

Public goods and the Principle of Minimal state Intervention; An Evolutive Interpretation of Article 11 of the International Covenant on Civil and Political Rights

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Abstract

Article 11 of the International Covenant on Civil and Political Rights states: No one can be imprisoned just because he is unable to fulfill his contractual obligation. In the common understanding, this article has been interpreted as a guarantee preventing the imprisonment of debtors or the prohibition of imprisonment due to non-fulfillment of contractual obligations. the question is whether it is possible to consider the subject and purpose beyond its appearance in the form of an evolutionary interpretation? In this article, it has been stated that article 11 seeks to identify the justified border of government intervention. The purpose of this article is that the government should not use criminal means in matters based on private law and what is not in the framework of public goods. This article, as a fundamental rule in criminalization, has declared one of the impermissibility of government intervention and has limited the scope of criminal intervention to issues that are related to public goods and has emphasized the guarantee of individual freedom and security against unjustified government intervention. At the same time, relying on a unified interpretation of this article and other linked documents, it should be said that guaranteeing the public order is a necessary and not a sufficient condition for criminalization.

Key words: public goods; criminalization; interpretation; transformation; covenant; purpose.

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