

Resocialization and Correcting Criminals in Iran's Criminal Policy

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Abstract: *Correcting criminals and making them back to the society is the ultimate goal of all criminal systems in the world. No country is willing to keep its citizens away from the society due to a crime they commit. One of the main concerns in criminal policy is resocialization of criminals who, after having been punished, have regretted their act and so-called repented and want to return to society but because of the crime they have committed, the attitude of the society towards them has changed and they are mostly trying to reject them. This leads to repentant criminals repeatedly commit more crimes because of their lack of acceptance by the society. In this context, the resocialization approach must pursue specific objectives in criminal policy that will help correct criminals and return to society. Thus, Iran as a country which take steps to reform its laws and remove the gaps and outflows, could somewhat make a breakthrough in rehabilitation and resocialization of criminals, although there are some gaps. Thus, the current paper using a descriptive-analytic method attempts to deal with criminal policy of Iran in rehabilitation and resocialization of criminals and the obstacles there is.*

Keywords: *criminal policy, rehabilitation, resocialization, correcting criminals.*

Introduction

One of the major issues in the field of criminal law, which is often neglected, is criminal rehabilitation. The many spiritual and material effects of rehabilitation are obvious and can have an impact on individual and community. Therefore, neglecting this important criminal institution causes problems and complications in society. One of the most important consequences that rehabilitation can bring is resocialization of repentant criminals in community that is how rehabilitation can help resocialization of repentant criminals and return them to a similar situation before committing a crime.

We know that in society, when a person commits a crime, he will be punished from criminal aspect. On the other hand, in society, he becomes discredited so that no longer the society generally, nor the family specifically, will embrace the person. It is very important that when a person has been punished because of committing a crime and, in a sense, expresses his/her regret, he cannot be accepted by the community (Nanvankenari, 2014: 25). One of the main concerns in criminal policy is resocialization of criminals who, after having been punished, have regretted their act and so-called repented and want to return to society but because of the crime they have committed, the attitude of the society towards them has changed and they are mostly trying to reject them. This leads to repentant criminals repeatedly commit more crimes because of their lack of acceptance by the society. In this context, the resocialization approach must pursue specific objectives in criminal policy that will help correct criminals and return to society (ibid).

The purpose of criminal rehabilitation is to eliminate the effects of social exclusion resulted from commission of a crime. It goes without saying that social exclusion from commission of a crime is one of its natural effects and we must accept that when a person commits a crime, the legislator deprives him of certain social rights and employers refrain from granting sensitive jobs to such people. Therefore,

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it can be said that social exclusions are of consequences of committing a crime and are useful. But the problem here is that can this deprivation be considered eternal and unlimited? Obviously, the answer is "No" because it will be in violation of the principles of criminal law, fairness, justice and individual rights.

However, it is necessary to provide correction and foppishness opportunity for the repentor perpetrator, and if he did not commit any crime at the time prescribed, he would have to be returned to society with the help criminal rehabilitation and by removing his record of criminal prosecution, his recruitment by government departments and agencies and in other jobs will be facilitated. However, the impact of rehabilitation on resocialization of criminals is itself another issue that must be determined by scrutiny. In general, when a criminal is rehabilitated, his reintegration into society will be facilitated. And on the other hand, resocialization makes it possible to prevent the offender from returning to commit crimes again. Therefore, resocialization of repentant criminals is a very effective approach that can play a significant role in reforming criminals. Because the offender's refusal by the society can lead he to believe that repenting is ineffectual and there is no other way back for him. This view has two negative consequences: one is loss of hope of society from the psychological and personality dimension, and the other is committing crimes with greater scope than before. Therefore, making right decisions in correcting and returning the repentant perpetrators to society is a very serious matter that can help prevent and reduce crimes.

Problem statement

Purging the conviction from judicial record and deterrent of the effects of criminal conviction and rehabilitation and the situation which the perpetrator has lost due to commission of a crime and as a result of his criminal conviction are mentioned in rehabilitation field. Of course, prestige here is different from the previous one, and it means qualifications and competencies and, in general, the social rights that defeated parties lose as a result of issuing a sentence. As stated, delinquency is a social-human phenomenon facing all human societies from the past to the present. On the other hand, the rise of criminal records, convicted persons and density of prisons has forced the country's judicial system to respond to the problem and hence, the country's criminal policy has converted to remedies such as dejudicializing, decriminalization, use of social punishments, and correction and resocialization of criminals. Based on different opinions of jurists, it can be concluded that the ultimate goal of Iran's criminal policy is to return the offender to normal life and social rehabilitation of the offender and how this process affects the security of community and families.

Research Questions

1. What are the most important strategies for resocialization of repentor criminals by their rehabilitation in society?
2. What are the basics for rehabilitation and resocialization of repentor criminals?
3. What are the challenges of the Iranian criminal policy in resocialization of criminals?
4. What is the main objective of resocialization in Iran's criminal policy?

Research method

The research method is descriptive-analytic. This research has been compiled using library tools and based on description and analysis of content related to the topic, books and domestic articles and after studying, intended parts, according to organization of the research and the initial plan, were indexed and then in each section, indexes taken from intended subjects with the exact source of the source was used.

Definition of Concepts

Criminal Policy: The term "criminal policy" was first used by the German "Anselm Von Feuerbach". In 1803, the author defined the criminal policy as follows: "The collection of repressive practices the government uses to counteract crime". It seems that this definition is different from what is being said today in light of the science data and new schools of criminal law. This difference can be seen, for example, in the perspective of Donnedieu de Vabres, who considers criminal policy as an art and technology whose subject is to discover the ways in which an effective combat against a crime will

become possible. Thus, attitudes and viewpoints of jurists of criminal law up to the middle of the twentieth century, based on the narrow concept of criminal policy, are based on the fact that criminal policy does not include all methods that the state has against the delinquency and implements them. In this sense, prevention, which is the responsibility of states, is outside the criminal policy, because prevention as much as is effective in any way, it does not completely destroy the criminal phenomenon and with the advent of this phenomenon, the second task of the state, which contains precisely its criminal policy, is punitive and repressive action against the crime (Agha Zadeh, 2005, 32).

Resocialization: we can say this about the concept of “resocialization”: a process which is designed and implemented to compensate for shortcomings of the initial socialization and substitution of a new socialization, and ultimately to restore the perverted people from the limits of the values and norms within it (Salimi, 2005, 532). In fact, in new socialization, the course of initial socialization in a way that corrects former defects is repeated under the same conditions, but this time in a monitored and guided manner and based on the same patterns. Resocialization nowadays has recognized its status as an important mechanism of bringing criminals back to the society (ibid).

Research background

Regarding rehabilitation, there have been various studies that have been carried out in light of the changes made by the Islamic Penal Code. The present research has significant differences and can be distinguished from other research with its critical approach.

1. Elaheh Talachian (Jungle Publication, 2010) in her book titled “rehabilitation in Iranian criminal Law and its Comparative Study with French criminal Law”, has conducted a comparative study of the jurisprudential and legal issue of “rehabilitation in Iranian criminal Law” with “criminal law of France”. Hence, first, the theoretical foundations and legal sources of rehabilitation, which include conventional concepts, foundations of criminology, and jurisprudential and religious foundations, have been investigated. Subsequently, by introducing legal sources of rehabilitation in the criminal law of Iran and France, a comparative study was conducted in two chapters. First, the types of rehabilitation and its effects have been analyzed. Then issues such as amnesty, suspension of punishment, conditional release, remission of victim of crime, prescriptions of criminal code, and limitation of execution of punishment for achieving rehabilitation have been considered.
2. Javad Fakhari Tusi (Islamic propagation office, 2017) in his book titled "rehabilitation and Spiritual Compensation for the Damage Caused by Criminal Proceedings" tries to recognize, from the juridical-legal angle, one of the branches of the inherent dignity of man, and subsequently reconstruct rehabilitation institution in jurisprudence and Islamic law. Respect and spirituality are the most important human capital that its importance does not equal with anything else. First, the rehabilitation notion has been expressed in terms and terminology. Then, how to rehabilitate the acquitted accused and mistakenly sentenced has been investigated. In following, reasons, conditions and ways of rehabilitation of criminals have been raised. Finally, duties of the government with respect to reputation and spiritual respect of criminals has been reviewed.
3. Abbas Salmanpour and Hasan Kazemi (article, Journal of the Criminal Law Research, 2017) in their article titled "legislative transformations of rehabilitation in Iran's Criminal Law" say that rehabilitation is a criminal establishment that legislature has planned and laid down to facilitate socialization of convicts, in order to allow them the legal right to re-establish their social rights. This establishment has conditions that were subject to change at various levels of legislation and the latest changes have been applied on the Islamic Penal Code of 1392. In the recent law, some social rights have been permanently taken away from convicts, which seem to contradict the goal of rehabilitation. Study of the course of legislative developments in Iran regarding the situation and effects of "Rehabilitation" institution is the subject of this study.
4. Shahram Ebrahimi (doctrines of criminal law, 2012), in his article entitled “just rehabilitation of the Criminals” says although prisoners are deprived from their free traffic for committing a crime, but they still have human rights as human beings and so they should not be treated in an

inhuman and humiliating manner. Although the prison system around the world faces the problem of inflation of criminal population, lack of adequate infrastructure and lack of specialized human resources, including social workers. But these problems and obstacles must not make the basic objective of punishment of deprivation of freedom, i.e. rehabilitation, be forgotten, a goal will be realized by respecting the fundamental rights of the perpetrator and his human dignity. These principles and foundations which formed based on human being dignity and position, and its existential philosophy is promotion of the status of human rights, determine conditions and constraints for correcting the perpetrators. The rehabilitation function based on the same principles becomes fair.

5. Mahmoud Yaghoobi and Mohammad Alami (Social Studies, 2018) in their article titled "The Role of Family and Social Factors in rereturning Prisoners to Prison" state that the general objective of this research is to determine the social and family factors associated with rereturn of prisoners to Tabriz prisons. The statistical population of this study is all prisoners who have been introduced to the Tabriz Prison more than once by committing crimes and they are 160 people. The sample size is 120 according to Morgan's table. The research samples were selected using simple random sampling. Books and articles were used to collect contents and a questionnaire was used to collect data. In this research, there is a relationship between the level of acceptance of the society and rereturn to prison, there is a relationship between the level of family acceptance and rereturn to prison, between the level of job skills and the level of rereturn to prison, and finally there is a correlation between the level of labeling and rereturn to prison. The results of this study indicate that as many as released prisoners are significantly affected by the protection and consideration of families and acceptance of society and without any labels with appropriate work skills in the community, the probability of their return to prison decreases.

Theoretical framework of the research

The criminal pattern used to prevent repeating offenses is applied in two historical periods. First, the traditional criminal pattern that began in second half of the eighteenth century and sets at the early twentieth century. Second, the modern criminal pattern that has begun since the 1960 and continues to this day.

Traditional criminal pattern

Naturally, the first and easiest solution of legislators to deal with the dilemma of repetition of crime is to intensify penalties. In the traditional criminal model, exacerbation of punishment is justified as a method leads to deterrence of punishments. The classic school in its basic principles raises the deterrent effect of punishment. Founders of this school, including Beccaria, argue that punishment is needed when it comes to the benefit of the community. Beccaria believes that the main purpose of punishment is to prevent the criminal from harming the society in future and dissuading other citizens from taking steps on the path to delinquency. Therefore, he summarizes the basic function of punishment in return for revenge and punishment in deterrence or prevention. The term "deterrence" is more of a defensive and passive aspect and in criminal law, this means that the Criminal Justice Organization should be set up so that, without the need to enforce the penalty, the people of the community will be dissuaded from committing the first crime or refrain from repeating the criminal act because of solemnity of criminal arsenal.

In definition of deterrence, it has been argued that, as a rule, deterrence is a symbolic threat that appears through punishment to actual perpetrators for potential perpetrators (Blumstein, 1989, 159). In fact, the purpose of deterrence is to create fear and panic among criminals in order to quit crime, which is divided into two types of general deterrence and specific deterrence. General deterrence is based on the fact that individuals indirectly and by punishments imposed on other perpetrators, find that the consequences of such behavior are fast, conclusive and intense punishments. Understanding this makes others absolutely avoid committing a crime (Williams, 1994, 19). Plato believes that "punishment should be a warning for others to correct themselves from the fear of punishment that they seeing are carried out against the perpetrator, and if the perpetrators do not profit from their suffering because of incurability at the very least, they will benefit others, those who see them as suffering from intense and sever pain in terms of

committing crimes "(Pradel, 2009: 27). Duma, French lawyer (1625-1696), has determined three functions for punishment, including serving as an instructive admonitory example, which means crimes will be reduced by seeing the punishments and fears derived from them.

Specific deterrence relates to the actual impact of punishment on the perpetrator, apart from its impact on other members of the community. In this sense, the purpose of using punishment is to neutralize gains and benefits derived from crime by the use of pain and suffering resulted from punishment, in order to prevent the perpetrator from committing a crime again. In specific deterrence, it is emphasized that punishment must be prospective and providential instead of retrospective and punishing, and should punish the offender and dissuade him from committing crime (Saffari, 2009: 70). Beccaria states about the importance of deterrence effect of punishments: "In ordinary and raw minds, the misleading image of the benefits derived from the offense must immediately remind the perpetrator of the punishment of crime" (Ibid).

Modern Criminal pattern

Thinking of classical schools which are based on the free will and moral responsibility of mankind is one of the oldest doctrines in the history of criminal law. According to the advocates of this school, delinquent is one who, by committing a crime, violates current ethical principles of the society and, as a result, the society has been agitated and disturbed. Therefore, imposition of suffering from punishment is considered obligatory for restoring moral order. On this basis, regardless of any possible profits arising from implementation of punishment, they consider enough imposing a penalty to establish lost principles.

In this regard, Immanuel Kant (1724-1804), a German philosopher, states: "No punishment will ever be used to pursue other interests . . . On the contrary, punishment must be definite and consistent for all criminals in proportion to their intrinsic evil" (Haist, 2009, 795). In this sense, punishment of criminal is considered as a philosophical, moral, and ideological necessity for condemning wrongdoers. In this period, the prevailing reaction against the criminal phenomenon is based on revenge and reprisal, so that this school and next schools for the purpose of achieving the desired goals, such as establishment of order in society or creation of a general and specific deterrence, impose and enforce violent and intense punishments and. But by failure of above-mentioned measures to reduce the crime rate and returning the criminals to society and the fight against delinquency, continuation of these thoughts in criminal policy become skeptical so that some scholars consider abandoning the goals of retribution and punishments as the first fundamental condition of a civilized criminal system.

With the failure of systems based on the idea of punishment and oppression of criminals, thinking of correction and rehabilitation has been taken into consideration since the second half of nineteenth century. Instead of concentrating on the crime, criminal and the cause of committing a crime by him are the focus of the study. The offender is no longer conceived murderer and evil to be worthy of punishment and torture, but he is considered as a sick and helpless person different from rest of the community, and deserves to treatment and resuscitation and treated with affection. Prison is no longer a place for execution of punishment, but a place for treatment and rehabilitation. The criminal justice system, influenced by the correction and treatment doctrines of criminology, is no longer a place for dispatching justice, and has lost its original identity, repression and punishment. And seen as a hospital that criminals refer to it as a patient to escape from the pain and suffering of their illness, and among these the victim and the public opinion and collective conscience that have been hurt by committing the crime, became trivialized.

The heavy shadow of rehabilitation ideal overweighed about seventy years old on the judicial system. But very soon doubts about the effectiveness of corrective actions are raised, and criticisms of a significant increase of crimes rate during introduction of health policies begin, many of which are due to the change in the nature of criminal system. Until the early 1970s, once again, the ideas of the classic school and moral and philosophical concepts of crime in the Western countries, including North America, flourish. This new school, which has been redefined as "modern neoclassic" is being discussed,

in the context of other repressive movements after the era of compassion-oriented or criminal-based reactions, by restoring the concept of punishment and accepting punitive sentences and focusing on criminal action, makes more strenuous measures against criminals.

Accordingly, in the last quarter of twentieth century and early twenty-first century, the theory of punishment is considered to be the dominant theory. Intellectual thought about reviving punishment is founded on strong examples and models including in the case of *Spaziano v. Florida* that The Supreme Court of the United States acknowledges the role of punishment in criminal justice and states that punishment is an essential element and an important factor in enforcement of penalties. In addition, several states also accept the principle of punishment of crimes in their penal code. Pennsylvania's Code of Conduct goes so far as to broadly support retaliation as the main purpose of punishment by expressing statements such as "the criminal system creates sanctions appropriate to severity of the crime ... the criminal system focuses on retaliation" (Ibid., Pp. 799-800).

What is seemed necessary to understand the modern criminal pattern is to address the causes of the revival and principles of retaliation and principles governing punishment in this model, and ultimately explaining how to restrict thought and the state of repetition of crime in the mentioned theory.

These causes are summarized in three categories:

1. Failure in treatment and correction programs: Since the early 1970s, a lot of research and studies are conducted on inefficiency of treatment and correction system. The sociologist, Robert Martinson, presents the results of an analysis of 231 evaluations that took place from 1945 to 1967. His article titled "What is effective? Questions and Answers on Reforming the Prison" is published in 1974. In his research, he evaluates a variety of treatment and correction programs, including severe monitoring programs, psychotherapy, group therapy, job training, medical interventions, and other corrective methods. For example, in investigating occupational and job training programs in prisons, he uses research results previously found by other people in this field. A study by Glaser in 1964, for example, shows that continuation of academic programs in prison slowly reduces the chance of violating probation programs, but this improvement is not far more important than disadvantages of long-term presence in prison, and/or Jacobson in his research (1965) on providing job skills training programs for young men finds that these programs have no effect on reducing rate of repeat offending (Martinson, 1974, 32).
2. Increasing crime rate and feelings of insecurity and fear: Crime rates in Western countries, including North America between 1920 and 1970, had a very significant increment. Criminology of correction and treatment and social defense schools which dominated the criminal policy of most Western countries in this period, not only have the power to curb the crisis, but also provoked it by its soft and gentle measures. When the "criminal justice-distributive justice" which had until now played the role of distribution of punishment and retribution for crimes, influenced by doctrines of correction and treatment transforms to "social justice", which has a resolving disputes process and seeing the criminal as a sick and patient person, and the criminal justice system loses its painful and irritating character, potential criminals and repeating offenders commit crimes at their leisure. Because punishments have lost their mission, means retaliation, intimidating and blaming character. According to Marcel Anselme, there is no longer a "quick, short, striking" punishment that would break the equation of committing a crime.
3. Emergence of a new generation of delinquency: In the context of prevalence of traditional crimes, new forms of crime, in particular types of terrorist and organized crimes are formed. New crimes, in contrast to previous crimes that seek to obtain financial and economic benefits, are committed with political motives and disturbing state governance, such as the 9/11 terrorist incident and explosion of twin towers of the United States. As a result, it seems that the use of clinical criminology mechanisms that see a perpetrator as a person who is temporarily withdrawn from the right path and can be rehabilitated and corrected, will not work to confront new offenders. For this reason, new criminal law in dealing with emerging offenders considers them as enemy and hostile to the society and instead of spending a lot of medical and corrective

expenditure for maintaining them in the community, the only way to fight is to exclude this group of people from society.

In addition to above mentioned factors, other causes, such as the etiology crisis, indeterminate penalties system, and social, political, and cultural context of the late 20th century in European and American countries, have given rise to re-emergence of retaliation thought. This thought in its rebirth states that "given the failure of therapeutic methods in the current system, the criminal justice model (retaliation) can promise that, if it cannot eradicate the phenomenon of repeating the crime in its entirety, definitely will prevent its continuation "(Fogel, 1979, 205).

Findings and research results

Impact of Criminal Model on Formation of Iran's Criminal Policy on Correction of Criminals

In Iran's criminal law, from the past to today, in all legislative periods affected by theory of deterrence, the phenomenon of repetition of crime has been accepted as one of the aggravating qualities of punishment. By precisely reviewing past rules and rules after the Islamic Revolution concerning repetition of crime, in spite of various approaches and variables such being permanent or non-permanent of applying rule of crime repeating (temporary or permanent crime repetition), the mandatory or optional application of the principle of repetition of a crime (mandatory or optional crime repetition), the general or specific nature of mentioned rule (general or specific crime repetition), it is inferred that the criminal pattern is quite dominant on thoughts of Iranian legislators.

In confirmation and support of this thought, authors state that the philosophy of "imposing punishment is edification of criminal, not curing the society, and if at first instance, behavior of the offender was not corrected through the punishment, and again committed the same crime, this story tells us that first punishment has not had an effect on his or her morals, and like a physician, that if the amount of medicine that was considered for the patient is not effective, changes its doze or type, the punishment, if left unaffected, must be intensified to make it more effective. "(Haeri Shahbagh, 1954: 18).

Another writer states: "repetition of offense by the offender indicates that the perpetrator has not been punished of pervious penalty and, in fact, one of the most important targets of punishment which is the correction of criminal, has not been achieved and so with such a person should be treated more severely. On the other hand, a person who was tried and punished for the first time and commits a criminal act again indicates that he has become acquainted with techniques and means of committing crime, and in fact his dangerous state and the social benefit of execution of severe punishment is considered object of desire and the society should be protected from harm of such an individual "(Shambiani, 2009, 466-467). In General Penal Code adopted in 1304, Articles 24, 25 and 26 are dedicated to the rules of repetition of crime. In accordance with Article 24: "sentence of repetition of the offense is applied for the following person:

1. A person who has been convicted of a definite sentence by virtue of a criminal offense and again has committed a criminal offense.
2. Anyone who has been sentenced to more than one month of correctional imprisonment by a definite sentence and, within five years from the date on which the mentioned sentence is terminated or canceled due to the time spent, commit an important crime or misdemeanor.
3. Anyone who has been sentenced to less than one year of imprisonment by virtue of a criminal offense and who has committed such a crime before expiration of five years from date of the sentence. Robbery, embezzlement, and breach of trust are considered to be the same as repeating offenses."

This article refers to two types of repetition of crime, namely criminal repetition of offenses and misdemeanor. In order to realize criminal repetition of offenses, two conditions of a definitive conviction applicable for the criminal punishment and commission of another crime are necessary. From the time aspect, repetition of a criminal offense has a permanent dimension (permanent repetition of crime), while repetition of misdemeanor offense can be enforced once the offender commits another crime for up to

five years after termination of the punishment or its elimination as a result of Statute of limitation (temporary repetition of crime). In paragraphs 2 and 1 of the article, general repetition of an offense has been accepted and committing any kind of crime leads to occurrence of repeated crime, so that resemblance of previous crime with current crime is not necessary which indicate that the legislator depends on deterrent character of punishments.

By contrast, Article 24, paragraph 3, refers to specific repetition of crime which according to it, villains specialize in committing the same offense or similar offenses. Given the need to intensify the punishment of specific repeating offenders, it is possible to say that these groups of perpetrators have specialized in same crimes, especially financial crimes, and are using their high skill for obtaining money and capital to commit non-violent crimes. The group chose committing crime as their job and over time will increase their range of activities and severity of committing crimes. The legislator in confronting with this category of offenders wants by following the theory of deterrence and intensifying the punishment, dissuade perpetrator from committing a crime. In Article 25 of this law, the manner of intensifying the punishment is as follows: "Regarding repetition of mentioned offense in former article, the court can sentence more than the maximum of that crime, but it should not exceed twice the maximum." It is noticeable that intensification of punishment for repeating offenses is optional in this act. The compulsory intensification of penalties increases by raising the certainty degree of execution of punishment and its intimidation aspect. Because research reveals the fact that deterrence power of severe punishments increases only with the degree of their certainty (Van den Hagg, op cit., 782) while optional intensification of punishment, which is more conducive to adapting punishment with perpetrator's personality, leading to discrimination between perpetrators and reducing the certainty of punishments, is not accepted by advocates of deterrence theory.

Given the differences of opinion in this area, laws of the majority countries have adopted compulsory intensification of punishment. With reference to Article 25 of the aforementioned act, it is inferred that the legislator's degree of acceptance of retaliation theory is such that the possibility of intensifying the punishment of repeating offenders up to twice the maximum punishment of that crime has been accepted. In accordance with Article 26 of this act, perpetrators of political crimes because of committing crimes with gracious and philanthropy intention and apart from any prejudice and self-interested and because whatever the punishment is sever, will not prevent them from committing the crime, will not be subject to crime repetition rules.

In the Islamic Penal Code of 2014, legislator deals with the procedure for rehabilitation in the second paragraph of Article 26 and states that after expiration of the time limits specified in Article 25 of the said law, it is rehabilitated. However, it would have been better for the legislator to explicitly clarify the mandate, as was the expression of the note (1) of Article 57 of the 1974 general penal code. According to this note: "In the case of supplementary sanctions or preventive actions contained in rehabilitation rule and eliminating the suspension," they are contingent on termination of them or inclusion of time-lapse ..." which confirms our opinion. Second, subordinate punishments must be enforced and applied. During the period when the person is rehabilitated afterwards, in addition to intensifying the punishment if the crime is repeated, replacement of the sentence and suspension of execution of punishment are not applicable to him, and this person is subject to certain deprivations for the sake of committing past crime. Another point, according to the term "execution of decree", is that it appears that the aim of execution of decree, is complete execution of punishment, but it has been stipulated by the legislature in some particular cases, such as the Statute of limitation of parole and conditional release which the sentence is not executed in full, there is also the possibility of rehabilitation. According to Dr. Sane'i, in these cases it is assumed that the punishment has been applied (Sane'i, 2004, 228). Therefore, since Statute of limitations has been studied in past, in this section we will only examine conditional release and parole.

Another condition for rehabilitation is lack of a new criminal conviction. This means that the offender hasn't a new criminal conviction within the prescribed period for subordinate punishments. Of course, this lack of a new criminal conviction means whether effective conviction or any conviction in the new

penal code, has been identified. Therefore, one can conclude that the legislator's purpose is a new criminal conviction, whether effective or not because "no new criminal conviction" means that the offender, when he or she is serving subordinate punishment, proves his or her entitlement for rehabilitation, and social rights that are deprived of them can be revived.

In cases where a new offense is subject to a subordinate punishment, some (Qaderi, 2013: 78-79) believe that if a person, after enforcing the punishment and while tolerating deprivation of social rights, again commits a crime that is subject to a subordinate punishment, the remainder of former deprivation, with duration of current subordinate deprivation, should be brought together, because the reason of each deprivations is an independent crime, and the principle as a whole is that they do not interfere with each other. Some (einy, 2006, 51) believe that the length of time spent for former conviction is suspended and his new conviction is considered. In this regard, it must be said that the first viewpoint is more acceptable, since, as it was stated, commission of a new crime on the part of this person represents the lack of entitlement and his reluctance to return to the society, although with the belief the person is rehabilitated after a relatively long time period.

Resocialization after execution of punishment

Two factors are involved with regard to reasons for return of prisoners to jail. The first factor is their inability to adapt to the social system. However, the person being imprisoned is separated from society for some time, and it is natural that during separation, he practically forgets a series of behaviors that enhance his ability to adapt to social system, and when he returns to society he practically confronts with a series of behaviors that is incapable of adapting to these behaviors. So, one issue is personal discussion or personal and social skills of a person who we consider as a prisoner.

Another factor is the prison itself. In fact, the prison itself is a factor for interpersonal interaction to transfer astounding experiences. That is, a prisoner who was first imprisoned has faced with a large number of people with high delinquent experiences which had transferred their experiences during imprisonment. The person immediately committed a new offense immediately after his release, using experience learned during the prison period, and returned to the prison at short intervals. Accordingly, discussion of exchange of experiences in prison environment and lack of classification of personality and psychology of prisoners are themselves factors in transferring experiences and repetition of crime and delinquency and return of prisoners to jail.

According to Bandura's social learning theory, deviant behavior is teachable and is learned in the process of communicating with others, especially in small groups. In the process of learning, companions of the person define the rules of law as appropriate or inappropriate affairs, and the person learns from them these definitions, and becomes a criminal or delinquent because he is subjected to definitions that prefer lawbreaking to law abidance (Raheb, 2008). For Parsons, "action is nothing but an attempt to adapt to norms" (Ritzer, 2006: 530). Arsones considers deviation resulted from deficient correlation between the social movement of society and individual movement and constructive people of society. And prison and imprisonment are factors that prevent a person from social movement, and the gap between growth and the optimal development of the society and the prisoner is a factor that inhibits the movement and positive change in the person, so that the prisoner after his release is alien with processes of changing the society and does not have the skills necessary for work and social progress (Raheb, *ibid*). After the punishment has been executed, for the perpetrator, the opportunity for access a legal profession not only didn't increase, but probably decreased. Employers who previously did not hire the person may already have less willingness to hire them. In other words, for the person, there is no other way but to return to the world of crime and commit crimes. (Nanvakenari, 2010, 67)

It is a fact that the number of unemployed among criminals is higher than their expected proportion in society. Research has shown that many who commit crimes are either unemployed or they are not in a good position in terms of employment. The main hypothesis of scholars who have adopted this method to prevent commission of a crime is that many of the criminals cannot get a licit job after being released from prison. Employers usually do not hire those who have a criminal record. In other words, in such a

situation, there may be no other way for a person but to return to the world of delinquency and committing a crime. Accordingly, prisoners who don't have a job after being released from prison are at high risk of repetition of crime and return to jail (Finn, 100).

The purpose of resocialization

Anyone who commits a crime, one of the reasons for his tendency towards committing a crime may be non-acceptance by the society. When a person finds barriers for himself in the process of socialization and cannot follow appropriate social patterns and is therefore always ignored by society, he tries to fill this vacuum somehow in order to be noticed by the society. The question now arises whether a person, who prior to committing a crime, could not reconcile himself with the process of socialization and define appropriate social models for himself, can achieve such an important goal after committing the crime and endure the relevant punishments? Now when a proper pattern has been drawn for him, can society, as in the past, accept him as a normal citizen within itself? What goals are pursued in resocialization of criminals?

In response to the first question, it should be said that if the society properly maps out the proper patterns for repentor offenders and tries to provide the appropriate conditions and context, then the social vacuum that exists will definitely be removed among them. Society affects people's adherence and non-adherence to social patterns to a great extent, so that by creating barriers for people, it can push them to abysses that don't have a return way. If a person is distracted and deviated, it certainly has a social origin. Our emphasis on society and community is because of its outstanding role in preventing or providing grounds for committing crime. In response to second question, it should be noted that, certainly, his return to society would not be same as before the crime, unless social institutions, in addition to judicial institutions, actively provide the conditions. One of social institutions is family. In fact, the family is a smaller scale of a society in which people following certain patterns tries to evolve their behavior. The family influences its members in different aspects of the personality, including the psychological, social and cultural personality. It also indirectly affects the community as a result of its kind of relationships and culture. The family is an institution that both supports human in the pre-physical puberty period, and provides them with the first opportunities for socialization and education (Monadi, 2012: 99).

Coen states that values that one takes and the various roles that are expected from him to play are taught within the network of family relationships. In this regard, Koso believes that "society has a primary and secondary group. In the primary group there are relatives, friends and locals. It is in these primary groups that human nature originates. A person is not born with this nature; one cannot obtain this nature except through cooperation with others. These groups are the first schools of every human being, among which family has the greatest influence on building ego, which is the capacity and existence of a person's social personality "(Conan, 2017, 108). With such an interpretation, undoubtedly, the source and origin resocialization of criminals is in the family. The family institution has such an effect on a person so that Giddens states in his book that the idea that the individual has about himself and the world and people around him, are directly influenced by views and beliefs of his family (ibid).

Given the significant emphasis on role of family on perpetrator's resocialization, it is well understood that if the offender's family, after having tolerated the relevant punishments and expressing his repentance and regret, or even if he did not do so, accept him/her as a normal member of the family, will have a significant impact on realization of resocialization in small social institutions such as friends and, consequently, in society as a whole because if a person is not accepted and rejected by his own origin, the family, the expectation of his acceptance by society is very difficult. In addition to family, other institutions, such as mosques and schools, have significant effects on resocialization of offenders and even prevention of repetition of crime. Now, with regard to what has been taken for granted, objectives of resocialization can be described as follows: preventing repetition of crime, returning the individual as a useful member of society, reducing community spending.

It is clear that when a person does not commit crime when return to the society and behave as a normal member, he tries to play a useful role in society in order to gain a social status because a prerequisite of social life is that a person can communicate effectively with others (ibid). One of the important goals of criminal law in Iran is to reduce the cost that criminals impose on society. Therefore, according to Article 156 of the Constitution, the best way to reduce the costs of society is to correct and resocialize the society people.

Barriers of resocialization of criminals

Legal barriers

In the new Islamic Penal Code, although attempts have been made to make changes to the old law, there are still obstacles to rehabilitation of perpetrators, which does not allow immediate resocialization of criminals? According to some lawyers, "A person who endures his punishment can return to society immediately" (The Lightning, 2005, 475). However, according to Article 25 of the new Islamic penal code, for the purpose of rehabilitation, there should be a long period of time that for various offenses as follows:

1. Sentenced to death warrant and life imprisonment, seven years
2. Sentenced to mutilation and retribution of organ whose blood money is more than half of complete blood money and banishment and imprisonment up to grade four, three years
3. And Sentenced to lash, retribution of organ that blood money of committed crime is half or less than half, and a grade-five prison term of two years.

This long time practically disrupts the normal life of individual who has suffered his punishment and causes his tendency to commit a crime. This time causes the person to be disillusioned in the society and wants to revenge from the society. In addition to provisions of the Criminal Code, according to employment laws of the country, the government agencies include the "lack of criminal record" in their recruitment requirements, which prohibits them from engaging in employment and consequently the spread of crime in society.

Social barriers: Labeling

Labeling theory theorists believe that deviation is a social phenomenon and that social deviations are not caused by psychological or biological factors, but rather it is the society that generates deviate identity in individuals. Many sociologists of this theory believe that social groups create law and determine what kind of behavior can occur under what conditions. Lemert's theory in this field is known as labeling theory. According to Lemert, the initial reaction is formed by initial deviation of the offender. This initial reaction leads to more deviation and more deviation leads to tolerate heavier punishment. This punishment, this time also causes committing the crime with greater malice. Lemert believes that this chain, known as labeling, causes delinquency. Lemert uses statistic to justify his theory which states 60 percent of criminals is offenders of repeating offenders. Moreover, social responses reduce opportunities, which are among factors that exacerbate delinquency (Gauss, 2007, 104).

Labeling is a process in which the society refers a person as a deviate person; this act causes the person to be excluded from group or society, a negative identity to be established in him, and deviation to be promoted in him. And then he tries to accustom to this negative identity and behave in this manner, so that "Lemert" has proposed the term "secondary deviation" in order to refer to a person who has to continue his life with the label (ibid 105). Among the negative functions of punishment is creation of a new negative personality for punished and, as a result, committing more crimes on behalf of him. This analysis which is famous among theorists as "labeling theory", has received much attention, despite of criticisms about its foundation. According to interpretation of this theory, by occurrence of crime and condemning the offender which leads to his punishment, the label of criminal is tagged on the person and with instigators of the society and his associates, and his rejection by them, ultimately accepts the label of "offender" as a new and real identity for himself. Especially if this label is accepted by the society, like a robber, he is considered a burglar after being punished (Nanvakenari, Ibid, 34).

The implications of this theory are that those who have been negatively labeled not only engage in more crime or deviation, but also seek and try to find their peace of mind with those who are considered in same form as alien (Williams, 2007, 86).

Although the "labeling" theory is not a comprehensive theory for crime and delinquency analysis (because labels alone cannot be a sufficient condition for being professional perpetrator and that all criminals and perpetrators don't show same sensitivity to labels), however, it should be remembered that labeling theory has somewhat positive and acceptable points in explaining deviate behavior, and the effects of labeling cannot be completely denied. What is achieved in the educational system of Islam is maintaining human dignity and integrity that is one of the most important and human goals. For this reason, when someone commits a crime and we see the possibility of wrongdoing on behalf of someone, we should not only avoid the label of deviation and delinquency, but also to improve his correction and maintain his dignity and respect, we must use the good method (Ahmad, 2002, 26).

Conclusion

Each government puts punishment on criminals in order to maintain the order and social security of the community. Any offender who has committed a crime should, in addition to basic convictions, suffer subordinate convictions and the purpose of subordinate punishments which properly imposed is to punish the perpetrator for consequences of the criminal conduct he or she has in society. Social exclusions are subordinate effects that will have definite and effective convictions for criminals. But these subordinate effects cannot be permanent, and on the other hand it is not expedient to extend them for a long time. Rehabilitation of criminals and their resocialization are among legal institutions that try to return the rights of those who have been deprived of them by passing particular situation.

The right of every social individual is to enjoy social rights and perpetrators who have fully tolerated their punishment, their acceptance by society and playing their role in society must be in such a way that firstly prevent repetition of crime and secondly, can cause repentant criminals can play a useful role in society and thus have a normal life, like other people in society. Ultimately, resocialization must be performed in such a manner to reduce the costs of society. Based on what has been examined, we found that the Islamic Penal Code of 2014 had somewhat succeeded in removing the existing vacancies about rehabilitation institution after 1979 revolution (although in the 1352 Penal Code, this institution has been explicitly addressed and was incompletely accepted in Article 62 of the Islamic Penal Code of 1992), although it itself has some drawbacks that have been mentioned during the discussion (including extension of subordinate sentence in some cases). In the bill of this act, legal and judicial rehabilitation was set up, but in the revision bill of the final law, judicial rehabilitation was removed. However, the necessity for this type of rehabilitation is seen as a supplement to legal rehabilitation.

In addition, the new Penal Code has made some changes in convictions that have the title of an effective criminal conviction, and crimes that a person subsequently sentenced to retaliation of an organ or banishment, put in the number of convictions that can be rehabilitated. As discussed during the discussion, it is necessary for legislators to reduce the time needed to rehabilitation, so that the person who has served his conviction can return to the community in light of training by proposed institution and resume his normal life. In addition, given the fact that the issue of correcting criminals has raised since beginning of social life and a method has been presented for it in any era and time, this idea is being pursued today through various strategies. One of the solutions that have been considered by the author is resocialization approach that can play an important role along with other approaches.

The author, from the point of view that existence of a community provides the grounds for committing a crime, and on the other hand, humans by synergy they create, and by relinquishing some of their natural rights and confirming them for constituent branches of society that is the government, have the right to ask the community to socialize them properly, and the socializing resources of the community should do their part in this regard as well. Therefore, in order to allow people to return to society after committing a crime and endure the punishment, one of the best ways is resocialization because in this way one correctly learns accepted norms and patterns of society and, on the other hand, socializing

authorities due to default in initial socialization process, must remove defects (such as unemployment, illiteracy, lack of knowledge of acceptable norms ...). Therefore, these people have the right to be corrected, have a healthy and happy life and its prerequisite from the perspective of the writer is to resocialize these people that by identifying its shortcomings and deficiencies (primary socialization) acquainted the person with accepted norms and patterns of the community, this time correctly and guided, and ultimately institutionalize these so that the future behavior of socialized individual would be acceptable.

For this purpose, law and various institutions have been created which, without having a specific strategy, are engaged in each activity and none of them has determined statistics on such affairs, as there is no statistics of the number of criminals and those who committed repeat offenses. Iran's constitution has placed this process under the general title of correcting criminals as part of the judiciary's duties. And, as it turned out, about correction of criminals with resocialization procedure after executing punishments an association called center of after-exit vigilance has been created in prisons organization. But feedback is nothing but a massive number of criminals who commit multiple crimes. In fact, although we do not have a clear idea of this approach in the laws and regulations, the judiciary performs these actions according to its intrinsic duty.

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