

Combating Nuclear Theft in the Criminal Laws of Iran and the Federal of America

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Abstract

Nowadays, theft of nuclear material and devices to commit terrorist acts is the most important nightmare for the international community. In this way, the activists of the international law system criminalized nuclear theft, to combat offenses related to technology, in the 1979 Convention on the Physical Protection of Nuclear Material. Considering the aforementioned instrument and the Convention on Nuclear Terrorism 2005, the terrorist and non-terrorist aspects of nuclear theft were specified. Thus, the Iranian legislator, despite the appropriate measures, such as the criminalization of not declaring the theft of radiation sources, has not still established a strong criminal policy, especially for nuclear theft in its terrorist aspect. On the other hand, the Federal legislator of the United States has criminalized nuclear theft in both terrorist and non-terrorist aspects. Hence, the accurate explanation of the subject of nuclear theft, the proportion of criminal sanctions, and the recognition of the universal jurisdiction are important measures that are based on the United States Criminal policy. Accordingly, the present paper aims to analyze the nuclear theft policy in Iran and the United States of America and to introduce a deterrent criminal policy against nuclear theft.

Keywords: Nuclear material; Nuclear devices; Nuclear theft; Nuclear material protection; Nuclear terrorism.

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Bibliography

A) Books and Articles

- Abdullahi, Mohsen & Jamal Khandan Kouchaki (2017). "The Exception of Terrorism in the Immunity Laws of Iran, the United States and Canada", *Journal of Legal Research*, No. 77, pp. 265-291. [In Persian]
- Abdullahi, Mohsen & Jamal Khandan Kouchaki (2017). "The Exception of Terrorism in the Immunity Laws of Iran, the United States and Canada", *Journal of Legal Research*, No. 77, pp. 265-291. [In Persian]
- Ajluni, Abdul Wal, Mohammad Alsaad, Musa Al-Asiri Al-Anoud (2014). "Controlling the Illicit Trafficking in Nuclear Material for Terrorist Purposes", translated by Mehdi Mikaeli and Ali Fathpour Pakzad, *Journal of International Police Studies*, No. 20, pp. 136-147. [In Persian]
- Bassiouni, M.Charif. (2008). *International Criminal Law: Sources, Subjects and Contents*, Leiden: Martinus Nijhoff Publishers.
- Bennett, Paige. A. and Oza, Umesh (2015). *Diagnostic Imaging: Nuclear Medicine*, Amsterdam: Elsevier Health Sciences.
- Bernhard, John, Kenneth C. Brill, Anita Nilsson, and Shin Chang-Hoon. (2015). "International Convention on Nuclear Security," Washington, D.C.: Nuclear Security Governance Experts Group.
- Foroughi, Fazlollah (2008). "Comparative study of the principle of universal jurisdiction in German and American criminal law", *Journal of Private Law Studies*, No. 2, pp. 261-284. [In Persian]
- Fuerst, Zachary A., and Robert S. Bean (2017). "Nuclear Waste Ecological Safety & Security: Continuity of Knowledge and the Geological Repository." *GSTF Journal of Engineering Technology (JET)* Vol. 4. No. 3. pp. 1-7.
- Gardner, Thomas J. and Terry M. Anderson (2014). *Criminal Law*, Boston: Cengage Learning.
- Ghanikolahloo, Keyvan (2009). *Nuclear Terrorism*, First Edition, Tehran: Khorsandi. [In Persian]
- Golduzian, Iraj (2014), *Mohhasha of the Islamic Penal Code with new amendments and additions*, seventh edition, Tehran: Majd. [In Persian]
- Hedayati Chenani, Rahman (2018). "Methods of combating smuggling of nuclear weapon and materials according to Iranian law and international instruments", *Journal of Political Science Studies, Law and Jurisprudence*, No. 1, pp. 110 to 123. [In Persian]
- Herbach, Jonathan (2015). "Reinforcing the Three Pillars: How Nuclear Security Efforts Underwrite the Strength of the Non-Proliferation Regime." In paper, *Nuclear Disarmament, Non-Proliferation, and Energy: Fresh Ideas for the Future symposium*. pp. 1-15.

- Hess, Kären M., Christine Hess Orthmann, and Henry Lim Cho (2016). *Introduction to Law Enforcement and Criminal Justice*, Boston: Cengage Learning.
- John M. Scheb. (2004), *Selection of Legal Texts of American Criminal Law*, translated by Amir Samavati Pirooz, first edition, Tehran: Negah Bayyeneh. [In Persian]
- Khripunov, Igor, and Dmitriy Nikonov, eds (2012). *Legal Framework for Strengthening Nuclear Security and Combating Nuclear Terrorism*, Amsterdam: IOS Press.
- Koelzer, Winfried (2005). *Glossary of Nuclear Terms*, Karlsruhe: Forschungszentrum.
- Maskun, Alma Manuputty, S. M. Noor, and Juajir Sumardi (2014). "Legal's Standing of Cyber Crime in International Law Contemporary", *Journal of Law, Policy and Globalization*. No. 22. pp. 128-133.
- Meshkat, Seyed Mustafa, Ramezani, Ahmad, Sohrab Salahi & Maryam Moradi (2018) "Analysis of nuclear sabotage in the national criminal justice system with an approach to the laws of some other countries", *Journal of Parliament and Strategy*, No. 95, pp. 59-94. [In Persian]
- Mir Muhammad Sadeghi, Hussein (1997), "Theft in the legal systems of Iran and the United Kingdom", *Judicial Journal*, No. 3, pp. 9-13. [In Persian]
- Mirzaei, Muhammad, Ghanikolahloo, Keyvan & Meysam, Shirkesh (2017). "Nuclear Terrorism and Related Crimes in the Light of International instruments", *Journal of International Police Studies*, No. 32, pp. 9-35. [In Persian]
- Namamian, Peyman & Ghafoor Khoueini (2017). "Feasibility for the Establishment of the International Criminal Court; Challenges, Strategies and Achievements ", *Strategy Magazine*, No. 82, pp. 129-160. [In Persian]
- National Research Council. (2006). *Protection, Control, and Accounting of Nuclear Materials: International Challenges and National Programs: Workshop Summary*, Washington, D.C.: National Academies Press.
- Sartipy, Hussein & Hojjatzadeh, Alireza (2013), *Nuclear Security Law*, First Edition, Tehran: Mizan. [In Persian]
- Shambiati, Houshang (2014). *Specific Criminal Law (2) Crimes against property and ownership*, second edition, Tehran: Majd. [In Persian]
- Thakur, Ramesh (2016). *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect*, Cambridge: Cambridge University Press.

The International Convention for the Suppression of Acts of Nuclear Terrorism. As to see this treaty, refer to the following link: <https://treaties.un.org/doc/db/terrorism/english-18-15.pdf> (Accessed: June 18, 2019).

The International Convention on the Physical Protection of Nuclear Material. As to see this treaty, refer to the following link: <https://www.iaea.org/publications/documents/infcircs/convention-physical-protection-nuclear-material> (Accessed: June 18, 2019).

Washington, Charles. M. and Dennis. T. Leaver (2015). *Principles and Practice of Radiation Therapy*, Maryland: Elsevier Health Sciences.

Wayne, LaFave (2013). *Offenses against property in American Criminal Law*, translated by Mohsen Parsa, First Edition, Tehran: Jungle, Javadaneh. [In Persian]

Wilkinson, Paul (2012). *Technology and Terrorism*, Oxfordshire: Taylor & Francis.

Zera'at, Abbas (2013). *Specific Criminal Law 2, Crimes against Property and Ownership*, First Edition, Tehran: Jungle, Javadaneh. [In Persian]