

Methods of Amendment Justice in Prevention of Penalties in Iran

Mahmoud Eznave¹ and Dr. Nader Nourozi^{*2}

¹Department of Law, College of Agriculture, Tehran Science and Research Branch, Islamic Azad University, Tehran, Iran.

²Assistant Professor in Department of Law, College of Agriculture, Tehran Science and Research Branch Islamic Azad University, Tehran, Iran

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ABSTRACT

Restorative justice has been proposed as the alternative for traditional patterns of restorative justice in the second half of the 20th century. This concept of restorative justice caused by changes in attitudes and opinion of criminal jurists, criminologist and criminal system administrators toward criminal justice which is based on sanction and suppression in one hand and criminal system based on restoration and rehabilitation on the other hand. Firstly restorative justice regards crime as violence against people and their relation, secondly considers it as breach of criminal law, however it concerns about basic interests of offender and civil community institutions, mainly cares about victim and his/her inalienable rights in all criminal justice procedures and it identifies novel functions, goals and affairs regarding criminal justice enforcement and criminal justice system. One advantage of restorative justice rather than traditional methods of criminal justice which tried retributive justice and rehabilitation is that restorative justice attempts to create compromise between victim and offender and provide permanent peace among parties in addition to insuring victim rights .

KEYWORDS: restorative justice, crime prevention

INTRODUCTION

Appearance the concept of amendment justice is result of transition in Looks and public reasons of Penal jurists, criminology and executor's of penal discipline rather Penal justice based on (reform and training) that in joint with human concepts and culture and values of civil society, introduce creator Penal justice and searching. This new – fangled phenomenon, apart from historical and cultural antecedent and before recommendation, first in interval various programs of the amendment justice family, like Penal mediation, assemblies commandment appointment and Punishment, conversation F family groups and.... is analyzed and then basic elements and aims and its output have theorized amendment justice have presented a new definition of tradition concepts and the classic of punishment rights and output of penal rights compositions and in Practice have reciprocal much effects on fate of penal claim possessors, civit society and compositions of penal justice discipline.

amendment justice first receive incrustation to aggression to persons and human relation and in subsequent stage, know it punishment law defect [1, 2] and with respect to basic profits of compositions of civit society, resolve the sinless and his basic requirements in all the stages of penal judge, in concentration axis and introduce outputs, aims and New performance and works in relation with acts of Penal Judge and Penal justice discipline.

Definition of amendment justice; for amendment justice there is various definitions that the best of them is "Tuni Marshal" definition, England writer and criminologist [3, 4, 5]. According to Marshal: (amendment justice) is a process that in it, all the persons that have special share in relation to crime, come together To generally in relation with quality contact with crime's effects and Results and the problems arising of it for future decided to find solution.

in the opinions of Britannia consortium amendment justice, (amendment) justice is in follow establishment equilibrium between challenges and the anxieties of sinless and local society accompanied by need to return and re-concrete of sinless with society. Amendment justice is in follow helping to amendment and improvement the situation of sinless and enabling all the right direction, function or share in justice, for useful company in it. In other definition amendment justice is every paces that before everything in the direction of exercising Justice, direct via compensation and amendment of damages and in juries that exist with doing crime.

Second Subject; First speech, interior system (judgment and police); resignation and transferred; Judicial power via legislator transfer justice exercising accompanied by controlling real persons or legal Persons.

Corresponding Author: Dr. Nader Nourozi, Assistant Professor in Department of Law, College of Agriculture, Tehran Science and Research Branch Islamic Azad University, Tehran, Iran.

Like dispute solving council there is a counselor with every dispute council that it is judge and in fact he/she controls.

Society and humanity; in this form of amendment justice, the government has no control, like the homes of justice before revolution, the humanity customs like tribes or in the act of city councils. In some cities, possibility of agreement some of the grievances. In ministry of justice depending on confirmation and the opinion of mediation composition that if confirmation, public prosecutor's office or court of justice accept the complaint. After adducing, the complaint depending on the opinion of that Society composition. That composition must say that these are coming and eventually have failed. The commandment signed and the court investigates it. The stages of amendment justice; the amendment justice is consist of two stages: Penal justice of sinless (the concept of distress); the aim of this stage, was observance and rights respects and Profits and interest of crime victim. This stage was result of Trying the feminists and advocates of annulment Penal discipline and too protectors of Sinless rights. Dutch professor, (Luckhulsmen) says in the Book (Persd use lost Punishment /Pennies), the government catch the confirmation of claim fate from Sinless and complainant and take possession it, it's the Time that government justice return the fate of crime victim to self sinless ,and the society come out from

Passion state and inter in claim as actor. Here by in Primary Literature relating to sinless logy and amendment Justice there is always talking about helping to sinless. In the Books that are written in Go decade, always Emphasis is on sinless. Amendment justice (the concept of mose) in this stage we are witness amendment views, in addition to Sinless, to society and criminal. This stage started of 90 decade. the adherent of this concept are explaining and proving this right – fullness In order that they replace amendment justice to tradition justice. Amendment justice in today meaning have four element: Criminal, sinless, local society and society [6-11].

In slight and middle penalties it's assumed that doing the crime In first in stance incur the crime victim and his/her family.

And Peaceful life in criminal local involve scratch and in Awful crimes, crime's consequences contagion to all the country.

In Mose concept, amendment justice has three element: Sinless, criminal and society (government). But in the concept Fdi stress of amendment justice have three main element; criminal, sinless and local society and only is dangerous regarding criminal's that the government intervene and in any case, the final aim is the same amendment. Finally about the concept of amendment justice there is not agreement opinion, it means that it have numerous concept. Also there is various forms for Purpose of style and too extreme limit, means that some are axis Process and so we are consequence axis.

With attention to above explanations we can conclude that Amendment justice is answer to:

1-to crime and is concentrated to damages of sineless.

2-responsible and awaking criminal for Pains and torment.

3-reviving peace and poetry in place and in awful crimes, creating poetry in all the society.

Second subject: Particulars and the causes for going to amendment justice;

Some part of various criticisms that propounded than classic penal justice, it concentrated on criminology of penal discipline after Second World War. Some of the jurists believe that since laws and Penal ministry of justice from the awful measure and criminally act seriousness transferred to a personality and its perpetrator motives.

And from this way affected penal rights and social – medical remedy aspects, firmness of retribution and the power of falconing the Punishments become weak and in this manner the origin of Proportion between crime and punishment extremely un-stabled Too [12-15]. This kind jurists offer that for revealing origin output of Penal discipline; namely retribution and creation falconry,

Must place classic thought related to certainty – final natural of intensity of important punishment typically kantob karia Views and measurement ethical indecency of crime that is suitable for panel reaction suitable with it. This approach To panel justice; means, the recommendation (merit panel Justice or (merit punishment that is necessary and suitable of crime in fact receive criminal improvement out of competence, out Put and punishment ending. in this frame, some of the Panel pensive specially sociology and American jurists with Emphasis on safety axis, propounded panel discipline, model (measurement justice) or (approximate justice or (new recognizing punishment) that must Pay to management and managing criminal and crime. They estimate the risk of criminal and with attention to risk measurement, think to hold and halter him, improving and responsible criminal give its place to damage measure that he creates. In this manner, panel justice places the management of criminal risk for its measurement. the aim of drani modal in fact is considering and controlling the groups that are in exposed to danger for doing crime, so that crime risk and criminal measure for the society become more tolerable , the conversation of measurement justice ,isn't definition and description the person from ethical view or from medical view, but from the view of management the panel justice, exile of composing economical thought sand in fact it's adherent the electronic control and other controls and condition steps of pinafore and too doing

various tests for estimate criminal risk near the persons. So long then conviction to imprisonment is a follower of guilt risk measure of criminal in future. Their views in place leaning on punishment and reinforcement the aspect of punish duly of it, with composing some aspects of punish duly models and redevelop panel judge and new reading of them and too profits respect and sinless rights and society requirements or family and social networks (Parish, work place, neighbors, friends and criminal and sinless family,...) after doing the crime, have offered model or third way for panel justice that are known as (amendment justice) or reviver or amendment justice. generally amendment approach, affected on supporting sinlessness that inless in any case know deserving supporting and helping, feminist's activities that know the women's That are victim for rudeness crimes decent for financial-Fluency-feeling supporting and too initiatives judicial like-Local-humanity and some judges, first emphasized on activating the function of complainant sinless in the course of panel judge process and affecting claims and complainant (sinless) desires-and No criminal requirements on directing juridical decides. Based on the studies of panel rights historian and letter laws of ancient Period, crime's victims (in direct and direct sinless) via right and even some times the duty of revenge of criminal, encounter and claiming compensation (indemnity) in fact hare important role in panel judge and settlement differences arising crime and even in some cases government, city government and or society must compensate the damages to sinless [16, 17, 18]. With appear a reorganized central tower and government in today meaning and specially with creating and developing modern Panel rights that take place since beginning 19 century In radiant of becaria views, gradually government agents.

Means juridical police correspondent obtain the fate of pursuance and penal trial and so complainant function (sinless)became little in panel processes-for this if in past The crime caused damages to sinless and family and Tribble or sect, in modern approach to criminal, the crime Is defecting the custom and the rules that have general Aspect, if in ancient penal rights, the two parties of sin Including sinless and criminal and family and social networks In modern penal rights, criminal and total the society (government)are two main side of crime and the judge Punishes the criminal in the name of total society. Amendment Justice in first concept in fact attention to revival and developing sinlesses Rights in penal discipline and all the investigation stages, so that in legislative transitions of two recent decade some countries (like France) the government about some crimes against properties to fixed ceiling and about person's crimes without ceiling, under take compensation of financial damages of sinlesses if in cognition, being run away or being insolvent of criminals. adherents of amendment approach, for that (amendment justice)as away or third model can change all the aspects of classic penal justice or be its substitute.in it's subsequent changes or transitions and with inspiration of judicial like experiences that is local humanity, handed to comprehensive recommendation about the concept of amendment.

in this manner in addition to attention to profit and rights of sinless, family social fate of criminal, local society condition as second sinless and even interests of total society in awful crimes are in their attention in various stages of verification and even while appointment and execution the crimes, so that for all the person that have for fit, share or right in doing crimes, means sinless (complainant), criminal (accused), local society, families or relatives or neighbors or friends or coworkers or parish or town are involve in subjects and

Crime's effects and generally dis order of environment of doing Crime and near perimeter to two side of crime that in any case direct or indirect and finally about awful crimes, the society in its general level, have amendment reaction, agreement and compromise and also responsibility for criminal. hereby, amendment justice in mose concept or day modern concept, before that receive The crime deficiency of provisions and abstract and single Mannerand too general and official, defines it a damage Or injury to persons and the relationship between them that It's undesirable effects and financial damages, moral, fluency and feelings, not only touched and insure the sinless, But local society and social relationships and even criminal,...

And just in the event that the crime be from the kind of severe and strong, affect total the society.

Interred criticisms on amendment justice; Risks and limitations of amendment justice, In the way of development and desired action, every design and program, there is always factors that affect on process of Grace and fruitful of them. The programs of amendment justice aren't away from risks and straits and limitations. The problems and difficulties that in the light of practical and theoretical aspects in relation to amendment penal justice propounded are various. From the cases of portion these risks and limitations, we can introduce below cases,

1) facing with faults of spreading penal justice discipline networks; In the opinion of some historians, practical programs of amendment justice have this ability to enter much persons to penal justice network, because that the programs of amendment justice, like mediation, occupied itself in files that in penal justice systems prosperous from less Importance and penal justice system in some cases settlement these files far from severities. For example, in England Judge discipline, police can keep on file many of little crimes of adults and children in considerable cases, the files change of penal judge.

2) threat and limit of accused defensive rights. In some models of amendment justice, like penal mediation and conversation of family groups and assemblies of commandment appointment, because of presence the family persons and

Criminal facing with shame and disgraced. This order can Be from repulsive of amendment justice programs for criminal, because that the ability of these programs are such that the criminal for purpose of conscience and feelings

Nave shame feelings: This shaming feeling if create incorrectly in person, the criminal will be exposed to affixing of label and fluency negative subjects arising of it. This shaming, cause Escape the criminal from society and exile him from life text, that on self is a factor for repeating the crime and cause border Sitting (who sits on the out skirts of an assembly) and Creation distance between criminal and sinless and hereby the Criminal lead in society border, far from social control feeling, Toward «criminal group» and «bit deviating coltvre». From other side, in penal mediation as a one of the most important Factor of amendment justice, with emphasis on the problem of accepting the sin and confess to basic events of file, the Criminal lose his biggest fence and safe place, means «origin of acquaintance» and this self-order can be a obstacle for going to meet criminal and accused of mediation in primarily stages of penal investigation. mediation process is comprising This order that many of forming guarantees of right's accused, Like the right for using defender lawyers, silence right, the right for using objection maturities to orders (commandments); facing with interval. The important problem is that not arrive to desired consequences, that in this manner the situation of Criminal become worse and in opposite side, the sinless person will insure again.

3) Sovereignty of facilitates the programs of amendment Justice on process this programs; In some cases, mediations, facilitates of conversation the family groups, social assistances and penal justice positions, as a place And official authority intervention in the programs of amendment justice.

Natural inclination of such persons is domination and sovereignty on referred file. Those in place of that nave role in conversation and Mutual agreements as a neutral facilitate intervention as official Position and in many cases intervene in mutual deciding and have strong effect on them.in these cases, the spaces of amendment justice programs won't be desired neutral space for criminal and sinless, and will be more like to court of justice. For avoiding from such Form, penal justice system shouldn't spread its authority in Mediation programs directly to possible extent, and too that Persons that enter in to partnership as a mediation or facilitator in amendment justice processes, should see specialized training to so that amendment justice processes' assistance with Authority actions.

4) repeating; repeating and being daily of administrative orders, in social and administrative structures is a natural and ordinary process and executing the amendment justice programs isn't Far from such order. specializes and the many of amendment Justice programs are exposed to this order that against with referred files are exposed to pre judgments. This order cause that they divulge sublime and external reactions in Similarity situations. Necessity of the nature of amendment justice Programs is «exposed encounter and unique accompanied by opinion accuracy about the file but eclipsed repeating, deep thinking in investigations.

5) more than extent leaning on human abilities. Using programs like Penal mediation and other aspects of amendment Justice, depend on experience and erudition of mediation, facilitators, and the positions of penal justice system, and also measure of their training. From another side, other positions and officials that have relationship with the two parties of litigation, should

Have necessary training and skills to guarantee the quality of programs. So, the measure of training and experience such persons can better the results of these programs and the range of success. The most important problem is that in most programs with a view to The or ethical emphasized on human abilities like responsibility feeling and aware accepted responsibility, creating feeling of sympathy and unanimity between sinless and criminal and creating remorse feeling in criminal. The question that occurred in this middle is that what is the nature of these abilities and human effects? What factors can cause being increased, decrease, appearance and non-appearance of them? Are these cases control able, measurable and assessment able? And will be such cases the certain result of such processes? Is there any guarantee that the criminal act trusty about proclamation of passions, apologizes and responsibilities?

Conclusion

Answer to these question are all accompanied with many problems and difficulties, because that abilities and fluency talents and moral talents aren't completely recognizable and all the humans haven't alike mentalities and specifications.so acquiring to such consequences are obligational aren't controlled and assessment able and measurable. For this respect, in leaning on such out puts, must act reservation and shouldn't leaning on such factors more than extent.

Conclusion and Proposals; while the procedure of penal annulment have deniable effect on penal discipline of many countries specially via using penal Patterns, furbish crime and furbish judgments, but

the fact is that the origin of moving the amendment judgments search not only in the toward mentioned annulment procedure But also in set of cultural ancient traditions, religious and legal that emphasized on elements like peace ,forgiveness and remission, mediation and reparation, returning the situation and compensation

The damages and generally improvement whatever that damage in the result of doing crime and concentration on function and the right of original owners of penal quarrel specially sinless. These ancient traditions long time since before appearance, there was expansion and prevalence tradition penal justice discipline and were using. Movement of amendment justice is following that with revealing these approaches, without paying blindly to its execution, and attention to new programs and outside, change the quality of concentration and attention to basic concepts of justice in penal orders, and mean while revealing loosed function of sinless, Presented other reading of executing justice in penal area. Such "justice" necessarily don't prove to be true via fulfillment the unique role of government, but inquirer with active partnership of justice investigators in penal orders, compensate the damages of sinless and society and get answer the criminal; order that know necessary using of other programs like mediation and soon. Amendment justice can direct preventing from crime of its boundary sitting in penal justice discipline to execution and basic procedures of penal justice discipline.

Also can reveal provocation needs of social partnership of prevention of crime for execute and keeping of organizational Profits injuries (like preventing from industrial crimes) also Provocation and created partnership from amendment process way farer can reveal political influence to prevention problem of crime that is necessitous that structural difficulties remove systematically. Multiple partnership in sessions (act of sitting) seek that extent of ability that consider the crime as a multi aspect phenomenon, that such order creates in various manifestation that offer every kind of prevention Selectors. Counsellorship and action in sessions have this possibility that increase impression of prevention the crime via a wisdom and basis insight that bitterly correct selectors of prevention (medical, position or structural) connected to suitable meaning. It's seemed that in this time can develop this possibility gradually. Amendment justice presents generally a searching, creator process and basis reading of penal justice principles. Appearance this approach in 70 decade of twentieth century, with leaning on basic and fundamental principles, in interval of methods and various programs was maturity of new approach and moral and humanity that to penal justice. Apart from non-agreement about amendment justice, this new – view already have experimental –scientific- theoretical mental structure.

This view in direction of self-action, rather to penal justice elements (sinless, criminal and society) follows original hypothesizes, various principles and fundamental aims, and as seen before both in practical aspect and too in the or ethical aspect, have had manufacturer positive influences and results in front of sinless, criminal and society. in spite of this, in loss of exact criterion and rules about these programs, and possibility of abuse and Divulge deviations about these views, this new phenomenon isn't Far from risks, limitations and straits; but generally in comparison force and weakness points of this approach and its profits and positive and negative effects, explaining the need to hindrance to justice principles and revival and amendment, in every national Penal justice system that have claim for searching and creative power.

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