

Criminological Analysis of the Law on Combating the Smuggling of Goods and Foreign Exchange

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Received: 2025-02-05

Revised: 2025-05-01

Accepted: 2025-05-06

Published: 2025-09-01

The Law on Combating the Smuggling of Goods and Foreign Exchange, as one of the key legislations in Iran's legal system, has been enacted with the aim of addressing crimes related to smuggling and mitigating its negative effects on the economy, security, and society. This law seeks to adopt a comprehensive approach by establishing criminal and economic penalties and regulating the processes of identification, seizure, custody, and sale of smuggled goods. Moreover, an emphasis on transparency, the utilization of modern technologies, and coordination among responsible institutions are among its primary objectives. A criminological analysis of this law reveals that, although deterrence principles have been considered in its formulation, an excessive emphasis on stringent and punitive sanctions has disrupted the balance between prevention and enforcement. Additionally, the complex structure of legal provisions, the multiplicity of responsible entities, and the dependency of certain provisions on executive regulations have posed challenges to the unified and effective implementation of this law. Improving this legislation requires strengthening preventive policies through public education, economic transparency, and the enhancement of supervisory infrastructures. Furthermore, revising the penal system by incorporating rehabilitative and restorative sanctions, alongside increasing inter-institutional coordination and simplifying enforcement procedures, constitutes essential measures to enhance the effectiveness of the law.

Keywords: *Smuggling of goods and foreign exchange, criminology, Law on Combating Smuggling, prevention, deterrence, penal system, inter-institutional coordination.*

How to cite this article:

Karimi, M. Y., Ziya, R., & Akbari, A. A. (2025). Criminological Analysis of the Law on Combating the Smuggling of Goods and Foreign Exchange. *Interdisciplinary Studies in Society, Law, and Politics*, 4(3), 1-12. <https://doi.org/10.61838/kman.isslp.4.3.22>

1. Introduction

The smuggling of goods and foreign exchange, as a complex and widespread criminal phenomenon, has numerous negative impacts on a country's economy, security, and social stability. This phenomenon, which arises due to factors such as weak regulatory oversight, economic inequalities, and the allure of high profits, not only disrupts formal markets but also fosters related crimes such as money laundering and economic corruption. In the Islamic Republic of Iran, the Law on

Combating the Smuggling of Goods and Foreign Exchange serves as a key instrument in addressing this issue and plays a significant role in the country's penal policy framework. This law, by defining offenses and corresponding penalties, aims to reduce smuggling incentives while preventing irreversible economic damages. However, evaluating the efficiency and effectiveness of this law necessitates a more precise criminological examination.

One of the most critical challenges in Iran's penal policy is the lack of proportionality between punishments and



the objectives of deterrence, rehabilitation, and correction. In the Law on Combating the Smuggling of Goods and Foreign Exchange, certain penalties—despite the imposition of harsher financial sanctions and imprisonment—have not demonstrated the necessary effectiveness in reducing smuggling activities. Additionally, the social and economic consequences of implementing these penalties, such as the imposition of heavy costs on the judiciary and prison systems, have raised serious questions regarding their proportionality and efficacy. This study, using a criminological approach, seeks to examine whether the prescribed penalties in this law achieve the expected goals of a balanced and effective criminal policy.

Addressing this issue is crucial because smuggling significantly reduces national capital and exacerbates economic inequalities, and ineffective measures to combat it may lead to the further expansion of this phenomenon. Moreover, a criminological examination of this law can contribute to the reform of penal policies and the proposal of more effective alternative strategies. A scientific analysis of this legislation can serve as a vital step in providing recommendations for improving Iran's legal framework and enhancing the efficiency of anti-smuggling efforts. The fundamental research question this study aims to answer is whether the Law on Combating the Smuggling of Goods and Foreign Exchange is proportionate and effective from a criminological perspective in preventing and combating smuggling. Through this criminological analysis, the study intends to offer practical and appropriate strategies to improve the effectiveness of penal policies.

2. Conceptual Definitions and Theoretical Foundations

2.1. *Smuggling of Goods and Foreign Exchange*

The smuggling of goods and foreign exchange is one of the most complex and challenging economic and legal issues worldwide. Due to its extensive impact on national and international economies, it has consistently attracted the attention of policymakers, economists, and legal scholars. In general, smuggling refers to illegal activities involving the importation, exportation, production, distribution, or sale of goods and currency without compliance with a country's legal and regulatory framework (Feinstein, 2001). These activities are

typically carried out to evade taxes, customs duties, or other legal requirements and can include the smuggling of consumer goods, narcotics, weapons, and currency (UNODC, 2010). In many countries' legal systems, the smuggling of goods and foreign exchange is considered an economic crime that poses a direct threat to the economic system and national security.

For instance, in Iran, the Law on Combating the Smuggling of Goods and Foreign Exchange (2013) was enacted to address this phenomenon and mitigate its negative effects on the economy. Article 1 of this law defines smuggling as: "Smuggling of goods and foreign exchange refers to any act or omission that results in the violation of legal formalities related to the import, export, purchase, sale, storage, or other relevant activities concerning goods and foreign exchange." This definition encompasses a wide range of illegal activities that have significant economic, social, and legal implications.

The smuggling of goods and foreign exchange can be analyzed from multiple perspectives. From an economic standpoint, smuggling directly affects a country's economy, particularly by reducing government tax revenues and disrupting trade balances. For example, according to a World Bank report, smuggling is recognized as a primary driver of the shadow economy, which can account for up to 30% of a country's Gross Domestic Product (GDP) (Youssefian Shooreh Deli, 2010). From a social perspective, the smuggling of goods and foreign exchange can exacerbate social inequalities and weaken public trust in the legal system. Additionally, this phenomenon is often associated with other organized crimes such as money laundering and financial corruption, which have detrimental effects on social cohesion (Shelley, 1995).

From a legal perspective, the smuggling of goods and foreign exchange is a crime that involves violations of customs, tax, and foreign exchange regulations. This phenomenon places significant pressure on the legal system by increasing judicial caseloads and complicating the enforcement of penalties (Albanese, 2008).

Due to its complexity, smuggling is typically influenced by multiple factors. Economic factors include high unemployment rates, inflation, economic inequality, and a lack of transparency in economic policies (OECD, 2009). Legal factors encompass weak enforcement mechanisms, lack of transparency in customs

regulations, and deficiencies in the coordination of relevant institutions (UNODC, 2015). Social factors involve a weak culture of legal compliance, lack of public awareness about the consequences of smuggling, and the allure of high profits from illegal activities (Friedrichs, 2010).

The smuggling of foreign exchange is one of the most intricate aspects of smuggling, with far-reaching consequences for economic stability and currency management. This type of smuggling is typically driven by flawed foreign exchange policies, multiple exchange rates, and weak control over financial flows. Research indicates that countries with weaker currency systems are more vulnerable to foreign exchange smuggling (Asghari, 2008).

The consequences of the smuggling of goods and foreign exchange can be categorized as follows:

A) Reduction of Government Revenues: Smuggling directly reduces tax and customs revenues, exacerbating government budget deficits.

B) Weakening of Domestic Markets: Smuggled goods, often cheaper and illegal, diminish the competitiveness of domestic producers.

C) Increase in Crime and Corruption: Smuggling is often linked to other crimes such as money laundering and corruption, leading to a decline in public trust (Validi, 2007).

2.2. Criminological Study

Criminology, as a branch of criminal sciences and penal law, focuses on studying and analyzing the objectives, necessity, foundations, and effects of punishments in human societies. Through historical and philosophical examinations of punishments, this field seeks to analyze the relationship between crime and punishment and to identify effective methods for preventing and controlling criminal behavior (Tonry, 2018). The concept of criminology continuously evolves as legal and social theorists adapt to cultural, social, and economic transformations, leading to changes in perspectives and approaches toward punishment (Garland, 2001). Traditionally, criminology has focused on studying penal systems and criminal policies while addressing fundamental questions such as: "Why do we punish?", "How should punishment be applied?", and "What impact does it have on individuals and society?" (Duff & Garland, 1994). This field not only examines the practical

and functional aspects of punishment but also explores its philosophical, ethical, and social dimensions. According to Durkheim, punishments serve not only as crime deterrents but also as symbolic mechanisms for reinforcing moral and social values within society. From this perspective, criminology reflects the norms and values of a given society (Durkheim, 1984).

From a theoretical standpoint, criminology is categorized into three major schools of thought, each based on distinct principles:

- **Instrumental or Deterrence Approach:** This perspective holds that punishments should be designed to discourage individuals from committing crimes. Theorists such as Beccaria emphasized that punishments must be certain, swift, and proportionate to the crime to be effectively deterrent (Beccaria, 1764). Deterrence is divided into general deterrence, which targets society as a whole, and specific deterrence, which aims to reform and prevent recidivism among offenders (Bentham, 1789).
- **Rehabilitative and Correctional Approach:** This school of criminology views the primary objective of punishment as the rehabilitation and reintegration of offenders. Proponents argue that individuals engage in criminal behavior due to social, economic, and psychological factors, and addressing these issues can reduce recidivism (Cullen & Gendreau, 2000).
- **Restorative Justice Approach:** Emerging in recent decades, this perspective emphasizes restoring balance within society and addressing the harm done to victims. The main goal of punishment in this framework is to repair damages inflicted on society and to reinforce social norms (Braithwaite, 2002).

Criminology functions not only as an academic discipline but also as a social instrument for managing norms and values. In essence, punishments are applied to maintain social order and strengthen cohesion among community members (Garland, 1990). Additionally, criminology philosophy examines the moral legitimacy of punishments and establishes principles that justify their application. According to Kant, punishment should be enforced not merely as a deterrent but also as a means of achieving justice (Kant, 1996).

The smuggling of goods and foreign exchange represents one of the most complex economic crimes, posing significant challenges to criminal justice systems. A criminological analysis of related legislation can highlight the strengths and weaknesses of the penal system in addressing economic crimes and propose more effective prevention and control mechanisms. Given the detrimental effects of smuggling on the economy and society, a thorough understanding of criminological principles can assist policymakers in designing effective strategies to combat this phenomenon (Tonry, 2018).

Criminology, as a branch of criminal sciences and penal law, defines its purpose as the systematic and scientific study of punishments. In this regard, criminological objectives can be examined through three primary aspects: deterrence, rehabilitation, and the promotion of social justice. These objectives have evolved throughout history in response to societal needs and social transformations (Tonry, 2018). The primary aim of criminology is to identify the most effective solutions for managing and controlling criminal behavior while considering ethical, social, and economic principles (Cullen & Gendreau, 2000).

The fundamental principles of criminology include philosophical and ethical foundations that influence the design and implementation of punishments. Some key principles include:

- **The Principle of Proportionality Between Crime and Punishment:** This principle emphasizes the necessity of aligning punishments with the severity of the crime and its impact on society. Theorists such as Beccaria and Bentham argued that proportionate punishments reduce crime rates and enhance public trust in the justice system (Beccaria, 1764).
- **The Principle of Deterrence:** This principle underscores the role of punishment in preventing crime among both the general public and offenders. Punishments should be structured in a way that reduces the likelihood of criminal behavior while raising societal awareness of the consequences of crime (Von Hirsch, 1993).
- **The Principle of Rehabilitation and Correction:** One of the most significant

principles of criminology is the reform of offenders and their reintegration into society. This principle is based on the assumption that many offenders commit crimes due to specific social and economic conditions, and that educational and psychological interventions can rehabilitate them (Cullen & Jonson, 2017).

- **The Principle of Social Justice:** This principle highlights the role of punishment in restoring social balance and fostering a sense of justice within society. Social justice is achieved through the fair implementation of punishments and the elimination of discrimination (Braithwaite, 2002).

The position of criminology in criminal policy is of particular importance. Criminal policy encompasses the set of tools and strategies employed by societies to combat crime and maintain social order. Within this framework, criminology serves as a fundamental component in defining and evaluating punishments. By providing scientific and practical analyses, criminology assists legislators in designing proportionate and effective punishments (Garland, 1990). Criminology not only evaluates existing punishments but also functions as a tool for formulating preventive policies. This approach, which emphasizes deterrence and offender rehabilitation, asserts that criminal policies should be structured in a way that prevents crime before it occurs (Robinson & Crow, 2009).

One of the most critical aspects of criminology in criminal policy is its focus on human rights and human dignity. In this context, criminal policy must be based on human rights principles, such as the prohibition of torture, the protection of defendants' rights, and the observance of restorative justice (Tonry, 2011). The primary practical applications of criminology in criminal policy can be summarized as follows:

- **Legislative Development in Criminal Law:** Criminology aids lawmakers in scientifically assessing the effectiveness of punishments, leading to more efficient and equitable criminal laws (Ashworth & Zedner, 2010).
- **Reform of the Prison System:** Criminological studies reveal that prison conditions and the treatment of inmates significantly impact recidivism rates. Consequently, criminal policies should focus on improving prison conditions

and providing educational and psychological services to inmates (Cullen et al., 2011).

- **Analysis of the Social Effects of Punishments:** Criminology examines the social repercussions of punishments, including their effects on offenders' families and society, thereby assisting policymakers in adopting measures that minimize harm to communities (Garland, 2001).

3. Review and Critique of the Law on Combating the Smuggling of Goods and Foreign Exchange from a Criminological Perspective

The Law on Combating the Smuggling of Goods and Foreign Exchange, as one of the most significant legal instruments for addressing the issue of smuggling, has a comprehensive structure aimed at covering all aspects of this phenomenon. This law has been formulated considering the country's economic, social, and political conditions, with its primary objectives being the reduction of smuggling, ensuring economic security, and supporting domestic production. To better understand this law, its structure and general principles are examined in detail. The law is designed to encompass all stages of the smuggling process, from identification to punishment.

3.1. Chapter One of the Law

The first chapter of this law is dedicated to defining key terms, determining the instances of smuggling, and outlining the organizational structures involved in combating smuggling. This chapter establishes the legal foundation for the entire process of combating the smuggling of goods and foreign exchange, providing a framework for the subsequent chapters of the law. The analysis and critique of this chapter are presented in two main sections: "Definitions and Instances" and "Organizational Structures". Additionally, the positive and negative changes introduced by the amendments are reviewed.

A) Definitions and Instances

1. Precise and comprehensive definitions with practical ambiguities (Articles 1 and 2):

The law attempts to provide comprehensive definitions for concepts such as "smuggling of goods and foreign exchange," "permitted

goods," "conditionally permitted goods," and "legal formalities." However:

- **Ambiguity in instances:** The definitions provided are sometimes broad and require further details. For example, "legal formalities" (Clause T, Article 1) includes general provisions such as customs and banking formalities, but the exact instances and implementation mechanisms are unclear.
 - **Concept of "conditionally permitted goods" (Clause J, Article 1):** The 2021 amendment classified temporarily prohibited goods under government decrees as "conditionally permitted goods" (Sabouri Pour & Safai Atashgah, 2016). This change is positive as it helps clarify the status of temporarily banned goods; however, it may lead to inconsistencies in categorizing goods and confusion among enforcement agencies.
2. **Definition of "value of smuggled goods" (Clauses H and KH, Article 1):** Determining the value of smuggled goods based on criteria such as **Cost, Insurance, and Freight (CIF)** value for imports and market price for exports is commendable. However:
 - The criteria of the "highest exchange rate" and "additional costs" may result in disproportionate valuations and irrational penalties.
 - Calculating value based on the **Central Bank's declared exchange rate at the time of discovery** may lead to injustices due to currency fluctuations.
 3. **Organized smuggling and professional smugglers (Clauses S and SH, Article 1):** The definition of these concepts, particularly with the 2021 amendments, is a strength of this law (Elham et al., 2014). Criteria such as the number of smuggling offenses and the value of goods help in the precise identification and prosecution of professional offenders.
 4. **Ambiguity in some key definitions (Clause Z, Article 1):** The 2021 amendment refined the definition of "false documents" to include both forged and misleading documents. Although this amendment has improved legal clarity, some elements—such as the "fifteen percent

discrepancy" rule—remain undefined and could lead to enforcement disputes.

B) Analysis of Organizational Structures and Executive Framework

1. **Excessive focus on multiple agencies (Article 3):** This article defines the Central Headquarters for Combating the Smuggling of Goods and Foreign Exchange. While the comprehensiveness of this provision is commendable, the large number of participating agencies poses risks of inefficiency and lack of coordination.
 - Holding regular meetings chaired by the President or their representative is a strength that could facilitate policy implementation.
 - The presence of two parliamentary oversight representatives ensures legislative supervision.
2. **Lack of clarity regarding the responsibilities of some institutions (Clause 3, Article 3):** The roles of **military organizations and the national broadcasting authority (IRIB)** in cooperating with the Headquarters are **not explicitly defined**, potentially leading to implementation conflicts and inefficiencies.
3. **Emphasis on electronic and smart systems (Article 5):** This article introduces an important innovation in the law by stressing the creation of **smart monitoring systems** to prevent smuggling. However:
 - **Technical and infrastructural challenges:** The practical implementation of these systems may face delays due to infrastructure limitations and resistance from some institutions.
 - **Criminalization of system violations (Clause 2, Article 5):** This clause **criminalizes** entering false or incomplete data into the system, a positive step toward transparency, but its enforcement requires strict oversight.

C) Critique of the 2021 Amendments

The 2021 amendments introduced significant changes in this chapter. Some of the major strengths and weaknesses of these amendments are as follows:

- **Clarification of concepts and definitions:** Revisions to the clauses on "conditionally permitted goods" and "false documents" have improved legal clarity.

- **Stronger enforcement guarantees:** Additional clauses in Articles 1 and 2 provide stronger enforcement mechanisms for currency and goods-related offenses.
- **Focus on organized smuggling prevention:** More precise definitions of organized smuggling and professional smugglers enable a more targeted approach to combating these crimes.
- **Increased enforcement complexity:** The numerous sub-clauses and extensive legal provisions could cause confusion among law enforcement agencies and judiciary officials.
- **Practical implementation challenges:** Some amendments, such as the mandatory registration of detailed information in monitoring systems, may face execution difficulties due to technological and infrastructure constraints.

3.2. *Critique of Penal Provisions for the Smuggling of Permitted, Conditionally Permitted, and Prohibited Goods*

Chapters Three and Four of this law focus on the criminal penalties for smuggling permitted, conditionally permitted, subsidized, foreign exchange-related, and prohibited goods. These chapters define offenses, fines, asset confiscation, and responsibilities in dealing with smuggling-related crimes. The analysis of these chapters is conducted within a general criminological framework:

- **A) Proportionality between crime and punishment:** Various articles, particularly Article 18 (Chapter 3) and Article 22 (Chapter 4), define different levels of penalties based on the type and value of smuggled goods. While this gradation reflects an effort to ensure proportionality, in cases like Clause T, Article 18 (currency offenses), the complexity of fine calculations may reduce the law's effectiveness and create interpretation disputes in implementation.
- **B) Prevention of organized smuggling:** The law emphasizes this issue through multiple clauses, such as Clause 1, Article 18 (Chapter 3) and the clauses of Article 22 (Chapter 4). However, using criteria such as the number of offenses or the financial value of smuggled goods alone is insufficient for identifying and

dismantling smuggling networks. Additional criteria, such as network identification and covert operations, should be incorporated.

- **C) Asset seizure and confiscation:** The law extensively provides for the seizure of smuggled goods and transportation vehicles, such as:
 - **Article 20 (Chapter 3):** Seizure of vehicles used in smuggling and fines equivalent to the value of the goods or vehicle.
 - **Article 24 (Chapter 4):** Confiscation of storage locations for prohibited goods. While these measures act as deterrents, they may be unjust in cases where the property owner was unaware of the offense. Clause 3, Article 20 attempts to address this issue but requires further clarification on proving owner awareness.
- **D) Focus on high-risk goods:** Chapter Four addresses prohibited goods such as alcohol, historical artifacts, satellite equipment, and pharmaceuticals. The severity of penalties, such as 2 to 5 years of imprisonment (Article 22), underscores the importance of these goods to public security and health. While strict penalties are justified, overly harsh enforcement may overburden the judiciary and discourage offenders from cooperating in dismantling smuggling networks.
- **E) Legal ambiguities in enforcement:** Certain terms, such as "currency value" (Clause T, Article 18, Chapter 3) and "valuation criteria for goods" (Clause 2, Article 22, Chapter 4), remain unclear and may lead to interpretation disputes. Establishing precise and standardized valuation criteria is necessary.

3.3. Critique of Provisions Related to Organized, Professional, and Smuggling-Related Crimes

Chapters Five and Six of this law focus on organized, professional, and smuggling-related crimes, addressing broader and more influential dimensions of such offenses. The following aspects are analyzed from a criminological perspective:

A) Identification of Organized and Professional Crimes

Chapter Five focuses on the identification and punishment of organized and professional smuggling. Article 28 (Chapter 5) and Article 29 (Chapter 5) classify organized smuggling with more precise categorization by considering managerial roles such as "organization" and "leadership." The penalties imposed, including imprisonment and fines (as in Article 32, Chapter 5), reflect the legislator's effort to enhance deterrence against larger and more impactful crimes (Sabouri Pour & Safai Atashgah, 2016).

Critique: Imposing severe penalties on individuals with key roles in organized groups (such as ringleaders) is a positive step. However, this law lacks specific guidelines for identifying or proving organizational roles, which may lead to inconsistencies in enforcement.

B) Deterrence Against Threats to National Security

Articles 30 and 31 (Chapter 5) address smuggling intended to undermine the state or finance terrorism. These provisions, referencing relevant laws such as the Law on the Punishment of Disruptors of the Economic System and regulations related to armed rebellion and corruption on earth (moharebeh and ifsad fi al-ard), impose the harshest penalties for these offenses.

Critique: While these provisions establish high deterrence, their strong reliance on proving intent and purpose complicates enforcement. Additionally, providing more precise criteria for identifying "widespread disruption" and "terrorism financing" could improve legal clarity.

C) Crimes Related to Documents and Misconduct by Officials

Chapter Six addresses related offenses, such as document forgery and misconduct by government officials:

- **Article 33 (Chapter 6):** Criminalizes forgery of customs documents and the use of fraudulent documents, imposing fines ranging from 2 to 5 times the value of the goods covered by the documents.
- **Article 35 (Chapter 6):** Addresses misconduct by government officials, prescribing penalties equivalent to those for embezzlement.

Critique: Imposing severe penalties for official misconduct and document-related crimes can enhance transparency and public trust. However, the lack of protective mechanisms for officials working in high-risk

environments may reduce their motivation to enforce the law effectively.

D) Focus on Deterrence Against Organized Smuggling

Article 32 (Chapter 5) prescribes penalties such as imprisonment, flogging, and fines for professional smugglers, aiming to establish strong deterrence. Related provisions on vehicles and storage facilities in various articles, particularly in Chapter Five, strengthen the practical application of the law.

Critique: In certain cases, such as the clause in Article 32 (Chapter 5), the addition of monetary fines to other penalties may have a deterrent effect. However, excessive reliance on multiple penalties may create enforcement complexities and cause confusion in legal application.

E) Addressing Acts That Disrupt Anti-Smuggling Efforts

Article 34 (Chapter 6) criminalizes resistance against enforcement officers, imposing imprisonment and flogging as penalties. This provision specifically aims to protect law enforcement officers from obstruction and interference.

Critique: While prioritizing law enforcement protection is justified, clearer criteria are needed to distinguish "resistance" from minor offenses to prevent misuse or unjust application.

F) Deterrence Against the Misuse of Legal Instruments

Article 33 bis (Chapter 6) targets the misuse of trade licenses and fraudulent exports, imposing fines and the revocation of business licenses as penalties.

Critique: These provisions, by focusing on legal instruments prone to misuse, appropriately aim to prevent structural violations. However, weak initial oversight in issuing and monitoring trade licenses could lead to continued violations despite these legal provisions.

3.4. Critique of Regulations Related to Investigative Agencies and the Detection of Smuggled Goods

Chapters Seven and Eight focus on "Regulations Related to Investigative Agencies and the Detection of Smuggled Goods" and "Competent Authorities for Adjudicating Smuggling Crimes", respectively. The criminological analysis of these chapters is presented in the following areas:

A) Division of Responsibilities Among Investigative Agencies (Chapter 7)

Article 36 identifies the responsible agencies for detecting smuggling and defines their duties within the framework of the law, enhancing transparency in accountability. Article 37 mandates the establishment of a Customs Protection Unit, which specializes in monitoring customs areas and combating smuggling within these zones. Articles 41 and 42 emphasize procedures for detecting and seizing smuggled goods and inspecting warehouses.

Critique:

Strength: The distribution of responsibilities among various agencies and the emphasis on inter-institutional cooperation enhance efficiency in combating smuggling.

Weakness: Lack of sufficient oversight on coordination among agencies and the absence of a clear framework for collaboration may lead to operational disruptions. Coordination among various institutions (such as Customs, law enforcement, and ministries) is crucial, as each agency manages a specific aspect of smuggling detection and enforcement. A lack of coordination could result in duplication of efforts, lack of transparency, and reduced efficiency (Abdollahi, 2016, p. 210).

Legal measures to address this weakness could include issuing executive regulations. The legislator could enact specific regulations outlining cooperation mechanisms, information sharing, and shared responsibilities. Additionally, establishing a central oversight body would be beneficial. An entity like the Headquarters for Combating the Smuggling of Goods and Foreign Exchange should be granted broader authority and a stronger supervisory structure to act as a coordinating body among agencies. Furthermore, the law should clearly define the duties of each agency to prevent overlap and include enforcement guarantees for non-compliance. The use of technology and centralized information systems could enhance data exchange and coordination among agencies.

B) Strengthening the Supervisory Role of Judicial Officers (Chapter 7)

Articles 40 and 42 require judicial officers to adhere to the provisions of the Criminal Procedure Code, reducing potential misconduct and ensuring greater fairness in judicial processes. Article 43 addresses cases involving abandoned or fugitive goods and defines the procedure for in absentia adjudication.

Critique:

Strength: Compliance with the Criminal Procedure Code and the detailed recording of case reports ensures transparency in judicial proceedings.

Weakness: In absentia adjudication of cases involving abandoned goods may compromise the rights of defendants (Asadi, 2015). While in absentia adjudication expedites legal proceedings, from a criminological perspective, it presents the following challenges:

- **Violation of defendants' rights:** In absentia trials deprive defendants of the opportunity to present a defense, potentially leading to wrongful convictions.
- **Violation of the principle of personal liability in punishment:** In the absence of the defendant, the ability to accurately assess the relationship between crime and punishment is diminished, which may result in disproportionate sentencing.
- **Erosion of public trust:** The use of in absentia proceedings may create the perception that justice is compromised for expediency, reducing public confidence in the judicial system.
- **Weakening deterrence objectives:** Punishments imposed without hearing the defendant's defense may lose their deterrent effect, as they fail to demonstrate the full execution of justice.

C) Jurisdiction of Judicial and Administrative Authorities (Chapter 8)

Article 44 distinguishes the jurisdiction of judicial authorities and administrative enforcement agencies, assigning serious offenses such as organized smuggling and smuggling of prohibited goods to the Public Prosecutor's Office and the Revolutionary Court. Articles 45 and 46 emphasize expedited adjudication and grant broad powers to the Administrative Penalties Organization (Ta'zirat) in handling smuggling offenses.

Critique:

Strength: This division of jurisdiction enhances the specialization of judicial processes.

Weakness: The concentration of complex cases in the Revolutionary Court may lead to delays due to excessive caseloads. The increased volume of cases in the Revolutionary Court may slow down judicial proceedings, undermining the principle of swift justice. Delays in rulings and enforcement of sentences may

reduce the deterrent effect of penalties and encourage recidivism among offenders.

D) Deterrence and Transparency in Adjudication Processes (Chapter 8)

Article 48 authorizes the identification and seizure of assets belonging to defendants in high-value smuggling cases, which serves as a deterrent measure against smuggling crimes (Mostafavi, 2016). Article 50 regulates final rulings of lower branches of the Administrative Penalties Organization (Ta'zirat) for cases valued below twenty million rials, ensuring greater transparency in the appeals process.

Critique:

Strength: Imposing limitations on appeals and clarifying adjudication procedures prevents potential abuses of the legal system.

Weakness: Certain restrictions may violate the rights of defendants in specific cases. Some restrictions, such as shortened appeal deadlines, may limit a defendant's ability to present an effective defense, thereby weakening the presumption of innocence. Additionally, prioritizing speed in adjudication without adequate attention to case specifics may result in unjust rulings and an increased likelihood of judicial errors. Over-reliance on strict punitive measures may also neglect the rehabilitative and corrective goals of criminal justice.

E) Supervisory Role and Legal Uniformity (Chapter 8)

Article 49 mandates judicial oversight of smuggling cases and establishes uniform legal interpretations, ensuring consistency in rulings for similar cases (Sabouri Pour & Safai Atashgah, 2016). Article 50 bis covers appeal processes and the enforcement of penalties.

Critique:

Strength: Ensuring uniform legal interpretations and judicial oversight enhances fairness in smuggling cases.

Weakness: The lack of a clear mechanism for reviewing erroneous rulings in minor cases may lead to dissatisfaction. The inability to correct judicial mistakes may violate defendants' rights and undermine the principles of justice. If erroneous rulings remain uncorrected, the criminal justice system may shift from a deterrent mechanism to an unfair instrument of repression.

3.5. *Critique of Provisions Related to Assets Derived from the Smuggling of Goods and Foreign Exchange*

Chapters Nine and Ten of the Law on Combating the Smuggling of Goods and Foreign Exchange focus on the management and disposition of assets derived from smuggling as well as the general provisions of the law. Chapter Nine primarily addresses the process of identifying, seizing, storing, selling, and allocating smuggled assets. It outlines how different types of goods, including perishable items, petroleum products, and prohibited goods, should be handled, emphasizing that all measures must be taken after a final court ruling is issued. Furthermore, revenues generated from the sale of smuggled goods are to be deposited into designated accounts and allocated for equipping anti-smuggling agencies and educational programs.

Chapter Ten defines smuggling as an economic crime and establishes provisions regarding the enforcement of penalties, the registration of offenders' records, and interactions among responsible institutions. The law also underscores the importance of ensuring that the funds generated through its enforcement are transparently and legally managed.

From a criminological perspective, these two chapters exhibit both strengths and weaknesses. One of the key strengths is the transparency in the management of smuggled assets, which reduces the risk of misuse and corruption. Allocating financial resources from confiscated goods toward law enforcement and education demonstrates a preventive approach to reducing smuggling in the future (Youssefvand & Khani, 2013). Additionally, the inclusion of mechanisms for transferring confiscated goods to relevant institutions or destroying unusable items is a positive step toward the efficient management of assets.

However, from a criminological standpoint, these chapters also present several weaknesses (Rezazadeh, 2015). For instance, the law does not sufficiently differentiate between offenders who intentionally engage in smuggling and those who inadvertently violate the law. This lack of distinction can result in disproportionate penalties that fail to uphold principles of justice. Moreover, the excessive emphasis on financial penalties and asset seizures without providing for alternative sanctions, such as community service or rehabilitation programs, reflects a punitive approach that may reduce the long-term deterrent effect of the law.

Another significant critique is the complexity of the procedures for selling and allocating confiscated goods. Mechanisms such as auctions and sales through commodity exchanges, while increasing transparency, may prove inefficient due to bureaucratic delays and operational complexities. Additionally, the prohibition of sentence suspension and reduction for certain offenses, particularly in cases involving the smuggling of prohibited goods, limits judicial discretion and may hinder the ability to impose proportionate and case-specific penalties.

Overall, these two chapters attempt to establish a coherent and transparent approach to managing smuggled assets and enforcing penalties. However, they require revisions in several areas, including clearer distinctions in offender responsibility, the introduction of alternative sanctions, and the simplification of asset management procedures to enhance their effectiveness in preventing smuggling and ensuring justice.

4. Conclusion

The Law on Combating the Smuggling of Goods and Foreign Exchange, as one of the most comprehensive and specialized economic laws in Iran, represents a serious effort to address the challenges posed by smuggling in its economic, social, and security dimensions. This law aims to streamline the enforcement process, providing clear mechanisms for identifying, seizing, storing, and selling smuggled goods, as well as imposing criminal and economic penalties. Additionally, its emphasis on transparency in enforcement procedures and the use of modern technologies in monitoring and preventing smuggling stands out as one of its key strengths.

However, a detailed criminological analysis reveals that, despite its comprehensive nature, the law faces several challenges. One of its primary weaknesses is its excessive reliance on criminal and economic penalties as the main deterrence strategy. While this approach may appear effective in theory, in practice, it can lead to judicial backlogs, delays in enforcement, and increased administrative costs. Moreover, the imbalance between prevention and enforcement in the legal provisions indicates an insufficient focus on public education, awareness campaigns, and the use of non-punitive measures to reduce incentives for smuggling.

Another challenge is the complex structure of the law and its dependence on executive regulations and

administrative directives, which complicates its timely and uniform implementation. Additionally, the lack of clear distinctions between individual and corporate liability, along with the failure to define managerial accountability for smuggling-related violations, has weakened the effectiveness of certain legal provisions. Furthermore, poor inter-agency coordination and the multiplicity of enforcement bodies have led to overlapping responsibilities and reduced efficiency in implementing the law.

Given these weaknesses, it is recommended that preventive policies be strengthened as a first step. Public education, economic transparency, and the enhancement of information technology infrastructure could play a significant role in reducing smuggling incentives. Additionally, reforming the penal system by replacing punitive measures with rehabilitative and corrective policies could reduce the burden on the judiciary while enhancing the effectiveness of enforcement. Strengthening supervisory and control mechanisms and improving inter-agency coordination should also be key priorities.

Moreover, simplifying legal and administrative processes would increase public trust and reduce opportunities for exploitation of legal loopholes. Alongside these efforts, the development of clear and binding executive regulations and a precise delineation of institutional roles could prevent role duplication and inefficiencies.

Ultimately, the success of the Law on Combating the Smuggling of Goods and Foreign Exchange depends on a holistic approach that simultaneously prioritizes prevention, enforcement, and rehabilitation. The utilization of modern technologies, transparency in implementation, and strengthened inter-agency collaboration could create a more effective framework for combating smuggling and mitigating its consequences. Only through this comprehensive strategy can the primary objectives of the law be realized, ensuring a sustainable and efficient approach to smuggling prevention and enforcement.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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