

Foundations and Effects of the Right to Treat an Offender

Omid Doostbin ¹, Qodratollah Khosrowshahi ², Mohamad Reza Goodarzi ³

¹ PhD. Student in Criminal Law and Criminology, Islamic Azad University of Naraq, Iran. ² Assistant Professor of Criminal Law and Criminology, Faculty of Economy University of Isfahan, Iran. ³ Department of Law, Faculty of Islamic Azad university of Tehran of, Tehran, Iran.

Abstract

One of the major solutions and procedures of responding to the crimes in countries' criminal policies that are owed to the clinical criminology and medical model is treating and therapeutic actions in order to social readmission in society. There are a number of criminological doctrines found in various forms of criminal legislation. Hence, they get out the theoretical state and regularized. In the meantime, the right to treat an offender as one of the fundamental human rights that is in accordance with the innate dignity in human beings and a privilege with the opportunity to an offender in the context of the criminal regulations with free wills of all treating programs in the penal system of justice in different stages of trials, especially the process of executing verdict, and then benefit it. In this paper, the analysis of scientific findings, use of library sources and analytic and descriptive procedures emphasizing on different aspects of clinical criminology and its impact on criminal law, basics and the works of right to treat an offender was investigated, and according to the findings, the right treat an offender s is compatible with the religious and criminological codes and the requirements and the recommendations of international conventions that are recognized in the rule according to higher law and conventional regulations of Iranian legislator and standards have been recognized as Iranian law.

Keywords: Clinical Criminology, Right to treat an Offender, Treating Experiments, Offender Rehabilitation

INTRODUCTION

Delinquency phenomenon is a concept that changes in place and time and affected by the ruling perspectives of criminal legislation. Then, many crimes are involved in behaviors associated with offender description at a time. Criminalization and prospect of offender enforcement by a legislator cause to intervene in the criminal system in rights of the individual freedom. Sometimes, the intervention may have problems because any criminalization is actually deemed as a kind of restriction. These limitations show negative consequences for the community. For instance, its social costs are noted that some members of the community face the label of "offender" in enforcing the criminal law and within criminal justice. In addition, these kinds of criminalization and pensions will eventually lead to economic, political, and social costs for sovereignty. Fight with the criminal phenomenon, not an offender, and the lack of recurring the crime is accounted for the important purposes of criminal law and criminology. In this regard, the treatment of offenders is considered as a reliable mechanism of legal systems. Treating approach i.e. a set of educational, support and therapeutic solutions from the criminal justice system to provide a person with the treatment field. In this viewpoint, the overall orientation of penalty switches from the punitive aspect to therapeutic state and the type of characteristic injury of a delinquent gets the main criterion of the reaction of the criminal justice to the crime. In other words, the responses are individualized or generally formed in a personalized criminal justice. A purpose that criminal law's scientists, particularly

advocators of the social defense school set to treat an offender s, such a great purpose that we can treat an offender when punishing an offender and bring him back to society as a healthy, honest man, including the utilitarian functions of penalties which, about sixty years of recent seriously considered and reflected to a human concern for internal regulations and some international documents is behavior treatment of a delinquent ^[1].

This function is considered in a variety of sources and proposed in the form of different terms like treatment and reform, rehabilitation, reconciliation, social readmission, but a very limited explanation is slightly presented and just programs and philosophy are encountered so that some defined the rehabilitation as an act of nurturing and treating the

Address for correspondence: Mr. Qodratollah Khosrowshahi, Assistant Professor of Criminal Law and Criminology, Faculty of Economy University of Isfahan, Iran.
E-mail: ghkho44@yahoo.com

This is an open-access article distributed under the terms of the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 License, which allows others to remix, tweak, and build upon the work noncommercially, as long as the author is credited and the new creations are licensed under the identical terms.

How to cite this article: Doostbin, O., Khosrowshahi, Q., Goodarzi, M.R., Foundations and Effects of the Right to Treat an Offender. Arch Pharma Pract 2020;11(S1):95-103.

offenders and preparing them to return to society. Thus, contrary to those who regard rehabilitation as a target of criminal law, the author believes that a system of response process to the crime includes indulgence, deterrence, exercise, and rehabilitation as one of the significant protocols of response to the crime as a treating approach. In other words, the final purpose of criminal law is lack of recurring the crime and a mechanism to achieve the important purpose and rehabilitate the delinquent to more conformity with the community, given this description, the right to treat an offender includes the possibility of claims of behavior treating, and the thoughts provided for an offender.

In other words, there is the right for an individual that ask society and the government various individual rights that is their human right to ask for changing and treating. That is, the right to treat is compatible with ethical codes, it means that the offender is claiming something that is a component of fundamental rights and the right is known for them and there is a possibility of claiming it for them, and it can be said with regard to the roots of crime, lack of training or lack of the behavioral skills are the common factors in committing the delinquency. Based on this description, if the treatment means the actions in order to train or acquire the skills to the offenders, therefore; an offender has the right to claim the criminal system to be treated. In fact, the offender voluntarily is seeking to reclaim his own treatment and is somehow claiming this that the community with the necessary context in the wake of treating and in line with the social order. Then, the offenders in the wake of claiming their rights that legal community is not been able to provide and after committing a crime, an offender has the right to claim their fundamental rights from and the criminal justice system.

In other words, in this approach, treating action means “the strength of social and the individual ties of an offender so that it allows him actively to enter the community and takes the useful and acceptable social skills and uses these abilities in the practice.”

Therefore, the right to treat an offender is one of the featured human rights of that is recognized in the realm of Criminal policy of the United Nations and affected by the criminological movements, and inspired by the doctrines of clinical criminology of that institution. In addition, with issuing numerous imperative and guidance documents, the membered states will be obliged to take the act to accept the treatment-therapeutic approach of offenders, and its inclusion in their rules ^[2].

Nevertheless, in this paper, while emphasizing the necessity of exact recognition of the content of the rehabilitation principles, the basics of right to treat an offender in the first section are reviewed and its effects will be also addressed in the criminal policy of Iran in section 2.

THEORETICAL CONCEPT AND APPROACH OF THE RIGHT TO TREAT

The pro and con views of the right to treat

In the developments of criminal law in the different periods, it can be said that the penalty in the first period is the only mission of punishment and intimidation and punishment is compared and determined suitable with it and an offender and their character has no effect on the amount and type of punishment. In the second period called the criminological course of the criminal law to punish, a human approach is considered and the appropriateness of the penalty with an offender is introduced. In this period, according to the same doctrines of criminology, the actions of the hedge on the side of punishment, for offenders was considered, but in the third period of developments of the criminal system, human-oriented criminal justice was expressed that according to this view, humanity should be considered in the system and in this period, the discussion of treat finds the scientific and philosophical aspects, and the movement lead to the social defense conducted by Marc Ansel ^[1].

There are two approaches in the historical study of the development process of the treat. The first approach emphasizes the failure of any treatment programs. According to Martinson's research, the treat and rehabilitation may not be able to deal with the recurrence of a crime and the punishment has been considered as the safest reaction to the delinquencies. In Opposite, a group believes that the reformist approach is not only unbeaten but also the best reaction against laws and regulations to secure the community and readmission of offenders and as a human experiment should be attended by the criminal policy. Nevertheless, regarding the reformist approach of the criminal justice system, it can be stated that the rehabilitation and the treatment of offenders, for the first time was shown in the form of medical treatment of offenders by the founders of the realization school. They believe that delinquency is a kind of bio-natured disease that addresses the rehabilitation of offenders with applying the punishment to treat them. Hence, based on the founders of the realization school, especially Caesar Loubervarzi the penalty is limited to medical actions ^[3]. In other words, various legal system, regarding treatment programs, has different approaches, it means that the first approach is a tend to "the theory of nothing is effective" that emphasizes the concept of the effectiveness of rehabilitation to reduce the delinquency and ultimately returning to punishment and indulgence as more suited solution for the reaction against delinquency, but in a different approach, treating the criminal justice system, and survival based on being an effective thought of rehabilitation is addressed in the legal criminal system.

In a reformist approach of advocators of a theory: " being an effective treating thought" that often are Canadian psychologists who believed that the theory of" nothing is effective in the treating and therapeutic program, mainly influenced and expanded by the claims of Moriston (1974)

and is essentially based on empirical evidence and accepted in the United States due to existing some fields as if there is not the destructive field, then claims of Moriston is checked for the scientific details. They believe that one of the most important devastating areas that leads to the relative admission of theory: "nothing is effective" in some legal systems is the popularism criminal thought. It means that criminal popularism has roots in the concept of popularism indulgence (people-asked indulgence) that Anthony Batomes (1995) pointed out. He applied the so-called popularism indulgence to show the abuse of politicians from the claims of people in the field of criminal justice. Politicians who perform their punishment view to cover the public desires, therefore, the main result of popularism indulgence is a tendency to use the rapid, and dramatic solutions, and also considering the offenders as non-insiders, and resort to the exclusive measures for the risk of their crime ^[4] in the past decades, treating and treatment scientists focus on measuring the effectiveness of the treating and therapeutic program so that there is a wide range of experimental researches on the effectiveness of treating and therapeutic interventions on the crime recurrence. A collection of these experimental studies represents the possibility of reducing the amount of recurring crime by using the measures to rehabilitate the offenders. Affected by the reformist doctrines of Bonetta and Hugh (1991) in an article, he emphasizes three principles and believed that these principles should be always considered in the nurturing program. The first principle is based on the risk and to increase the effectiveness of the treating and therapeutic programs that should be coordinated to the level of treatment and these programs are coordinated with the level of offenders' risk. Therefore, the more compact programs are considered for high-risk offenders and moderate programs for low-risk offenders. In the second principle is a need and they emphasized it and treating and therapeutic programs should consider criminality needs of offenders and finally the impressive principle implies that, based on it, the procedure of presenting treating and therapeutic programs with doctrine procedure and capability of every delinquency. Gradually, with the development of studies and criminological findings, the concept of this phenomenon gets wider so that a crime is not only considered as a disease and bio-natured phenomenon but also a human and social phenomenon. This leads to expanding the range of the offenders' rehabilitation from medical treatment to the social phenomenon. Actually, since the beginning of forming the scientific criminology and particularly the new social defense school, it is always one of the main goals of social reaction to the delinquency phenomenon.

Rehabilitation or in other words treatment of an offender based on a general approach of their readmission as opposed to reject and eliminate the offenders and to move in order to transform the offender from a solitary to active, the useful person in society.

▪ Concept and entity of the right to treat

The treatment of an offender is entitled to a right to them. In an even more accurate description of treatment and torturing (optimizing the crime) or re-nurturing offender) through punishment in a way that directs a person to the basic rules of life. In fact, the treatment and training of the offender are to nurture, garnish and unfold the inner talents in order to reinvent moral, and social thought of an offender for returning to their individual and social values in society. Right to treatment is nature and innate right of human rights that an offender can ask the community. Accordingly, in the wake of the analysis of Hohfled on the word of right, which calls from the claim, it should be said that the condemned has the right to claim treatment, and the training of its own. In other words, the right means having privileges and to benefit or assign something to a creature who is available and the right to possession, namely, rating, assigning, allocating something for a creature who has it. Basically, the right to treat means that an offender has the right to treat and may be able to claim treatment and be able to ask the society to provide him with the ground of training, torturing and treating. Hence, the right to treat the person, i.e. a set of human rights that society has against the law responsibility and an individual can claim it from society. Then, in the Universal Declaration of Human rights, in Article 29 when a person is against his community is responsible for community rights and tries to provide a field of a good life and dignified for the citizens and if the right to treat an offender emerges in the clinical criminology, it can be in the common penalties such as the prison and should be designed in a way that delinquent while bearing their punishment is placed under treating measures and reformist experiments, and a field of returning and readmitting them to the community can be provided.

▪ Right to treat along with human dignity

Human dignity can be divided into two species; innate and acquisitive and the notion of the innate dignity is that human beings in their creation and nature possess some feature that gives them a position of prominence among the phenomena over the world. As such, all the humans have it and this part of the dignity can be earned from Esra Sura in Verse 7. The notion of acquisitive dignity is that the person with the quest and struggle in the fields of knowledge, politeness, and good deeds take his position of prominence. Human dignity, in fact, is accounted for one of the foundations of the right to treat an offender, and in other words, the human is a worthwhile essence, and being merciful is a fact like the angels. In this way, the dignity of the human represents really a rated and projected existence ^[5].

This concept in the field of criminal law is so much important because the criminal law imposes a number of threats that human dignity is incompatible with imposing, but the philosophy of the penalty rights is established on the virtue of the human dignity ^[6].

In the Universal Declaration of human rights and the two next conventions, dignity is innate and reminded as basic rights

and the rights contained in them is caused by human dignity. However, although the dignity expresses the innate values of the human existence and the quality of the human being, it also makes some commitments for a person. Basically, the legislation guarantees the human dignity and manifestation of supporting human dignity. However, the criminal law as a last resort to guarantee the dignity and human rights and determine the punishment for those who trample the dignity and rights of human, in fact, from this perspective, means the right of two aspects, on one hand as the warranty run out for the maintenance of human dignity for the general public, and on the other hand, in the ...dignity, for the general public) and on the other hand, it also stresses to apply performance guarantee on observing the rights (the accused). In the meantime, right to treat an offender as one of the fundamental human rights that in accordance with the innate dignity of human is the rise and unlike the punishment-oriented thoughts which causes to degrade the human dignity indicates the fact that a man is a creature who the value of other things is for him, so if a man is worth more than any other creatures, it is necessary to frequently serve them as a target and a mean [6].

In other words, expiring human dignity causes to attempt in the well-being of a person and respect their rights. Therefore, it cannot be achieved through the procedure of penalty obligatory and prediction of the punishments for violating the moral behaviors with the human virtue and dignity, whether necessarily the penalty obligatory can only make conformity in society or it will never change the human soul. So it seems the punishment of an offender is in conflict with the human dignity as self-awareness and self-obligatory and the right to the treatment and social readmission of an offender is a radical protocol and human experiment in a superior situation in Islamic and humanitarian thoughts.

It is a right to watch the offenders who have lost their social and moral status in society and dignity is temporarily corrupted. So human dignity claims to be supported with the reformist thoughts that correspond to human nature.

▪ Right to treat along with fundamental human rights

Human rights as a normative necessity are interspersed with the values and ethics rooted in the religious, and human thoughts. Nowadays, it has become one of the basic factors affecting international politics. Therefore, enforcing the rules and regulations of the human rights and requirements in the general perspective are an unavoidable necessity [7]. The governments have been pledged to uphold the civil rights of a man at the international declaration of human rights and by inserting them in domestic law that they can guarantee them. Meanwhile, at the international declaration of human rights by recognizing the innate dignity and equal rights of the people, in Article 29 it is stated that everyone is responsible against their society which only provides their free and comprehensive growth. It is not appropriate for these rights and freedoms to take action against any of the objectives and

principles (United Nations). So one person is a response when their basic rights are observed in the society and by not supplying a natural right of a member and consequently committing a crime, it is an offender to claim the right to have the conditions for a good life in society.

In the Universal Declaration of Human Rights, there is a list of the basic human rights such as the right to life, work, security, training, freedom of expression and thought that these rights are confirmed in the Confederation of International Affairs.

Hence, an offender as a member of the human community has taken human rights from the international codes [8].

Some international laws that are stated in the field of readmission and the Right to treatment are as follows:

- a) International Convention on Civil and Political Rights: the regulation consists of an introduction and thirty Articles in the December 1966 adopted by the General Assembly of UN and in the text, the rights of treating an offender is pointed out. In Article 10, it is stated that "about all people who are deprived of his liberty should have been treated with humanity and with respect for the inherent dignity of the human and the defendants should be kept separated from the sentenced and the prison system implies a behavioral guarantee that its fundamental purpose is to treat and rehabilitate social dignity."
- b) The convention on the rights of the child is adopted on 20th November 1981 in the United Nations with an introduction and 54 Articles. Membered countries of the treaty, recalling that the United Nations in the declaration of human rights has proclaimed that childhood requires care and assistance on special and individual life and the child should be prepared for the life in the community.

Regarding these considerations in all countries, especially in developing countries, it has attempted to negotiate a child rights agreement. Those rights that observes the delinquent children and how to maintenance and prepare them for returning to the community as a human right has been emphasized in Article 37, it has been stated in a part of this Article that "every child who is deprived of freedom should be behaved as a respectful human with respect to their innate human status and according to their needs like the same age, especially whether the child should be separated from adults and have the right to keep in touch with his family through correspondence and meeting ..."

- c) A set of minimum standard rules in treating prisoners: A set of minimum standard rules in the first congress of the United Nations which held in the year 1955 in Geneva were adopted and the numerous legal articles on the rights of convicts, training, the isolation of convicts from prisoners, employment of convicts, and also taking care of them after departure are predicted.

A part of this Article states that "the facilities for training of more and more prisoners, including training, religious literacy, and training mandatory in prisons should be provided and the activities of the entertainment should be provided in all offender institutions for the health of the body and soul of prisoners. Some tasks have to be done for the prisoners to be useful and they should be worked for the living affairs on a normal day of work and it causes an increase in the ability of prisoners in an honest living after releasing from a prison and always at the beginning of imprisonment the future of the condemned should be considered the out of prison.

▪ the right to treat in point of view of criminology of nurturing and treating

Criminology in his clinical form is to identify a series of tactics to treat and rehabilitate the character system of these individuals with the creation of their individual and environmental needs should be met. In fact, the effective procedures of rehabilitating a prisoner that will bring them back to society are found in a clinical place of criminology and present in criminal justice.

This branch among the species of criminology has more serious interaction with the criminal law because its practices are mostly an observer to the events in place of the main audiences of the criminal justice system. Therefore, criminology, treatment, and training for treating and reforming offenders have the stages of recognizing the individual and environmental situations of offenders, diagnosing a form of delinquency, selecting the appropriate procedure of implementing and then preventing a crime. Rehabilitation of offenders that is the main target of clinical criminology is done under multiple procedures. In this way, the findings of clinical criminology have been paid attention by the legislator and through this a pattern of rehabilitation of offenders in the area of the criminal justice system is institutionalized, formalized ^[9]. Finally, the criminal law, with numerous criminological doctrines in the criminal justice system tries to use a reformist process in line with the treatment of offenders, and prediction the solutions helps a delinquent to be safe from the label and the effects of condemnation and he easily returns to the community. In fact, the rehabilitation is an integrated part of the criminal justice system and criminal policy-makers consider it to prevent from committing a crime. Therefore, regarding the right to treat an offender, the effectiveness of positive influence for the individual and the society would be referred to in the next section.

THE EFFECTS OF RIGHT TO TREAT AN OFFENDER IN CRIMINAL LAW IN IRAN

Right to treat as one of the fundamental rights of man, if accepted by the criminal justice system, will be noticed at different levels, both in the legal system and the individual as follows:

1. By admitting a right to treat an offender as the desired mean of the offender rights system, this is a scientific approach that will be subject to punishment to put the human and the rehabilitation of an offender within the criminal policies.
2. A right to treat an offender affects all levels of the offender process, including at the stage of discovery, chase, investigation, proceedings and implementing. The reformist approach is used by predicting the treating means such as character and applying the well-trained and professional people.
3. Recognizing and applying it to the offenders can provide the context of increasing resort to community-oriented and reformist punishments as well as penalties such as imprisonment and flogging as a last means and inescapable way.
4. The freedom and discretion of an offender to treat is an aspect of their right. Therefore, there are no any compulsions and obligations in treating an offender and this person is the right to use and benefit from treating programs and the criminal justice system has no mandatory steps to handle, especially in the place of implementing the sentence for the committed person. In other words, in criminal policy, especially in the imposition of penalties, the context of penalties should be provided in a way that person is treated. Thus, due to the aforementioned effects, treating an offender is a spotlight of the attention of the Criminal policy system and it is being said that the treatment targets have failed because they are imposed on the person, thus in case of amending claims from the offender, the conditions will facilitate. Now Iran, getting inspiration from the findings of criminology in the legal regulations has managed on the path of treatment, the commitment of an offender which it will be reviewed in different legal levels in the following sections.

A resultant of right to treat an offender in the criminal policy of Iran:

The right to treat an offender which is derived from the fundamental rights of human and also is applied gradually in criminology and influenced by the policy-makers. Therefore, criminal policy-maker in Iran during the adoption of the rule while adapting to a higher law, and common law, a number of treating rights of offenders have recognized so that the rights in the context of law find a normative aspect.

▪ The effect of treating approach in the rules according to a higher law

Treatment of offenders and the right to use an offender of it is considered as one of the significant manifestations of the human right and adopted due to the issuance of numerous obligatory international documents and also inspired by the applied criminology in the range of the criminal policy of Iran. For this purpose, the clause 5 of Article 156 of Constitution clearly states one of the major tasks of the judiciary as "appropriate action to prevent crime and

treatment. So the Constitution pays special attention to the treatment of the offender, and their re-socialization and has included it in the text of the law and everyone knows the sensitivity and importance of the treat, treatment, and prevention of recurring crime by the convicts^[8]. Thus, basicization of the right to treat and convert it from an ordinary norm to the noble leads to raise the validity of legal phenomenon and makes it to the original form.

On the other hand, in adopting the five-year plan rules of the economic, social and political development that is set and prepared by the Expediency Discernment Council and one of the general policies and the rule according to higher law can be considered. In part of the judiciary, policy is one of the fundamental solutions of the development of judicial policy, the enforcement of the penalties of freedom. For example, in Act five-year plan IV approved in 2006 in Chapter XI “the organization of prisons is obliged in order to improve the situation of prisons and create rehabilitation, appropriate treatment and training of prisoners aiming to return it to a healthy social living and declining the return or in the law of the fifth program approved in 2010, the Organization of Prisons is responsible with cooperating executive agencies, and public institutions, the people of the institution in order to make socialization of convicts, measures in four areas: a) treating the prison setting b) training the prisoners c) fixing the problem of livelihood and the families of prisoners (d) introducing the prisoners needed to be employed to relevant authorities^[10].

▪ The effect of treating approach in the common law

In common law, the process of imprisonment elimination and re-compatibility with society has been emphasized. In the view of author, the rights of the criminal in Iran, particularly in the regulation Legitimate (Islamic Criminal Law, Code of Criminal Procedure specific, special executive regulations), his orientation is to treat and reform an offender, as in Article 18 of Islamic Penal Code, especially the criteria of criminology for sentencing in Articles of 37 and 38 in the field of punishment appropriate to the accused’s status, Article 39 is related to treat an offender to decree and to exempt the penalty, Article 40 is related to the consideration of a personal and social situation and an effective condition in committing a crime and its consideration in the dismissal of sentence. Article 249 of the Code of Criminal Procedure is related to the fitness of the judicial supervision for assault history, the mental and physical conditions, the age, the gender, and character and his social dignity, Articles of 286, 279 and 203 have the same rule related to file, character of defendant, Article 487 is related to select especially the social workers among the specialists in criminology and a clause in Article 514 in the field of sectioning a prison to closed, semi-open, centers of training vocation, and employment, and also totalities of regulations of preventing addiction, treating the drug addicted and supporting the people at risk, approved in 1998 which matches on the same approach^[10]. However, the treatment of offenders and re-adoption re-directed in the

community is emphasized and attended by the criminal policy-makers of different countries. Hence, criminal doctrines are converted into the form of a solution and in fact, a legal rule^[2]. Maybe some people think the flow of correction and treatment, and the medicalization of criminal law focuses how to implement the ruling in the centers of actions of probation and training (prison) and because the statistics of repeating crime implies the lack of treating in prison. That is why that they doomed to defeat the treatment process and in author’s belief, according to historical records, basically, the criminal policy of Iran is applied in a punishment-context and look and cannot be said that the treating policy in the criminal law have failed because basically so far this policy to the true meaning of the word in Iran has not been implemented with this description of the treatment process and upbringing in different stages of the proceedings, implementing and applying. Perhaps, the interpretation is correct on the meaning of its subtle, but the concept of treating had the meaning of diversity that observes on that stage and the legislature has to abide by the principles of remedial and clinical principles. Thus, the legislator in the first book of the law of Islamic punishment approved in 2013 and also newly-adopted code of criminal procedure, the new diverse criminal procedures and the approach of rehabilitation in order to reconstruct the systematic character of criminals recognized and consideration given that the most major procedures and mechanisms in the rules and regulations are as follows:

A. Culture-based treatment approach:

Culture-based treatment approach as one of these types includes a set of criminal justice experiments to raise the level of culture and nurture of the criminals and their familiarity with moral and behavioral norms and modifying behaviors of these criminals. In fact, in this manner, the criminal gets familiar with the laws, traditions, skills, norms, and culture of the community because, in the path of life, the educational institutions like family and school, the mosque, the friends and so on can play their role to treat an offender. Therefore, the penal justice system must provide an offender with facilitating the delinquents’ treatment process for the rest of their life. In Paragraph A of Article 88 of punishment law to the family for the cultural rehabilitation, self-discipline, and the upbringing of delinquent children and the judges can choose this way by sending the criminals to parents and legal parents. In Article 43, a legislator predicts a period of special training and participate in courses of study, and in fact, in the postponement of care to follow the deficiencies in training of an offender that direct them to the cultural treatment.

B. Profession -based treatment procedure

This manner of treatment procedures is among any other types that predict to teach a profession to the criminals, and to make familiar them with jobs and skills and the offender after getting out of prison can independently earn their living costs. For example, in Article 43 of law, training a profession is among observer’s commands to the care procrastination and in this way, the criminals out of the range of prison get

familiar with skill in order to re-socialization. Or in part 2 of paragraph A in Article 88 of law, to send babies and children and adolescents to a cultural and training institution is emphasized to learn an occupation.

C. Therapy-based treatment procedure:

This approach tries to treat the behavioral problems ranging from neurological disorders, mental and also the physical treatment of an offender and attends the clinical criminology of the clinical principles for treating the offender. Therefore, this procedure is entered in Islamic Penal Code so that in Paragraph (P) of Article 43 of law, the legislator attends to such rehabilitation and so these judges in the form of the care procrastination can administer the therapy the terms, the features of criminals are referred in Articles of 56 and 57 of the law, the sentenced included in the semi-open system in treating the disease.

The field of offender-based treatment procedure s leads to the jurisdictions and find a possibility of responding to criminals and regarding the case of character, the most effective procedure is to get a person back to the community. In criminal procedure law, a resultant of treatment and training are also taken into consideration and one of the most important details of the filing is a character. In the Articles of 203 and 286 of this treatment tool as a means to introduce an offender and provide a background of clinical understanding and select a treating and therapeutic procedures and as a result returning of criminals to the society.

▪ The effect of treatment procedure in the prevention of recurring a crime

The recurrence of a crime is undoubtedly one of the most accurate and difficult topics of criminal law and criminology, and it is considered the problem of the criminality, because recurring the crime, in addition to symptoms of disability, and malpractice of a criminal in order to get socialize again indicate the shortcomings and the inability of the criminal justice. The first and most general approach of law enforcement is often thought to be a serious crime against the recurrence of their crime as it is thought to increase the severity of punishment and decrease the probability of recommitting a crime to a minimum level. In other words, "the more punishment, the less recurrence of a crime". It is the fact that regarding the statistical results, to toughen penalties relatively for offenders does not have a role of preventing the delinquency and frequently the criminal justice system has suffered a serious challenge and despite using a variety of penalty-based procedures, the realization of the targets of punishment which is lack of recurring the offense is not achieved. However, in spite of the opposite comments, the use of remedial and therapeutic measures in the priority of the criminal policy of countries, because tolerance and intensification of penalty on the offender is the simple way to deal with repeating a crime, but according to numerous research there is no doubt on its ineffectiveness^[11].

Accordingly, challenging with a repeated and professional crime is not only accomplished by the criminal mean of the penal code. For this purpose, the procedures and mechanisms that somehow rely on the socialization of criminal and treating, on the one hand, and enhancing the performance and skills of life on the other hand. For example, the failure of the current criminal policy against the phenomenon of drugs in our country, despite implementing intense punishment, is not only effective but also increase the tendency of more criminals to the phenomenon of narcotics.

"Then it seems that therapeutic and treating approach can manage the criminal phenomenon and decrease to recur a crime with a reliable and effective procedure in criminal policy.

▪ Effect of treatment procedure during executing and after that

A formal result of criminal procedure, by approving delinquency of the sentenced is probably a punishment that inflicts deprivation and affliction against the criminal, and on the other hand, provides very little benefits to the delinquency. Applying the penalty in addition to blaming the criminal, and the community, its side-effects affect the families of delinquents. The punishment for most cases involves the ability and capacity of the criminal resources to make up for the mistakes and only in the limited cases, persons benefit from applying the penalty and often a delinquent, in addition to bearing their penalty, gets more serious, perky and more experienced. They will probably offend repeatedly with more skills and experiences. Resort to the practices such as de-judgment, decriminalization, and de-punishment, in fact, reflects challenges of the community against the disadvantages of applying the penalty. Thus, to terminate the approach to the success besides the treating rules, all actors of the penalty process are including political decision-makers, legislators, judges, officials of law enforcement, chiefs of prison, prisoners, staff of care suspension and conditional freedom, members of NGOs and generally every interested person to treat^[10].

In fact, there should be a treatment program in a way that can link between interventions of the criminal justice system and society. The purpose of both types of intervention is to help delinquent prevailing labeling due to a criminal conviction, the negative effects resulting from incarceration and the numerous obstacles that this group is faced with while getting into the community^[10]. Thus, it is necessary that an offender, while bearing the punishment, and later under the treating programs.

A. Treating programs during executing the verdict

The criminals may enjoy the past combined with the isolation or physical and emotional violence, humiliating job, or the lack of job or from the beginning of the adolescence, they have been involved in criminal activity, sometimes they have exclusions that could take them to the damages. More people suffer the problem of inability and weakness that prevents

them to deal with their problems and position in society. The weakness for creating interpersonal relations, academic failure, illiteracy, limited emotional and cognitive function, lack of planning power and financial management are among these deficiencies.

The institutionalized plans to return criminals to society include different aspects of the development of behavioral recognition and the ability to improve mental health, treat addiction, educate, and training, professional training, survey and consultation when these programs are about to evaluate the full extent of criminal conduct and his status. These evaluations have to be held by the prisoners after the admission of the criminal in a prison, and the basis for further recognizing interventions. Effective treatments also depend on a firm representation of the program and appropriate management about the presence of trained staff and with respect to the members of the working staff ^[10]. Some criminals are condemned for short-term sentence. They do not get the chance to participate in the programs. Therefore, given that some reason, some people are unable to taking part in the group, so they left unrewarded in society.

B. Treatment programs after executing the verdict

As regards criminal law, the imprisonment is applied more than other penalties, however, in most countries, there is a specialized organization for the protection and care post-imprisonment against the released prisoners. In some countries, these programs can be provided by the people institution. But so far, a few evaluations of these programs come into practice and, of course, there is no consensus regarding the relative effectiveness, the educational level, age, living conditions, and employment are among the most important factors. At this stage, the increase in chances of accessing one job, home and training can have a positive effect on the process of social readmission of these offenders ^[10].

A. Help to return to the labor market:

employment is a key factor in the success of readmission of former criminals. Employment is not really just a resource of income but provides valuable structure, opportunities, and social connections. Employment leads the former prisoner to be connected to the society members. Trust and respect between them is high, and they obtain more understanding of their ability. In fact, obtaining a job legally, which of course is an introduction of the preparation of a housing can also make a person to keep it out of the environment from criminal acts such as drug addiction deterred. Finally, it is necessary to know the individual needs and provide their services according to this need, while the employment services should regularly be followed since going to the prison and during the releasing and entering to the society.

B. Access to health care and social security

To estimate the continuum of treatment of prisoners, both for individual health and the collective health are among significant importance and usually this category in order to

achieve health services and health-related problems deal with numerous psychological and financial problem. In some countries, the prisoners are not covered by any insurance, and they do not have access to any of these services, so before freedom and relation of these people, the diagnostic clinics should connect with social security coverage in order to receive health-recovery services.

C. Family support

The loss of family support is the common problem of all prisoners after getting rid of jail, it is a serious problem for women in terms of the fact that they should return within the family and society. And in countries that people are aware of the importance of this matter, plans are being given to members of families as well as how to help and train them.

D. Intervention for treatment of addiction

Leaving addiction services such as actions that can be predicted for addicted criminals. In fact, drug dependent criminals are caught in a vicious cycle. Thus in the absence of support for them to procure drugs, new crimes can be done and frequently enter the prison ^[10].

Conclusion

The right to treat an offender is one of the fundamental human rights and in accordance with the innate dignity of the human being. Regarding this concept, the treating measures are one innate and human right that an offender asks during the bearing their penalty. Therefore, a situation should be established to provide the context of health, training skills for the criminals. The reformist approach that is considered to be a function of criminal law, and one of the manifestations of the human right inspired by the religious doctrines of criminology of treatment and training today as one of the pivotal impacts on the criminal policy of countries. Thus, many of its solutions are entered in the Constitution, and common law so that it has laid a privilege for a criminal to benefit entire reformation experiments of criminal justice system at different stages of trial in the contest of criminal and non-criminal laws. Accordingly, the obligation of the right to treat a crime not only provide the conditions of using the penalty rights on the right position, but also the attention of the criminal policymakers to use all tools and social institutions. On the other hand, according to the findings of this research, the treatment approach that is in accordance with the religious doctrines and the criminology findings, correction, and training is in the process of policy-criminal at the level of common and rules and executive rules find a real aspect and criminal justice system affected by international regulations and conventions apply the right and human consequences at different of legislative, judicial, and effective levels and the outcomes of this approach is the legalization of criminological findings which is revealed in the law of Islamic punishment and the religion of Iran's criminal trial. It seems that the success of criminal and non-criminal policies in order to control the delinquency phenomenon depends on cultural realities of a society that do not have the necessary

familiarity in the interaction of the expensive criminal justice and civil society, mainly with the criminological doctrines and the basic rights of human familiarity and it is possible that the use of the procedures taken from the findings of the criminology is not successful and face the problems to execute. Hence, it seems that inclusive culturalization in this regards and familiarity of all people with the outcomes due to the treatment procedures can be useful obligations.

REFERENCES

1. Najafi Abranabadi AH, the degree of criminology, detention of criminals, Department of Human Science, Teacher Training, 2007-8.
2. Niazpour A H. The right of prisoners to train in the field of guaranteed criminal policy in United Nations and Iran, criminal law studies, first edition, No.1. 2015.
3. Saffari A. Criminology. Tehran, Jungle publishing, Islamic University of Razavi, No.6, 2009.
4. Ghasemi Moghadam H, The analysis of the relationship between the risk of the crime of criminals and rehabilitation of them in, criminal contemporary politics, 2013.
5. Javadi Amoli A, Human rights philosophy, Qom, Esra publishing, 2010.
6. Ghomashi S. Human dignity prevents the development of crime. Criminal Law Review Quarterly, First edition, No.1, 2014.
7. Sharifi Tarazkuohi H, Human rights (values and facts) Tehran: Mizan publishing, 2011.
8. Dostbin O, Review of mechanisms to prepare the prisoners for returning to society, Aster's thesis of criminal law and Criminology, University of Islamic Azad, Naragh, 2013.
9. Niazpour AH, Normalization of criminological doctrines in the law of criminal procedure, Foundations and challenges, No. 38, 2013.
10. Ebrahimi Sh, Preventing from repeating crime in the light of the sociable re-admittance of criminals. Tehran, Nashr publishing, 2015.
11. Gholami H, Introduction on the pathology of criminal Policy prevention for recurrence of criminal and delinquency in Iran, Islamic University of Razavi, No.6. 2011.