

CRIMINAL JUSTICE AND RESTORATIVE JUSTICE

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Abstract: Human since its inception and after living in society front with crime phenomenon because human is essentially commitment for doing crime and sometimes for obviation and satisfaction his need do some wrong works and go wrong ways and these wrong works threat health and safety of society. One of famous way for conflict of convict is punishment of convict that there was from beginning of initial human societies and is different according to culture, belief and value of each period. Although punishment seem violent but is a facility for punish of convict and accomplishment of justice and doing punishment is exactly what can say from punish justice. New thinks of punish justice want find new ways. Because of some reasons such as expensiveness of doing crime, increasing of convicts, don't control level of crime, public displeasure from longsome of assistance process and increasing of prison punishments, we see deficiency of punishment justice and in better words

defeat of traditional techniques in doing punishment in the way of social justice. And in finding suitable situated, restorative justice create with affirmation idealistic effect in compound of social justice. Till with generality partnership and by using bundle of norms and values secure more justice in society.

Keywords: Crime, Justic, Criminal Justice, Restorative Justice

Introduction

In the definition that represent by Dorkim from crime, crime is a social phenomenon that seem in all societies by extremity and weakness. (Rimon, Aron, translated by Bagher Parham, 1383) and crime seen in the time in society that values and norms waste its position in the idea of convict. And society do defense from itself and the norms according to social contract, defense and protection of them. And this work done from past till now by doing punishment.

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So, punishment is a tool for creation discipline in society (firozi, 1390) that make correlation in society. (Dorkim, 1390). The paradigms of justice is criminal justice and restorative justice. In criminal justice the emphasis is on deserving criminal in crime (shiri, 1385). This viewpoint was very considerable till appearance of assertion academy. And after that eyes of justice angel opened and compensation thought changed to preventative, treatment and adjustment and seen another justice that's name was restorative justice and that's aim was doing punishment and compensation of harms to offense too.

Criminal justice:

The aim of doing punishment is protection of human law and forbiddance of offense to them for realization of justice. This justice named criminal justice. The mean of criminal justice originated from idea of Kant. According to his idea justice just achieved by doing punishment and nobody can betake from punishment and if society betake in the case of punishment, considered as crime cooperator. (shiri, 1385) and by saying example of deserted island try to say the meaning of criminal justice. So criminal

justice is something as punishment and the reason of coming crime with justice according to his idea is, the crime mix with concept of justice and show that enforce criminal law is same as administration of justice.(mozafari, 1388). In the view of justice the standard of justice is law and did not pay attention to rule of society and effect of that in crime but just pay attention to explanation the concept of crime and punishment of convict. The government role play instead of society and victims and unlike restorative justice, the right of victims is in secondary level of importance.

What experience show us during these years is that criminal justice did not answer needs and by looking at extreme, know punishment only way of forbidden crime. Excess in some punishments such as prison punishment and overpopulation in prison, affected the problem of prison overcrowding (York Alberesht, Hance, translated by Hossein Gholami, 1395). However in most cases, offenders after enduring punishing, because every body know him as convict, he accept that as the role of identity (salimi, 1392) and do that wrong work or another crime again. This

work in forbidden crime show unfavorable result and make extension of crime and reduction partnership and the role of criminal justice.(Gholami, 1395). The point that is important as one of the ways of justice in society is that in society did not pay attention to role of society and effect of that in crime and what is important is meaning of crime and in result of that punishment without accepting responsibility by convict. In addition of that did not pay attention to benefit of victim because punishment do not have benefit for victim and in most cases losses and damages is irreparable for him and this is in situation that social and economical costs of criminal justice is high.(translated by Hossein Gholami, 1383) and facilities of government cant pay this costs.

Restorative justice:

The defects that noted before about criminal justice make some reforms in this cases and by formation of restorative justice try to make interaction between sinner and victim by deficiency the traditional system. In a way that its main emphasis is on restoration of discrete relationship between them. In definition that was about restorative

justice, restorative justice is the process for involvement the people that are partner in special crime till in a collective manner compensate the harms, loss, needs, and commitments for improving the affairs as possible. Development of restorative justice in new form start from time of first mediation programs between sinner and victim and flourished in middle of decade 1970 in Canada and supply other type of idea toward crime and restorative justice and provides new way for answer to crime and believe that crime essentially is violation to interpersonal relationship not relations between person and government.

In this type of justice system, emphasis is on several main principle for example satisfaction of victims, because in restorative justice system this type of people forget and even sometimes their rights violated by judiciary and confront with other type of victimization as secondary victimization. In this point of view identity the position of victims for understanding harms and ways for restoration them, is important point. Provide financial assistance specially in first levels of crime is very important. The losses that victim suffered from starting of crime till elimination of

effects such as cost of treatment, trial, unemployment due to disability, price dependents and cases like this that sinner must be held accountable. In restorative justice system in addition to compensation of material aspect, there are admirable symbolic aspects too. In this way that if sinner can't compensate all harms and damages, announce that accept his doing work responsibility and is ready for compensating the damages of his work. This work make victims calm and by making this situation for sinner, the risk of committing a crime by sinner get weaker.

Other principle that emphasis by this system is promoting a culture of participation and intervention. in this mean that sinner and victim and their relatives and community members have important role in process of administration of justice and need hear story of each others and know reason of sinner and victims and investigate crime situations. Although this partnership can done in direct way, provide some negotiation opportunity and this negotiations can prevent frequent victimization and frequent crime. Due to the harmful effects of crime and according to shame theory that according

to that sinner shame because of his bad behavior and after that come back to society again and try to destroying conditions causing offense.(Gholami, 1395).

Samples of restorative justice in Iran laws:

Criminal justice system of Iran in addition to acceptance of theory of retribution and rehabilitation in punishment, pay attention to restorative justice theory too. Participatory approach considered in traditional culture of Iranians before Islam in ancient times and in Islamic techniques. Making difficult the prove of a crime, prefer forgiveness to nemesis, interested in covering some crime, using of some institutions like suspension chase with condition to his compensate, suspension of punishment, reduce time of imprisonment in parole system, increasing number of supply arrangements for limited use of judicial authorities from issuance the arrest warrant, refer the matter to mediation to make concessions or refer the matter by mutual consent to the arbitration councils or mediation institutes (Mosaddegh, 1394), using the participatory criminal policy through

participation of natural persons for making peace and reconciliation between sinner and victim, electronic surveillance of the sinner, using non-custodial punishment and.....are samples of restorative justice in criminal laws of Iran.

Conclusion:

Criminal justice is based on retribution and criminal answers that make person go away from society and lack of social acceptance. (Mohammad por, Alizade, Aghdam, Pashazade, Abbaszade, 1390) but in restorative justice consideration is on making the sinner social, compensate the harms of victim and making interaction between sinner and victim and solving problems of crime by speaking and negotiation and by help of local society and far from seeking revenge. What is important nowadays in all societies this is almost all communities know that many problems solve by peacefully ways and for respecting the rights of people should be away from violent methods. Although security orientation and retribution answers apply but using non-custodial methods, social sanctions, using mediation and restorative justice

approach and develop effective programs for return past convicts to society has important role in politics related to crime. In short restorative justice, guarantee human dignity parties (Gholami, 1395) and with refrain from criminalizing extremist, refrain from abuse of punishment, the fundamental rights of people safeguard and by reducing the role of government in answer to crime and adherence to principles such as the minimum principle and the right to be different, the rights of human will be regard more and better.

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