

## Checking the multiplicity and repetition of the crime in Iran's subject law

Mitra Khadampur\*, Shapur Farhangpur, Forugh Mogimzadeh

*Department of History, Ahvaz Branch, Islamic Azad University, Ahvaz, Iran*

**Abstract:** In this paper, we have examined the regulation of the multiplicity and the repetition of the crime and we found the following results. The multiplicity and the repetition of the crime are the instruments of individualizing punishment and intensifying punishment of the criminals with which committing the multiple and frequent crimes have repeatedly violated the criminal laws and they have showed the more dangerous state than the perpetrators of a single and unprecedented crime from themselves. The actual multiplicity is the state of a perpetrator who has done the various acts which each of them are an independent crime and in the case of the similarity of one punishment which in case of need it intensifies and imposes on the perpetrator but in the case of being different crimes of a perpetrator, he is being convicted with the sum of the penalties.

**Key words:** *Crime; Iran; Law; Regulations*

### 1. Introduction

Today's, it is emphasized on the case studies in all sciences. Its philosophy is that the generality of the Science has been determined and the case studies influenced profoundly on the evolution of human societies from the early 2.th century. obviously the case studies has been dynamic as a result of adding and picking together the sciences at higher levels and they cause to develop and progress across domains of social life in the different political and social fields and so on. The important feature of this paper is its comprehensiveness in the field of the issues of the multiplicity and crime repetition. If we turn over the leaves of the general criminal law books, frequently it hasn't been seen more than a few pages about the multiplicity and the crime repetition and this is a natural matter because the books contain the generalities of the criminal law. This research attempts to identify the rules of multiplicity and crime repetition in the general, exclusive criminal law and even Iranian criminal procedure and tries to be answered some question.

### 2. Definition of punishment

In the definition of punishment, we originally deal with its literal meaning and then deal with its terminology meaning punishment in a certain culture is that giving the reward of goodness or badness (in universal meaning) and giving the retribution of badness (in a proper sense) (Mohammad Moin, 1973, p.38866) and in the Dehkhoda encyclopaedia has been meant rewarding and retributing a goodness or badness. (Ali Akbar Dehkhoda, 1987)

Also the word punishment in the book (Almenjed) has been come meaning punishment. «Louis Malouf, Esmailian publishing, Tehran printing». The word punishment in the vulgar meaning hurting someone or having a direct intent so that this annoyance which happened by doing an action or has been negligent by doing an action is appropriate» (Reza Houshmeni, the article Defining punishment)

In definition of punishment has been also said: punishment includes the punishment and criminal penalties that can be imposed on the perpetrator of a crime, the meaning of suffering is not separable than the meaning of punishment, and in fact it is the fatigue and suffering that is the actual determining of punishment» (Seyed Yazd Allah Taheri nasab, 1994).

The goals of the punishment we know that the punishment is the compensation of anti-social action that has been committed and imposition of this compensation at the same time it has a moral purpose and a usefulness-oriented goal. Two main objectives which is expected to imposed as a result of the punishment actions are: «punishment or remuneration» and we can call it the effect of reductionism or the role of the utilitarianism. (the regulations of the crime multiplicity in general punishment law, 1304)

In penal code provision 1304, the regulations related to the crime multiplicity and its punishment has been sentenced as follows:

Article 31. Whenever a single act has the numerous titles of crime, a punishment is given to that crime which its criminal is the maximum penalty.

Article 32. If several crimes have been put for one intention and they are related or some of them are the other introduction or component or they are not

\* Corresponding Author.

separated from each other, they all count one crime and will be punished to the maximum.

Article 33. When someone repeatedly committed a crime without the sentence was issued about him, for every crime is issued the criminal sentence separately but the court will be punished the perpetrator of a crime to the maximum punishment.

The regulations of the multiplicity of the crime in the supplemental Article 2 to the law on criminal procedure Act 1312

The supplemental Article 2 to the law on criminal procedure is determined in this manner:

«If someone was committed several crimes which each of them corresponds to the criminal law, the court would be issued the acts of punishment separately, unless the total of that acts according to the criminal law was know a particular crime or some of them the introduction to each other, if the committed acts has been individually a crime.

The regulation of the multiplicity of a crime in the general penal code 1352:

Article 31 of the general penal code 1352 was the same Article 31 of the general penal code 1304, so by the same previous provisions have been retained, but the Article 32 of the general penal act 1352 was dedicated to the actual multiplicity of a criminal and it includes 9 provisions which its clause A states the general regulation of the criminal multiplicity.

The regulation of the multiplicity of a crime in laws after Islamic Revolutions

The Articles 24 and 25 of the law in relation with the penal code Act approved in 1977, the task of the material and spiritual multiplicity and also the multiplicity in the included crime identifies which they exactly have been repeated in Articles 46 and 47 of the Islamic penal code 1980.

The regulations of the criminal repetition in the rules of Iran's subject

At first the laws of the criminal multiplicity has been predicted in the articles 24 and 25 of the general penal law 1304. With regard to this material or misdemeanor conviction for certain criminal penalties for recidivism was considered a necessary prerequisite for the research of the criminal repetition, thus if the condemned person during a certain period after issuing the sentence of the final condemnation to criminal or misdemeanor penalty was committed to a new crime, his punishment was intensified under a certain conditions, the conditions of criminal repetition according to the general penalty Act 1304 was included:

1. the certainty of the sentence of the former condemnation but the execution of punishment was not necessary

2. Issuing the sentence of the condemnation by Iranian court.

3. The recent crime during a certain period of time from the time of the started previous sentence condemnation has been committed.

4. The Intensification of the perpetrator punishment based on the previous criminal convictions and sentencing rules was different.

5. The sentence of the criminal repetition was not enforceable in unlawful affairs Different systems of criminal multiplicity

For determining the punishment about offenders which was committed different crimes and repeatedly they damage to people's prestige, life and property or to the society's body and in criminal laws of different countries has been accepted the different way. In

1. The system of the addition of punishments:

This system applies to the actual numbers of crimes and offences and penalties and also it reminds of it as a way of material gathering of crimes and punishments. (Aboul Ghasm Gorgi, 1968, p.272). According to it, as compared with an accuser who has been committed different crimes, after checking and verification of culpability based on the number of committed crimes, his punishment determines and enforced in crimes one by one. On other hand, the court after the consideration each of crimes determines the punishment and the sum of the above-said would be enforced about him.

The punishment enforcement system of the maximum penalty According to this system, whenever a person is convicted of multiple offenses, just the punishment of the most important crime which legally in terms of the type and classification places on the higher order than the other committed crimes of a perpetrator enforced him. The punishment enforcement system severest them the punishment of the maximum crime: In criminal laws of some countries such as Italy and the western Germany, in case of the actual number of crime the punishment enforcement severest than the maximum punishment has been accepted. (Article 71 of the Italian criminal code Article 74 of the former western Germany penal code). The punishment system severer than the maximum punishment which can be know it an inter mediate of two above-said systems, it has been introduced as the system of the judicial sum of the punishments from some of our countries' criminal lawyers (Abdul Hossien Ali-Abadi, 1963, p.273)

### 3. Conclusion

The first system which was the addition system of punishments, this system applied in the past and in some cases, the material addition of crimes and punishments has been cause that one perpetrator after committing several crimes to spend all his life in prison. Nevertheless, enforcing the sum system of punishments, sometimes it is not possible such as the sum between execution punishment and the temporary person of freedom privative; Thus, by adopting and the generality of punishment system severer than the maximum punishment and its enforcement, on one hander, it prevents an excessiveness in the punishment of the perpetrator of a crime and on the other hand, the smaller and the less important committed crimes of a perpetrator

has been taken int. consideration in the court and wouldn't remain without punishment.

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