

Evaluation of Imprisonment, Good or Bad?

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Abstract: Nowadays, imprisonment is exerted for the delinquent who commit crimes and do not observe the social, human and moral values throughout the world. It can, without exaggeration, be said that there is no country in the world that has not anticipated the imprisonment in its statutory and does not have prisons and prison wardens because the penal role of the prison is undeniable, and it is impossible for a society to survive and continue without the existence of the prison. Since the late middle ages and renaissance, prison has been used as a punishment. Consequently its usage has reached its peak and has had a very long record in the history. Its history is really deplorable because the prison has been considered as a place so exert a series of punishing measures and/or as a detention house for the accused. But it is different from the organized form of these punishments in the current era because the prisons had not had favorable conditions in the past, and the prisoners were kept in dungeons, castle undergrounds and in the dark and humid places. Thus, many prisoners died of the unfavorable environment of the prisons during their imprisonment.

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1. Introduction

The historical surveys indicate that imprisonment, as a social reaction to punish the delinquent, reform, treat and readjust him/her socially is more suitable than other types of punishment such as burring alive, amputation, whip, death, etc. and is considered as a reduction in punishment. Because the aftermath of such punishment as death, amputation, etc. and more merciless and terrible than imprisonment. In fact, imprisonment as a main punishment is relatively new and current punishment compound to the above-mentioned corporal punishment. The punishment of imprisonment in its today form and approach has entered the modern criminal law, so is a new punishment. In the Islamic Republic of Iran, too, it has been used wildly since 1925 upon the approved of Public Punishment Art. The extent of its usage is such that this imprisonment has been predicted for around four hundred offences in the criminal era of the Islamic Republic of Iran(2).

Considering the philosophy of the imprisonment enactment, which is to punish and return the criminals, these days it can be seen that the prisons face an inflation of the penal population. Judges in many countries, specially in Iran issue the order of imprisonment for many offences. Government do not allot enough budget to the prison institution. The prison wardens are not given enough training and do not attend to this penal role. Children are imprison together with adult prisoners and are

sometimes kept in the same cell. Usually mentally disordered patients are sent to prison instead of lunatic asylums. And the number of the prisoners increases every day. Unfortunately, we can see that the prisoners go back to prison again as a result of committing offences after their releases from prison like other countries, in Iran too, this problem occurs to the prison and prisoner. Has the imprisonment tailed? Has the life of prisoner come to an end? Do we have to seek for replacements for imprisonment? These are attempt to investigate the role, studding and function of imprisonment discuss proponents and opponents of imprisonment and provide a precise evaluation of this punishment.

2. Proponents of imprisonment

As pointed out earlier, imprisonment has been accepted as a principal punishment throughout the world and institutionalized in Iran, too, and turned out to be a social fact and phenomena. And the authorities (the judiciary, organizations of educational, security measures and prisons) make special attempts to institutionalized the prison measured. This indicates that imprisonment is considered as one of the important punishments because such reasons as (preventiveness, exemplariness, reformativeness and remediability in case of judicial mistake and/ or the defendant reformations) creating order and protecting the

society against the delinquent account for these punishments(3).

The defects like inappropriate conditions of prisons in terms of physics, failure to allocate suitable budget and/ or failure to train the prison staff and the increase in the penal population of prisoners, etc. can be removed by means of allocation of budget, employment of staff and training of the prison wardens. Thus it impossible to ignore and disregard the undeniable role of the imprisonment since prison has advantages as follows:

1- Exertion of Punishments

Based on the teachings of the Islamic commandments, freedom and option is one of the primary rights of the human being. Therefore, the more lack of this freedom is unfavorable to the human being. When a criminal is put in prison, he/she is, in fact, punished hard, so the most significant of this punishment is to punish the criminal.

2- Protection of Society and Criminal

A delinquent who violates the statutory of a country treads the individuals and societal rights in a way and disturb the social system. If this person is not reacted to, the society suffers and gets chaotic. It may also lead the society to an abyss. Thus, this person should be kept away from the society until perfect reformation, and it becomes possible only through imprisonment. In addition, the imprisonment is advantageous because the criminal who has committed a crime and is under arrest by the family of and/ or the victim himself can be protected because the experience shows that the anger and pain of the victim and his family abates in the passage of time when the criminal is in prison, and it is also possible that he is forgiven in the future. Additionally, imprisonment is superior to the punishments. Firstly, compared to death that does not have the possibility of social reformation and return to the society, it enables on criminal to go back to the society after reformation. Secondly, it is preferred to exile, as well because exile does not prevent the danger by the criminal entirely, and the exiled person is about to commit other offences as a result of unemployment and lack of income. Thirdly, compared to whipping, which is one of the punishments in Iran, the imprisonment has better reformatory effects since the whipping has passing effects, but the imprisonment has long lasting of more informative effects. Internationally imprisonment is more acceptable than whipping. Fourthly, the imprisonment is superior to penalty and remedy as the rich citizens can tolerate this punishment easily by paying the amount without little pressure. This payment does not bring about the least punishment for them, but the poor people do not

afford this payment, so this punishment is not fair and is discriminative. Occasionally, this punishment cannot be carried out because of the defendant's inability to pay the penalty. In this case, the overall purpose, which is the same to remove and/ or abstain from the imprisonment, cannot be obtained. Therefore, if imprisonment is exerted with well observance of the regulations and principles, it is possible for the prisoner to reform and return to the society. This privilege cannot be overlooked since the prison is a place where the person can plan for the future by pondering about the past deeds. Therefore, through the evidence of the imprisonment, the proponents of this punishment believe that (4).

1-The judges may resort to punishment of the death, which has domestic and international consequences.

2-terrifying and debilitating the prisoner, which is considered during the exertion of the punishment, cannot come out true in practice.

3-It is not obvious how to treat with professional and dangerous criminals.

3- Opponents of Imprisonment

The opponents hold that short-term imprisonment creates a profound disturbance in the prisoner's life and endangers his employment and job, and his family is deprived from his presence. At large, many problems occur to the prisoners feeling of hostility is enhanced in the prisoner, the terrifying effect of the imprisonment fades away in him, so he does not feel regretful in reality. Secondly, the long-term imprisonment increases the danger of readjustment in the individual after release and the danger of disintegration of the prisoner's family. Consequently, the imprisonment is not able to control the society. Every punishment has its own philosophy of existence, and the main purpose of punishment is to account for the violation of rights, individual and social. The imprisonment, different aspects of which have attracted lawyers and psychologists, seems to violate the human rights itself. That is to say, putting somebody in a closed environment results in consequences which were not supposed to be produced. In other words punishment is supposed to reform the criminal and return him to the society as well as to punish him. However, imprisonment not only obtain these aims, but adds many negative consequences such as degrading the human dignity because in many countries, especially in Iran, the officers to manage prisons are usually prisoners not social workers, people without sufficient specialization and unfamiliar with the fundamentals of human rights, who humiliate the prisoner's dignity, with regard to the detention of the prisoner, if the prisoner is kept in a prison cell, such issues as sexual

violence, formation of criminal team, epidemic of contagious diseases, addiction of the prisoner may occur. And if the prisoner is kept individually, he may be afflicted with mental and emotional depression. Although individual cells with compulsory work and tough actions, etc. have become archaic, it cannot be denied that the systems of prison currently has shortcomings, and even a branch of radical criminology called annulism intends to annul the current criminal system, especially prisons. Therefore, the imprisonment has failed in a way and has not attained its purpose and philosophy of establishment; Therefore, the punishment of imprisonment must be avoided by replacing the measures that have better efficiency since prisons are not like schools, which is the more better. The large number of prisons does not indicate the cultural growth and society health, but it indicates that offence and crime have increased in that society. As a result of the above negative outcomes over the past decades, the imprisonment has changed in western countries and caused state men try to think up replacements for the imprisonment. Thus, they have embarked upon policing and planning the punishment of imprisonment by putting forward replacements for the imprisonment or substitute social measures with a modern approach to the imprisonment and usual punishment procedures and controlling the increasing population of the prisoners and preventing imposing excessive human and financial expenses, offering replacement punishment act over the past years and formation of special policing and planning headquarter are instances of this effort. The authorities of this policy maintain that the extreme perspective on crime by penal law makers, and the tendency of the law maker to anticipate this punishment in the law is one of the most important factors the crisis amelioration and increase in the penal population of the present prisons. Under such conditions, the authoritative organs for prisons and prison warding, which must basically be a place to keep, warn and reform the dangerous delinquent and criminals has turned to be a place to keep less important criminals, unintentional criminals, addicts and the financial delinquent who cannot afford the marriage portion and aliment. Therefore it is obvious that the prison, under such conditions, cannot act out its task, and respectful people with light offences must not be put in prison because this place is a place where people are trained badly, get unemployed, a place where the accountability is destroyed such that the professional prisoners are proud of this term. Of course, to decrease the usage of imprisonment does not mean the eradication of the punishment of imprisonment, but it is a comprehensive process the field of executive, judicial and criminal policy that

attempts to prevent imprisoning the delinquent with unintentional trivial offences and financial debtors through anticipation of suitable replacement methods. Instead, it provides such people with a suitable opportunity to compensate for the damages arising from the offence, pay debts, reform the criminals of this kind in order to reduce the destructive efforts of the prison. Through this process, the judges and organs can choose whatever suitable for the individual and society by describing the type of the offence, personality and social status of the people and their penal precedence. Therefore, the exertion of this process prevents the people with petty offences from imprisonment and results in the decrease in the number of prisoners and increase in the rate of release.

Over the past two decades, in western and European countries, we have seen the exertion of these replacement for the imprisonment. As a result of studies on the social loss of the imprisonment, the western countries have attempted to implement replacement methods for the imprisonment and have encouraged the organs to do so.

4- Discussions

As mentioned, throughout the world the imprisonment is sentenced for most criminals in many countries. And many of those accused to penalty go to prison because they cannot afford it. Prisons have abundant problems in many counties, especially in Iran, such as failure to allocate sufficient budget, failure to allot prison wardens. Sometimes, the term of the temporary detention is very long, and those who are put in prison are sentenced to imprisonment again after a while.

The released defendants are socially rejected and can never find a suitable job. Thus, owing to the abundant shortcomings such as crime creation and insufficiency in preventing hygienic problems, social, family and economic outcomes of the imprisonment, the penal policy markers do not think of replacement punishments and prison eradication. Most of the orders issued by the head of the judiciary encouraging the judges not to the punishment of imprisonment expect if necessary denotes this fact. Of course, the judges in Iran do not have a clear-cut framework for the sentences in order to use replacement Act submitted to the Islamic consultative Assembly in the mid 6000 has not been approved yet.

Although the exertion of the replacement punishments has not result in the population of the prisoners, and the enactment of these methods have forced problems, and these punishment are viewed petty and unreal by the public(6), the exertion of the replacement punishments such as doing common wealth activates require acculturation, and can be

reviewed as a suitable replacement in the future so that the penal policy makers can be assisted in the purposes and philosophy of punishments, especially imprisonment.

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