



TYPES OF ALTERNATIVE PUNISHMENT IN THE ISLAMIC PENAL CODE OF IRAN

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Abstract:

With the proving that the prison was unsuccessful in the rehabilitation of criminals, alternative prison sentences were introduced. These penalties are aimed at addressing the many problems of prisons, helping to better offend criminals and reducing the prison population in various forms, such as house arrest, training and medical barracks, suspension of punishment, postponement of sentencing, financial penalties, public service compensation, deprivation social rights and the obligation to stay or stay in a particular place entered the legal system of countries. These educational methods help to facilitate the process of their socialization by facilitating the quick rehabilitation of offenders, by preventing the perpetrator from being able to confront his family with the collapse of the families and pushing them to commit crimes, and by reducing the rate repeating crime increases security and reduces the government's financial burden. The implementation of these penalties requires the construction of infrastructure and funds. In Iran, it is also necessary to think more and more in order to benefit more from the benefits of alternative penalties.

Keywords: crime, punishment, alternative imprisonment

1. Introduction

Substitutions of imprisonment are measures aimed at detaining and reducing sentences of convicted offenders and imprisonment at the time of issuing a sentence or reducing the duration of its execution, after the issuance of a lawsuit and during the execution of a sentence, according to the delinquent circumstances, including individual personality delinquent, offender record, etc., as well as according to the type of offense committed (Malmir and Shoaei, 2015). Providing appropriate methods and substitutes for imprisonment is prevented by preventing adolescent juvenile offenders from entering the prisons and by giving them the opportunity and conditional release of such persons,

the field of compensation for the damage to the community is provided. The special features of alternative prison sentences are the reduction and elimination of social injuries that threaten the juvenile offender and his family, while the huge costs incurred by States with imprisonment will be reduced (Hamid Gholami, 2012).

The approach of the criminal policy of imprisonment in Iran in general, especially in the field of children and juvenile delinquents, was due to its inadequacies and ineffective elements. Therefore, in order to enhance the judicial system and prevent negative consequences, the extension of the use of prison sentences by introducing a change in Iran's criminal policy and predicting alternative sentences for imprisonment for adolescents and delinquents in the seventh and tenth chapters of the Islamic Penal Code 2013, in addition to expenditures that are not imposed on the government and the community can also be beneficial for juvenile delinquents.

In the meantime, in order to avoid extremism and fall into another uncertain arena, we must first have a wise and impartial critique of the quality of the legislative, legislative, and executive programs of the past, in order to reduce the proportion of the ineffectiveness of the imprisonment in providing the goals and the functions of imprisonment in relation to other factors, and to choose the general public services in Iran as a common and long-term alternative to the delinquency of juvenile delinquents, by knowing and managing the necessary infrastructures with the international community. The actual reform of the perpetrators and the prevention of the commission of crime and the conversion of offenders are even incidental or at least dangerous to professional criminals and are of great importance in their habit. Legal systems around the world are pursuing this goal, punishment substitutions of imprisonment, which include various forms, are considered as solutions in many countries, but it must be seen whether these penalties are effective and valuable and should be imposed (Ardabil, 2015). Given the change in the Islamic Penal Code and the introduction of new strategies in article 64 of the Islamic Penal Code, this incentive was created to take new research into this approach, so that it might be a strenuous one. Today's imprisonment has become one of the most common types of punishment that applies to all types of crime in many countries. But over a long period of time, it has been proven that many of our offenders have been subjected to these punishments, which is no longer appropriate. The question that comes with the main inspiration of this research is the question of what other methods should be used to replace the prison and the police so that we can achieve the desired goals of punishment. Other countries have a high population of prisoners who have long sought to devise appropriate methods for achieving the goals of punishment and have done a lot of research in this regard. It is therefore better to study studies and use experience They will look at the rules of these countries for useful information, and thus we will no longer need to go through their paths and we can make the most of the benefits and positive effects of alternative imprisonment sentences (Hajitabar Firooz Rajaei, 2008).

2. Traditional imprisonment alternatives in Iran

The traditional alternatives, the alternatives that were mentioned at the time of the drafting of the law, and the regulated materials, are traditional alternatives: conditional release, which is a relative alternative, suspending the execution of sentences, which is still part of the relative alternative. Compensation and punishment of deprivation of social rights, which are among the absolute alternatives to the death penalty.

2.1 Parole

The punishment should focus more on any of its problems in correcting the offender. A person who has committed a crime and is currently serving his sentence is hoping for his own future, in order to be able to encourage him to conduct good deeds and practice in prison, one of the most logical ways is to grant conditional release. Conditional release is a means and procedure before the expiry of the term of imprisonment imposed by the issuing court against the convicted offender, indicating the special attention of the legislator to the goal of reform, treatment and reinstatement of social adjustment. Conditional release is part of the educational, educational and social programs that facilitate the social reconciliation of the individual in the community. Conditional release can be considered as an alternative to prison sentences - in the broad sense - if supervised. So if, for some time, a convicted prisoner has been in prison and evidence has shown that he is ready to return to society, arrangements should be made to allow him to return to the community. On the one hand, it also saves the public spending of the country.

2.2 Suspension of execution of the penalty

Following the issuance of a definitive conviction and the imposition of punishment for the execution of a sentence on grounds and conditions prescribed by law, it may be delayed. The suspension of the execution of the penalty is from the school's achievements, which the convicted person should be guilty of in order to prevent the execution of the imprisonment and its inappropriate conditions and the mistakes made thereon. The suspension of imprisonment is, however, a prison sentence, and therefore Article 21 of the Criminal Court Law (1973) (the need for a lawyer or legal counsel for the accused) when the court examines the suspended imprisonment, as it investigates the immediate imprisonment, Applies. It means that it has a criminal attribute and an alternative punishment. The suspension of punishment is not considered a criminal offense but a mean and means to help and assist the offender who has been tried by the court. The suspension of execution is also a guarantee that is in accordance with the principle of individualization of penalties and has a direct relationship with the type of crime, the amount of punishment and, finally, personality is offender suspension of sentence execution is different from deferral of punishment. Suspension of the execution of a penalty means that the execution of the prescribed penalty is delayed if the sentence was delayed in postponing the sentence, that is, after sentencing by the criminal court or the magistrate. In accordance with Note 1 of Article 1 of the Law of the

Criminal Court, 1973, including penalties, it can postpone the sentencing of sentences up to six months if it wishes to make any change in the conduct of the offender after conviction (The restoration of the offender's damage) or in the circumstances surrounding him during that period. Postponement, in accordance with Note 1 of Article 1, is in the sole discretion of the offender and is not permissible more than once in each case. In addition, it is desirable that a punishment be imposed on the date specified by the court when it postpones the sentence. A court that postpones the punishment has the duty to clarify the perpetrator of why the sentence has been postponed and what behavior of him during the postponement period is expected. Obviously, it is expected that the accused will not commit other crimes, but may be told that the defendant should stay at home or when the accused is present to determine the sentence, the court issuing the sentence may investigate with the help of new reports whether the accused basically conformed to the expectations of the court, if the perpetrator complied with, an immediate imprisonment should not be imposed, and if the offender did not comply with the expectations of the court, the determining court of punishment should state exactly what was the fault there have been. The commission of a crime during probation is likely to result in imprisonment for both the next offense and the offense punishable. But in the absence of another crime, a non-legal punishment does not necessarily guarantee freedom for the offender. Deferral of the sentence is also different from the conditional change of the sentence. Delaying the issuance of a warrant is conditional on the issuance of a penalty for punishment, and when the penalty is imposed, the defendant does not comply with that condition (not committing a crime during the period of release). But in postponing the punishment, there is no doubt that it will even issue a penalty, and it will not be conditional.

2.3 Fine

A criminal offense is a financial penalty, sometimes a major punishment, since the enforcement of the provisions relating to the suspension of the enforcement of the sentence in accordance with Article 46 of the CRC is optional and in the hands of the court, as well as the court granting it to the benefit of the community and the terms of the other regulation. In the law, such as the definition of the merits of the offender, it should be noted that it can be inferred that the severity of the objections and criticisms imposed on it, of course, in some of the shortcomings of ours, are two recent shortcomings, and sometimes the form of mandatory supplementary or mandatory punishment of Article 23 of the Criminal Code shall be subject to a court order or optional arbitration under article 933 of the Criminal Code. The cash penalty has functions that are a part of their role as a substitute for a fine.

3. New Types of Remedies

3.1 Deprivation of social rights

Penalties for exclusion from social rights are new initiatives that have been used in some countries. In this research, we are deprived of social rights in terms of

employment, in other words, the constraint of liberty or the imprisonment of the occupation and public services of all, as part of social rights and exclusion from them, is the denial of social rights. Deprivation of social rights in the meaning of the law is also criminal and is subject to the principles governing punishments that have objectives such as preventing crime and reforming and rehabilitating the perpetrator, observing the principle of individualizing punishments, avoiding the economic and criminal sentences of imprisonment. The deprivation of social rights, although it has a criminal record, is one of the measures which is more in the nature of the provision and, in fact, the main purpose of these preventive measures is to re-establish the convicted person in a criminal matter by creating barriers to carrying out criminal activities and dispossessing them of the environment He has a criminal aspect. The Criminal Policy and Criminal Justice Committee of the Center for Strategic and Judicial Development and the High Council for the Development of Judiciary have drafted a bill entitled "Social Punishment Bill" in which cases the deprivation of social rights has been introduced as a social penalty and a substitute for imprisonment.

3.2 Career period

Before we begin to define and structure, we must begin by assuming a problem between the system in the UK and France, and then, let's see if the interpretation currently available in the English legal system by the domestic lawyers of the country is correct or not. Due to the structure of this interpretation, the French law of Procession has been suspended. Suspension of criminal law, punishment execution, is postponed and delayed. That is, the suspension of care in France or the suspension of the sentence (simple suspension) in France or in the United Kingdom are similar in this way, in which both the judge condemns the perpetrator to the crime and punishment, and then the sentence is suspended. Throw away with the difference that in a simple suspension, the judge suspends the enforcement of the punishment without charge to the offender, as well as the supervision and supervision of the offender by the caretaker, while the suspension of care is vice versa. It seems that the interpretation of the term "probation" in the French law of the law is rightly interpreted by the lawyers because, when we apply the term of suspension, the execution of the sentence imposed is delayed. However, in English law, it is interesting to note that most Iranian lawyers in the definition of the Projection, according to the structure and conditions of the British Code of Criminal Procedure, differ from the French law by defining the structure and conditions of the protest, but the interpretation the term "care suspension" is used for it. The prosecution of the English Penal Code does not mean that the execution of a sentence is suspended along with observance of a number of orders and duties, but rather suspending the issuing of a sentence, rather than suspending the enforcement of a sentence. That is, a person who is brought under the supervision of a suspension of care is not issued with a conviction, but his conviction is not finalized without a warrant, and then he is given to a related organization or social worker to carry out a care period (Najafi abrاند abadi, 2010).

3.3 Imprisonment at home

One of the alternatives to punishment for the release of prisoners is to imprison in the Meddle, in order to avoid the disadvantages mentioned for imprisonment, as part of the relative replacement of the death penalty. Some countries are currently running.

3.4 Electronic monitoring

Electronic surveillance, which is a new and absolute alternative to the free age penalty, is that electronic surveillance agents close tools around their wrists or necks that send signals to the center and the monitoring agency. Thus, the offender only has the right to work or to participate in certain activities, and the rest of the time is spent at home and his commute is precisely controlled and supervised. The purpose of this is to monitor the offender outside the prison environment in order to prevent crowds in prison and spending on prison expenses, and in fact, by failing to benefit from family and professional relationships, community attendance and rehabilitation. This method is referred to as a relatively new approach to enforcing the rules of imprisonment at home. It should not be thought that this is always the case, but home imprisonment is only occasionally accompanied by electronic surveillance. However, electronic monitoring alone is not considered as an independent enforcement guarantee, but a home or maintenance detainee's follow-up guarantee or maintenance suspension Compressed to ensure that the offender follows his requirements. This method is suitable for violent offenders, such as traffic offenses, financial crimes, sexual abuse, and crimes related to the abuse of marriage and drug offenses. This method of execution must also confer the consent of the convicted person (ex, 201).

Prisoners who are not able to pay all or part of the funds to the discretion of the prison judge or the judge administering the judgments or the prison director and the institution concerned are exempted from paying that part of the expense. According to the law, electronic surveillance units supervise prisoners 24 hours a day, and in case of violation of their obligations, the issue was immediately summoned by these units, as the case may be, by telephone or with the help of law enforcement officers, controllers and offenders.

3.5 Daily reporting centers

Centers for reporting daily work are programs that are not based on delinquent residence. Through the application of this supervision, penalties and services are all coordinated in one place. This way, a tight monitoring of the criminals will be applied to return to the community. This is a program where criminals spend their days under surveillance. They attend medical and educational programs but they do not live in these centers. The first American daily reports were established in the mid-1980s. The purpose of the reporting centers is to monitor the perpetrators of the day-to-day surveillance, which is carried out in order to control and take care of the return to social life and to reduce the costs of imprisonment. In spite of the lack of prison fees, criminals must, in some cases, also pay for treatment. The philosophy of imposing this program is

to allow the offender, along with family and employment, to learn communication with others (Behnami, 1391).

3.6 Daily fine

In the cash section, it's been said that lawyers believe that cash penalties have advantages and disadvantages. The shortcomings raised by the opposition against this punishment are concise: the conflict with the principle of personality and the principle of equalization of punishments, the lack of intimidation against the rich, the transfer of the defendant to prison in case of ineligibility for payment, and so on. The punishment for a fine is due to the problems that arise in its implementation and the convict will be imprisoned in case of ineligibility (this seems to be the most serious violation of the punishment), which has resulted in a cash penalty not only failed to fulfill its mission and work as a punishment, but rather the importance and functioning of today's cash penalty, which has been reduced as a "substitute for imprisonment" punishment. Therefore, think tanks and experts to reduce the aforementioned objections have proposed a new method of punishment for the fairness of cash penalty, which is a daily cash penalty (daily fine). A daily fine is a useful strategy that not only reduces cash redress problems, but also modifies some of the other shortcomings in cash redress. Additionally, daily punishment is a clear indication of the principle of individualizing punishments (ibid, 179).

3.7 Investigation of the Crime of Alternative Punishment in Iran

Another purpose of punishment is the re-socialization of the perpetrators and their correction and treatment. The idea of reforming and treating the delinquents and redefining him is one of the intellectual teachings of the new social defense school (Block, 2007, 32). Bernrioleck believes that "*blaming the reform is to prevent him from returning to the wrong direction*" (formerly). The idea of rehabilitation and rehabilitation is reflected in international documents. For example, it is possible to refer to the rules of the minimum necessary for ratification of prisoners in 1955 and the International Covenant on Civil and Political Rights in 1966 by the United Nations General Assembly, which had been signed by the Iranian government in 1975 and it has passed it. The provisions of these rules and regulations were implemented before the revolution and later by the Government of the Islamic Republic of Iran through the formulation of regulations under the title of the Code of Conduct for Imprisonment in 1993 and then its amendment in 2000. All these treaties and international and domestic laws and regulations were foreseen to provide for the humanization of the imprisonment and the treatment and treatment of criminals. But in terms of the problems and impediments to the prison and how it is implemented, the aspects of the correction and rehabilitation of the prisoner of imprisonment have been doubted and defeated so that today, despite the emphasis on the aspects of rehabilitation, treatment and rehabilitation, the prison has not only failed to treatment and modification of successful offenders, but also increased the rate of repeat offending by prisoners after release from prison. One of the cases that can be found in the confirmation of the

ineffectiveness of the imprisonment in preventing the commission of crimes and the treatment and treatment of offenders. A study was conducted on a master's thesis on the subject of alternative sentences of imprisonment in the new Islamic Penal Code 2011 by Ali Hasanzadeh during the year 2012. He argued that alternative prison sentences should be considered a result of a movement that is referred to as a detention movement. With the advent of the Enlightenment, especially after the French Revolution, the physical and cruel punishment left the criminal arsenal at a low level and succumbed to punishment in the name of the prison, and in the short term became the most common punishment, so that it would be daring to say that criminal policy Most countries were a prisoner of criminal law, but it was not long before that the prison was attacked and criticized for many problems. Different measures were taken to get rid of prison problems, such as: decriminalizing, prosecuting and decriminalizing. Substitutions of imprisonment can be a kind of punishment. Consequently, the criminal policy of the imprisoned person turned upside down. This change of direction has practical reasons, including theoretical reasons. The detention movement has been taken into account both in international documents and at the national and international levels. Substitute sentences for imprisonment are punishments that impede short-term imprisonment and impede the entry of delinquents into prisons, such as: caring for a suspension, free public services, house arrest, daily fines, etc. The enforcement of these penalties has conditions and requirements that, without them, enforcement of alternative penalties will not be fruitful. The new Islamic punishment of materials from 63 to 85 is the most punitive. Among these punishments, home custody and electronic monitoring have not been well received by the legislature and have not shown them happy. Other alternative imprisonment sentences, such as daily sick pay and daily pay, provide free public services under precautionary conditions.

4. Conclusion

Prison as one of the oldest traditional sentences today does not adequately meet the expectations of criminal law scholars and scholars on the cultivation of criminals and the defense of society. Due to the increasing frequency of recidivism, the issue of deterrence and deterrence and the reformation and rehabilitation of the death penalty have lost their credibility and significance. Today's prison, despite imposing huge economic burdens on the society, has turned into a crime-making school, a place where accidental offenders come together with professional offenders, and in this regard, criminal intelligence experiences are easily exchanged, prison Not only does it not correct criminals, but in most cases makes it difficult or delaying the process of social rehabilitation.

The use of substitution policies in the age of liberty can in many cases reduce cadre population and reduce repeat offenses, as well as reduce the cost of the organization of prisons and possibly increase government incomes by imposing alternatives such as criminal penalties. According to the researcher, any establishment

and policy that may disturb and limit the imprisonment of a prisoner can be a substitute for the prison. In terms of some of the problems and disadvantages of imprisonment, the use of the punishment for liberty is largely unnecessary (such as the criminalization of the prison - the conflict with the principle of the personal nature of the punishment-health problems-sexual conflicts. For the purpose of replacing sex in this research, the concept of broadband is also limited. Not only includes cases that are arbitrarily imposed by the court, such as public services, periods of care, daily fines. But also includes cases that prevent the enforcement of the sentence of imprisonment or the issuance of it, such as the suspension of the execution of punishment and the conversion of punishment, and those which prevent the continued imposition of a sentence, such as conditional release and mediation at the execution stage. Therefore, the application of the program and the effects of the alternative can be imagined not only at the stage of the issuance of the verdict but also at the execution stage.

Access methods for substitution policies are divided into two categories, absolute and relative imprisonment. The relative deprivation of imprisonment is not a substitute punishment but the purpose is to avoid the imposition of a sentence of imprisonment and how it is enforced, ie the imposition of imprisonment, but freedom is relatively deprived of the convicted person and may result in the imposition of imprisonment to be but absolute detentions are in fact the same as the conversion of punishment, and the aim is not to make prisoners familiar with the prison environment while they are serving their convictions.

In Iran, relative detentions are observed in the form of prisoners' employment, conditional release and suspension of detention, and absolute detention is seen only in the form of a cash penalty, although if the social penalties are approved: daily redress, suspension of labor prosecution the general rule will be implemented. In the relative replacement of the judge's hand, it is open to appeal to the perpetrators instead of imprisonment; in fact, the relative alternatives to imprisonment are prison sentences. Based on what has been said in this chapter on cash redress, we conclude that although criminal actions have caused some problems, but they have an increasing role to play in tackling crime and their capabilities has been shown. Cash penalties differ according to the nature of those two criminal and non-criminal purposes. Therefore, economic considerations should not neglect us from the deterrent aspects.

Therefore, it is necessary to pay attention and precision at the stage of inculcation to the judiciary as well as to determine the exact criterion for establishing the methods of decriminalization. Therefore, the cash penalty prevents the perpetrators from causing ruin and prevents the destructive effects of imprisonment, and the effect is continuous and continuously preserves its intimidating effect.

The statistics show that substitute imprisonment penalties have been more successful than imprisonment in their pursuit of their goals, since anticipating alternative punishments has led to a more diverse guarantee of performance and a better implementation of justice, and provides the reform of the social reintegration of the perpetrator to society. According to investigations, the number of repeat offenders sentenced to alternate sentences is lower than those sentenced to imprisonment using

experiences and studies in other countries about alternative prison programs can keep us from mistakes and offer many solutions to the correct implementation of the plans.

Criminal law, both substantially and formally, must be reviewed in order to eliminate the imprisonment. Iran's Criminal Law Officer does not follow a specific criminal policy on alternative prison sentences because it anticipates a one-way refusal to impose a fine, on the other hand, if the convict is sentenced to a fine, a detention order is issued. It can be said that Iran's criminal lawmaker does not follow a specific criminal policy in the field of prison sentences. In the penal code, four types of punishment were provided for the period of care, public services, daily cash penalty, and deprivation of social rights. But the Islamic Penal Code also provided for a different type of alternative punishment for imprisonment, up to five types.

Regarding the effects of imprisonment on their psychological state, with regard to the presence of the defendants in prison, especially the long-term prisoners, they pass a passive state, and those who have no authority at all for one day, and sometimes for a long time, say, ten years being in jail and being unaware of the events inside the family and surrounding people and the environment in which they lived has caused a huge psychological pressure on them. Which turns them into psychiatric drugs to make at the very least, when a prisoner's relationship is interrupted outside the prison, a person experiences a psychological vacuum in a way that he considers himself to be unprotected. This leads to a lack of stability in terms of mental health and according to prisoners themselves; the only problem that can destroy psychological effects is freedom.

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