Looking At the Evolution of New Islamic Punishment Regulation

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ABSTRACT

New Islamic punishment regulation consisted of sets of rules that explain and define crimes, and specifies how to deal with these crimes. New Islamic punishment regulation focused on judicial and imprisonment. According to this rule, punishment is for legal individuals at first, these punishments included breakup or prohibition of one or more work activity, prevents of commercial document until five years, fined, confiscation of property or releasing condemnation sentence. In general, new Islamic punishment regulation is incorporation of Islamic regulation and world statute and consequence of modern criminal role was reflected in this regulation. Updating regulation was other characteristics of this regulation. Some innovation and introduction have been predicted in this regulation, so delay of sentence announcement and replacement punishments are referred. So, this literature is studied evolution of Islamic punishment regulation.

INTRODUCTION

Experimental regulation of Islamic punishment has been done in Iran for thirty years. Punishment rule have been expressed in experimental form between 1982 and 1983 and experimental period was five years. At first, legislative have announced to modify complaints and objection after experimental period through juridical office. But this promise have not been realized and finally it have been finished after eight coursed of legislation of Islamic counsel.

In the last months of 2011 and the last days (22/September/2011), one limit of experimental Islamic punishment regulation have finished and juridical membership have proved this regulation according to article 85, but experimental limit have been determined for five years again. In new regulation, 200 legal articles have added to previous regulation and new regulation consists of 720 articles. There is a separated section about children in this regulation. It seems radix approach in new regulation is supered of sentence announce and lack of conviction stick. Most important regulation which is proved in eighth counsel is new Islamic punishment regulation. Mentioned regulation differ previous regulation. One of most important difference of this regulation and previous is new approach to legislative to punishment area. In new regulation, penalty is graded. So, new Islamic punishment regulation and its evolution are studied.

History of regulation reformation:

This regulation like other available regulation in Iran has been changed. After 1982 and 1983, Islamic punishment regulation has been proved by juridical commission and implementation has started for 5 years. Mentioned regulation referred to counsel and this organization has extended it for 10 years. There have been some changes during this period. Experimental period of Islamic punishment have been extended in 2011 again and final extension was on 2009. Government has sent a bill on 2008 to Islamic counsel, and then this bill has referred to juridical counsel and has been proved for 5 years.[1]

Evolution of the regulation:

1-evolution of criminal policy about child crime:

Determine age of child and punishment and criminal responsibility is done by holly canonical, but there have been some changes due to time Proportionate and there is some sanctions in this regulation which is reflected in new regulation of Islamic punishment.

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Section 10 of new Islamic punishment regulation expresses criminal systems about kids. One of innovation about kid is to created special institute in this regard and second innovation is predicting special consideration in about kids.

One of discussion which most of lawyers have focused is criminal regulation. Limitation of kid criminal and punishment have been considered. In article 49 of Islamic punishment regulation, kids are absolved of criminal responsibility and their training is done by their parents according to court decision or they sent to education institute.

According to article 49 of Islamic punishment regulation, an individual who is not maturated to Canonical limitation is kid. According to article 1210 of civil law, 15 year old is maturated age for boys and 9 years old is maturated age for girls. So anyone which is maturated by canonical limitation is responsible according to crime and should be punished.

In new regulation, legislator has categorized kids to three groups and has legalized punishment corresponding to psychological and physical situation. When kids don’t understand nature of crime, punishment is done according to their age and is condemned according to kids and teenager crime.

Specifying of maturation is done by court and court could use of legal medicine.

New regulation of punishment is consistent with kid right association. These tensions have been removed by changing time.

It seems that regulation about reaction to criminal kids is mentioned in new regulation and is consistent to changes of time.[2]

2-Insanity in new regulation:

In new regulation of punishment, juridical and legal commission has changed regulation of Islamic punishment regulation on 1991. Barriers and situation of criminal responsibilities have been explained and insanity is one of factors in this regard. Insanity has been defined as psychological disorder resulting in lack of will.

So, new regulation knows any insanity as philological disorder and this state is unknown during crime commitment. Psychological disorder doesn’t have any sentence. So such changes have been expressed as a step toward.

3- Punishment replaced by Imprisonment:

In section nine, article 63 to 86, replacement of punishment by some punishments have been studied. Most of social punishment bills have been replaced by imprisonment and have been offered to government and counsel. According to article 64 of Islamic punishment regulation, maximum punishment for conventional crime is 3 month imprisonment. Also, someone who have punished to 91 days to 6 month imprisonment are condemned to other punishment.

Other intentional crime by 6 month to 1 year punishment is condemned to replacement punishment according to article 66 of Islamic punishment regulation.

Inadvertenccrime has extended replacement regulation. Crime commitment by punishment less than 2 years, imprisonment is replaced and inadvertence crime by more than 2 years imprisonment, judge could use of imprisonment replacement.

Third group, crime commitment which their punishment have not be determined, according to article 68 they are condemned to imprisonment replacement. So, thousands of future condemned individual which are imprisoned include in imprisonment replacement and this have several effects like performance of prison office, Equanimity, Guilty modification, maintaining human resource and utilizing science method and reinforcing general services.

4-Removing stone of regulation:

Stone term is included in Islamic punishment regulation but there is not any punishment in this regard, so canonical punishment is regarded. Stone is rare during Islamic revolution in Iran, so it is not included in Islamic punishment, but there is some exception and this is not a defect for regulation.[3]

Conclusion:

Regulation should be implemented and have juridical route to determine weakness. Generally, stone, gallows and life is considered as most important changes in Islamic regulation bills.

REFERENCES