

The Judge Looked at the Consolidation of Law and the Rights of Criminal Policy Approach

Saeed Kharadmandi¹, Ali Asghar Azami¹, Kheyri Khazayi^{2*}

¹Department of Law, Kermanshah Branch, Islamic Azad University, Kermanshah, Iran.

²Department of Law, Kermanshah Science and Research Branch, Islamic Azad University, Kermanshah, Iran.

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ABSTRACT

Criminal proceedings and the hostility of certain powers and procedures of the judicial system is particularly influenced by the classical justice system but now the interaction criminology in previous "posteriori" of the criminal's policy Legislative broad "Dlmas Marty" in comparison with the policy of criminal narrow "Feuerbach" in criminal purposes has portrayed legislative. the aim of the answers is "Sociality" participatory " de-Ironically " and consequently the " de prison " the criminal justice system although we have focused in this paper on their Muslim criminal policy, criminal policies of the Western model of a plurality of criminal policy in terms of the fundamentals difference of Islam structural model, but in terms of "outcomes and impacts" can also be common .So today the government's efforts to "transfer", "address" response from official institutions classic sociality soon and often "partnership" has been in rotation one consequence of this "risk transfer orbit" will help the active participation of institutions outside the formal justice De-ironically and corroding the label "criminal identity".

KEYWORDS: De-ironically, Judge Consolidation, Criminal policy, Public order, Rule.

1. INTRODUCTION

Criminal law there were in human society for over four thousand years old But modern criminal law as a systematic discipline mix of general principles concerning aspects have been developed independently of each other within the collection called "codes" Nearly two centuries old [1]. Thus the criminal law in the context of a systematic and Space Born Considered an act of anti-social crime and through the institutions of the criminal justice response that is commensurate with the severity of the classic work imposed on offenders "Punitive justice" Criminal Policy in Europe and North America since the early 1980s avoiding a formal judicial process, penal complex and costly to the criminal justice system has preoccupied the minds of trustees. So today, criminology legislative authorities has been influenced criminal justice, especially economic theory in the form of "social reaction crime" and even though the De-ironically and Desire to inspire penal system has been proposed and Delinquency Product structure, function and behavior of the offender knows the classic criminal justice agencies and that its criminal justice institutions in various stages of "legislative, handling response," developed scope penal system [2].

Critical theory of sentence of imprisonment has been criticized it on "repeat offense" through acculturation sees the prison environment Behavior, criminal justice institutions of its kind "edgy label" and they criminals unprecedented clash that will lead Personalization into the world of business crime and "identity offenders". Besides the criminal justice system has not been enough attention of rights and interests of crime victims in the criminal process, criminology today affect detection "secondary victims of crime" can be support damaged in the process of actively and effectively. And in addition to these, the traditional criminal justice system in dealing with fear, hatred and revenge and a return to the world of private revenge to reinforce under the influence of these propositions drawn The legislative policy of the state criminal Towards the development of response institutions "participatory society" and the expansion of quasi-judicial bodies are outside the formal justice system. this paper has attempted to examine the contribution of these institutions, "the judge consolidated approach to criminal policy"

*Corresponding author: Kheyri Khazayi, Email: kheyri.khazayi@gmail.com

It is hoped that the principles and conditions carefully and it is clear that put the opportunities and challenges of the criminal justice authorities in order to stay relevant to the formulation of a comprehensive policy, take steps in this regard [3].

Criminal policy and its models

Section I

The Concept of Criminal Policy: Today, the definition of criminal policy emphasizes the concept of criminal politics of mass non-exclusive, non-exclusive norm-breaking response to the "criminal and reactive responses"; and non-monopoly enforcement of criminal policy of "state" and perhaps most importantly "the coherence and systematic" elements and elements of criminal policy [4]. It can be said criminal policy is defined as "the study of a wide range of government and civil society to take action and suppression phenomenon" criminal " Prevention, protection of victims of crime, intended

*Corresponding Author: Kheyri Khazayi, Department of Law, Kermanshah science and research branch, Islamic Azad university, Kermanshah, Iran. Email: kheyri.khazayi@gmail.com

directly or indirectly and in various rituals and practices as a response to the situation prior to criminal or earlier "offense" response to the devastating consequences of the crime or crimes committed, as well as depiction of such acts to prevent repeat [5]. Since the criminal policy of the Constitutional period, mainly in the "broad" has been considered by the lawyers and criminologists [6].

The emphasis of this master French Madame Delmas Marty Big Book of criminal policy provided broad definition of criminal policy in contrast to the narrow definition of "Freier Bach's" criminal policy had stated that criminal policy "set and the ways that the government use its coercive reacts against crime" The nature of the work" is different. Freire Bach defined firstly put suites sabotage the criminal policy instruments Delmas Marty consider to sabotage and not sabotage tools. Secondly Freier Bach has given to the prevention of non-criminal but Delmas Marty targeted prevention of non-criminal Third Bach Freier, criminal policy enforcement, is government, but Delmas Marty considered society participation outside the formal justice system. In addition to the criminal policy of liberal models Islamic criminal policy also has to consider defines "broad" criminal policy which is derived from the jurisprudence and legal It is derived from the jurisprudence and legal In addition to his contribution to the Islamic penal response, non-punitive responses outside the traditional system of classical consolidation of Justice, arbitration, dispute resolution committee, has considered. Therefore, if you consider define policies to manage the performance of the criminal phenomenon "criminal" In the early establishment of an Islamic state are seen in view of the Holy Prophet and the Imams. But Madame Delmas Marty and Christine Lazhrz due to lack of knowledge of the theoretical and practical aspects of criminal policy defines a kind of model "authoritarianism with fascism [7, 8, 9]. Therefore, we can say that ideology is a system of government based on official Desire for sovereignty, reversibility' traced to their criminal policy Islam Criminal policy is not exception humans in realm of criminal policy of human dignity and therefore a right to a healthy life away from any titles and headings of crime.

Section II

Criminal policy models: Based on the structural analysis provided from Marty's long Delmas general criminal policy models can be classified into three terms:

A: criminal politics 'offense or diversion, or both.

B: Type A criminal, administrative, arbitration, civil...

C: A trustee of 'government, community, participation

Accordingly, and with the combined set the direction, methods and a variety of patterns can be obtained According to the ruling ideology 'desire for power, reversible' and its intellectual foundations, religious, political, economic, or a combination of one or more individual model adopted and applied but the policy and practice of Islamic criminal behavior is of the five precepts of "forbidden, recommended, detestable, and lawful" However, in the realm of personal and ethical behavior in all areas of criminal policy has to control Islam five "The Theme forbidding the evil and hateful and encouraged to become obligatory and permissible Lending through good intentions." But the imperatives of political, social, criminal and confidant of Islam are in the realm of criminal policy In other words, the criminal policy of social control is limited portion of the behavior of Muslims in the "That Muharram duties and obligations and Mhrmaty narrow interests and corruption which is more linked to the Muslim community." first, the state of the control unit is small and secondly, the responses of Islam is not merely a response criminal [10].

According to this model, the criminal political Islam can be a participatory model "state," and yet "inner, outer," as the applicable state and society is not any ordinary model, Dishonesty main cause of the common models in the analysis of the principles governing criminal policy should be known as the main elements of structural analysis and modeling of criminal policy in the West.

On the other hand, internal constraints on criminal policy refers to elements such as the conscience of Islam means "Kant and Rousseau" or mode of social learning is not there for the proposition that a "higher self" is in human existence. There's a rule on him to do anything that has refused contrary to the dignity and excellence observe the circle of crime and deviance beyond the means of the lawyers said in legal literature. Of course this does not mean that the periods do not overlap with the criminal policy of the West and Islam. But at least they corrected the "outcomes" are overlapping, thus leading role in responses to "respond" to the crime, the government and civil society here has a secondary role and answers "proactive" crime of civil society and the government's primary role is secondary [11].

First speech: Judge Consolidation Definition

Judge consolidation is the person who handles objections parties without the permission of the Imam [12]. Some have said that the judge appointed by a judge to consolidate individual litigants to consent to his judge [11]. Consolidate court judge and who is appointed as a judge to consolidate the province's so-called consolidation Judge Consolidation is a person who has consented to arbitration of certain disputes to be chosen by the parties to the conflict out of his embrace and commit themselves to do his sentences. Clearly, judging such cases, the person with the title "judge" and this province than in any other province must be the legislator's permission regardless of whether one's own or the Imam's permission to accept such provincial judge. The judge is twofold: Judge appointed and non-appointed, non-elected judge or the judge to consolidate the one who appointed the judge, not the parties consent to the jurisdiction and their consent according to allow the Holy Legislator gives him the right to apply Provincial [4, 7].

Judge strengthen in perspective of jurisprudence

Imami jurists consolidate the provisions of Sharia are known signature, but disagree about its legitimacy and in this case are divided into three groups: the first group believe there is no such establishment in the judicial system of Islam. Kani tells you to judge not consolidating a valid reason." the second detail, and they are divided into two groups: group I believe is legitimate, but the presence of such facilities is valid Immaculate, the second group believes in the absence of imamis valid, the third category is established without any stipulation permitted to know and believe in the institution of the Islamic legal system exists and is compatible with it. Among the first batch of scholars strictly follow a judge appointed by a judge only if the city is not allowed to count.

And others need to follow special interests and private financial claims as [13]. Another group are unable to detail that is necessary to consolidate the judge is appointed bona fide Including, being qualified in jurisprudence And such persons during the occultation of Imam in general have been appointed to the judge, the judge is not conceivable, thus strengthening the hypothesis [14]. The remarkable thing is that the judge should consolidate the terms appointed judge whether or not there is a serious disagreement For example, the resolution achieved in this field, says judge appointed Imam appoints the following Imam's permission is required for the stability of discretion for the judge In contrast to the mere satisfaction of the judge to consolidate his enemies is enough. Sahebjavaheer The main objection to the judge's consolidation of certain aspects concerning the judgment of the Imams of Ijtihad, second consolidation cannot judge that person is a non-priest [9]. The judge knows it consolidates valid first Shahid Imam knew the second it unique. Alaeme description reads: "Aam and that the judge arbitration does not solve the backbiting never imagined it to be diligent was carried out without the wisdom of Arbitration, but was not implemented and the rule of consensus and never realized but with tapes collected for attending the event and also not to ambush us". The result of the consolidation of the famous jurists, judges legitimized though the "realm" There are serious disagreements [15].

Judge consolidated view of scholars of public

Between the Republic of Sunni scholars about the legitimacy or illegitimacy of consolidation is controversial judge some of their scholars like Imam Fkhrrazy, Abumohammad ghzaly, Shafie scholars do not legitimately judge [13]. In contrast, scholars such as Hanafi, Maliki, Shafie, and the majority of scholars consider a legitimate judge had agreed to strengthen its legitimacy, for the Hadith "From the rule between the two females did not satisfy him amends actual cursed God" have Used. [15]. They have said that the story strengthening implies the legitimacy of the judge, it means the same as above, however to strengthen and selection, in this area there is a dissenting opinion in the sense that MrsIh narrative implies stability "Virtues" judge, don't consolidating the provisions of the story "in general" is in a position to tell the judge not consolidating. Second, the official narrative expression "quality of death" means the sentencing judge Justice has not exceed outlined the extent that the legislature. But the judge to consolidate the legitimacy of Imami jurisprudence mentioned, most legal scholars believe that the consolidation of public justice, but as Imami jurists, there is a serious difference in some of the minutiae [13].

Principles the legitimacy of Consolidation judge

Judge consolidation has been accepted by most scholars of his reasons the Book and the Sunnah, the consensus of the alleged [2]. The main reasons can be cited hadith narrated by IbnKh including the late Ayatollah Khoi is invoked it everyone who judge unfair and some people looked at the man but knew nothing of our issues must put one who had made him a judge fairly. The hostility of the tyrants can work together to avoid arbitration, but in this case should be your own man see us knows the issues of education and put him in his referee I gave him your ruler so he must go [7].

It is argued that the phrase "put" in some traditions that are compatible with Judge Consolidation The late Ayatollah Khoi implications of this hadith from Imam does not judge the initial setup and installation, does not know the judge from the evidence of the absolute "non-consolidation" He said in this regard: " However, the correct and that the novel non-serious, a monument to the judge and staring because saying: I have made a judge Off on saying: the judge is taken by litigants. The result is utilized to make adversaries of them is a provision that made him a judge of the Imam [2]. But this is the correct version does not install the judge's comments primitive "non-consolidation" Imam said that the issue "should put it, judge" is the word he said accessories "Put" the judge's order that the parties have accepted him Therefore, it is concluded that the parties who will sentence the judge has given his Imam, Another version, which was consolidated basis to judge the legitimacy of the narrative is Omar IbnHnzlh reads: " legal and illegal view and knew the provisions of the rule him liked made him a judgment "Hadith tells us that one of us is in the lawful and unlawful, and is familiar with the provisions of the decision to put himdiscision making, I put the ruler of her own, if so, who will accept the verdict and sentence have belittling God [3].

What warrants our execute judgment and not the judgment of God as God is idolatry, some contemporary scholars to judge the legitimacy of the Quran consolidation Yyaty have argued about enjoining good and forbid the evil, Resolve the matter between the parties "famous", "Muhammad Ali Gilani, justice and judgment in Islam". FadhilMiqdad also been invoked has strengthen the legitimacy judge verse " And those who have not come down as the God governs understand who are pagans" However, generally a dozen reasons as to strengthen the evidence Judge provided that the proponent is as follows: alternative verse; verse behoove all that God has given judgment for the and obligatory public revelations of enjoining and forbidding the evil; Prophetic narration - narration of IbnKh; Narrated Ibn 'Umar accepted Hnzlh; Narrative Abvbkhyr; consensus; the way Reasons to fulfill the condition [8].

Terms and strengthen the powers of judge

Section I

Scope: Consolidation among Imami scholars disputes the scope of the judge's discretion. Some elastic knows no limitation, any subject the jewelry, achieved a settlement, SM and Sheikh-Tusi this category, and that the scope of consolidation judge has broad discretion the thong is even included. Allama Hilli in his book *Rules for the accuracy, legitimacy, the judge expressed doubts Consolidation permits imprisonment and brought to punishment*. Allama are two types of narratives that seem to conflict with each other The first category implies licenses and penalties and imprisonment brought about such Hfz-Ben Ghiasi reports from Imam Sadegh said: run around and punishment at the hands of someone who gives a ruling on the interpretation of the Late SM Sheikh Tusitebyan have the same view another class as the basis of the principle of caution and believe it temperature not very clear to the judge that such consolidation is optional, prudence demands that does not interfere with the execution of some contemporary scholars as well as the scope of the judge's authority to consolidate Exclusively in criminal matters and finances allowed for consolidation Vnsb not presented to the judge. But the late Ali Fazel Hindi Alatlq the right of Allah and the Al Naas General narratives of enforceable and legitimate scope of consolidation judge knows "Hindi, learned, discovered Allsam, Volume II, p 32 Sunni jurists concerning the jurisdiction of the judge to consolidate two Hsnd Fat Hnablh and BrkhyazShafei are the majority group in all strengthening sentences permitted to know, and the second group of Shafi'i, Hanbali and Maliki who believe consolidation is permitted only in finance [13].

Section II

Conditions Fazy Consolidation: Judge consolidation legitimate scholars know all the circumstances that the judge appointed such as maturity, wisdom, justice, man, solvents and obligeexcept with an "Install" to consolidate the judge must know the reason consensus. All of the judges appointed by the Shaykh al-Imam should be broadly achieved resolution Allameh Helli Shahid Thani, Sabzevar and Hindi learned that apart from the requirement to install, other conditions the judge appointed a judge of consolidation is valid [12].

Section III

The decree granted: Feghhi texts consensual contracts or contract terms of reference for the judge to consolidate unworn but the word "compromise" has been used [14]. The jurists to compromise the contract or contracts loss would not have said "men, Yasser, Proceedings, pp. 569" only problem is that if a compromise is necessary before death sentence of the meet after the hearing is necessary or not? [11]. ShahidThani says the process has reached the stage where one of the parties to Asnma sentence, credible witnesses brought to court, the other party can consolidate Fazy and he cannot dismiss banned "factor, Zaid al-Masalk-Alaqham" the main reason is that the evidence necessary Juazaz this group of scholars, including his contract Indefinite contracts do not include contracts such as AufuBalqud Many Sunni scholars consider it permissible to consolidate contracts, but some also refer to the starting trial know. Khonsari the words of the late Ayatollah AllamehHelli rule book says if two people compromise their personal judgment on the verdict on them is valid [13]. I believe the court should and the criminal will be detailed in a criminal case the key and extended the rule originally owned by contemporary scholar's dispute the general order of submission of judge strengthening the binding is not known, although the parties consent to it [10].

The judge via consolidation of the statute law

Iran Criminal Justice Policy on Bill Consolidation as the first official establishment of public and revolutionary courts Mzub legal literature was compiled in 1381 in Article 6, Article 6 of the lyrics are: "If the parties to the agreement may justice and Chapter antagonizing the judge to consolidate Mrajh "Substance due to uncertainty and lack of clear explanation of the exact meaning of justice and strengthening its instances actually "ghost" was actually the beginning of a judge to consolidate the material 632 to 680 BC. You.De. 501 The former and 454 to the BC .A. D. saw the CE Act 1379, other categories beyond the scope of consolidation Judge Arbitration, civil procedure, and family law judge considered the issue and the need for a comprehensive law expected to strengthen the provisions and conditions of the judge they have had. However, the mental act of the legislative act (she looks) that is not based futile legislative form of idealism pragmatism rights. Insert thought the purpose of strengthening the criminal law will judge other than the judge only had rights. Therefore, if the judge believes the reception area we must inevitably strengthen the criminal case brought the concept to the public and private it seems that the first type (independent conflicts) between a criminal case based on the (legally owned and public order) and private dispute based on the (compromise) the legislators need to remedy this [13].

Crimes are divided into two categories, public rights-related charges stemming from defects sentences Ebadi (divine right) and other related parties' rights (the right people) domain of judges intervening in these. No similar offenses in the Criminal Justice can directly interfere divine right "principle of mandatory prosecution of" crimes against the people's right to intervene pursuant to Judge People rightful claim "victim" comes to action With regard to the assumptions mentioned early primary principle in criminal law that is based on "public offense" is non-public and the need to reiterate that needs to be clarified and most crimes are Most of the crimes or offenses punishable by divine right as soon as they are "in this context, although there are exceptions, such as theft before Lift it up and tossed to the ruling Crime can include people's rights and is subject to the plaintiffs' Dignity, integrity, or public or private, on the contrary, based on the principle of "dominance" is superior So in these crimes, the public reputation of excellence is privately owned by the

requirements of public order is a requirement for lead And the first reference to address the formal justice system "state" is so If allowed to intervene in accordance with article 6 of the top judge consolidate all criminal offenses mentioned in general in place of what could be a compromise enemies. General description of the outcome or the director of the legislation of crime pursuant to the "wisdom" significant consolidation within the jurisdiction of the judge assigned to the petty crimes [15].

Classic legislative sovereignty over criminal policy in the criminal justice system "official" that dominated his years in the West with the advent of absolute justice Kant and classical school Beccaria and his leadership and consolidate penalty equal to the mass of the considered "Punitive justice or merit" but the subsequent rise of the positivist school "realization" led Lmbruzu Italian and his then new School of Social DefenceLed by French Judge Marc Ansel concept of crime, punishment, criminal justice, entitlement evolved and transformed in social justice was a "relative" and in recent decades which have been influenced by this school of criminology and criminal policy of the new government's reaction was essentially legislative response to criminal and civil institutions outside the formal justice system or at least associated with the promise of a new vision And according to the principles of Islam in the criminal policy based structural reform and social return of offenders to the quasi-judicial bodies like the judge has given Consolidation However, due to the judge explaining just strengthen the foundations of the legal literature since the agency failed to act formally and it is hoped that those in charge of the Criminal Policy of their legislative contribution to the emergence of civil society are required to complete.

Conclusion

What raised the issue comes to the issue of general and specific discussion of the science of jurisprudence and legal principles is concerning the terms of the respective of the fruit. That imply depending on your senses to all persons and all scientists. That some people are in general such as some scientists. Most scientists have discussed in their books three types of mass (mass absorption, imitation, general, general and total). If the sentence is fixed on the word independently sentence is so common for all persons subject to each individual it is called absorption. Like: everyone give money to else word captures off everyone, including all the people both male and female, black and white, a minor, and the Great. And general words for all persons subject to their social shackles they still say it is the total mass. When it is said, all prisoners must be released, if the number is not released even one person is not executed. And when mandate on individuals to make sense to include imitation, imitation in the general case, it is necessary to say such things are sufficiency. General or specific qualifiers are why some people have warrant out on two type's qualifiers attached and detached. If the mass is connected to the Word of qualifiers qualifier attached it to say. Like saying "just respected scientists" and verbal qualifiers in general should be independent of call it separate qualifiers. The common denominator is both of these two qualifiers on intent and means of speakers that is an indication that will not be the general meaning. And distinguishes them is that the qualifiers attached to the front of the general public is emerging but disjunctive qualifiers do not generally emerge; and after a warrant was issued to harass the general appearance of authority; and the official opposition, particularly because the public is forward. Sometimes qualifiers brief synopsis and the ambiguity of the concept of quasi-pseudo-metric and its manifestation. In sub-case, the verdict is clear, but the evidence is ambiguous. As a person who knows how to deal with the non-interference property is. But does not know who is in charge of his own property or another. But like the concept of qualifiers as outlined, and the concept has spread and the general ambiguity of authority puts it. Special and general discussed the law is clear after more than half a century of legislation in several laws, among them, Certainly, conflicting law, general and specific, and have out dated excludes. So a judge, lawyer or lawyers to interpret the laws of logic and literary compelled to apply the rules of science. We hope this article is able to decode various rules of inference.

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