THE ROLE OF SUPERVISORY AND INSPECTION CHALLENGES IN THE INEFFECTIVENESS OF IRAN'S CRIMINAL POLICY

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ABSTRACT - There are various components for the effectiveness of criminal policy, which continuous, coherent and purposeful monitoring and inspection is one of the most important components among them. It means that all that can be formulated to prevent crime or to deal with committed crimes should be monitored and be able to be inspected in order to identify weaknesses and strengths, vulnerabilities, evasions of law, or circumvention platforms and functional defects. Then, it can be planned and performed to eliminate these issues. While Criminal policy in our country has succeeded in preventing or combating committed crimes in various areas, sometimes it has not been successful due to the lack of effective oversight mechanisms.. In this research, we will analyze the challenges as well as examining the concept and history of supervision and inspection, and the meaning of penal policy and the importance of monitoring and inspection.

Key words: Supervision and Inspection/ Criminal Policy/ Supervision/ Legislative Challenges/ Judicial Challenges/ Executive Challenges/ Iran's Criminal Policy.

Introduction
One of the components to evaluate and measure the effectiveness and success of the penal policy focusing on crimes prevention (a priori criminal law) and the face to crimes (post-criminal penal policy), is the level of monitoring and the computational and verifiable mechanisms as well as compiled and implemented tools, actions, strategies and measures. One of the things that can help criminal policy-makers to achieve their goals and objectives is to examine and analyze the challenges that can be faced with the monitoring and inspection of criminal law, and it is evident that this challenges should be considered related to the functions of criminal policy. In order to investigate and analyze the challenges of Iran's penal policy in monitoring and inspection of mechanisms, tools, actions and measures, it is necessary to mention the concept and history of criminal law and supervision and inspection

Concepts and Background
Supervision and Inspection: Although the terms of supervision and inspection are often used synonymously, they are different in meaning and concept. In other words, inspection is one of the methods of supervision. Term “Inspection” means investigation and inspection and in the administrative term, it means investigation and inspection into the administrative system of the country in order to maintain the employee’s health and prevent from occurrence of any kind of corruption and respond to complaints of the clients’ special organization with preservation of people dignity. In Each administrative system, there is Inspection and Complaint Recovery unite, which deals with this matter. The importance of monitoring and controlling is that, if not implemented, the organization's goals must be considered with suspicion and its main purpose is to determine the extent to which organizational goals are achieved and the implement
predicted plans by the managers. Managers and inspectors should use a variety of pre-operative, spatial, divisional, and post-operative controls to achieve control and monitoring objectives, and examine the activities of the organization by integrating a variety of controls at various stages.

The purpose of monitoring and inspecting is to consolidate governance and ensure security and monitor the implementation of government regulations, and this surveillance varies according to the type of government.

**Penal law:** Penal policy or criminal policy is used instead of each other, although there are some arguments about a marginal difference between them. Penal law often defines punishment and penalty as a means of dealing with crimes, but criminal policy, is a combination of Criminal (Penalties) and Non-Custodial Instruments for this purpose. However, they usually used both in one sense. In an explanation, the term "criminal justice policy", from the German scientist Ansell von Forer Bach, was interpreted as Kriminal Politik in the 1803 in criminal law book. In his view, criminal policy is the set of repressive and penalty methods that the government uses them to react crime.

A new approach to criminal policy emerged with the publication of the "New Social Defense" by Grand French think tank Mark Anselle. In his 1975 article, he portrays criminal politics as observing science, studying art and technology, art or systematic anti-criminal strategy. In fact, in his view, the two aspects of the theoretical and practical aspects for criminal policy were taken into consideration. In his view, criminal policy is not essentially a scientific discipline but a sociological phenomenon. He believed that the elaboration of a criminal policy and its enforcement measures at the judicial, administrative and police levels should always be based on scientific and mainly criminological research. "Anselle", on the one hand, introduced a criminal policy as a scientific and conscious approach, on the other hand, as the only structure providing a conscious and scientifically valid approach for crimes and dangers.

The school that Marc Ansell pioneered under the title of "Social Defense" emerged in the light of the welfare state and among the great economic boom of the 1950s and 1960s in Western Europe. In this space, welfare-oriented thinking searches for criminality and dangers in environmental causes, which is also evident in Ansell's thinking. Nevertheless, the new horizons in the investigation and analysis of the issue of criminal policy can be sought in the Mrs. Delmas Marty thoughts. Outstanding features of Marty's thinking are the presence of civil society along with governmental institutions in responding to crimes and dangers. From Marty's perspective, criminal policy is the set of methods that the community of members uses them to organize responses to a criminal phenomenon.

According to the definition, and according to available literature, it should be said that a desirable and efficient criminal policy has the following characteristics:

A) Rationality and Measurement
B) Comprehensiveness While primitivism
C) Maintaining public authority and public security while respecting individual rights And freedoms
D) Low cost and high returns

**The Importance and Place of Inspection and Inspection in Penalty Policies**

We can draw a structure consisting of four axes of identification, design; implementation, monitoring, and evaluation for the planning process in penalty policy. The accuracy of the following pattern indicates the place of supervision, inspection, and evaluation in penalty law.
In this research, we focus on the subject of the survey, namely, monitoring, evaluating and inspecting, and examining its place in criminal policy.

**The Importance of being monitored Policy-making and Criminal Policies:** In this regard, it should be noted that the policy-making system must anticipate the mechanisms for monitoring the performance of the reference or the authorities and generally the executive branch in order to ensure complete and effective implementation of planning. It is essential that the design of the oversight mechanisms carry out in such way, while ensuring the impartiality of the performance of the supervisory body, it will provide a guarantee of effective implementation in order to correct implementation wrong procedures.

The prediction of monitoring mechanisms in a situation where the implementation of all or parts of the adopted policy requires extensive changes and a basis in the public body and the current administrative process at the executive bodies’ level or an increase in the executive group efficiency is needed more than before. It should always be noted that in most cases the functioning of the executive bodies and their dependent staff is not determined based on the requirements and intentions of the approved programs. However, the implementing agencies, regardless of the approved responses policies operate in the framework of a number of established and deepened methods and patterns, which after some time forms their executive identity.

**Monitoring and Evaluation Indicators and Inspection of penalty policy-making:** From a macro perspective, the indicators used to evaluate the results of response strategies can be divided into two technical and budgetary spectra.

1. **Technical criteria**
   In the context of technical indicators, the success rate of response measures in controlling or eliminating the damages that some measures were imposed and implemented to deal with them, which considered as the evaluation criterion.

2. **Budgetary criteria**
   In most cases, implementing policies and criminal response programs require the allocation of wide financial and human resources from the public revenues of the country. Accordingly, regulatory policies should be economically justifiable; and there should be kind of balance between the costs paid and the results obtained.

**Procedures for the monitoring implementation, evaluation, and inspection:** In the framework of the criteria and indicators enumerated to evaluate the results and outcomes of the implementation of response measures, the evaluating institution acts based on one of the axis of comparative, consequential, and transformative implementation of the evaluation process. The axes are as follows.

1. **Comparative Method**
   At this level, the performance of a specific response program is compared with the results of other criminal equivalent measures that have been implemented at other levels of the community. As an example, the results of the implementation of the Bribery Response System in Iran are compared with the similar response system in Australia.

2. **Transformation method**
   Within the scope of the transformational evaluation, we examined and discussed the results of implementing a defined response policy within the performed changes framework at the level of criminal response strategies implemented in the country and its future prospects.

3. **The consequential approach**
   Based on this method, the results of the implementation of a specific response policy during a specific historical period are evaluated and measured.
The Challenges of Supervision and Inspection in Iran's Criminal Policy

It seems that the challenges and problems facing criminal law and criminal policy in Iran, in terms of monitoring, reviewing and evaluating procedures and actions, can be divided into legislative, judicial and executive challenges, and examined them on this basis.

**Legislative Challenges:** Legislative challenges refer directly to the legislative process on criminal matters and issues in Iran. The lack or absence of sufficient mechanisms and tools for monitoring, evaluating and inspecting what is being approved by the Islamic Consultative Assembly or other institutions as a criminal or a criminal law is the most important disadvantage that can be considered. In most criminal laws in our country, the supervisory authority and the inspection and evaluation of that law are not specified in practice; or if it is clear, the scope of their competencies and their powers and responsibilities are not clear. Therefore, other authorities which are not qualified to monitor, evaluate, and inspect start to monitor, evaluate and inspect criminal laws, and this will lead to a combination of regulatory procedures.

**Judicial Challenges:** supervising, inspecting, and evaluating procedures in various criminal courts that are charged with investigating offenses and imposing and enforcing penalties is one of the most important tools for ensuring the judiciary healthy and its efficiency in advancing criminal policy plans. The famous statement by Montesquieu may well mark that. "The task of judges is to enforce law and prevent corruption," he says “Now, if they themselves are corrupted and do not follow the law, it will no longer be the justice and rights of individuals in the country...”

Transparency and accountability make institutions of the criminal justice system, in particular the judiciary, subject to self-control and the existence of independent and effective supervisory bodies will cause to achieve the judicial security. The independence of these institutions is very necessary because, despite the independency, they can evaluate the scientific and methodological performance of the legal system regardless of the influence of the power holders. Hence, many authors have suggested that the evaluating institutions should not be official and affiliated with the sovereignty.

**Executive Challenges:** The most important challenges facing Iran's penal policy in the field of monitoring, evaluation and inspection are as following:

1. The sovereignty and affiliation of the executive agencies of the supervisory. Evaluation and inspection bodies in a way that these institutions are more than a manifestation of a general desire to crystallize the sovereignty willing
2. The failure of the executive agencies to apply the principle of public reporting and the free flow of information so that the general public does not receive information and findings of inspections and investigations, and thus, the statistics and information and findings are more circulated within the institutions of governance, than The hands of people.
3. Failure to adhere the principle of the free flow of information in the public domain, which has the same disadvantages as mentioned above

**Conclusion**

In this research, we first tried to identify the importance and place of the supervisory, inspection, and evaluation in the field of criminal law. In addition, our attempt was to investigate the problems and challenges that criminal policy faces in our country in terms of monitoring, evaluation, and inspection. About the first issue, it should be said that inspection, assessment, and monitoring is important not only in penalty policy, but also in every area that is publicly shaped by some kind of public policy. The field of penalty policy is also beyond the general principle because it affects the public in some way, the effects of decisions on the public and affects the entire society. Therefore, monitoring and evaluation of policies and decisions and actions and executive measures are an important issue and they have a central and fundamental role. On the second axis, with the investigations that took place, three categories of problems and challenges were identified; legislative issues and challenges related to regulatory issues and weaknesses in supervisory mechanisms in laws and regulations sets, which is a matter related to the legislature. The judicial
challenges that directly focus on the judiciary and consider the judicial mechanisms of the country in terms of supervision, and executive challenges that, in particular, while considering the executive branch, consider the mechanisms and the executive system of the country. It seems that in all three areas, we face a number of problems, which in total can be challenged the sovereignty and independence of the procedures, mechanisms of monitoring, evaluation and inspection, the orientation of inspections more towards the standards and demands of the sovereignty rather than the basis of the standards and demands of the general public; the lack of utilization of public and non-governmental capacities in the field of supervision and inspections; the insatiability of procedures and measures in most cases, the lack of authority of the authorities and authorities responsible for the principle of reporting and presenting the work plan publicly and among all strata of the population, the lack of information circulation in a way that the public's access to inspections and oversight is almost impossible. It further strengthens the authority of inspections and oversight, and the number of decision makers or decision-makers to oversee the operation Inspection and evaluation, and the lack of unitary procedures were considered as the most important challenges faced by the inspection and monitoring process. Of course, the adoption of decisions and appeals to reversed actions refer to a suggestion to remove challenges. The challenges identified included the commitment to public reporting principle, the independence principle of the regulatory and inspection bodies and the lack of governance and supervision of the free circulation of information. Intra-organizational oversight systems, despite being more prominent in their organization's affairs and preventing any kind of crime before it, and thus play an effective role in preventing economic crimes, especially financial and economic corruption. Nevertheless, they are largely dependent on their executive devices and do not have the necessary independence. Currently, independent organizations and institutions are not foreseen for the accounts, and they are dependent on executive agencies in terms of financial and human resources necessary for their activities. One of the obstacles and limitations of effective and effective supervision is the lack of legal, organizational, financial, human resources, and resources. Determining standards and standards, matching and evaluating performance with standards is one of the most important strategies for effective monitoring. The lack of accurate and real standards will face monitoring to serious problems and it will be impossible to implement performance evaluation. Given the obstacles and limitations mentioned above, it seems that in the current situation, special attention to the monitoring and control of the organizations affairs or units of organizations, which subject the most to economic corruption, should be at the planning stage to deal with economic crimes, especially financial corruption, and determine the priorities of work. For example, monitoring foreign contracts, major plans, banking and tax systems, and stock exchanges should be announced as a top priority.

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Footnotes
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3 The English equivalent of this term is criminal policy and its French equivalent is politique criminelle. quoted from: Lavaspur, Georges, Criminal policy, formerly, p.399
4 One of the most important features of Ansellel's thinking is the maximum (social) flexibility of the views of the social school toward the previous tendencies. In his book “Modern Social Defense” Ansellela explicitely states that “social defense …does not intend to present itself as a doctrine with specific boundaries against other doctrines…social defense is not a school, it would have been appropriate to call societies socoaties socoal defense.” quoted from: Ansellel:Mark , social defense translation by Muhammad Ashuri and Ali Hossein Najafi, Abrandabadi, Tehran University press, Firt Edition , 1996, PP45-46
8 It should be noted that in most cases, technical and budgetary indicators are used to evaluate response, the breakdown presented in this paper is intended to facilitate the recognition of the variety criteria and attributes used in the process of evaluating the results of response program and does not mean separating these criteria from executive levels.