

Iran's Legislative Criminal Policy in Prevention from Crime

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Abstract— The society must be immune from anti social actions, while these actions are performed, i.e. general officials should do some actions that prevent individuals from committing this action. These strategies are called preventive actions. Criminal policy, which has involved control methods, was restricted to use oppressing method for a long time, but following this method's failure, tendency to preventive actions taking was generated. The goal of this research is to determine preventive criminal policy in Iran's laws and regulations. The duty of preventing from crime has been undertaken by judicature in the constitution but next to it some references undertake this duty in customary laws that this shows that it is essential to form a coordinated institution in order to prevent from crime.

Index Terms— Prevention from crime occurrence, Legislative criminal policy, Dangerous state, crime repetition, correction and rehabilitation, treatment.

1 INTRODUCTION

PREVENTION from crime and lawbreaking has been always one of the most important issues in human societies, which has been realized through imposing criminal, social and cultural policies.

In today's world, governments have not been very successful in prevention from crime and lawbreaking because lawbreaking and increasing crime have become a universal phenomenon and all of the world's countries have been engaged in it somehow, so, the necessity of fading out individuals' criminal motivation and decreasing lawbreaking severity in society resorting to preventive actions from crime is felt.

Framework determination of prevention from crime is very difficult from meaning and concept point of view. The word "prevention" has been defined in the meaning of removal, prevent, hamper and prior hamper. (Dehkoda glossary).

Some have defined crime preventive word as: Prevention from crime is performing precautionary actions in order to prevent from unwanted events (Fallah Babaei, 1: 2004-2005).

Criminologists consider prevention from crime as each contrivance and action that is applied in order to lawbreaking inhibition and crime causing factors removal (Rajabi Pour, 19-21:2004-2005).

But this point is important that the first reaction that the human societies have performed as prevention from crime action have been oppressing actions, which was considering as only struggle method against crime and lawbreaking phenomenon for a long time. This oppressing action was the same as punishment, which in its own kind was imposed as hard and rough. Therefore, impos-

ing hard and rough punishments against crimes in order to prevent from crime commitment was among the specifications of old societies' criminal policy (Ardebili, 118:2007-2008).

But criminal policy in the field of combating the law breaking phenomenon was changed gradually with the appearance of sciences such as criminology and using their data in imposing criminals' punishment, especially criminals who have dangerous state, with this reasoning that punishment imposing not only effects on criminals' body and mind but also face their future life with various difficulties in society and punishment imposing must be used as the last alternative and weapon against lawbreaker and punishment substitutes must be used more (Noor Bahae, 528:1999-2000).

In this paper, we intend to review Iran's criminal policy about prevention from crime with this base that firstly which is the position of prevention from crime in Iran's criminal policy and secondly what are the modern methods of prevention from crime in Iran's criminal policy, but according to this fact that board of governors considered the only punishment imposing as prevention factor from crime occurrence in the begging and later Iran's criminal policy in this regard gradually was being moved towards using sciences data such as criminology, therefore, first combating crime methods in the past and then modern methods are reviewed and finally Iran's laws processing difficulties are explained about prevention from crime and necessary solutions are suggested in order to prevent from crime occurrence.

2 PREVENTION METHODS FROM CRIME IN THE PAST: THE MOST NOTABLE METHODS ARE AS FOLLOWS

2.1 Talion

Execution of talion order was giving to murdered heirs

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in order to prevent from crime occurrence in the past. For instance, while a woman in Kashan has murdered another woman and her crime has been proved by "Amirza Mohammad" canonically, they ordered the murdered person's relatives to talion the murderer and murder her (Iran newspaper, 1870-71, No.: 232).

2.2 Plastering or putting between pillars

This is one of the important punishments of the Qajar dynasty period, in this manner that "they were generating two meters hole as much as the number of condemned persons next to the main roads or citadels and flags which were subjected to the general sight and were putting the condemned in it and were pouring some soft soils on their head, so that they covered above the condemned's breast and except the condemned's head and neck, his/her entire body was hiding in plaster then they were leaving the condemned and were going to him/her after two days and some of these condemned persons who had been alive after two days and were asking water, the executioner were cutting off their heads" (Wilz, 245-6:1989-90) and also refer to (Karlaseria, 126:1983-84).

2.3 Artillery or bombarding punishment

In this case, they were putting the condemned in the mouth of the cannon in front of the people's sights and after whipping them on their back they were firing the cannon and so the condemned was becoming disjointed. The first case of this punishment's form is related to Qajar Fathalih Shah Period, which was executed about Keliabee Khan who had rebelled against him. (Hedayat, 7469:2001-2).

2.4 Candles to decorate

It was among other methods of punishment that was executed especially about three groups of Naseradin Shah's opponents, in this case, they were puncturing the condemned's body and put candles in them and were taking the condemned around in alley and market in this position (Poolak, 242:1989-90).

2.5 Fastening with nail

This punishment was applied for dangerous condemned persons and veteran thieves in this manner that they were first pounding both legs and then both hands of the condemned to the wall by long and steely nails and then they were nailing three large nails from back to his/her body so that his/her breast is adhered to the wall and he/she was being kept in this position until his/her death (Wilz, 246:1989-90).

In addition to these punishments, other punishments were also imposing for dangerous criminals in the past such as shoeing, hacking, fining, hanging, taking eyes out, cutting ear and nose and exile or exilement..... (Karzan, 593:1994-95) and also refer to (Saeedi Sirjani, 223: 1997-98).

3 MODERN METHODS OF PREVENTION FROM CRIME

Punishment phenomenon and its goals were evaluated after passing this period in order to prevent from crime and as a result the necessity of punishment execution with that severity and intensity was doubted and the society accepted a more moderate reaction in turn for crime. This reaction had the title of security actions at first and then security and educative actions and its basis was to adopt strategies in order to prevent from crime (Noorbaha, 529:1999-2000). Implementation method of these actions is different in terms of different countries' criminal policy. In some countries, punishments and security and educative actions are executed together and in some countries, security actions are used after executing punishments (Saneae, 201:1974-75).

One kind of the above systems has been accepted in our country legislator criminal policy has been in order to fight against criminality inflation and prevent from crime occurrence (Noorbaha, 559:1999-2000).

Punishment is action or criminal action quitting reward in Iran's Law point of view and security actions are strategies that are used in order to prevent from crime because they are according to the dangerous position that the lawbreaker shows (Afrasiabi, 156:1998-99)

Security actions:

The first detailed law which has been approved about security actions in our country was security actions law approved in 2 may 1960 that includes three chapters and 21 articles (Formal newspaper, 1960-61: no.:4502).

Of course, there were some of the punishments such as exilement in general punishment law approved in 1927-28 which can be considered as a kind of security actions. The legislator explicitly has pointed to security actions in corrective law of general punishment law approved in 1973-74 and prescribes in article 15: security actions are as follows:

"Deprivation from all or some of social rights, compulsory residence in determined place, prohibition from residence in determined place, deprivation from holding a determined job, closing institution, deprivation from the right of guardianship or custody or executorship or stewardship"

Prisons affairs and security and educative actions statute was approved in Iran in 1982-83 (formal newspaper, 10924:1982-83) and a new statute under the title of "prisons statute and regulations" was approved in 1989-90 (formal newspaper, 1989-90: no.:12915).

And finally in 1993-94, "legal and executive regulations statute was approved that is currently executable together with the law of security and educative actions approved in 1960-61."

Article 1 of security actions law defines these actions and predisposes:

"Security actions include precautions that are adopted to prevent from crime repetition in the case of dangerous criminals."

Security actions are being separated totally from punish-

ments by this definition because: firstly, the only goal of the security actions is to prevent from crime occurrence. Secondly, these actions are only adopted in the case of dangerous criminals.

The article 1 of the above mentioned has specified dangerous criminals with this title that: "Dangerous criminals are ones whose records and moral and spiritual characteristics and commitment quality and committed crime make them subject to crime commitment in the future, whether they are legally responsible or not.

Dangerous state detection is the court's responsibility but no court can consider a person as criminal or among the dangerous criminals only by its own believe, rather the law provides some evidences for court to detect dangerous criminal (Ali Abadi, 131:1973-74).

Thirdly, according to the recent part of article 1 of the above law, sentencing security actions is allowable when a person commits a crime.

Fourthly, sentencing security actions is true about both responsible and irresponsible criminals. Responsible criminals are the individuals who are adult, wise, herald and free and on the other hand irresponsible criminals are individuals such as children, insanes, etc.

Some security actions about criminals according to law are as follows:

- Maintaining insane and mind disordered criminals in hospital
- Maintaining lawbreaker children in breeding and training center
- To surrender lawbreaker child to his/her parents and carers
- Maintaining addict criminals in addicts treatment centers
- Maintaining unemployed and stray criminals in agricultural and industrial workshops
- Closing institution
- Confiscation of dangerous things

The position of prevention from crime in Iran's legislative policy

Prevention from crime has legal legitimacy in Iran's law. Principle 156 of constitution has placed an appropriate action for preventing from crime occurrence in the domain of the judiciary duties. But with a look at normal rules approved by Islamic parliament and executive statutes of institutions and organizations, it is specified that prevention from crime has been mentioned among the duties of some organizations and institutions, which is because of the actions and duties that these institutions are responsible for in the field of fighting with criminality and social abnormalities (Zeinali, 112:2002-2003).

Among police force, the organs of prisons affairs' organization and also specialized polices, which were formed in recent years in police force such as anti-narcotics police, inform police, general security and information police, frontier guarding police and the most important of all is the prevention police, which propel the police force towards performing actions before crime occurrence by

taking the activity of police stations and outposts under authority, practically (Mirzaee Motlagh, "102:2002-2003).

4 Processing problems of prevention from crime in Iran

Prevention from crime has many problems; the most important of them are as follows:

- 1- Lack of a comprehensive in the field of prevention from crime
- 2- Organs' numerous, sporadic and causeless activities
- 3- Lack of cooperation between responsible agencies in prevention from crime affair and different positions of responsible organizations in prevention from crime
- 4- Poor partnership of people
- 5- Weakness of field studies
- 6- Restricted investment
- 7- Not using prevention specialists and experts on performing preventive actions
- 8- Budget inappropriate distribution
- 9- Ineffective system of criminal statistics and existence of inconsistent and invalid statistics
- 10- Lack of officials' enough attention to prevention from crime
- 11- Lack of preventive activity evaluation.

5 CONCLUSION

Legislative criminal law exhibits legislator Idea about crime subject. Tendency to compressor contrivances or preventive actions are being found in legislative criminal policy in the beginning.

In Iran's criminal policy, comprehensive and clear definition of prevention has been produced neither in laws nor in judicial procedure and our country has no coherent criminal policy in the field of prevention from crime.

According to the constitution's approval, judiciary as prevention affair's trustee should also accomplish an appropriate action resorting to all of the existent devices, facilities and powers. Generally, prevention from crime suffers from disorganization in Iran, for achieving such a big goal i.e. prevention from crime necessary programming must be performed and principles and techniques must be compiled, so that thanks to it Iran's legislative criminal policy in prevention from crime is realized.

It seems that the most essential action in order to prevent is paying attention to two important issues.

- 1- Formation of one institution, which is in charge of all prevention related affairs
- 2- Planning one comprehensive program for preventing from crime

The following techniques are also suggested to compile prevention comprehensive program:

- 1- Reviewing of effective causes and factors in generating crimes and their classification
- 2- Laws revision specially in penal section and compiling necessary laws according to the criminal policy principles

3- Revision of judicial system structure
4- To care and support family as main unit and responsible for primary social education of children and teenagers
5- To support education system and generating prevention of crime related specialized programs
6- Increasing international cooperation and supporting all of governmental and non-governmental organizations, specially about some crimes such as anti-smuggling
7- Using mass media in order to increase people's knowledge
8- Finally, evaluating the effect and efficacy of the related actions must be performed by evaluating and measuring that are the necessity of each program and according to that, revision of some programs is being performed.
It is necessary to mention that currently, judiciary judicial development supreme council plans to revise the laws and judiciary structure by quintuple commissions' formation in legal different sections. Penal laws and criminal policy compilation commission has taken numerous helpful and positive steps in this field by prevention committee formation, one of the actions of this committee is trying to adjust legal bill of prevention from lawbreaking parliament establishment. Meetings have been held about this and they plan to provide a comprehensive program in order to prevent from crime, it is hoped that good and helpful results can be acquired in the field of prevention from crime by applying all the available facilities and powers in the country.

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