

Criminal Sociology of Prison Population with Emphasis on Iran's Penal Policy Evaluation

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Abstract

Today, the overcrowding of prison populations has caused serious problems in all societies so that in many ways undermined the correctional and educational achievements. In many countries of the world, the overcrowding population of prisoners has brought nothing except huge costs, an impediment to the public order of the prison, conflict, riot, strike, etc. It has made the authorities to take steps to reduce the prison population. The prison sentence for any form of criminal behavior that is determined arbitrarily neither based on scientific logic nor on the basis of the personality characteristics of individuals and entities of society, on the one hand, causes the increase of the prison population and represents an ugly face of the Islamic Republic of Iran to the world and, on the other hand, causes the family of prisoners to be wandered and overwhelmed by the effects and consequences of this punishment. It is impossible to deny the prison functions because it has punitive and corrective functions so that multiple objectives can be achieved by its implementation. Therefore, it cannot be ignored totally. Imprisonment is still considered as a solution, and if it turns to be a problem in some cases, it is due to other factors and conditions that need to be addressed and improved. If imprisonment is used logically, then it will be effective and will certainly not be problematic. In particular, it should be emphasized that non-criminal solutions and imprisonment alternatives will be effective when it is used in place. Accordingly, the penal policy in post-revolutionary penal law has contributed to the increased prison population by imposing ineffective and prison-based laws in the general section, and also by increasing the criminalization and determination imprisonment as the dominant type of punishment in the section of general laws defining punishment with increasing crime. However, following the problems and corruptions as well as the need for resolving this challenge, the legislature took steps to change its legislative penal policy through the Islamic Penal Code of 2013 in accordance with the inspirations and solutions of international organizations. It resulted in the reduction of imprisonment and consideration of prison as the last punishment.

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1. Introduction

Based on Islamic principles and international insistence, the law of the Islamic Republic has defined the goal of making the necessary establishments in order to decrease the prison population in the criminal code passed in 2013, despite Iran being decades behind the countries that are ahead. This has been done with the goal of achieving more justice in the criminal system; however, many researchers have questioned the feasibility of these goals because of the culture of imprisonment and the way in which laws have been written in Iran. Therefore, the ballooning of the prison population is a serious problem. In addition to this, even though national and international officials have worked on this issue for decades, it remains an evasive goal to this day. It is certainly easier to create more high-capacity prisons than to take effective steps towards decreasing the overall prison population; in any case, these arguments show that the solution to the problem of prison overpopulation is somewhere at the intersection of basic policies and criminal academic research. These parts include arguments in regards to criminal sentences, the role of sentencing and imprisonment in the criminal sentencing system, the criteria necessary to the wellbeing of prisoners as well as medical and rehabilitation services, the increase of crime rates, particularly crimes that result in imprisonment, the budgets that are dedicated to building prisons as well as economic and political pressures; are all issues that define the legal criminal course of punishments in society.¹

Today, the penal policy is considered one of the major areas of public and social policy. The legislators need to consider the ethics, culture, religion, and the history of the people for whom they want to pass the law. In this context, extremist and irrational criminalization and highly repressive and oppressive attitudes, regardless of the causes of their occurrence, will not only lead to the success of penal policy in controlling the crime and inhibition of criminal thoughts, but also put the criminal justice system in a crisis called "inflation of criminal population" or increased prison population (Goudarzi, 2004: 29). The legislator is expected to be aware of the national legal system and to know how the link on this body will affect the other bodies in Iran. Thus, the success and development of a penal policy depends to a great extent on the precision and caution and insight of the legislator because it is the one who has to draw conclusions from the combination of all the historical, cultural and economic factors, and establish a principle that is compatible with its social nature and duties (Katouzian, 2016: 1, 102).

Iran is one of the countries facing the phenomenon of criminal inflation, so making changes to reduce this population will have a significant impact on improving the quality of penalties and penal policy objectives. The way to reduce the prison population is to establish a penal policy which addresses the front door and back door strategies by limiting the term of imprisonment, using various non-prison convictions, and using various forms of early release of prisoners. However, the author seeks to answer the following basic questions: What are the reasons for the increasing prison population from the perspective of criminal sociology? How is the penal policy of the Islamic Penal Code assessed in different periods in relation to the prison population?

¹. In the criminal justice system of Iran, Section 16 of the General Policies of the System regarding the judicial security is worthy of attention and states: "Revision of the rules to reduce the categories of crimes and the use of prison sentences"; The reflection of this general policy can be observed in institutions such as the postponement of the sentence, the semi-liberation system, and in particular the alternatives of imprisonment introduced by the Islamic Penal Code of 2013. As well, the institutions such as the issuance of file archive for certain crimes and suspension of prosecution in the criminal procedure law approved in 2013 are imposed under the same general policy.

2. literature Review

We need to be familiar and clarify the concepts of an issue in order to achieve a relative knowledge around the research subject and to prepare readers for the main discussion. The concepts of the subject matter are of fundamental importance, and the desired result will not be achieved without the necessary introduction of the concepts. In this section, the research concepts that will form the basis of the article will be briefly outlined.

The concept of penal policy: At the beginning of the nineteenth century, Anselm Feuerbach used the term "criminal policy" in a narrow sense, which is, in fact, the same as penal policy. However, at the beginning of the twentieth century, authors such as Cuche narrowly addressed the concept of criminal policy in his work about the administration and rule of prisons (Lazerges, 2015: Preface); but we can see that the term penal policy was not used by the middle of the twentieth century. In Iran Dr. Matin Daftari has chosen this term as the equivalent of *La Politique Pénale*, Policy for the first time (Lazerges, 2015: Preface). Nevertheless, the lawyers and criminologists of Iran, especially since the end of 1981, have discussed this concept and criminal policy subjects in details and use this term in its relatively expanded and absolute meaning, and apply the criminal policy and penal policy interchangeably.

The concept of prison: The law is the most competent authority in explaining the concept of the prison. In the Code of Conduct of State Prisons and Security and Corrective Measures Organization adopted in 2015, the legislator defines prison: "The prison is a place where the convicted person is kept under the order of qualified judicial authorities for a certain period of time or permanently to endure the punishment with the aim of professional training, rehabilitation, and reconciliation."

Basically, imprisonment occurs after a trial according to the court order as punishment for individuals who have committed one of the offenses envisaged in the law and are definitively convicted. The prison is a place where the persons sentenced to deprivation of freedom or defendants or convicts are kept under the written order of the competent judicial authorities for a temporary period, or for a specified period or permanently (Ibrahimi Hoor, 2009: 27). Given that part of the criminal population is made up of people under temporary detention, the authors have considered the general meaning of prison to make the article more practical.

The concept of criminal sociology: Criminal Sociology examines the social feedback of criminal law institutions. In fact, criminal law, sometimes referred to as "sociology of criminal law" or "sociology of criminal justice," aims to study criminal institutions and techniques as social phenomena and their effects in society and then sociological judgment about them (Najafi Abrandabadi, 2012: 8). In criminal sociology, for example, the freedom of body is considered as a fundamental social value and the deprivation of which is called imprisonment in the private criminal law (the legislative birth of prison sentences). In other words, what is the perception of law about the social phenomenon of imprisonment? Thus, studying the legislative, judicial and social nature of prison is relevant.

The reason for increased prison population from the perspective of criminal sociology: The inflation of the prison population may be due to a prolonged and persistent increase in the number of prisoners in the long run, which leads to the culture of "chronic inflation." There may also be massive congestion in the midst of mass violence and, consequently, increased detention of perpetrators of serious crimes, such as that in the mass murder took place in Rwanda (Amnesty International 2004, p4).

The population of Iranian prisoners in the year 2012 reached the highest level of 250 thousand so that out of every hundred thousand Iranians, about 330 people were in jail. This figure not only ranked Iran as the fourth country in terms of the ratio of the prison population to the normal population, but the prison population of Iran was 2.2 times higher than a country like Turkey, which has a population equal to Iran. At this time, 63 percent of the prisoners have committed drug crimes, and 28 percent of them have committed theft. According to the International Center for the Study of Prisons on December 13, 2014, the prison population in Iran was 225,623. Thus, 290 people per hundred thousand Iranians were in prison, and 25 percent of the prison population was pre-trial detainees. This figure ranked Iran among the top eight countries in terms of the population/prisoner ratio. At the same time, this figure is twice as high as the average prison population in Asia (160 per 100,000 people) and about one and a half times greater than the global average (186 per 100,000 people) (Gholami, 2017). Considering the above explanations, the reasons for the increased prison population can be as follows:

The culture of criminalization: Reports from several countries over the past decades have shown that people have become punishment-oriented; they are less likely to support corrective programs; they call for more serious sentences (Miyazawa, 2008). P77). The demand for punishment has been reflected in the increase in long-term imprisonment. During the last decade, in many criminal justice systems, the minimum and maximum punishments have been increased. Also, the least applicable penalties, in particular for violent sexual offenses, have been specified. The increase in the minimum punishment would have gradual effects on the prison population so that its effect will be observed long after the execution (Miyazawa, 2008, P77).

In some countries, life imprisonment has been predicted as a response to a wide range of crimes, which is far beyond the extent of traditional use concerned only the first-degree murder. This has sometimes increased the number of prisoners who are sentenced to imprisonment using the policies of "truth in sentencing." Determining fixed penalties, imposing minimum standards, three strikes and you're out rule, and ultimately moving toward a new structure of security that considers security as a fundamental component to achieve the goals of criminal law and criminal penalties, have led to this change of mindset. The attention has been shifted from the offender and the individualization of the punishment to the severity of the crime and the deterrent punishments. Perhaps, it has never been deviated from paying attention to the punishment.

Penal populism: Recent attention to the victim and the protection of potential victims is defiantly a clear reflection of these changes. These changes also indicate a desire for a "pervasive criminal law" by politicians, which impose heavier penalties, especially for repeat offenders (Daemns, 2007, p. 319). As well, it considers the existence of a gap between criminal justice activists and scholars who want to assess the nature of criminal justice policies, on the one hand, and politicians who want to send messages to the public people are reflected (Tonry, 2006, pp. 45-56).

The urgent need for the approval and social support protection of policies adopted by governments is something that has not been denied by any government, even the authoritarian state. All governments acknowledge the fact that advancing goals will be simpler and less costly if approved and supported by the community. Undoubtedly, the government's penal policy is one of the most important components of public policy that must always be supported by the community. But the point is that whether the governments that do not attach importance to the community in this field will receive support and approval? The answer is to resort to populism.

Penal populism in various forms, including attempts to obtain public support on a particular criminal matter (regardless of their specialization and explaining its various dimensions), as well as the introduction of a specific criminal case using government-administered tools (such as mass media), appears as a concern for the entire community, and the government introduces its penal policy together with social assistance by pushing this out (Moghadas, 2011: 29).

The penal policy of the Islamic Republic of Iran has not been away from populism, and in some cases, has resulted in the emergence and outbreak of populism for the interests of the government. In this context, the adoption of certain laws, the imposition of severe penalties, a strict view for the interpretation of criminal acts and the rapid implementation of punishments, has been carried out with a populist approach. However, in all these cases, the actions have been taken by the community's support and shown as a proper and appropriate response to the crime.

Evaluation of Penal Policy in Generalities of the Islamic Penal Code towards the Prison Population: Legal acts provided in general issues the Islamic Penal code provides a general framework of general rules and procedures which in the first step can significantly prevent, cause or reduce the burden of sending individuals to prisoners and so it can be considered as an example of Penal policy of the legislature about imprisonment; These factors have varied over time and are sometimes effective, and in some cases, have been deficient in advancing the purposes of reducing the prison population after trial in prison; Overlapping with the advanced and scientific disciplines of the global and regional penal policy have been very slow, and especially the retreating movement in the Islamic Penal Code of 1991 has fueled the expansion of legislatively increasing the number of prisoners;

While, in the Islamic Penal Code of 2013, after a long time, the deficiencies have been resolved and reduced the growing number of prisoners, based on the international guidelines in the form of United Nations instruments and other resolutions and recommendations Letters and necessities and national requirements

Evaluation of penal policy towards prison population in the Islamic Penal Code of 1982 and 1991: In the public domain of the Islamic Penal Code of 1982 and the Islamic Penal Code of 1991, despite some differences, it can totally be seen that there are common institutions for controlling or reducing and increasing the incidence or for the continued imprisonment; The institutions embedded in these laws do not undermine the rationalist penal policy aiming at reducing the population in the prison. However, the law on Islamic punishment seems to be more progressive than its later laws, and the cases of individuals in prisons felt less in that law; In this way it can be seen that there is some evidence of such a claim and the subject of a progressive distinction; the means of differentiation between these two laws can be considered in the context of suspension, conditional release, the semi-liberation system.

The institution of sentence suspension has many advantages and prevents accidental criminals from imprisonment (Zeraat, 2013: 129); The permissibility of the suspension in the wide range of crime will slow down going to prison; in US law, almost all criminals, including those convicted of violent crimes like rape and intentional murder, qualify for probation (Ashouri, 2003: 167); However, the Islamic Penal Code, in Article 30, has reduced the scope of application by adding five equivalent offenses to the probation clause; In another word, a number of categories of crimes against property and individuals (as assistance to the offenses with punishment) are prohibited from suspension, and the direct consequence of such an adoption can be directly the imprisonment; this is while some offenses are absolutely the issue of ban on suspension;

Given the usage of the Islamic Penal Code in this regard, the perpetrators are prohibited from suspension, while there is no necessity for this; So the absolute reference of some crimes as the examples of prohibited suspension cannot be defended (Mir Mohammad Sadeghi, 2008: 94).

One of the most important reasons for the institution of suspension is the creation of the incentive for prosperity and the fear of execution of punishment. If a part of the punishment is implemented, the opportunity to reform is denied, and talking about the educational impacts of suspension is futile (Ardebili, 2008: 243). In addition to the philosophy of education, the suspension will be a part of the imprisonment and will increase the prison population too, which is contrary to the provisions of law 61, and so the suspension has not been respected for such issue.

One of the various aspects of the distinction between the two laws is the conditional release; in the Islamic Penal Code of 1991, the guarantee of violating the orders of the court regarding the conditional release by the authorities is the abolition of such kind of freedom and passing the remainder of the sentence in prison. While, the Islamic Penal Code of 1982 did not provide a performance guarantee, and however such an unpredictability could be considered as a defect that the judge could have remedied this defect by adding a conditional release. But it seems appropriate because of the lack of prison population density. Reprimanding the offender for the violations of the conditional release orders is considered as a factor in increment of the prison population. The shortage of a semi-liberal system in the Islamic Penal Code of 1991, contrary to the former law, was among the causes of increment of the prison population. The institution that was abandoned in the 1991 Islamic Penal Code, that directed such a law to imprisonment more and more; this system could be effective for reduction of the impact of imprisonment and moderation of the prison population and reformation of the perpetrator and failure to repeat the crime.

However, in the comparison of the two laws, the Islamic Penal Code of 1982 has more strengths than the law on self-regulation to prevent the imprisonment of offenders; but both laws have fundamental institutions to prevent such conditions; there were many weaknesses in both laws, including the following ones: Failure to adopt a systematic approach toward short-term imprisonment in aforementioned laws that suggest a shortage of scientific penal policy in this regard; so the inclusion of provisions in specific laws after long periods of time has directly increased the prison population. The lack of diversity in the alternatives of imprisonment and its assignment to cash penalty seems rationale in most cases; according to the statistics in 2005, more than 68 percent of the verdicts issued by judges are cash penalty that prisoners have been imprisoned because they cannot afford (Zare Zadeh, 2006: 48); so, the only alternative punishment for imprisonment as a cash penalty is considered a legal means of increment of the prison population.

The burden of bearing half the of imprisonment was not consistent with the penal policy of reduction of incarceration rate for certain crimes in the conditional release, and perhaps in smaller crimes, the reduction of the amount of bearing the half the imprisonment would be more affordable according to scientific standards. Bearing the half, the imprisonment in conditional release could have directly affected the inflammation of prison population, and it would seem that the restriction of using these materials to significant crimes or a reduction in the minimum conditional release period could help resolve the prison population.

International standards and instruments, such as the Convention on the Rights of the Child, which contemplated a separate system of execution of the penalty for individuals under the age of 18 years, as opposed to adults (Najafi Tavana, 2005: 124), could in some way be able to prevent the imprisonment of

children and adolescents; however, the positions adopted in the Islamic Penal Code that are contrary to the international rules could in some way lead to an increase in the number of prisoners, which was caused by the absolute responsibility of the adult population. The transfer of this group of offenders to prison, based on these two laws, was critical and it seemed to be vital to prevent the harmful impacts of imprisonment. It is necessary to separate this group of offenders and take alternative penalties for them in order to prevent sending them to prison.

Evaluation of penal policy towards prison population in the Islamic Penal Code 2013: There is a general perception among countries that imprisonment is the last resort to be applied and due to this belief, there is a broad agreement for the need to minimize the use of imprisonment and the maximum use of its alternatives, that do not involve deprivation of freedom; repressive punishments cannot be imposed as a guarantee of effective and beneficial implementation of because of possible future complications; it is clear that one of the main purposes of the punishment is to correct the offender (Konani and Bigdeli, 2011: 11); when parents can be corrected under the influence of psychological counseling, there is no reason to commit repressive punishments or deprivation of liberation that causes more family breakdowns. Thus, attempts have to be undertaken for their treatment and rehabilitation if possible.

Further explanation is that imprisonment has lost its deterring nature, and there is no doubt that prison has failed to play a vital role in reforming criminals. Because prison not only reduce moral, social, psychological and economic problems but also adds to it "(Ashouri, 2003: 401); it is not a place for reformation, but a place for repetition of crime, so that 29 percent of individuals regularly commit crimes and return to prison; thus, the prison does not anything for the convicted people (28%), but also other prisoners, like those who are also exposed to misconceptions (Yekrangi and Iranmanesh, 2008: 94); most prisoners are not prepared to adapt to society when leaving prison compared to the time they enter prison and some will leave the prison even in worse situation than they were.

If the legislature's purpose of the punishment in the is correction and education, this situation will not be realized given the density of the criminal population, unless the necessary mechanism is provided for the imprisonment. In this way, prisons cannot do their very fundamental duty, namely training and correcting, in the existing circumstances (Bakhtiyari, 2002: 28); in these circumstances, finding effective alternatives is very important for perpetrators who can be sentenced in a healthier way in society.

In addition to international rules and recommendations and resolutions, in Iran, the main and guiding principle, that explicitly stipulates the reduction of prison penalties and the review of laws to adopt a specific penal policy, especially in the legal dimension, is the law of the general policies and the document of prospects; by clarifying the general principles of the Islamic Penal Code of 2013, it provides effective institutions and remedies in comparison with the two previous laws for reduction of imprisonment. Totally, the legislative penal policy pursues the policy of achieving the purposes set out in the general policy of the system and the prospecting document; most of the existential causes attributed to the general Islamic penal code, which themselves directly led to an increase in the prison population, were settled and the privative reasons for the increment of imprisonment led to a decrease in the number of prisons with the new legal institutions and procedures; Regarding the major changes and developments in the new law in relation to the former rules, it is vital to mention the following items for the reduction of imprisonment:

The fact that the former laws were used as a reason for increasing the prison population was precisely the impossibility of suspending a fine that was expressly foreseen and, therefore, the imprisonment was followed

if it was not possible to pay a fine; as a result, the increase in the prison population was increased in relation to those who were convicted of a cash fine; however, in the latest changes, the legislature also provided the possibility of a fine criminal suspension, in order to decrease the prison population in this way.

Conditional release is a backdoor system that can play a significant role in reducing the number of prisoners; the importance of this legal factor for reducing the prison population can be seen in the statistics of Finland, that is about 99% of the freedoms per year for the conditional release (Tapio Lappi-Seppälä, 2012, p346).

Of the cases where the malfunctioning was considered in the same legislation as before is the possibility of issuing conditional release merely after the bearing of the half of imprisonment; as it mentioned, the penal policy was according to the reduction of the probability of continued imprisonment, so the legislature has made new changes to distinguish the most important crimes and others. In better words, bearing the half of the imprisonment has been sentenced to more than 10 years' imprisonment, and for less than that, it is possible to grant conditional release after spending at least one third of the sentence; it can greatly cause the reduction of the inflation rate of the prison population, something that was neglected in the former laws, and had inverse effect in relation to the recent law.

Another defect that was considered as one of the reasons for the law for increment of the prison population was the abolition of conditional release in the event of absolute violation of the court orders and imprisonment in the Islamic Penal Code of 1991, that would surely have caused the increased number of prisoners, regardless of the rational and scientific legislative penal policy; while, developing and considering alternatives instead of bearing the rest of imprisonment in conditional release can help in reduction of the growth of prison population.

Consequently, in the changes made to the Islamic Penal Code of 2013, the mere violation of the court orders was not any reason to cancel the conditional release; in the event of an offense, one or two years will be added to conditional release instead of bearing the rest of the imprisonment.

Legislative penal policy is another attempt to increase prison dens in both former laws, the restoration of the absolute perpetrator of the offense by the individual who was granted probation was a reprieve of imprisonment; this was a significant problem that the commission of a crime Unintentional and deliberate, there was not any variety in this matter, and intentional criminal offenses caused to the dissolution of the conditional release order too, and these conflicts with the philosophy of conditional release. What is a cornerstone for granting conditional release due to social reformation (Nourbaha, 2017: 430); so the abolition of conditional release for the unintentional crime is unjustified, as it conflicts with the scientific penal policy. ; By acting in accordance with the statutory scientific standards in 2013, this legal cause has been adjusted, and the absolute commission of unlawful crimes is not the reason for the abolition of conditional release, and the intentional crime, if it reaches the level of eight, is a reason for the severity of the crime cannot be a factor in the abolition of conditional release.

In addition to using as an independent punishment, the legislators of various countries, according to their characteristics and advantages, have a tendency to use it as a substitute for the prison, particularly for minor offenses and short-term prisons. (Ashouri, 2003: 220).

In the previous the cash penalty, with no other types of latitude, was considered as the only successor to the sentence of imprisonment, that would have prevented them from being punished for financial penalties in the event of the inability to pay a financial penalty. Which was once again a prisoner of imprisonment;

Also it was considered a form of discrimination against the poor who was normally imprisoned and was considered a fixed cash penalty.

Although, with the changes introduced in the new Islamic Penal Code, four alternative pay-as-you-go alternatives were created to reduce the corrupt sequence of payout substitutions, that include daily cash penalties, period of care, free public services, deprivation of social rights, For instance, a daily cash penalty is a new and useful arrangement that can more effectively replace traditional criminal recourse as a suitable substitute for imprisonment and reduction the number of detention records, because in many cases, where a large amount of a fine is due, a convict cannot pay a fine. And, as a result, the individual will be imprisoned, and the daily cash institution will take action for Preventing this (Zeraat, 2013: 164).

Hansel Henrich Yasch expressed that between 1969 and 1982, the number of individuals who were detained due to insufficiency of cash payments increased from 3 up to 6.8 percent; he offered that the court Instead of sentencing a fine, Germany uses general-purpose work that has been approved in all the states of Germany (Meghdadi, 2004: 20).

In the case of short-term imprisonment, the previous laws were subject to law-making grounds, which led to a direct increment in the prison population without any necessity; that is, the mandatory replacement of a cash fine against legal imprisonment of 3 The mandatory months were for both deliberate and unintentional cases; optional cases included prison sentences of at least three months and a maximum of more than three months, but in the changes introduced in the new law, unlawful offenses with a separate record of cases Substitutions have been made in cases of intentional misconduct and, so an unpardonable offender, if the detention is anticipated for up to two years, contrary to the 3-month rule of the previous law is not subject to imprisonment; this penal policy is an appropriate legislative measure for the reduction of the inflation rate of the prison population in this field; the new law has been given to the judge in an unjustified event involving more than two years of legal imprisonment. And this is the first modern action in accordance with the penal policy guidelines; the deliberate incarceration of up to six months is subject to mandatory fining, So, we will have a three-month increase in this regard. Also, in the case of intentional offenses involving six to one-year imprisonment, a new criminal offense is considered optional, so based on the changes in this regard, on the one hand, the corrupt sequence has been reduced the corrupt sequence of the short-term imprisonments, and on the other hand, it would in itself cause an elderly law for reduction of the prison population.

According to the important facilities of the Islamic Penal Code of 1392, that can be considered to reduce the prison population, the following must be mentioned: The postponement of a verdict is an institution whose ineffectiveness in imprisonment is indisputable in non-material crimes. So, in addition to the purposes of punishment for reciprocal reform, it will reduce the number of people in prisons, albeit a violation of the provisions of the Islamic Penal Code of 1392 in this regard too. For the event of a violation of court orders, the issuance of an order or the prolongation of the period of care is optional, this is likely for increment the probability of the prison population, and so it is appropriate that in the event of a violation of the court orders, the first step is increasing the length of care periodically so the number of detainees will decrease too.

From other facilities of the Islamic Penal Code, approved in 2013, against the equivalent laws, electronic surveillance is provided; electronic surveillance means controlling and controlling individuals through electronic means and equipment in an out-of-prison environment (Mohammad Nasl 2005: 12). According

to Iran's penal code, it had no legal record and was first introduced in the Islamic Penal Code of 2013 and the Criminal Procedure Code of 2013, and its prediction is according to the innovations of the new laws.

Electronic surveillance has been done in a way that the perpetrator is allowed to go to work as well as to participate in certain activities, and the rest is at the time of being imprisoned in the home, and the traffic is monitored (Ashouri, 2003: 401), and depending on the degree of punishment, the electronic surveillance for offenders will be non-hazardous; so, punishments of grade 5 to 8 are punishable by penalties, that means that, in the event of deferral of care, there is the possibility of electronic surveillance, even in detention for up to five years, and This would reveal the unnecessary necessity of imprisonment in violation of the former rules of imprisonment.

Researchers who have studied and monitored patients under the electronic surveillance system have come up with positive results; it seems that the components of the prison population, the cost of justice, crime repetition, social rehabilitation, etc., are affected by the electronic surveillance system (Karamati Moez, 2015: 118); Lawyers believe that the main purpose of using this new criminal procedure is to reduce the prison population, reduction of the punishment and prevention of the occurrence of prison culture (Gholami, 2001 : 194).

The establishment of the general type in the 2003 Islamic Penal Code, that was abolished in the legal provisions of 1991, included a semi-liberal system properly restored in law of 2013; it was envisaged by law 2003 for non-perpetrators and ordinary crimes, was almost entirely in the new law regarding the type of non-critical crimes of grade 5 up to 7. The findings also indicate that applying a uniform administration method (the same for all) in prison cannot provide corrective remedies for prisoners and reveals that, instead of applying the same uniform management method For all prisoners, it is vital to use other patterns, like the semi-liberal system; this system, by that the convicted job or, at least, their work outside the prison environment is preserved throughout the day, during the evenings and holidays the individual is in prison is like the weekend imprisonments (Ansel, 2012: 99).

The Islamic Penal Code of 2013, recognized by the jurisprudence of jurisprudence and the use of the discourse of international criminal chemists, considered the system of semi-liberation in support of the perpetrator, his family, ultimately the community, and in the chapter, the seventh article is explained in two articles of 56 and 57.

Including innovations and facilities that are in line with international standards, as well as the reduction of the prison population, the position of the legislator is about children and adolescents under the age of 18; in the same level of previous law, the authorities have criminal responsibility, the children had reached the age of legal maturity, that was not subject to any penalty of imprisonment under the puberty; although, after that, the maturity of the Shi'a was fully entitled to full imprisonment, but in the Islamic Penal Code of 2013, it has been adjusted in line with international standards and its purpose is the reduction of the prison population; so, for children and adolescents who are less than the age of 12, imprisonment or even the correctional center has been banned, and so the criminal population of prisoners under the age of 12 years, in absolute crimes, will not be subject to Ta'zir imprisonment, as against the previous laws, as is the case with children or adolescents Up to 15 years, in the case of committing a crime against Ta'zir imprisonment to grade 5, there is the possibility of sending to the center of reformation and otherwise they will be exempted from imprisonment, that would mean a penal policy to reduce the prison population.

Also, for adolescent ones who are even 15 to 18 years of age, the length of imprisonment has been significantly reduced; if it was the case in previous laws, as in Ta'zir offenses, more than 25 years of imprisonment, a juvenile sentence has been sentenced to 5 years of imprisonment in the center of reformation and can even stay at home for a period of 5 years, and it is a duration of time for reduction of the person's incarceration repeatedly and to withstand the imprisonment.

Along with all these criminal penal policies leading to a reduction in the prison population, there are cases that can increase the prison population too, in which case it is worth mentioning:

Based on the suspension, the number of crimes that could be suspended in those cases is prohibited under the new law is 47, which was 13 in the Islamic Penal Code of 1991 the possibility of suspending most of the crimes on its own can be a factor for prevention of the population from being imprisoned, as suggested by the American institution as a suggestion for reduction of the prison population (Ranjbar, 2013: 58).

Consequently, the current position, although it is defensible in cases like dangerous and important crimes, but for some instances of these crimes, shortage a rational and scientific justification; so, in the category of disparate crimes like telephone harassment the impossibility of suspension because of the mentioning of the category of this category is defenseless, as if the suspension philosophy applies to some of the prohibitions of suspension in the current law, so it can be a factor in increment of the criminal Prison population

Regarding the reduction of penalties, including reduction, contrary to previous laws, the judge's authority has been restricted in proportion to the probability that the prison population would increase, so in the case of same level laws, The widespread adoption of 2003 and 130 permitted the Ta'zir discounts to be unlimited, but based on the new law of 2013, the possibility of a one-to-three-year reduction was possible, as well as a reduction in the punishment, there is no possibility for conversion of the bearing of imprisonment in accordance with Article 37.

Evaluation of the penal policy in the Ta'zirat section of the Islamic Penal Code of 1983 and 1996 toward the prison population: One of the reasons for increment in the prison population can be found in punishment determining laws; whether these laws include the minimum and maximum levels of imprisonment imposed by the legislature, as well as the new and special offenses of imprisonment or imprisonment with alternative punishment could have an important role in increment the numbers of prison populations; while the mere introduction of alternatives of imprisonment and fundamental changes in the provisions of the Islamic Penal Code, alone, would not be able to control the prison population; in the United Kingdom, despite the reduction in the number of sentences of imprisonment as a result of the use of non-violent policies of freedom, the number of prisoners has not decreased in terms of crimes, and averaged over 44,000 individuals during the 1981-84 to 49,000 in 1988, reaching 45,400 in 1990, and in 1991, with a slight increment of 45,900 (Barclay, 1995: 387); So, the level of specific crimes and penalties are important factors too.

In addition to identifying the legal causes of the increase in the criminality, the specific penal policy of the legislature can be found by clarifying the rules of law governing the rules of punishment; clarifying the chapters relating to the Ta'zir jurisprudence of the Islamic Penal Code in the years 2004 and 1996, it is specially indicative of the movement of the municipality for reduction or increment of the prison population, particularly as regards the chapters in the law; some cases regarding the implementation of both of these laws in order to discover the legal causes of the subject of issue must be mentioned as follows:

The increment in the amount of the subsequent crime could increase the amount of imprisonment in the criminal offenses of the legislature, as the 1996 martyrs committed numerous criminal offenses among the seasons of insulting religious sanctities and assassination of internal officials and other chapters. In some cases, though, against a new offense, the mere imprisonment penalty has been considered as the only guaranteed by the 1996 legislature. As in the second and seventh sevenths of the law, the imposition of a single sanction on imprisonment as a litigation penalty increases the probability of a criminal conviction. So, it was better to use imprisonment alternatives for such criminal actions since the rule of imprisonment must be considered the last resort, while such method of punishment for new offenses can be countered by this rule.

In 1996, the Islamic Consultative Assembly, in the 5th book of the Islamic Penal Code (Ta'zirat Section), to a large extent abandoned the lash punishment for so many offenses, and instead used the penalty of imprisonment and the Guardian Council Convicted as the most important Ta'zir punishment in the Iranian legal system, the prison punishment has been considered; such a change could be considered as a re-establishment of the prison system in Iran's legal system (Mansour Abadi 2007: 101).

Compared to Laws 1983 and 1996, we have a slight decrease in the amount of imprisonment, like the seasons related to the provision and promotion of coinage, as well as the destruction of historical and cultural property, as in the first chapter, it reduced the amount of two years of minimum imprisonment, and in the second chapter for eight years, the maximum amount of punishment has been reduced. While the reduction of restriction of imprisonment can cause the reduction of the amount of imprisonment, even if it has continues increment, but, in a total comparison, it reduces the imprisonment severely.

In the case of the law of 1983, there are 61 cases where imprisonment from the punishment area for offenses, and other cases of punishment, like lashes and criminal offenses, are punishable by a criminal offense, which, in the legal changes of the year 1996 of this case, means not using imprisonment absolutely reduced to 12 cases; it implies the imposition of imprisonment in the later law, that is obligatory now.

In cases where the whip as an alternative to imprisonment in law 62 is equal to 5 cases, and in the Islamic Penal Code, in 1996 the whipping punishment with the imprisonment is transversely to 10 cases; in this regard, it is notable that in most cases, in the 62th law, whipping is used as the sole punishment, but in the law of 1996 of imprisonment, in addition to being used as the only punishment, it is used more with other punishments, even if transposed and replaced.

An interesting issue in implementing the law of 1983 the Penal Code with the Penal Code in 1996 is that the cash penalty in law of 1983 has not been subjected to alternative imprisonment penalties, but in law of 1996 in 32 cases; it is a transposing criminal law with the same level applies to imprisonment; it is notable that while, in 1983 the most of the cases of Code of the Code of Criminal Procedure are individually flogged; Also, the failure to include in law of 1983, itself won't exclude the judge's discretion for determining the cash penalty as an alternative to the imprisonment in the form of the conversion of the penalty.

The penal policy, that expressed in the Islamic Penal Code in imprisonment law of 1996 against the Law of 1983, amounts to a large sum of minimums and maximums of imprisonment rates over the previous law, since the total amount of time limit for imprisonment in the 62th law is equal to 73 years and three months, while in the law of 1996 of the same quantity is equal to 151 years and five months; also the maximum amount of imprisonment in law of 1983 of the Ta'zir law is equal to 349 years and five months but in the Ta'zir law of the year 1996 the penalty The amount is equal to 690 years and three months; in other words, the maximum amount of imprisonment in the current law is almost twice the size of the previous law;

Considering these provisions of the Islamic Penal Code, adopted in 1996, there is more emphasis on imprisonment.

3. Discussion

According to the post-revolutionary law in generalities and Ta'zirat, there can be significant changes in the penal policy of the legislature. The first and most important reason for this issue is that the determination of imprisonment in the Islamic Penal Code and other Criminal law is baseless. Above all, Iran's criminal law has a kind of conflict on the basis (fundamental conflict). In the ratification of criminal law, the Iranian legislator, on the one hand, is bound by texts and sources of jurisprudence, without evaluating the jurisprudential orders and standards in terms of the needs and requirements of the present. On the other hand, the legislator is obliged to follow the achievements and theories of lawyers, without investigating the necessity of these theories in the Iranian society. In addition, the penal policy of the country is completely adapted and translated so that there is no thinking about the implementation and implication of new concepts, as it should be. The result is that our legislative penal policy is in the midst of a gap between the adaptation from Western laws and Islamic jurisprudence. Hence, the penal policy in our country suffers from a kind of confusion and conflict with no precise criterion based on which the criminal provisions can be drafted, approved, and implemented. From this perspective, Iran's penal policy requires a serious revise. Therefore, the legislative penal policy in the adoption of the Islamic Penal Code adopted in 1991 and in the section of Ta'zirat adopted in 1996 has increased the prison population, because the dominant sentence of the law of Ta'zirat adopted in 1983 was whips. However, the prevailing sentence in the law Ta'zirat adopted in 1996 was imprisonment that was highlighted significantly in compliance with the Islamic Penal Code of 1991, which was inappropriate than the former law. Following the legislator's attention to the disadvantages of the prison and the new criminal thinking and international aspirations, the legislature attempted to change its legislative penal policy in line with new movements. This is also evident in the new Islamic Penal Code adopted in 2013.

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