Criminals Resocialization in the Criminal Justice Policy of Iran

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Abstract: Community-oriented approach excellence in determining the punishment strategy is acquired irrefutable scientific experience of human society, the efforts of scientists and social reformers attempts in addition to the revelation received. Accordingly, criminal’s resocialization is a process based on measures, isolation, transmogrify, selection and result designed, developed and applied in a three legislative, judicial and executive parts. The resocialization criminal justice policy is the outcome of a series of measures, decisions and views of those involved in the field of Judiciary that is applied to delinquents and is a social oriented response that the outputs of various schools of criminology and sociology confirms its effectiveness according to human dignity of delinquents. Human trial and error in the width of the laboratory of human history try to provide response and impose control over the crime, eventually accepts the humanistic attitudes effectiveness to focus on making opportunities and attraction rather than losing opportunities.

Keywords: Resocialization, criminals, criminal policy, judicial

I. Introduction

The complexity and consequences of crime in modern societies justifies the need for domestic and international criminal policy to be able to provide necessary structures in order to draw and apply the best response against criminal phenomena. Basically, the policy should avoid single-minded goal and integrates appropriate responses as a multi-faceted approach. Accordingly, the criminal policy should be inclusive (all deviations and delinquencies in all places), concerning the present and future (posteriori time domain), logical (consistent with the realities of the social, economic, cultural and political life of society), scientific (based on empirical knowledge), balanced (in coordination with the inter-sectoral and cross-sectoral members with other policies) and partnership (with public participation). Criminal policy is divided into three major roles of legislative judicial and executive. Resocialization criminal policy of criminals is divided into three parts on the same basis: legislative, judicial and executive. This policy is somewhat more efficient than criminal retributive and preventive policies and the reason is more favorable generality and larger applicability and execution.

II. The concept of criminals’ resocialization

Resocialization is a sociological term with various definitions presented by sociologists. Byiro.A defines it as a process the interdependencies of life and human activity on social networks are based on (Byiro.A, 1988) Cohen defines it as “the process teaches one how to live in society, gives character and increases capacity to perform individual the tasks as a member of society” (Cohen 101, 2012). Richard Schaeffer knows resocialization as “the process of putting aside past behavioral patterns and accepts new patterns as a transition in personal life” (Schaeffer).

III. Criminals’ resocialization institutions features

Legislative criminal policy creates as special institutions for the implementation of this policy in design and planning. We have to know the institutions features to recognize and enforce the institutions. These features are not recognized transparently and specifically by legislators, but could be derived from the provisions of the Penal Code, adopted in 2013. The most important of these features are mentioned later.

A. Legality

The quantity and quality of criminal’s resocialization are inevitably expected in the penal code despite the diversity of measures and bodies to prevent prejudice in the course of the rule of legality of crimes and punishments and penalties. Integrated legal system with a variety of institutions, ensue the necessary balance of individual interests, public and social guarantees, and also enjoy the benefits while reducing the disadvantages of the principle of legality.

B. Optionality

The basic features of criminal rules include being peremptory, forced and mandatory. But the framers of the country's criminal law policy have adopted voluntary nature of plans and in resocialization institutions in newly enacted formal and nature-oriented rules with a deep understanding of the criminal’s character and selective nature.
Of course, the criminal’s resocialization is impossible to achieve by force. However, this is not an absolute optionality and criminal should select between resocialization measures practices by the judicial authority and or submit to the punishments. Optional institutions with the socialization of criminals are clearly inferred from Articles 80, 81 and 82 of the Criminal Procedure Act 2013 and Articles 46, 57, 62, and 84 of the Penal Code 2013.

C. Compatibility
Compatibility is to create the tools and establish criminal policies with maximum compatibility with the character and environmental status of criminal. Individualized punishment and security measures are derived from judge attention and contemplation. Moreover, the legislator applied the concept of “Compatibility” to apply artistic quality in the design and development of criminal policy. The fact is that the nascent field of criminal policy where science and technology are intertwined with each other is with insatiable thirst to create artistic and humanistic concepts of wisdom.

D. The ability to revision
On the criminal policy history “certainty” and “definite” punitive were considered repressive aspects of violent and repressive systems effectiveness. Heavenly schools teachings and efforts of social reformers has controlled this state. Many people in human history have contributed to the evolution of ideas their efforts forgotten and history has ever heard of them. Sometimes also unknown during their lifetime, have been brought to trial, but their humanitarian ideas are viable and led to change attitudes, at least in some criminal and penal policy administrators and security measures to accept that the criminals should be given new opportunity to appeal and judges to revise.

IV. Criminals’ resocialization application institutions terms
Reviewing resocialization institutions of the criminal legislative policy implies that aforementioned policies implementation and enforcement requires preconditions of criminal process and the lack of preconditions prevents the politics exercise. This section summarizes the requirements for its application policies.

A. Compensation
Almost all the acts of the institutions of the criminal policy of resocialization of criminals constitute the precondition for compensation to victims. This is a manifestation of social engineering in punishment process, so as to benefit from the advantages of these institutions; criminals have to compensate the lost rights of victim, that in some way provides the criminals rights, as well, and providing both with their rights guarantees the future social right.

B. Criminal rehabilitation predictions
The legislator has accepted criminal rehabilitation predictions as one of resocialization institution action, but did not refer to the reason behind and how it is applied. However, the criminal rehabilitation predictions may be criticized: First developed legislative systems emphasized on objective criteria to apply in the criminal process, while predicting is a personal measure, and from another perspective, prediction does not have any criteria. Second, the prediction influence in the determination and application of punishment and security measures is not compatible with any principle of law and reason. Third; essentially criminal rehabilitation predictions is inherent to all criminal phenomenon and its consideration as a condition would be futile and useless.

C. Proof of guilt
The exercise of criminal justice policy on any noncriminal does not fit within the politics and policies and to prove criminal culpability of criminals is necessary. On the other hand, resocialization is obtained when the criminal had shouldered the responsibility of unconventional activities.

D. Lack of criminal record
Accordingly, resocialization criminal policy is prohibited for criminals with repeated offenses. However, the effective criminal record hinders to benefit from of the resocialization institutions. According to Article 40 of the Penal Code Act 2013, the effective condemned is the sentence of condemnation following the execution the criminal is banned from civil rights. This condition may be criticized on different basis, especially, when some criminal convictions are permanently deprived of civil rights. It is not known based on what logic legislator expects delinquency permanently deprived of some of their social rights circuit the rule of law to their lives.

V. Division of Resocialization Criminal Justice Policy in Iran
Certainly, implementation and enforcement of any policy, including criminal policy at the macro level, involves regular and specialized backing up and division of running is of the necessities. The criminal policy of resocialization of criminals is divided into three sections including legislative, judicial and executive. This study investigated the Judiciary section that is divided into two parts: general and specific. The issues and rules intersection of all those involved in the judice system are included in the public section, and specific section examines the issues and rules that dedicated and independent role of the judiciary in relation to criminals resocialization.

1) Criminal resocialization public justice criminal policy
The judge in his public role is a concerned in term of criminal’s resocialization goals achievements regarding attitude, behavior and decisions. The judge thought and action are mainly under the influences of their character and adventurous status. In Islam “the judge is characterized by three main characteristics, reflection in term of thought and knowledge, balance in in the lust and the adjustment of the wrath” (Amelie 255-2011).
We should believe in the fundamental and profound changes in attitude. The fact is that the judges are guided by punishment thought inside. Several actions are needed in this regard. First, the character of the judicial candidates should be taken seriously in judge’s employment. Second, judges approach should change in philosophy and function of punishment and safeguarding measures in the context of judicial training courses. So that the basic approach focuses on community with the purpose of pivotal policy of criminal resocialization and suppression of thought and ideas in the minds of the judges severely restricted. Third, humanitarian and human perspectives go through their minds to criminals’ resocialization finds extent and sustainability not to falter with a little change of status in engineering justice thought.

The positive and negative aspects are debatable in the behavior which is the outcome of the characters and situation. Some judge’s responsible behavior and words causes criminals responsible. Judicial authority conduct had a profound impact on the lives and psychological intervention in the criminal process, and can return criminals to accept and respect social values.

Decisions and judgments issued by district judges are much broader and deeper. Court verdicts are affected by many factors, but more importantly are the impacts on the various areas of social, cultural, economic and even political will. Judgments and judicial decisions in all sections of community have been crossed red lines resocialization, especially criminals may be studied in both positive and negative aspects. And it is better to study the role of each authority in order to better understand the impact of their duties and responsibilities.

2) Criminal resocialization specific justice criminal policy

We have to define the role and the player to impose any criminal policy. Criminal policy is a combination of science and technology that the executors main characteristic is to be artist. The importance of this issue is so sensitive that being an artist is of the main characteristics of the executives. Judges, having the knowledge of the important issue, must adhere to principles, rules and objective resocialization criteria avoiding personal rules and standards. Previously, the general rules governing judges all arguments have been discussed. In this section, we provide the principles, rules and institutions dedicated to each judicial role of resocialization targets of criminals.

A. The role of prosecutor in criminal resocialization

The Iranian judicial system, the prosecutor has different functional roles in the process of punishment, he pioneered the role of criminal justice policy and meanwhile, the latest action in relation to the application of these policies is established within the scope of his functions and authorities. We explain the role of the prosecutor in before and after the prosecution due to the different nature of the measures.

VI. The role of prosecutors in the pre-prosecution

The role of prosecutor in detecting the crime and even before that in the field of law enforcement official’s supervision should be considered from the perspective of the criminal’s resocialization. The prosecutor as attorney general explains the need to change the attitude of police repression in the community-based thought and humanistic views under a balance and dignified attitude with targeted training and ensure police moves toward criminal resocialization before criminal process through continuous controls. Despite the importance of early mentioned; certainly, the main role of the prosecutor in criminal resocialization in criminal justice policy is necessity and appropriateness of criminal prosecution. From this perspective, the most important tool of criminal’s resocialization is at hands of the prosecutor. He can balance among the individual, public, social interests as well as the social engineering and the adoption of the best and most economical method for the capacity of the archive file and suspend prosecution, grant the deadline or referral to mediation or conciliation council raised in Articles 80, 81, 82 laws approved in 2013.

Since the establishment of similar institutions in the exercise of the judicial procedure do not have an acceptable record; and this criminal policy legislative bodies have been abandoned despite having the capacity to high resocialization, it is recommended to establish a special unit under the title of “pre-prosecution measures unit” or “judgment relief unit” or any title in each General and Revolutionary Courts to audit and filter all cases in units in terms of new institutions enforcement and the injection of criminals resocialization. This unit provision will have many advantages in practice.

VII. The role of the prosecutor in the post- prosecution

The role of supervisory prosecutor starts with diagnosis of execution appropriateness in the investigation with efficient monitoring on the performance of those in charge, including investigators, particularly in criminal sences issuance. Nevertheless in paragraph (h) of Article 3 of the Law amending the Law on establishing General and Revolutionary Courts Act the obligation of the prosecutor to comply with the investigator in opposition to the issuance of the temporary detention which is a time consuming and a socialization is an institution of the socialization that unfortunately is not accepted by Criminal Procedure Act 2013, but predicting the right to oppose the issuance of final arrangements and criminal ensuring of freedom depriving investigator for the prosecution of criminals considered to be an arena for resocialization.

A) The role of investigator in criminal resocialization
Investigator plays its role to issue a criminal provision with the adoption of prejudice in the judicial system. In fact, the provision of a criminal warrant from a perspective is “the issuance and exercise of basic punishment” without fair and impartial proceedings contrary to the principles of justice and fairness. In most cases, issuance and exercise of basic punishment implications are more severe than that of issuance and execution of final punishment. This is covered by the provisions of the sacred religion of Islam, especially “when the temporary detention is issued, no doubt that a socialization role implied to its utmost. Thus, the first and most basic approach in this regard is the creation of change in the attitude of the investigating authorities, including investigators to by resorting to the humanistic legal principles restricted issuance of arrangements result in depriving freedom severely. We should make investigators believe that the warrant resulted in depriving freedom is in fact, punishment without trial to act more responsibly in the issuance and exercise of them. This awareness is not denying independence of the investigators, rather, the application of a realistic and elitist criminal justice policy because the investigator gains the knowledge necessary to optimize the management and results of their work in understanding the nature and function of the criminal. It is naive to consider scientific knowledge gain as a limiting the duties and powers of the official investigation and find this consciousness against the law in the current state of the judicial system of the country where daily hundreds without social and legal requirements are sent in jail. However, they will reduce the extent of the a socialization impact of criminal provisions with little awareness. On the other hand, the investigator may use the capacity of the judicial oversight arrangements referred to in Article 247 Code of Criminal Procedure Act, 2013 to adjust the type and severity of potential criminal judicial oversight arrangements. So that a combination of least intensity of criminal supply arrangements and the maximum capacity of the judicial oversight arrangements of social engineering in the balance of interests referred to in Article 217. Clearly, judicial supervision arrangements are not only non-time-consuming but on the contrary would provide criminals resocialization. Another role of the prosecutor can be finding in his proposed role in criminal resocialization institutions. Prosecutor could ask the implementation of this article under Clause 4 of Article 81 of the Criminal Procedure Code, 2013 in case of legal conditions to the issuance of the suspension of the prosecution of the prosecutors. Of course, this proposed role of prosecutor is applicable to other decisions, not only there is no law prohibition, but also he could propose effective recommendations to the criminal courts according to the findings of the personality file facts from investigations.

B) The role of the criminal courts and the Supreme Court
Criminal Court of First Instance play the role of the supervision of court decisions especially the monitoring of security arrangements and can insist on criminal resocialization criminal policy. The extent of the impact of the lower criminal court is much more than the courts of appeal and the Supreme Court, but this part of the judicial system can enhance resocialization approaches and control and neutralize a socialization sentences to appeal. The criminal courts are approved by Islamic Penal Code of 2013; wide discretion in the application of institutions and instruments of criminal’s resocialization. Some of these institutions are exempted from punishment sentence, delay sentencing, enforce penalties arrangement, and establish a semi-freedom system, probation, electronic monitoring and prison alternatives penalties.

C) The Head of the Judiciary role
Head of the Judiciary is the head of criminal justice policy of the country and can influence on different fields of design, development and policies of criminal resocialization. The most important are:
1- Criminal resocialization considered as superior discourse and mission in the provision of legal bills, and attention paid to strengthen community-based approaches and weaken the thoughts of retributive and punitive efforts to achieve economic prosperity.
2- One of the causes of criminal resocialization failure is the absence of economic, social and cultural contexts in the country. Head of the Judiciary should provide support attachments in the regulation of the legal bills related to this field.
3- Criminal’s resocialization takes priority in the preparation of legal regulations, and procedures required by the executive branch, and the judges thought transformed to resocialization.
4- Judges candidates character should be seriously considered to employ judges, in addition to professional ability and conscience, the expert commission should be formed and start its activities seriously, no formalities.
5- Duties of judges standardization
Tasks standards development remains essential to create transparency, monitoring and practices evaluation. One of the major reasons for the lack of application of criminals’ resocialization by judges is this case; the actions of the majority of the criminal resocialization institutions by judges are optional and they do not feel obligation. The referred works are extremely high in quantity and if there is an opportunity to meet the obligation there is no opportunity to engage in rules, it is necessary that concrete measures should be considered.

VIII. Strategies to ensure the success of the application of criminal justice policy of criminals’ resocialization
However, efforts have been made to develop strategies, the following strategies to achieve success in the field of criminal resocialization is recommended.
A) Development and design of community-based crime policy

Research on thinkers and social reformers, sociologists and criminologists' findings suggest a deterministic approach toward community-based attitudes from repressive societies. First of all, based on the scientific findings we should build the foundation of the country's criminal policy based on community-oriented ideas. In addition to this principle, the legislator should select specific approaches to achieve the objectives of resocialization envisage that such approaches can be cited as follows:

1- The increase in the social circle, including society-oriented institutions crimes

The overall breakdown of criminal offenses sentenced in Courts one and two indicates the crimes of imprisonment of four degree or more in the attitude of the legislator, thus, and accordingly criminal resocialization institution acts are accepted in all five degree or less criminal acts.

2- Criminals resocialization mandatory rules

It was stated on issues related to the conditions imposed by resocialization institutions that both the judicial authorities in applying this principle, and criminals in accepting have a sort of authority. The basic problem is that the while according to researches conducted we have reached decisive conclusion that community-based measures are more effective in low important criminal acts, why the legislator still uses coercive means? Why and for what reason?

3- Criminal's resocialization implementation simplification

Experience suggests that judges avoid optional institutions with complex regulations they put various tasks on them in decision making and effectively these institutions are obsolete. One of the main reasons for abandoned institutions is the complexity of the rules and obligations of the judicial authority.

4- Imprisonment relief

The findings of criminologists and sociologists have proven the maximum role of prison sentence in the criminal’s resocialization escape and even their prison seeking. “The overall results of the investigation by KLm and Wheeler indicate the negative impact of imprisonment and especially long-term prisoners on the reform and rehabilitation of criminals. Life in prison conditions that is associated with physical and mental exhaustion rather than adjusting prisoners behavior consistent with community norms tends toward the gap between prisoner and the community outside the prison” (Giddens, 1994). The fact is that the negative very complex and vast effects of prison provides grounds for criminals family in addition to him, and the real cost inflicted on the society is immeasurable. Thus, is it necessary for the legislator to determine imprisonment punishment as the effective punishment to this extent?

5- Restored the role of social worker

Appropriate recognition is the introduction to respond appropriately. Personal record is the social and individual aspects of criminal recognition tool. This case requires individualized punishment, abandoned official control and determined security measures appropriate to the character of the offender. Code of Criminal Procedure is mandated the character filing in serious crimes and juvenile delinquency in order to achieve the objectives. The role of the social worker's report should increase to the consultant's role. Social worker are required to report criminals financial, family and social status by Article 203 of the Code of Criminal Procedure, he can play the more highlighted role in the process of judicial proceedings and investigations in addition to consultative status report for criminal resocialization. Advisory theory and worker participation in hearings for consultation is not in any conflict with with required the independence of the judicial courts.

B) Establish the necessary structures

1- Social structures

Implementation of legislative community-based criminal policy actions requires special social, cultural and economical structures. First, retribution culture should be changed into the community-based construction by changing in all cultural contexts of the society and at the same time create the infrastructure needed for community accepted optimal performance measures and sanctions. Clearly, the mere legislation will not lead to abandoned crimes regardless of this change in public culture and structures.

2 - Judicial structures

The main resocialization legislative criminal policy is to create community-based judicial structures. Basic justice system structure should provide rehabilitation objectives and organizational arrangements should be built upon the approaches to justify a return. Given the resocialization institutions extent of the Islamic penal law Act 2013, needed structures should be established at any of the judiciary court or the judicial authorities such as the Department of Social Work Organization and resocialization measures and criminal enforcement in other sectors.

C) Change in concepts

1- Change in the educational system

Each country's educational system is a feed system of their thoughts and is important for criminals’ resocialization:

1) Public education: retribution mentality can be guided toward social oriented discourse by providing continuous inclusive public education and increase social responsibility of civil society on crime, change social attitude and culture to the criminal and provide trust and certain social capital needed to criminals resocialization.
2) Specialized training: training content and resources at law school brings about punishment oriented graduates. We start from a change in higher education course concepts and resources to adjust Judges retributive mentality.

2- Judicial jobs standardization

We have to standardize the legal professions to determine the decisions and criminal resocialization approaches status and to create creative and innovative initiatives and opportunities and application capabilities of resocialization institutions.

2- Move toward an objective judgement

Substantive and procedural rules required to be greatly expanded to avoid personal judgments and punitive approach to juvenile delinquency. These rules should only have community-oriented approach and comprehensively cover the country's international commitments such as the CRC.

IX. Results

The most important criminal policy challenge in countries is criminal inflation and the key to generating criminal delinquency inflation is the phenomenon of repeated crime. Several field researches confirm imprisonment turning to more crimes with doubt about the effectiveness of retributive approach. Thus, logic requires the practitioners of justice to apply community-oriented policies of criminal legislation with a deep understanding and realistic approach, because the complex puzzle of the repeated crime may only be solved through resocialization approach. Judges selecting this approach protect integrated individual social and public rights, ensure human dignity and rights of criminals and compensate victim.

X. References