

Criminological analysis of postponing the issuance of a sentence with an approach to the Islamic Penal Code 2013

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Abstract

One of the objectives of criminal policy makers is to rehabilitate and reform criminals in order to prevent recidivism. postponing the issuance of a sentence reduces the possibility of being labeled as a criminal after reforming and treating the offender.

The institution of postponing the issuance of a sentence has been recognized in the light of criminologists' thoughts. Delaying the issuance of a criminal sentence will allow the criminal to be in the center of society and family and will have the opportunity to become a law-abiding citizen.

In this institution, punishment is the last tactic to fight criminals. The philosophy of the rule of postponement of sentencing is based on the theory of labeling so that the label of guilt is not attached to accused persons.

Postponing sentencing as one of the criminal reform measures has a close relationship with criminology and has a tendency to support criminals and correct their behavior and make a decision appropriate to the needs of the crime.

This institution is provided for the first time in the Islamic Penal Law approved in 2012 and has no legislative history in Iran .According to this new institution, it is clear that the legislator has thought that it might be better to postpone the execution of sentences in some cases and not to implement this punishment.

Unless, based on articles 44 and 45 of the Islamic Penal Code of 2012, the convicted person does not conform to the conditions that have been set by the legislator and the court for his use of adjournment and takes steps against what has been established for him.

In connection with these changes, it should be stated that the goal of the legislator is that in various topics of criminal law (especially the rules governing punishments) by adopting a reformist approach while respecting the interests of the criminal, defend the society against the criminal phenomenon.

Key words: criminology, rehabilitation and correction of criminals, postponing the issuance of a sentence , institution, punishment

Introduction

In the last few decades of the history of human life, new opinions about crimes and punishments have been expressed. In their criminal policy, current societies are trying to prevent some social deviations with various measures such as decriminalization, and also to regulate social norms by using administrative, social, political and cultural measures instead of guaranteeing criminal execution.

Currently, attitudes have changed from absolutism in the implementation of punishments to realism. Punishment is more about reforming criminals than punishing.

For this reason, when there is no special need to carry out the punishment, or when it is appropriate to give another opportunity to the offender to compensate for his wrongdoings, and the act committed by the convicted person is not an important crime ,in this case, the criminal policy of different countries tends to soften the execution of the punishment (Saneyi, 2012).

One of these policies is postponing the issuance of a sentence, which is the main topic of this thesis, and an attempt is made to address this issue with a comprehensive and complete analysis. Basically, the social reaction to the criminal phenomenon appears in the form of punishment and protective measures, and this reaction leads to the realization of the goals of the punishments .Achieving these goals will be possible only if the punishments are implemented with speed and urgency and have the necessary certainty.

The faster and more certain the execution of the punishment, the more just and useful it will be.

As mentioned, in some cases due to necessity and due to the conflict of the principle of urgency with other principles governing punishments, the execution of the sentence is delayed, or in terms of paying attention to the character of the criminal and achieving the goals of the punishments with non-criminal methods, the execution of the sentence is accompanied by a delay (Ashuri , 2015).

The reasons for the delay in the execution of the criminal sentence can be due to the credit of the convicted person, a third party, retrial, delay in the payment of ransom and various other cases.(AKhondi, 2018)

No matter how much the upbringing is correct and the social system is fair and healthy, there will still be rebellious people, and the only way to prevent them is punishment, which should be severe.

Through strengthening faith and creating correct education and reforming society and eliminating the causes of crime, the amount of crimes and crimes can be reduced to a large extent, and these ways should be used, but it cannot be denied that punishment is necessary in its place.

And none of the other matters have its effect. Humanity has not yet succeeded and may never succeed in educating all people through exhortation and guidance and the use of other means of education.

And there is no hope that the current civilization and material life can create a situation where no crime will ever happen. Today's civilization has not only not reduced crimes, but has made them more and bigger (Ashuri, 2015).

In short, the healing and calming of the heart of the crime victim, who has been hurt by the criminal's actions, is one of the goals of punishment, but the spirit of revenge arising from this characteristic must be curbed in a systematic and legal context. so as not to cause social disturbances.

The Institution of postponement of the issuance of a sentence is one of the progressive and approved institutions in most legal systems, which has found its place as a practical tool of criminal policy, and it can almost be said that jurists also agree on this matter.

This institution, in addition to legal and judicial logic, has important and noteworthy works from the point of view of criminology; In such a way that, while adhering to the principle of criminal segregation (the principle of individualizing crimes and punishments), it prevents a criminal mark from being placed on a person's forehead as a result of minor crimes.

Also, the implementation of this institution provides more and better the goal of correction and treatment of the criminal and makes the context of his return to the lap of society easier.

Also, if it is used correctly and appropriately in practice, it will keep random criminals away and prevent them from committing new crimes, and help the criminal to socialize and return to normal life in the society, and save prison costs and society's use of the work and activities of criminals. It can lead to a reduction in the number of repeated crimes.

If the judges pay more attention to this institution and the legislator expands the scope of deferred punishment in some crimes that are more important and includes more crimes, it will make this institution more effective.

There is no doubt that the criminal policy of any country will reach its desired and worthy level when, while providing the goals of the criminal justice system, it provides a suitable platform for the return of the criminal to the society.

The role of institutions or, in other words, correctional penal facilities in criminal justice systems, while harmonizing the criminal response with criminal action, reducing the swelling of judicial and administrative cases, removing the bad effects caused by keeping

criminals in the criminal arsenal, decriminalization and deconcentration of the criminal population.

Also, their implementation reduces the economic burden imposed on the criminal justice system due to economic issues. Ensuring the aforementioned goals requires focusing on the existential philosophy of the aforementioned institutions and preparing the necessary tools and facilities for their implementation (Ardebili, 2013).

Today, as a result of the developments that have emerged in the legal systems, it can be seen that the philosophy of punishment and its foundations have also undergone changes and transformations. The approach of most of the legal systems to the criminal is a reformative aspect, and unlike the past, the criminal is not considered merely a corrupt and anti-social element.

With the expansion and penetration of this way of thinking and with a better understanding of criminals based on the principles of criminal law and criminology, the philosophy of punishment has also changed and the field of judicial justice has become smoother than in the past (Tadin, 2018).

It has been in the path of this way of thinking and this evolution that some scholars of criminal law and sociologists have thought that it might be better to postpone the punishment in some cases.

And this punishment will not be executed unless the convicted person does not comply with the conditions set by the legislator and the court for his use of the postponement and takes steps against what has been prescribed for him.

This legal establishment, which is called deferred punishment, is mentioned in the Islamic Penal Code approved in 2012 by the legislator in the fifth chapter of articles 40 to 45.

During the course of the proceedings, from the beginning of the proceedings until the final

judgment is issued, the judge may use various institutions to postpone or reduce the punishment.

That the purpose of using all the aforementioned institutions is generally to return the criminal to the society and the final reform of the society by the judicial system, and this treatment itself is considered a form of drawing and reforming the behavioral structures of the people in the society (Bakhshizadeh and Salimi, 2013).

According to the law, only punitive and deterrent punishments can be postponed, and in some cases, due to the existence of obstacles, some penal and deterrent punishments cannot be postponed.

The suspension of the execution of the punishment has effects on the convicted person and the judicial authority, which are removed after the expiration of the suspension period or the cancellation of the suspension order, and after the expiration of the suspension period, the postponement of sentence is terminated (Zarat, 2016).

Examining the institution of postponing the punishment and issuing the sentence and handling the case is considered in this research, which can be said considering that the fate of the case is especially in the case of crimes that can be passed and has only a private aspect in the authority of the plaintiff.

Some legislators have created this institution for this purpose, that the plaintiff can ask the court to abandon the prosecution or postpone the prosecution and wait for the next behavior of the criminal and make a decision accordingly.

Therefore, with this description, our research is based on the subject of the effects of punishment and how it is suspended and postponed in the Islamic Penal Code approved in 2012, and the nature, characteristics, principles and rules of the application of this institution of criminal law are investigated.

The concept and history of the institution of postponement of judgment

The literal meaning of the word “adjournment” is to connect one thing to another and create a connection and dependence of one thing to another. This concept is closer to the jurisprudential concept of postponement.

The term "adjournment" in jurisprudence is to depend on a condition or description that the parties make in the contract (origination), for example:

In the contract of sale, the seller considers possession upon the arrival of person from the journey, so that if person comes, the customer becomes the owner of the sold item, and otherwise, he does not become the owner of it.

In other words, the purpose of the execution of any contract is to realize the contract and its effects, as the legislator and the parties in the sale contract intend not only to execute the contract, but also to make the buyer the owner of the goods and the seller of the price.

Now, if a contract is executed in such a way that after its creation, its effects are not realized and do not come into effect, then it is called a pending contract against the one who says that it is enough to execute, its effects are realized and come into effect.

Most of the jurists of Islam, in the jurisprudential debates about postponement, did not say anything about its definition, and only gave examples in this regard, and perhaps, in defining it, they were satisfied with the sentence “A postponed contract is one that is not consummated.”

It should be noted that the definitions that are expressed in the science of jurisprudence and many other sciences, as the Khorasani researcher clarified in Kafaiya al-Asul, are not real definitions.

From the other side, to understand the truth and root of objects and their concepts, rather, it is

more the definitions of nominal and verbal descriptions (Marashi, 2013).

In addition, according to some scientists, it is impossible to express true definitions, and even the definitions that are called true definitions in the science of logic and philosophy have problems and defects.

The definition of postponement is not removed from this rule, and it is not possible to express the truth of the concept in one sentence, compatible with jurisprudential criteria, rules and evidence.

Delay in the word means putting something after its place and putting it back (Hosseini, 2015). Detention is also mentioned in Persian dictionaries as meaning to hold back (Moein, 2017).

And in various terms, it is added to another word or words, and in all cases, the same literal meaning is considered (Jaafari Langroudi, 2015). In legal terminology, postponement means postponing the issuance of a sentence. Adjournment of judgment is a legal term that legislators usually use.

That is, under certain circumstances, it may be expedient to postpone the issuance of a sentence despite the presence of criminal elements. In law, the word “adjournment” is used for matters such as de-incarceration, decriminalization, and alternatives to imprisonment, and these terms are originally given in law and legal science (Shams, 2017).

The word postponement in law science is used most of the time to reduce the crime, and this means that the legislator tries to use the concept of postponement of the sentence to reduce the sentence and consider a discount for the criminal, although under certain conditions.

Examining the two concepts of criminalization and decriminalization

Criminalization is called criminalization when the legislative authority qualifies a behavior in a

certain society and at a certain time as criminal and criminal based on political, economic and sometimes international considerations.

In the French language, the word “in decriminalization” is used (Najafi Ebrandabadi, 2014). Therefore, criminalization is the process of considering an act or omission as a crime, by which a new behavior enters the realm of criminal laws.

Since the legislative authority does not criminalize all behaviors, it should be considered as a choice by the government in order to convert some events into rules.

Decriminalization; It means removing criminal stigmas from behaviors or reducing criminal titles. Efforts to adjust the mechanism of criminal titles are realized in two ways:

1. De facto decriminalization
2. De jure decriminalization

1. De facto decriminalization: de facto decriminalization widely includes diversion. Diversion means refusing criminal proceedings or stopping them in cases that the criminal justice system is competent to handle. This approach has been proposed as a sociological mechanism in the direction of reducing criminal cases, reducing decriminalization in the light of the labeling process. De facto decriminalization is the basis of de jure decriminalization

2. De jure decriminalization: It is the legal and formal form of removing criminal stigmas from behaviors that are considered crimes.

Decriminalization is the same as decriminalization in an incomplete way. In fact, the principle of criminal title exists in the law, but by changing the definition of a crime, a punishment is adopted that has less side effects.

For example, changing the description of a crime to a misdemeanor can be considered decriminalization. The concept of decriminalization refers to all forms of mitigation

in the criminal system. Using the guarantee of substitute executions, deprivation of liberty, such as: monetary penalty, suspension of care and the like can be considered as decriminalization measures (Mousavi Mojab, 2019).

Suspending the execution of the judgment in legal terms means that the judgment issued by the competent court is stopped after its execution has started. After the execution of the ruling has started, it is not possible to stop the executive operation, except in exceptional cases where the legislator has allowed closing, stopping, delaying or interrupting the executive operation.

Types of postponement

Types of postponement: According to Article 41 of the Islamic Penal Code, postponement is simple or caring.

A- In the simple postponement, the perpetrator undertakes in writing not to commit a crime within the period determined by the court and it is predicted from his behavior that he will not commit a crime in the future.

B- In the postponement of care, in addition to the conditions of a simple postponement, the perpetrator undertakes to comply with the orders and measures prescribed by the court during the suspension period or implement them in a timely manner.

1- Simple postponement

Simple postponement means that the court, after confirming the guilt of the accused without determining the punishment for him, delays his punishment and releases the criminal. Basically, this decision is issued in minor crimes and criminals who have a less dangerous state and the public authorities of the society do not see them as needing to be prosecuted.

In simple postponement, the perpetrator undertakes in writing not to commit a crime during the period determined by the court and it

is predicted from his behavior that he will not commit a crime in the future.

In this type of postponement, the legislator has not considered measures for the period of postponement and generally acknowledges that he does not commit a crime within the specified period, then the court determines the period of postponement and must supervise the behavior of the accused, which of course is a supervision that is constantly carried out by the court.

It is not possible to judge the behavior of the accused, and it must be accepted that the meaning of this is that the court, based on certain evidence, finds out that the accused has been warned and has not committed any other crime during the postponement period (Korepaz and Atari, 2013).

2- Postponement in the form of care

In this postponement model, in addition to the conditions of simple postponement, the perpetrator commits to comply with the orders and measures prescribed by the court during the postponement period or to implement them on time.

According to Notes 1 and 2 of Article 41 of the Islamic Penal Code approved in 2012 by the Islamic Council, the court cannot issue a postponement order in absentia.

That is, in order to issue this order, the presence of the accused and taking into account his personality and appearance is necessary according to the situation intended by the legislator, and the court judge must take into account all these cases that the court can issue an adjournment order.

If the accused does not appear in court due to the legal notification of the summons, he will not be entitled to adjournment order. Also, if the accused is in detention, the court will immediately issue an order for his release after issuing a postponement order.

The court can take appropriate security in these cases. In any case, obtaining security should not lead to the arrest of the perpetrator. The issue is here, if the accused does not agree to invent the appropriate and desired provision of the judge, leading to the arrest of the accused.

Or if he is already in the detention center and the court has decided to postpone the issuance of the sentence, what is the duty? Perhaps the legislator has accepted this opinion in Note 2 of Article 41, which has finally interpreted this matter in favor of the accused.

And finally, obtaining security and determining security should not lead to the arrest of the accused. But considering that ultimately issuing such an order is within the authority of the court, and the court ultimately decides to issue such an order by considering and examining the appearance, social and moral status and punishment of the accused, it seems that the final decision rests with the court.

And considering the defendant's refusal to deposit the security, the court indicates his unworthiness to receive such a right and does not issue a postponement of the sentence. However, according to the note 2 of article 41, which stipulates that if the accused is in custody, the court will immediately issue an order for his release after issuing the postponement order, and also the court can take appropriate security in this case.

The intention of the legislator is that after issuing the postponement order, the court can obtain appropriate security and in case of refusal to deposit the security, the court can cancel the postponement order, rather, it should postpone the issuance of the sentence regardless of the issued security order and the accused release from detention.

This may be consistent with the court's authority to issue a security order. But in any case, the purpose of issuing the security order is futile, and if the accused does not provide security, the court

should not insist and arrest him after issuing the order to postpone the issuance of the sentence.

Criminological bases of postponement of sentencing

According to the relative familiarity that has been achieved regarding the division of crimes and punishments, at the beginning of the topic of the basics of the crime of postponement, one should get acquainted with the term postponement of the issuance of the sentence in the law.

According to Article 40 of the Islamic Penal Code approved in 2012, postponement is possible only in crimes that cause punishment, and that is, crimes that cause punishment that are from 6th to 8th degree. In this case, after establishing the guilt of the accused, the courts can postpone the sentencing by considering the personal, family and social situation and records, etc.

-First degree: -Imprisonment of more than twenty-five to thirty years.-A fine of more than one billion Rials. - Confiscation of property.

-Second degree: Imprisonment for more than fifteen to twenty-five years. - A fine of more than five hundred million Rials to one billion Rials.

- Third degree: - Imprisonment for more than ten to fifteen years. - A fine of more than three hundred and sixty million Rials to five hundred and fifty million Rials.

- Fourth degree: - A fine of more than one hundred and eighty million Rials to three hundred and sixty million Rials.

- Fifth degree: - Imprisonment of two to five years. – A fine of more than eighty million Rials to one hundred and eighty million Rials. – Deprivation of social rights for more than 5 to 15 years.

- Sixth degree: - Imprisonment for more than 6 months to 2 years. - Fine of more than 20 million Rials to 80 million Rials.

- Seventh degree: - Imprisonment from ninety-one days to six months. – A fine of more than ten million Rials to twenty million Rials. – Whip from eleven to thirty strokes. – Deprivation of social rights for up to 6 months.

- Eighth degree: - Imprisonment for up to three months. – Fine up to ten million Rials. – Whip up to 10 times.

Note 1- The cases of deprivation of social rights are the same as mentioned in the secondary punishments.

Note 2 – Punishments whose minimum corresponds to one of the above degrees and whose maximum corresponds to a higher degree are considered to be of the higher degree.

Note 3 – Taziri whipping more than seventy-four strokes can only be applied in cases of crimes against chastity that cause tazir.

Note 4 – In case of multiple punishments, the punishment is more severe, and if it is not possible to determine a more severe punishment, imprisonment is the criterion. Also, if a punishment does not comply with any of the eight clauses of this article, it is considered a 7th degree punishment.

Note 5 – The confiscation of objects and properties that were used in the commission of a crime or were intended to be used in the commission of a crime are excluded from the scope of this article and paragraph (6) of article 20, and are dealt with according to article 213 of this law. In every case where a property confiscation order is issued, the usual living expenses of the convict and his dependents are excluded.

1- Achieving correction and treatment

The question we are trying to answer in this speech is:

Question 1: Does the Institution of postponement of the issuance of a sentence have a significant

reformatory effect on criminals and deter them from committing crimes? Or do criminals, having this establishment of criminal law, use it as an opportunity to continue their criminal activity?

In Article 42 of the new Islamic Penal Code we have:

- 1- Vocational training or employment in a specific profession,
- 2- Staying or not staying in a certain place,
- 3- Treatment of illness or quitting addiction,
- 4- Payment of alimony to persons liable for alimony,
- 5- Refusing to drive all or some motor vehicles,
- 6- Refraining from professional activity related to the commission of a crime or using effective means in it,
- 7- Refraining from communicating and associating with accomplices or accomplices of crime or other persons such as victims as determined by the court.
- 8- Passing a special training course or courses and learning basic life skills or participating in educational, moral, religious, academic or sports courses.

According to the solutions that the legislator has provided for the postponement of care, it seems that the institution of postponement has a significant reformatory effect on the correction of criminals, which we will examine one by one in this speech.

1-1- Social rehabilitation

One of the obvious benefits of postponing sentencing is that it keeps criminals away from criminal environments and at the same time keeps them in their society so that they can benefit from the benefits of social adjustment (Ahmadi Mohd, 2019).

People who are subject to the postponement of sentencing usually continue their jobs and live

Postponement in the form of care: the court issuing the order can oblige the offender to carry out one or more of the following orders during the suspension period, taking into account the crime committed and the characteristics of the offender and his life conditions in a way that does not cause a major disruption in the life of the convict or his family. :

with their families and support them and participate in educational, recreational and skill programs, get counseling and in short continue their lives.

Although in open prisons, prisoners can use educational, skill and social programs, but they will never have the same opportunity to socialize as those who live freely in the society. They also allow criminals to stay in their community and keep their homes, support their families and compensate the victims and provide other useful services.

In addition, it is very difficult to return prisoners to a normal life, especially if they have been in prison for a long time. Life in prison is very repetitive and has a framework, and its connection with the outside world is cut off. The main philosophy is to postpone the correction of the criminal and this should be realized in the future of the convicted person. The court decision is only a plan for the reformation of the convicted person.

But the success of this decision depends on the degree of interaction and the desire of the convict. Although it is not specified in the laws whether the condition of enjoying this law is the consent of the convicted person with the decision by the court or not? But it seems that forced postponement does not work and an agreement should be applied (Goldozian, 2018).

1-2- Maintaining the place of punishment

Jurists and criminologists are of the opinion that by accepting the new philosophy of punishment implementation, which is to ensure public order

and reform the criminal through intimidation and education, in some cases, the execution of the punishment and the imposition of physical hardship or financial loss on the criminal is not compatible with the new philosophy of punishment and sometimes it seems contrary to that philosophy and purpose. Therefore, it is better to choose a way that better and more provides the new goals of punishment.

This way is the postponement of sentencing for criminals who, due to not having a bad criminal record and having committed special crimes within the range of degrees 6 to 8 of the new Islamic Penal Code, which includes special crimes, are not only considered habitual criminals, but also sometimes have good records. Their lives reflect their reformable character and prevent them from being viewed as criminals.

Therefore, the new penal policy does not consider it expedient to throw these people into prison and turn into a dangerous, anti-social and corrupt element due to the adverse effect of the prison environment (Ansel, 2015).

Criminological effects of postponing the sentencing

Based on the statistics, it can be seen that our criminal population has increased, and this is mainly due to the issuing of prison sentences to criminals. Even if the court has reduced the punishment of the criminal to imprisonment due to some considerations and in compliance with the quality. Therefore, it can be said that the most important effect of postponing the issuance of the sentence is the execution of the punishment against the defendant, and that is delaying the issuance of the sentence and preventing the execution of the sentence (Mousavi Mojab, 2010).

1-3- Giving discount or enforcing punishment

According to Article 45 of the new Islamic Penal Code, with regard to the offender's compliance,

criteria are defined for which the most important can be called the assistant's reports. The duration of the postponement can be determined according to the order of the court, depending on the case, to determine the punishment or to issue a sentence of exemption from punishment.

1-4- Necessity to comply with certain conditions

If the legislator has allowed the court to postpone the execution of the punishment for a certain period of time for a person who himself has been found guilty and guilty and has been convicted, instead of using this legal permission for both the court and the convicted person against the beneficiary.

It has been bound and deferred subject to conditions, in order to prevent the undesirable and irregular use of this legal amnesty and to subject a person to this amnesty and amnesty of the trial board who is deserving and deserving of it. As we know, these conditions are considered in the law in two ways, the conditions that the criminal must comply with and the conditions according to which the court must issue this sentence (Norba, 2012).

In the legal provisions of Article 42 of the new Islamic Penal Code, the court assigns duties to the accused, which the accused must comply with and implement in relation to his crime. Let him complete their implementation and consider conditions for this and determine laws so that he can have sufficient supervision, perhaps it can be said that according to the new Islamic Penal Code, this duty is mostly on the shoulders of social workers and they have a supervisory role in this regard.

The guarantee of the execution of the violation of the court's order has been included by the legislator in Article 44 of the Islamic Penal Code.

In this way, it says: in case of committing a crime, retribution, ransom up to the seventh degree, the court will issue a sentence regarding the

cancellation of the order of postponement of action.

Also, in case of non-implementation of the court's orders, the judge can extend the postponement for up to half the time stipulated in the order, or proceed with the issuance of the sentence of conviction. Considering the effects of the postponement of the issuance of the sentence to the offender, the following articles can be considered:

- 1- Postponing the issuance of a sentence is not considered a right for the criminal, but it is a means and a tool that has been entrusted to the court for reconciliation and assistance, so that by implementing it, the criminal can return to social life without imposing punishment (Najafi Abrandabadi, 2009).
- 2- Postponing the issuance of a sentence is a temporary relief and depends on the loyalty and obedience of the mahram to execute the court's orders within the deadline set in the sentence(Raijian Main, 2007).
- 3- Postponement of sentencing is an institution that provides the basis for individualizing the punishment with the personality of the criminal and has a direct relationship with the type of crime and the type of punishment prescribed in the Islamic Penal Code, or in other words, the court cannot postpone all punishments.
- 4- The continued exemption of the convicted person depends on the good behavior of the convicted person according to the order of the court during the whole period of postponement. In the Islamic Penal Code, only those criminals who have committed a crime for the first time are entitled to this fellowship. If the criminal commits a crime again during the legal deadline, his sentence will be revoked.

2- The works related to the victim

The Islamic Penal Code does not use a unified terminology in the field of victims and thus does

not provide a clear and specific place for them in the criminal justice system. Nevertheless, special innovations and improvements compared to the Islamic Penal Law 1991 have been observed in this law. which tells about the attention and awareness of the authors to the findings and theories of criminology and the importance of reflecting them in criminal laws and better implementation of criminal justice.

For example, the philosophy of the principle of personal jurisdiction of the victim, as one of the most important principles of international criminal law, revolves around the protection of the victim. Also, this bill has emphasized on the protection of the rights of the victim regarding the implementation of financial punishments.

Anticipating restorative justice mechanisms and expanding decriminalization in line with the rights of citizens, criminals and victims are other important innovations that can bring important social, cultural and economic effects to society and the criminal justice system.

To these cases, the position of the victim should be strengthened in the provisions of postponement of sentencing and mitigation and suspension of punishment, special attention should be paid to his position in state or public compensation for material and spiritual damages, as well as in provisions such as amnesty and forgivable crimes.

2-1- forgivable and unforgivable crimes

In the case of forgivable crimes, after the final sentence is issued and at the stage when the sentence is ready to be executed, if the sentence is announced and the plaintiff consents, the execution of the sentence will be suspended and the enforcement officers will continue to execute the issued final sentence.

It is certain that at this stage, the victim can achieve his rights while reconciling with the convict, and the convict can be freed from the

execution of the punishment and its application to him.

Because in many forgivable crimes, the legislator has foreseen the punishment of whipping or imprisonment, and after issuing a final sentence, considering that the accused is sure of the execution of the punishment sentence in his case, and before that, considering that he could protest the sentence issued.

To do it, he hoped to get rid of the punishment, but at this stage, he must either seek the consent of the victim or submit to the execution of the punishment (Fattah, 2011).

Among the crimes that can be forgiven, the only one that the legislator (in terms of expediency and maintaining order and preventing its repetition and committing) does not release the criminal after issuing a final sentence and despite the consent and forgiveness of the victim against him, is the crime of issuing a check.

It is not true that according to Article 11 of the Check Issuance Law, if the plaintiff declares his consent after the issuance of a final sentence, the prison sentence and the main fine will be suspended, but the criminal will be required to pay one third of the fine prescribed in the sentence.

And as for unforgivable crimes, considering that the country's criminal policy tries to protect the rights and interests of the victim as much as possible, in such crimes, the consent and forgiveness of the victim is respected and respected. The convict has been given the opportunity to obtain the consent of the victim in the execution phase of the sentence as much as possible so that his punishment is reduced.

Article 25 of the law amending some of the justice laws approved in 1997 stipulates in this regard: "Whenever a private plaintiff or defendant in non-pardonable crimes waives his complaint after the sentence is final, the defendant can rely on returning the complaint,

request the court that issued the final sentence to reconsider the amount of his punishment.

In this case, at the request of the convicted, the court will be formed in extraordinary time with the presence of the prosecutor (in the current regulations, the chief justice or his representative) and will reduce the punishment if necessary within the limits of the law. This decision is final (Najafi Ebrandabadi, 2005).

Based on this, criminals and convicts of unforgivable crimes also try to gain the satisfaction of a private plaintiff in order to enjoy this opportunity and fellowship.

In addition, in the stage of punishment and execution of the sentence, when the convict is serving the prescribed punishment and enduring it, the legislator has considered the declaration of his consent and remission to be effective in the state of the convict in order to protect the interests of the victim. And if the convict obtains the consent and forgiveness of the victim and pays the mentioned damages or arranges to pay them, he will be exempted from the rest of the punishment (imprisonment) and will be released conditionally.

Of course, the stated matter is not specifically related to a postponement of sentencing, and considering the nature of pardonable crimes, which are among the crimes that are important in the postponement of sentencing, this case can be considered relevant.

2-2- Damage compensation

At a glance, the first and most important way to compensate the damage, whether material or spiritual, is to completely restore the previous situation (Sanei, 2003, vol. 2). Applying this method in compensating damages, especially in damages, has serious limitations, and in principle, in many types of damages, it is impossible to restore the previous situation. Different types of damage cannot be compensated in one way.

In each case, according to the type of loss, the circumstances of the victim and the cause of the loss, the circumstances governing the case and other factors, the method of compensation is chosen by the court.

For example, in physical injuries, compensation is the repair of injury or payment of ransom and a sum of money that can eliminate the negative consequences of the injury to a large extent. And in cases where it is caused by bad intentions and intent, the legal punishment of the cause of the loss will relieve the memory and heal the loss. In causing a disturbance, compensation for the damage is to remove the disturbance in the future and the past obligation.

In the case of insults, defamation, and any other harmful actions that cause damage to the character of the victim, payment of a fine, execution of punishment, financial penalties, apology, denial of published materials, and the like are among the methods of compensation.

Regarding the postponement of sentencing, in the third part of Article 40 of the new Islamic Penal Code, it is pointed out that compensation for losses or the establishment of compensation arrangements by the offender must be specified.

In this way, we can reach the point that the way to compensate the damage and the process of its continuation and formation is more related to the opinion of the court that how and in what form this damage should be compensated. The special deferment period for the postponement of care should create a condition for the offender to be able to compensate for this damage. Regarding the way to compensate the damage, according to the law, the court can force the offender to do this, which I will mention in the following.

The compensation for moral damage may be done by a kind of compromise and agreement between the injured party and the injured party, without going to court, or by going to a competent court and with a judgement. In a general view,

the main compensation methods applied by the court can be summarized in four methods:

- 1- Restoring the former situation or objective method
- 2- Giving an equivalent
- 3- Symbolic and nominal compensation
- 4- Punitive or criminal damages (Fathalipour, 2016)

The compensation amount is determined in three ways:

- 1- According to the provision of the law and to the amount that has been determined in advance by the legislator.
- 2- To be determined by the agreement of the parties before the loss and damage
- 3- According to the ruling of the judge handling the lawsuit, which he determines by judicial assessment and evaluation.

A- Legal determination

The legal determination of damages is that the legislator clearly states the amount of damages in the law and the judge has no right to change the fixed amount. It is obvious that the judge must rule in favor of the claimant of the private claimant if the loss is realized.

Article 8 of the Check Issuance Law stipulated that "in the event that the bank refuses to pay the amount of the check according to the last part of Article 3 and the claim that caused the non-payment is not proven, the claimant, in addition to the legal penalties, shall pay the moral damages of the check holder, equivalent to a quarter of the amount of the check. And the damage of late payment, which is considered to be two hundred and ten from the date of presenting the check to the bank, is also condemned. (Kamari, 2017)

The purpose of predicting the fixed amount is to deprive the judge of the authority to measure the loss or control the maximum responsibility of the person responsible for the loss or to establish a basis for the amount of damage by determining its minimum (Mousavi, 2019).

B – Agreed determination

The second way of determining damages is to determine with the agreement of the parties before objections and damages. This type of damage determination, which is conventional in contractual liability, is stipulated in the form of an obligation and a penal condition against a party that causes damage to the other party.

Like a skilled worker who makes a bet with the employer, in case of physical injury in the workplace, he will pay him more than the amount of the loss. Such a condition is valid and enforceable if it does not conflict with the mandatory laws, public order and good morals.

C – Judicial determination

The third method of determining damages is the judicial determination of the amount of damages. In this method, the determination of damages is entrusted to the judge. And it is obvious that if the amount of damages is not determined in the contract or in the law, the judge has the necessary authority to measure and evaluate and determine the amount of damages and will rule on it.

The third method Is used in the case of postponing the judgment according to the law, and the compensation process and compensation arrangements are determined by the judge (Mohammednejad, 2018).

4- Works related to society

Regarding the works related to citizens, the most important thing seems to be the creation of an efficient system for the judicial security of citizens. This issue means that by issuing an order to postpone the issuance of the sentence and temporarily release the criminal, there is a guarantee for the safety of the citizens, and this is the same as the judicial security of the citizens, and in the other case, this includes the issue of security that a citizen gave when referring to the courts.

In this regard, the judicial rights of citizens have been dealt with in eight articles of the constitution. Principles 32-33-34-35-37-38-39 have explained the judicial rights of citizens (Hosseinjani, 2019).

In paragraph 14 of the third article of the constitution, it is specified that “providing the comprehensive rights of men and women and creating fair judicial security” for everyone and “general equality before the law”.

Relating to the non-retroactivity of the law (principle 169), the principle of acquittal (principle 37), the principle of judicial protection (principle 32), the principle of using the right of a lawyer (principle 35), the principle of prohibition of torture and obtaining confessions by threats (principle 38), the principle of openness Litigation (principle 165) is the principle and inalienable right to litigate (principle 34), one of the citizen’s rights that is considered in the constitution of the Islamic Republic of Iran.

Elsewhere, Article 140 of the “Fourth Development Plan Law” has simultaneously made the judiciary responsible for preparing two bills:

“Bill on Alternatives to Imprisonment” and “Bill on Protecting and Promoting Citizen Rights and Protecting People’s Privacy”.

It is worth noting that the necessity of considering punishment from the perspective of citizenship rights comes from the fact that punishment is determined and applied in any form and amount.

It is a violation of one of the basic and fundamental rights of human beings, which today, the investigation and accuracy about them, in the light of the discussion of human rights and international documents approved for their preservation and protection, is of special and increasing importance (Rabbani and Kianpour, 2016).

3-1- The possibility of violation of citizenship rights:

The Law on Respecting Legitimate Freedoms and Protecting Citizenship Rights has been approved to prevent the violation of the citizenship rights of all witnesses, informants, plaintiffs, defendants, and convicts and all clients of the justice system.

With the release of criminals who include reductions in imprisonment and are released from prison in any possible way and their punishment is postponed, it is an important point to consider mechanisms so that they cannot violate the rights of citizens and create problems for them.

In this regard, the legislator has tried to anticipate these issues by complying with the cases regarding the postponement of care and to prevent the criminal from committing a new crime at this time. It is given to judicial policemen (Ismaili, 2007).

Of course, by studying the law, you will realize that a specific mechanism has not been foreseen for this matter, nor has a process been defined for it, but with the definitions mentioned in Article 42 of the Islamic Penal Code, which refers to residence or not. The residence of the criminal and the manner of its maintenance have been stated, this point can be understood that the goal of the legislator is to minimize the danger of the criminal to the society.

Of course, a part of citizenship rights and its effects is also related to the process of delaying the issuance of judgment by the court, which was mentioned in its place.

3-2- Judicial security

In the third principle (paragraph 14) of the constitution, the government (in the sense of its entirety as the ruling body) is obliged to use all its resources to “provide the rights of all” in order to achieve its high goals, which it has stated in the second principle of the legislation.

On the side of men and women, and creating fair judicial security for everyone and equality of the public before the law; Therefore, in principle

156, the formation of the judiciary is explained and stipulated as follows: “The judiciary is an independent authority that supports individual and social rights and is responsible for realizing justice and is responsible for the following duties:

- 1- Dealing with and issuing rulings on grievances, infringements, complaints, settling lawsuits and settling disputes, and taking the necessary decisions and actions in that part of the Hasbiyyah affairs that the law determines.
- 2- Revival of public rights and expansion of justice and legitimate freedoms.
- 3- Monitoring the good implementation of laws.
- 4- Detection of crime, prosecution, punishment and punishment of criminals and implementation of the rules and regulations of the Islamic penal code
- 5- Appropriate measures to prevent crime and reform criminals.

In general, the realization of justice in every society depends on the realization of this necessary and certain thing:

The right to sue; It means that the person who is oppressed should have the right and ability to file a lawsuit and refer to competent authorities.

So that he can recover his lost rights with the help of them, and the violators and oppressors of others’ rights will also be punished for their actions. (Rahmati, 2018).

4- Works related to criminal justice

In this topic, this point is important, what does the society get for the freedom it gives to the criminal?

To be able to warn the criminal and bring him back to the community and reduce the risk of spreading criminal ideas through the criminal to the community level.

4-1- Deprivation of social rights

Deprivation of social rights is one of the new initiatives used in some countries and the United Nations suggests non-negative measures to their freedom as measures that can be used as alternative punishments and used during the release of the criminal to the member states (Khaleqi, 2017). Deprivation of social rights in criminal law is a type of legal prohibition by which a person loses the competence and competence to exercise his rights.

The punishment of deprivation of social rights includes punishments that restrict freedom or deprive of employment rights and deprivation of public services.

This punishment is subject to the principles governing punishments and follows goals such as crime prevention, reformation and rehabilitation of the criminal, compliance with the principle of individualization of punishments and avoiding imprisonment.

According to Article 26 of the Islamic Penal Code, the meaning of social rights is: "The social rights of this law are as follows:

A- Volunteering in presidential elections, Assembly of Leadership Experts, Assembly of Islamic Councils and Islamic councils of cities and villages

B- Membership in the Guardian Council, Expediency Council, or the government board and serving as the vice president

C- Headship of the Judiciary, the General Prosecutor's Office, the Supreme Court and the Administrative Court of Justice

D - Being elected or becoming a member of associations, councils, parties and communities by law or by people's vote

E- Membership in juries and trustees and dispute resolution councils

F- Employment as a responsible manager or editor of mass media

G- Employment in all government agencies: three forces and their affiliated organizations and companies, Islamic Republic of Iran Broadcasting, armed forces and other institutions under the leadership, municipalities and institutions assigned to public services and required institutions. Specifying or mentioning the name to include the law on them

H- Working as a lawyer and managing notary and marriage and divorce offices and office assistants

I- To be elected to the position of guardian, trustee, trustee, supervisor or manager of public endowments

J- Being elected to the position of referee or expert in official authorities

K- Using government emblems and honorary titles

L- Establishment, management or membership in the board of directors of public, cooperative and private companies or commercial registration or educational, research, cultural and scientific institutions.

4-2- Cash penalty

Considering the problems of monetary punishment, including the imprisonment of the convicted person in case of inability to pay it, thinkers and experts have proposed a new way of punishment to make the implementation of this punishment fair, including daily monetary punishment.

Daily cash punishment (daily fine) is the daily payment of a sum of money to the government as punishment, which is related to the severity of the crime committed and the daily income of the criminal.

Daily fine with this definition is a clear symbol of compliance with the principle of individualization of punishment. In addition to the daily cash penalty, we can refer to a relatively similar idea under the title of cash penalty

installments with special conditions in Article 11 of the Law on the Execution of Financial Convictions approved on 7/4/2014.

"In case of proof of insolvency, if the debtor is found to be able to pay in installments, the court, while issuing a judgment of insolvency, will give an appropriate deadline for payment or issue a judgment of debt installments, considering his situation.

In determining the installments, the amount of the debtor's income and his necessary livelihood should be taken into account, and it should be in such a way that he has the ability to pay it. According to Article 1 of this law as well as the title of this law, the meaning of imprisonment here is the same as detention instead of a fine, and thirdly, the convict must have the ability to pay in installments.

4_3 General services

This punishment not only lacks the dangers and disadvantages of punishment, but also promotes economic, social, cultural and educational growth.

Performing public services by the convict is not synonymous with unemployment and forced labor. Rather, it is aimed at rehabilitating and reforming the convicted by preventing the negative effects of being sentenced to prison, using the capacities of rehabilitation, engaging in public works and also compensating the damages that criminals have caused to the society by committing crimes.

Community-oriented service as a punishment consists of doing something unpaid by the convict on the order of the court for the benefit of society. Unfortunately, no rules and regulations have been established in the criminal justice system of Iran regarding the punishment of public service (Khaleqi, 2017).

But the reasons can be seen in the decisions and procedures of the court and even in the plans made by the prisons organization, which show the

attention of judges and officials to this punishment.

For example, it is possible to mention the sentence of a young thief to be a gardener in one of the government institutions or the sentence of a runaway girl to serve in a nursing home. In connection with alternative prison programs (community-oriented services), a plan with this title was also proposed by the general manager of prisons in Mazandaran province, which deserves consideration and attention.

In this plan, various types of work are foreseen in various matters, including:

- 1- Work in agricultural and animal husbandry projects instead of prison
- 2- Work in mining projects instead of prison
- 3- Work in industrial projects instead of prison

The statement of these cases, as it was said, can achieve social justice and criminal justice, and during the period of postponement of sentencing, it can prevent the criminal from repeating another crime and be a solution to reduce crime.

The Islamic Penal Code approved in 2013 also confirms these topics in its ninth chapter on the topic of punishments alternative to imprisonment, in Article 64 "The punishments alternative to imprisonment include a period of care, free public services, fines, daily fines and deprivation of social rights.

If the plaintiff passes away and there are mitigating factors, taking into account the type of crime and the quality of its commission, the effects of the crime, the age, skill, status, personality and history of the criminal, the state of the victim and other circumstances, it will be determined and executed.

And Article 79 "Determining the types of public services and government and public institutions accepting convicts and how they cooperate with the judge and the convict, it is based on a regulation that is prepared by the ministries of

interior and justice within three months from the effective date of this law.

According to these laws and regulations, it is quite evident that the goal of the legislator is decriminalization and the reformist approach and punishment of the criminal, which is the ultimate goal of delaying the sentencing.

And with the approval of the Head of the Judiciary, it is approved by the Council of Ministers. The provisions of this chapter will come into force after the approval of the regulations of this article. It has referred to public services and made its implementation subject to the approval of regulations.

According to these laws and regulations, it is quite evident that the goal of the legislator is decriminalization and the reformist approach and punishment of the criminal, which is the ultimate goal of delaying the sentencing.

Conclusion

Postponing the issuance of a criminal sentence is in line with the recommendations and ideas of criminologists regarding restorative and meritorious justice. And also; It has received its seal of approval from the perspective of Imamiyya jurists.

What is the rule of “Al-Tazir Bama Yarah Al-Hakim” governs the above institution. Therefore, as a rule, the judge has authority to determine the quantity and quality of punishment.

The above Institution, following the policy of decriminalization of minor crimes; It aims to reduce the probability of being labeled a criminal, especially low-risk criminals.

Because by pursuing this goal, in addition to warning the criminal and turning him into a law-abiding citizen during the suspension of care in order to apply appropriate measures, the presence of the person in the criminal justice system will also be prevented, even for a short period of time.

The position of the Institution of postponement of the issuance of a sentence is also significant in the light of criminal justice system models (crime control model and fair trial model).

The aforementioned institution’s compliance with the crime control model is as far as non-punitive crimes six to eight, which are heavy in terms of punishment.

And also excludes the crimes listed in Article 47 of the Islamic Penal Code and the beginning of committing them, which have a destructive effect on the order and security of the citizens, from the scope of the above institution.

And where; reforming and rehabilitating the offender, lack of effective criminal conviction record, respect for human dignity and also handing over a written commitment among the conditions of benefiting from the institution of deferment of criminal sentence, has followed the model of fair proceedings.

The authority of the judge to use the Institution of postponement of the issuance of a sentence is one of the other issues raised in this institution. Because the legislator by inserting the word “can” “In Article 40 of the Islamic Penal Code, it has given the authority to the court that at the judge’s discretion; The sentencing of the perpetrator is postponed. This is despite the fact that the non-benefit of a qualified delinquent causes; The vote seems unjustified.

Among the positive points of the Islamic Penal Code of 2012 is that the above-mentioned institution is accepted in all punishment crimes committed by juvenile delinquents, but in relation to adults, it is accepted only in light punishment crimes from level six to eight.

While it would be better to leave this matter to the discretion of the judge, rather than considering the consequences of each crime on social order and other circumstances and the situation of the criminal; can delay the issuance of a criminal sentence.

In the French legal system, postponement of sentencing is accepted in all misdemeanor and misdemeanor crimes, and only in serious crimes over ten years of imprisonment, which are considered crimes, the above institution cannot be implemented.

Among the other positive innovations of the Islamic Penal Code of 2012, which is also visible in the Institution of postponement of the issuance of a sentence and is considered as one of the justifications of the above institution, is the use of the valuable business of social workers in the criminal process.

The fact that the court judge uses the scientific information of sociologists, social workers and other technical experts in order to better understand the personality dimensions of criminals, while increasing trust in the judges, provides better judgments.

Because, according to one of the principles of the law of helpers, the helpers are required to file a character file that contains the circumstances of the perpetrator, whether in terms of family, culture, social, economic, etc., in various ways.

Therefore, the prediction of such an institution can be taken as a good omen. However, according to the current laws of Iran, the filing of a personality file is considered mandatory only for children and adolescents (Article 286 of the Criminal Procedure Law approved in 2012).

And in relation to the crimes committed, no article of the Islamic Penal Code and the Criminal Procedure Code has been imposed on the judge from the adult area.

1- Article 40 of the Islamic Penal Code mentions restrictions such as "consideration of the individual, family and social situation" for the use of the institution of postponing the issuance of a sentence. While the legal entities that are subject to the sixth-degree ta'zizi punishment, do not have the possibility to benefit from the postponement of the sentence.

2-The type and duration of postponement of judgment in Iranian law are "simple postponement" and "careful postponement" and between "six months to two years". While in the French legal system, there are three types of postponement. "Simple postponement, postponement with examination and care, as well as postponement with an order" and the period considered for each is "maximum one year".

3-In the legal system of Iran and based on one of the clauses of Article 40 of the Islamic Penal Code, there is a requirement to compensate losses or to establish compensation arrangements. And as soon as the criminal tries to obtain the consent and compensation of the victim, one of the conditions for using the Institution of postponement of the issuance of a sentence has been fulfilled. In return; The French legislator, in order to benefit from the said postponement, while compensating the damages caused by the offense to individuals, has also considered stopping the continued damage to the public order of the society.

4- Pursuant to paragraph d of Article 40 of the Islamic Penal Code, "Lack of effective criminal record" is one of the other conditions for using the Institution of postponement of the issuance of a sentence.

Suggestions

1- The existing fact is that our jurisprudence tends to use the simple postponement in a rare and exceptional way that does not happen under the ruling.

The presence of judges is complemented by the presence of social workers, which is known as caring in the Anglo-Saxon system. In this way, every social worker in his field of work is responsible for supervising and overseeing the affairs of a number of suspended convicts and regularly and periodically informs the judge of

the execution of the sentence. The convicted makes the necessary decisions.

The existence of the aforementioned system unconsciously suggests to the convict that his performance during the postponement period is carefully monitored and accordingly, the convicts usually do not dare to violate the court's orders. It goes without saying that there is no such system in our country and the principle is that if by chance the court learns about the violation of the orders by the convicted person, it will take action to cancel the order and take action against the punished acts.

It can be seen that in our legal system, there is practically no implementation of an interim state to warn the convicted in time, and usually the court issuing adjournment orders when it is informed of the violation of the convicted, that the work is over and there is no other option but to impose the punishment.

Having said that, according to the second paragraph of Article 44, which reads: "...in case of failure to comply with the court's orders, the judge can issue an additional postponement or sentence for up to half of the time stipulated in the order".

To some extent, the judge's openness comes from the word "judge can", which means that the judge is also free to issue a warning to amend or add adjournment period in case the defendant does not comply with the court's orders.

It should be noted that many existing institutions such as welfare and inspectors of the Ministry of Labor and Youth Organization can move towards playing a role in this control system with planning and division of work.

Many retired police officers, retired teachers and educators, and other military and national retirees can voluntarily participate in this project and, in addition to creating employment and entertainment suitable for retirement, take a positive step in reforming criminals at the

community level. Mosques and Local councils can also actively participate in this field.

2-Unfortunately, at present, it seems that the postponement of sentencing is mostly applied to adjust the population of criminals, for this reason, it is observed that there is no necessary accuracy in the judgments of the courts.

We can see examples of this carelessness in the evaluation section of the judicial procedure. Postponing the issuing of an unnecessary sentence can be destructive just like unnecessary punishment. The convicted person should be well justified regarding the reasons and circumstances.

The judge of the court must make him firmly understand that the philosophy of postponement is to give him the opportunity to reform, that is, the convicted person must feel religious about the postponement of the sentence and consider it a favor to him. The convicted person will be null and void.

If the convicted person feels that the postponement of his sentence is due to economic reasons, such as a reduction in government spending or the explosion of prison population, then instead of feeling guilty in front of the society, he will consider himself the winner of the prosecution and punishment process.

In this regard, the author's suggestion is that the honorable officials of the judiciary, in order to create unity of action in the courts of the country, should prepare suitable educational pamphlets for the honorable judge and explain the psychological and sociological aspects of this issue to them.

3- Basically, sentencing should be postponed by studying the character of the convicted person. In most of the developed countries, this is done by filing the personal file of the accused along with his accusation file. Unfortunately, in our country, there is still no place for the accused's personality file, while basically in taziri punishments, the accused's personality is one of the main criteria in

determining the severity and weakness of the punishment.

Due to the lack of such a case, our expectation is that the court judge, as a jurist, will also perform the tasks related to the experts in educational sciences, psychology and sociology, in addition to performing his main duty. This expectation is completely unjustified and unreasonable and is beyond the scope of the judge's competence and ability.

Based on this, their personal conclusions cause fragmentation and conflict in the judicial procedure. This problem can be easily solved due to the large number of graduates of the mentioned fields in our society. And in this way, both the problem of hiring specialists and the problem of filing personal files can be solved.

۴- Undoubtedly, the judicial system of our country is based on the dynamic sources of آخوندی، محمود (۱۳۹۸). آیین دادرسی کیفری، جلد دوم، تهران، انتشارات سازمان چاپ و انتشارات وزارت فرهنگ و ارشاد اسلامی

آشوری، محمد (۱۳۹۵). جایگزین‌های زندان یا مجازات‌های بینابین، تهران، انتشارات گرایش

آنسل، مارک (۱۳۹۵). دفاع اجتماعی، ترجمه دکتر محمد آشوری و دکتر علی حسین نجفی ابرندآبادی، تهران، انتشارات دانشگاه تهران

احمدی موحد، اصغر (۱۳۹۹). اجرای احکام کیفری، تهران، انتشارات میزان

اردبیلی، محمدعلی (۱۳۹۳). حقوق جزای عمومی، جلد دوم، تهران، انتشارات میزان

اسماعیلی، رضا (۱۳۸۷). حقوق شهروندی در قانون اساسی جمهوری اسلامی ایران، نشریه فرهنگ اصفهان، شماره ۱۴۵

بخشی زاده، امین و سلیمی، صادق (۱۳۹۳). تحلیل ماده به ماده قانون آیین دادرسی کیفری ۱۳۹۲ در مقایسه با قوانین سابق، تهران، انتشارات جاودانه جنگل

Islamic jurisprudence in terms of limits and retributions, and it has been and will be the most advanced laws to be applied in human life.

But regarding the crimes that can be deferred, the recommendation of Islamic Sharia is to exploit the findings of human knowledge and other societies, the pride of having progressive laws in the first part should not prevent us from studying and investigating to make the provisions of the second part more efficient (to the concept of development of laws) unnecessary. God willing, all the departments responsible for the implementation of justice and maintaining order will try to identify the most efficient methods in this sector and suggest them to the country's legislative body for implementation.

References

تدین، عباس (۱۳۹۸). قانون آیین دادرسی کیفری فرانسه، معاونت حقوقی قوه قضائیه، تهران، انتشارات خرسندی

جعفری لنگرودی، محمد جعفر (۱۳۹۵). مبسوط در ترمینولوژی حقوق، جلد دوم، تهران، انتشارات گنج دانش

حسین جانی، بهمن (۱۳۹۹). حقوق جزای اختصاصی (۱)، تهران، انتشارات نسل نیکان

حسینی، سید محمد (۱۳۹۵). فرهنگ لغات و اصطلاحات فقهی، عربی به فارسی - همراه با معادل انگلیسی، تهران، انتشارات سروش

خالقی، علی (۱۳۹۷). آیین دادرسی کیفری، تهران، انتشارات شهردانش

رایجیان اصلی، مهرداد (۱۳۸۷). تعویق صدور حکم، پژوهشهای حقوقی، شماره ۱۴

ربانی، علی و کیانپور، مسعود (۱۳۸۶). مکاتب علمی و دیدگاه‌های نظری در باب حقوق شهروندی، مقالات برگزیده همایش حقوق شهروندی، تهران، مرکز مطبوعات و انتشارات قوه قضائیه

رحمتی، حسین (۱۳۹۸). محشای قوانین و مقررات حقوق شهروندی، تهران، انتشارات فکرسازان

زراعت، عباس (۱۳۹۶). آیین دادرسی کیفری، تهران، انتشارات میزان

شمس، عبدالله (۱۳۹۷). آیین دادرسی مدنی، جلد دوم، تهران، انتشارات دراک

صانعی، پرویز (۱۳۸۲). حقوق جزای عمومی، جلد دوم، تهران، انتشارات گنج دانش

فتاح، عزت (۱۳۸۱). از سیاست مبارزه با بزهکاری تا سیاست دفاع از بزه‌دیده، مجله قضائی حقوق دادگستری، سال اول، شماره ۳

فتحعلی پور، عطاءاله (۱۳۹۶). مسئولیت جزایی و مدنی ناشی از امور مختلف، تهران، انتشارات میزان

کامیار، محمدرضا (۱۳۹۷). گزیده آراء دادگاه‌های حقوقی، تهران، انتشارات حقوقدان

کوره‌پز، حسین محمد، توجهی، عبدالعلی (۱۳۹۲). درآمدی بر نهاد تعویق صدور حکم در حقوق ایران، آلمان و فرانسه، دوره دوم، شماره ۵

گلدوزیان، ایرج (۱۳۹۸). بایسته‌های حقوق جزای عمومی، تهران، انتشارات میزان

مرعشی، محمدحسن (۱۳۹۳). دیدگاه‌های نو در حقوق کیفری اسلام، تهران، انتشارات میزان

معین، محمد (۱۳۸۷). فرهنگ فارسی، تهران، انتشارات امیر کبیر

موسوی مجاب، سید درید (۱۳۹۰). متون حقوقی (جزوه درسی) دانشگاه آزاد اسلامی واحد قم، مقطع کارشناسی ارشد (گزارش جرم زدایی)

نجفی ابرند آبادی، علی حسین (۱۳۸۴). مباحثی در علوم جنایی (تقریرات درس جامعه شناسی جنایی) نیمسال دوم، تهیه و تنظیم مهدی صبوری

نجفی ابرندآبادی، علی حسین (۱۳۸۹). عدالت ترمیمی، مجله تخصصی دانشگاه علوم رضوی، سال سوم، شماره ۱۷

نوربها، رضا (۱۳۹۲). زمینه حقوق جزای عمومی، تهران، انتشارات گنج دانش

محمدنژاد، پرویز (۱۳۹۸). اصلاح و تربیت در قرارهای دادگاه، تهران، انتشارات مجد