran, Second edition, Majd Publications. Iran.
- BURANI, M. 2014. **International Crime Prevention, International Government Commitment, First Edition**. Tehran, Publishing. Iran.
- DAHL, E. 1999. **Government and the Globalization of Rights, Translator, Ibrahim Beygzadeh**. Legal Investigations. Vol. 25, N° 26. USA.
- DELMAS, M. 1997. **Following Common European Criminal Law, translated by Dr Najafi Abradi, Ali Hossein**. Journal of Law International Legal Services Office. N° 21. UK.

- FAKHRUDDIANA, F., & UTOMO, A. 2019. **The empathy difference of children in late childhood seen on the attachment patterns to mothers.** Humanities & Social Sciences Reviews. Vol. 7, N° 3: 108-114. India.
- FARANI, P., HASSANI, K., & MOSSALI, A. 2017. **Criminal Analysis of the Death Penalty in the Law on Combating Drugs.** Journal of Parliament and Strategy. Twenty-Fourth. N° 90. USA.
- HAIJZADEH, H. 2014. **Introduction to Concepts of Public Law, Review of the Concept of Public Benefit.** Guardian Council Research Institute. Iran.
- KALANTARI, K. 2015. **A collection of laws and regulations of international cooperation between Iran and the countries of the world in criminal matters.** Majd Publications. Iran.
- KULAI, E. 1997. **A Study of the Convergence and Convergence Fields among ECO Members.** Middle East Studies. N° 10, p. 11. UK.
- MAHMUDI, F. 2008. **Decriminalization as a Change.** Journal of Law and Political Science. University of Tehran. Vol. 38, N° 1. Iran.
- MUSLIM, S. 2019. **The implementation teaching factory and implications on the preparation of candidates for vocational high school teachers.** Humanities & Social Sciences Reviews. Vol.7, N° 3: 323- 330. India.
- NAJAFI, A. 2017. **Globalization of Trafficking in Health-Based Products, Globalization of Crime Policy, Conference Proceedings, Proceedings and Presentations of the First National Conference on the Prevention of Health-Related Trafficking.** Farhang Pars Publishing, Shiraz, First Edition. Iran.
- OMIDI, A., & ASLANI, S. 2009. **Lessons for EU Co-operation for the Eco.** Two Quarterly Programs and Budget. Vol. 14, N° 109. USA.
- RAFI, H. 2014. **Peace Challenges in Afghanistan.** Central Asia and Caucasus Studies. N° 88. UK.
- VIANO, C. 2008. **Globalization and Transitional Crime.** International Annals of Criminology. Vol. 49. P. 83. UK.
- ZOLFAGHARI, V., & JAFARI, A. 2016. **ECO Regional System: Tactical Alliances and Strategic and Opportunistic Contributors.** Strategy, Number Seventy-Eighth, Years Twenty-Five. USA.



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