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Analytical Attitude toward the Obstacles Nemesis in Iran's Penal Law

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Abstract

Doubtless one of the heaviest penalties in legal system of every country is execution that in the proven and executing stage there should be some conditions to consider it as nemesis in order to decree death penalty for the murder. Having all these conditions sometimes conditions arise that are considered as barrier to execution. According to the nature of these factors, they are divided into different types such as research and applying barriers or temporary and permanent barriers, and also conditions that depend on some conditions in killer and victim. One of the main purposes of criminal law is supplying order and security in the society that causes criminal and human justice. Criminal law should be written so that not to provide the conditions of misuse from criminal laws. Criminal laws represent the ability of government in establishing social order and security. Therefore, when an action is recognized as crime on the behalf of the legislator and penalty is considered thereof, it represent the fact that it is an action of violating social security and justice. The researcher in this study analyzed the most important barriers for nemesis in Iran's criminal law. Iran's criminal laws are derived from Shiite jurisprudence in regulating human right and social public goods, but unfortunately by appointing vague, abstract and incomplete laws, not only it fail to reach the target, but also using these laws it provide the possibility of misusing law for compurgation of killer from death sentence.

Keywords: Analytical Attitude, Obstacles Nemesis, Iran's Penal Law

1. Introduction

Execution has always been the heaviest and controversial sentences during the history. As this sentence was uprooted in the recent years by human right activities in most of the world countries, but still it is implemented in most of the world countries, even United States, that still believes in such a sentence .Also, in most of the Islamic countries nemesis penalty is implemented for it is of penalties declared in Holy Quran as 'human life'. Despite benefits of such penalty, sometimes it raises conditions that are barrier to implement death sentence for the killer.

There should be some conditions to imply such a sentence that in this study is considered as conditions for issuing nemesis or death sentence and execution, unless having such conditions, nemesis and

execution would not be appointed on killer. The philosophy and nature of criminal law is establishing order and security and preventing crime in the society. In fact, the most important purpose of criminal law is obtaining criminal and human justice. Criminal behavior is changing by passage of the time and from one place to another, thus social reaction to the crime phenomenon should be in accordance with those changings. Therefore, the laws in each society would be appointed depending on time to protect general interests and benefits, this shows that the action of violated social benefits based on time and place, in other words it endangered order and social justice. The significant of doing such research is that by analyzing these barriers and suggesting approaches and strategies, it provides a condition to remedy such laws and their barriers for nemesis in Iran's criminal law and other countries in order to establish human and criminal justice.

Literature review

Nemesis is a name given for demanding to oppose crime, that in nemesis it is killing and in the view of jurisprudence it means that the victim follows the same crime having occurred upon him/her and; therefore, do the same action of killing in the contrary. In fact, nemesis is killing of guilty for the crime that she/he has committed. Islamic penal code of Iran has defined nemesis as follow: "Nemesis is a crime that killer is condemned to, and the counteraction must be equal to his/her crime."2Some people by means of this definition understood two points. First, they considered condemnation as of necessities to nemesis and second, they considered equality as nemesis conditions and they added that there should not object condition be involved in definition of that object, because conditions for each object comes before that object.3 By virtue of the article 205 of Islamic penal code of Iran murder must be punished by nemesis and victim's family have the permission from guardian of the country to order death sentence for the killer under the stated conditions. The guardian of the country can take such responsibility to the head of judiciary or the other. Nemesis is a crime that killer is condemned to, and the counteraction must be equal to his/her crime The purpose of nemesis is to prevent killing others unlawfully, because the imagination of such sentence for killer causes threatening the wrongdoer and prevent killing of the other party.

Barriers to execution in the system of traditional customs

According to the conditions and benefits of governments and based on their understanding the laws in traditional custom systems is regulated, though most of the time it has been conditioned by religions and they accepted people's beliefs. Leaders and governments in the past were much content with forgiveness and they sough the people's affection thereof that they used to in order to satisfy common people toward their policies.

Barriers to execution in medieval

Based on Mentesqio in medieval Europe establishing peace between plaintiff and defendant and also preventing revenge among German tribes was very important; therefore if someone commits a murder toward another, the parties' family mediated in between to establish peace and compromise.

Barriers to execution in Jewish law

Nemesis is of the main sentences in Torah and it predicted decrees thereto from verses 12 to 30. Of aforesaid verses there are some cases considering forgiveness and barriers to execution. For instance, if one kills his/her slave and she/he dies meantime the killer would be revenged, and if one or two days passes he/she would not be revenged for he/she has been the owner of the slave.

Barriers to execution in Christianity

Generally Christianity is established based on forgiveness and avoiding retaliation. They believe that only God is legitimate to punish the guilty; therefore against Torah in which appointed nemesis for the killing action, Bible ordered to forgiveness toward invader.

Conditions for issuing nemesis decree

1. Equality in religion: equality in religion is considered as the first conditions of issuing nemesis decree, it means that both killer and victim must benefit the same religion, either Muslim or non-Muslim.
2. with exception of ancestors from execution as killer toward the victim: legislator in article 220 of Islamic penal code appointed that: Father or grandfather (only father of father) who kills its son is free from nemesis and would be sentenced to atonement and punishment. It should be noted that this law is restricted to father or father of father, and mother or father of mother is not involved in such law. Therefore, the parental relationship only removes nemesis not atonement. In addition, the killer would be punished for the act of killing.
3. Perfection of wisdom: of the very important factors that are influential in issuing or rejecting the nemesis punishment is maturity. It means that if an immature commits murder, he she cannot be age of maturity. In fact one who committed murder beside other conditions to issue and execute the nemesis decree must be mature. In order to make someone liable, he/she must be fallible. An infant who committed a crime unlawfully that is potent to punishment is not responsive for infants cannot distinguish well from the evil and are not able to predict the result of their criminal action.11 Islamic penal code in article 221 appoints that: whenever an insane or immature kills someone intentionally, it is considered as fault and would not be executed. But, their parents or one who taken their responsibility should pay the atonement to the victim's heirs. One of the public conditions of obligation for criminal responsibility other than wisdom is freedom, and in some cases it is science to honor. According to this law the mature person is liable to be punished for criminal action. So, killer is liable to nemesis when he/she is wisdom, free, and mature. Therefore, age of maturity is one of the barriers to issue the nemesis decree.

In legal system of different countries, the age of maturity varies between 14 to 21 years of age.

But, most of the countries consider 18 years old for the age of maturity in order to liable someone for criminal responsibility. In Iran, the age of maturity for boys is 15 years of age and for girls it is 9 years of age. Iran's legislation considered the guilty children free from responsibility of criminal action, but it doesn't defined infant and the age infancy and considered the religious age of maturity as the age of distinguishing a mature from immature, that it corrupted the right of this group. The criticism to this issue is discussions related to gender discrimination for the age of criminal responsibility. In fact by determining the age of physical and sexual maturity instead of the age of criminal responsibility, in this respect children are vulnerable to gender discrimination. Unfortunately, the child is behaved with discrimination even from the time of embryonic, so that if it hurt, the rate of atonement would differs based on the gender of embryo if it is distinguishable. In most of the new criminal systems people have the age of criminal liability. Assume that based on section 82 of the law of criminal punishment in India, from the age of 12 children are liable to criminal punishment. In Belgium judiciary customs of youth court differs from other courts. The age of criminal liability in Belgium is 18 years of age. Also, in Austria the age of criminal liability is considered 14 years and teenagers less than 14 years old never ever attend the court. Doing criminal actions, they would be introduced to psychotherapy centers that are responsible for educating and guiding teenagers and youngers. In United States, the age of criminal liability will be specified by provincial legislation and only in 13 provinces it is considered between 6 to 12 years of age. Most of the US provinces act based on the same public law that considered the age of 7 to 14 as the age of criminal liability that individual is liable to his/her crime, but it doesn't mean that the same person is not liable to criminal punishment. The first strategy of this subject in Iran's legal system is providing a suitable definition for infant and infancy in Islamic penal code. In fact, diversity in legislation for using terms of infant, immature, audit and … and also lack of definition and determination of these

terms causes various interpretations in this respect and corrupt the right of this group especially in discussions about intentional murder in the article 221 of Islamic penal code. By determining the area of infant and infancy as one of the most important stages of life by legislator in criminal laws will prevent different interpretations by people like attorneys, lawyers, judges, legal consulter, and other people that are involved in civil and criminal issues . The following definition is a suggestion by author for infant and infancy as one of the stages of life that we hope it satisfies legislators in the respect of criminal activities: "All people less than the 18 years of age, based on Iranian calendar, are considered as infant; therefore, all people less than 18 to 15 years of age while committing criminal activity could be discounted in the respect of criminal activities based on their perception, and all infants less than the age of 15 are free from criminal liability."

The second strategy for this subject is that the age of mental maturity might be specified in laws and should be considered for the age of criminal liability instead of physical maturity.2. Lack of intent (criminal intent): ill will, ill intent and intentional action in different cases of criminal law is used for one meaning that is intention to do a criminal action. Intention means guiding of the will of man to commit an action that legislator prohibited it. Therefore, in the case of intentional crimes, the action and its consequent both are according to the will of the agent. In other words, whenever the guilty is condemned for the consequent of an action that is specified before and do the action with knowledge to the criminal punishment, in fact she/he committed an intentional crime. The French well-known lawyer Emil Garson defined criminal intension that still is valid. According to this definition criminal intention is: the will of subject or agent for committing a crime as the law specified or the knowledge of guilty toward breaking legal limitations. In other words criminal sentenced to death as punishment. Islamic sharia distinguished between infants and adults with the respect to criminal responsibility and also it is the first school established laws for children that fluctuated from the time being until now and despite passing 13 century it is still one of the newest laws about infants and children. 4. Insanity: if two element of perception and freedom nonsexist in man, he/she would not be subjected criminal punishment. Perception means that the person should benefit mental ability, thus if he/she losses his/her wisdom by damage, events and insanity, then he is considered a person without perception.

5. Impeccability of the victim: of the other conditions of issuing death sentence is impeccability of victim and support of the law thereto. By virtue of article 226 GH.M.A the act of killing is deemed to death sentence when victim is not deserve to death by virtue of the religious law and if he/she is deserve to death, his/her deserving of death must be proved according to the regulation of the law in the court.

Conditions of execution for the act of killing

1. Demand on behalf of the family: article 219 of Islamic penal code states that: if one is condemned to nemesis or death penalty, he/she must be executed by permission of victim's family. Therefore, nemesis permission is conditioned by the family of the victim seeking the killer's criminal punishment.

2. Permission of Muslims leader: criminal punishment is of the government options and also it is considered the responsibility of the political governor. Therefore, most of the Islamic lawyers believe that punishment especially death sentence could be accepted or rejected by religious leader of the government. Though this verdict is based on some narrations also one should be cautious, because proving nemesis needs precision and Ijtahad and family are not only in a condition to approve it. In addition, the quality of applying nemesis a great deal of cautious should be considered, because the issue of life (Blood) that is life of people is an important issue that cannot be taken upon all kind of people.10

Barriers of nemesis

Barriers related to killers conditions:

1. Lack of maturity

One of the main conditions to issue nemesis decree for one who committed murder is reaching theintention means that the agent knows that the action he/she committed would lead to a controversy issue by lawmaker. Therefore, based on various reasons, removing the criminal activity is possible, such as insanity, sleep or anesthesia, drunkenness, the fault in the consequence of action.

1. Murder while the killer is insane

One of the most important items of unintentional murder is insanity. Of general responsibilities for criminal liability is wisdom, maturity, and freedom and also in some cases knowledge of the importance of the action. Therefore, the killer is to be sentenced by death when he/she is wise, mature and free in doing murder.in other words when an insane kills someone intentionally he/she would not be sentenced by death and in application of the article 221 of Islamic penal code such murder considered as fault and parents of insane killer obliged to pay the atonement of the victim to the herd of the victim. In the case of periodical insanity, insanity while doing the action is conditioned. In Islamic law while committing crime the person who committed the crime is wise he/she will be punished. Even though he/she became insane after committing crime.13 Insanity is a mental disorder with an intense nature that individual cannot distinguish reality from imagination or illusion and cannot control his/her personality or he/she is at risk of incontrollable impulsive behavior. Insanity, before being a psychological concept, is a legal and judicial concept. To define and understand the state of insane there is no clear and specific criteria. In our definition, insanity is a kind of mental disorder and inability in recognizing the nature and purpose of crime entails it(such as execution punishment), inability in understanding and taking part in conflicts against insane person or in other words lack of recognizing the nature and consequence of the action.15 Doctor John.m shab in his book entitled as "criminal law" defining insanity he writes: insanity is a degree of metal disorder that remove the legal impact or criminal liability of the killer. Degrees of insanity are very important and they may bias the mind of judges and lawyers, and by virtue of this vagueness most of the criminals refer to insanity after doing a criminal action, though to some extent they might be afflicted. To obviate this problem in legal system, we suggest that article 51 of Islamic penal code should be modified as follow: "Those mental disorders that corrupt human wisdom, while doing a crime the killer is afflicted to one of them, the killer is not liable for the criminal action'.

Murder while being drunk

Of removal factors of criminal liability that according to the article 224 of Islamic penal code is considered one of the barriers of nemesis is drunkenness. Drunkenness is a state that is consequence of drinking wine, beer and other alcoholic drinks. Legislators have considered drinking alcoholic wines as crime whether one became drunk or not. Drunkenness is a state that individual weakens himself/herself by drinking alcoholic drinks intentionally, therefore drunkenness is not barrier to criminal liability, because individual is aware of the consequences of drinking alcohol and consciously drinks it.17 Murder while being drunk will be punished by death sentence, unless proving drunkenness that causes corruption of wisdom and the action became unintentional and previously not drunk intentionally to do murder.

Intentional drunkenness:

If someone by consequence of drinking alcohol intentional to commit became weak kneed, the guilty will be condemned for the crime and drinking alcohol. The criticism to this issue is that legislator considers lack of intention of drinking for committing a crime only by alcoholic drinks, while there are different drugs that impact on mental ability of people like methamphetamine, ecstasy pills, temgesic ampules, and other psychotropic drugs that as chemical drugs gradually replaced traditional drugs like opium that are

totally psychotropic and users do criminal actions while they are weak kneed.The strategy with respect to this issue is that
legislator using modern medical facilities attempt to distinguishes the degree of mental disorder and wisdom of the drunken who is committed murder in order that killer not to pretend mental disorder as a removal strategy for criminal liability. But, the following modification article is suggested for article 224 of Islamic penal code: "whenever using drugs, psychotropic and alcoholic drinks and similar drugs losses his/her mental balance and commit murder with condition of being complete weak kneed and not provided such situation of drunkenness previously by corrupting his/her mental balance or with knowledge that using these drugs preserves his/her mental balance, he she would not be
punished by death sentence and also, if she/he losses his/her mental balance relatively, after finding lack of intentional action and degree of disorder in mental balance by coroner to the same extent of punishment for murder he/she would be sentenced to complete atonement or prison from 5 to 20 years.
3. The fault in the consequence of action one of the most important barriers to nemesis is murder by fault in the consequence of action. Fault in the consequent of action or unintentional homicide is an issue that legislatorsmost of the time expressed their ideas toward it. With respect to Islamic sharia murder is divided into three parts: murder, quasi-intentional murder, and unintentional homicide, that in the case of murder the punishment will be execution or nemesis and for the two other cases atonement is appointed.
In the western countries criminal law, murder is divided into different types and for each case a specific punishment is considered such as murder, manslaughter, direct killing, indirect killing, unintentional homicide, quasi-intentional murder and assassination that it is appointed to be punished by execution, also for murder the punishment of imprisonment is predicted.
Mahdor al-dam means someone that his blood is void and if killed, the killer may not pay atonement of nemesis is response. Murdering Mahdor al-dam in some cases is responsibility of the person, like murdering sab al-nabi that in some conditions it is voidable and lawful such as committing murder by someone seeing his wife doing adultery or murder while defending.

Barriers that are the result of victim's conditions

1. Lack of equality of killer and victim Equality means that the condition of killer and victim is the same with respect to freedom and slavery, faith, gender, mental and physical health. In enacted law of Iran the assumption of freedom and slavery is canceled by subject. Of course in conditions that victim is Muslim the killer can be sentenced by death. Of conditions to issue nemesis for punishment of murder is that killer and victim belong to the same religion. In other words, they should be equal in religion. According to this condition a Muslim would not be punished by death sentence against killing a blasphemous person. But, non- Muslim would be killed against killing non-Muslim men or women though they are not equal in religion such as Jews and Christian. Therefore, whenever it is proved that victim is Muslim, the killer will be sentenced to death, whether Shiite on else.19
We suggest legislators to modify article 207 of Islamic penal code as follow, so that criminal justice based on the purposes of human right establishes more than Islamic law.
"The punishment for murder is nemesis and whomever committing such crime having following condition would be sentenced by death:
1. Maturity of the killer
2. Wisdom of the killer
3. Wisdom of the victim
4. Lack of parental relationship toward victim
5. Victim being mahghon al-dam (respected by Islam) with respect to killer in religion.
Note: followers of each minority that are respected by constitution and whenever they do not commit oppression against Islam and Muslims, they are supported by law.2. Murdering an insane by a wise manOne of the other conditions of issuing nemesis with respect to equality of killer and victim is wisdom

that lack of this condition is considered as one of the barriers for nemesis with respect to decreeing execution. Criminal laws in most of the countries such as Iran, having considered criminology, pay much attention to guilty person, while the right of victim is imaginable. Especially when the victim is retarded minded. In fact, the system of criminal justice confronts the feature of vulnerability that naturally intensifies consequences of crime and incorporates a new responsibility. The following strategies are suggested in order to support retarded minded victims.

a. Increasing the cost of crime with respect to intensifying punishment: criminal law with strategy of considering victim and vulnerability components of victim has considered crime against retarded minded people as of intensifying qualities and the judge would be free to use extreme punishment in such cases.

b. Sensitization of criminal law: sensitization of criminal law in the case of crimes against retarded minded victims are necessary either substantive or formally. With respect to substantive, criminal law considering crimes that must be considered toward retarded minded people uses its capacities.

c. Differential and unequal legislation: criminal law along with 'equal justice' should be applied for all victims without any discrimination.Differentiation in retarded minded victims especially with respect to lack of appointing the same substantive and formal regulations that is conditioned for victims lacking vulnerability components. Not only it can problematize criminal law in its own respect considering supportive regulations in the view of victims, but also the retarded minded victim expected considering criminal law in appointing equality and lack of discrimination of criminal regulations to support him/her equal to other victims.

d. Generalization of crimes against retarded minded victims: criminal support formally for the sake of latent share of retarded minded victims it may contains specific components. In fact, respecting formal criminal law tracking crimes one should distinguishes that tracking take the responsibility of a set of crimes to parents of victim and other cases can be tracked without complaining from victim. 3. Parental relationship of killer to victim One of the barriers for issuing nemesis is parental relationship of killer to victim. Of the heated murders is family murder in which people with close kinship or marriage relationship kill each other. Also, the most heated of these crimes is infanticide by father or mother and or by cooperation of both of them.20 murdering a child by father or father of father has raised some problems in society; therefore these parental relationships are enough to prove their right. If parental relationship is proved in the court, the judge is responsible to issue removal of nemesis. Of course atonement to the herd of victim and punishing killer is still concurrent. The researcher's opinion is that these murders ought to be divided into two parts of unjust and just murder (though is not logical) in order to pursue fathers with misbehavior who kill their children unjustly and not let them to escape nemesis punishment.

Barriers resulted by murdering condition

a. Murder by consequence of legitimate defense

Legitimate defense is a right specified by law for the people in order to remove the danger and unjust action by a necessary activity to release from the threating actions toward life, respect, property and freedom. The same action is crime by nature; therefore, it is not criminal action. Conditions of legitimate defense: 1. Illegitimacy of attack or rape with respect to jurisprudence and customary law 2. Invasion should be acted or it might be potent 3. Offence should be fact. The act of legitimate defense as one of the justifying reasons of crime has been proposed from the long time ago until now in general criminal law. This principle is one of the oldest maxims accepted by Babylonians, Greeks, Romans, and Indians and today is accepted in most of the countries of the world such as Iran, Italy, Denmark, Poland, Lithuania, France, Belgium, Syria, Holland, America. In common law, German and Islamic laws are wellknown.

b. murder on the bed

One of the barriers of issuing nemesis is murder on the bed that is the subject of article 630gh.m.a. that in the view of criminal law and criminology this article can be one of the criminal establishments means "removal factors of criminal liability" or "justifiable criminal factors" or "legal excuses". Article 630gh.m.a states that: "when a man observes his wife doing adultery with another one and meantime knowledgeable to his compliance can murder them in the meantime, if woman is innocent then man could be murdered. The decree of main is the same as murder".Legislation in article 630gh.m.aallowed killing a married woman while doing adultery with another if benefiting compliance by her husband and man is allowed to commit murder, in other words in the view of legislator man and woman doing adultery are potent to be killed and wife can do murder himself; therefore, his act of murder is lawful and would not be punished by law. Of course, allowance to do murder has some conditions that having them the murder is voidable and lawful. Now, each of these conditions will be analyzed separately.

1. Confirming marital relationship: in article 630gh.m.a. confirming marital relationship between man and woman is of necessary conditions. It means marriage contract between man and woman doing adultery with another one. No matter whether marriage is permanent or temporary.
2. Observing the wife: husband observes his wife doing adultery with another man; therefore, if he observes the act of adultery of a women, mother, sister, daughter with another person, then he is not allowed to do murder.
3. Confirming stranger adulterous: stranger means everyone except lawful husband of the woman. Therefore, to the same extent that a man observes his wife doing adultery with a stranger man suffices, because no woman can has lawful sexual relationship with another man.
4. Confirming adultery: allowance to murder, adultery should be occurred, also there is no difference between adultery with relatives and nonrelatives.
5. Observation of adultery: the husband should observe them doing adultery, in other words the husband should observe the act of adultery by his eyes. It means that physical observation of husband is necessary not others. In the view of customary law, the philosophy of this decree is motivating the husband mentally and lack of ability of decision making while observing the act of adultery and this is the stance of motivation and mental change that remove the decree of intentional murder from man. In other words legislator more has considered mental dilemma and motivation of man while murder. Therefore, with respect to customary law, allowance to kill both parties in adultery on the bed is based on "motivation excuse".

Therefore, modifying article 630gh.m.a. the following suggestion is better: "When a person claims that he has observed a man committing adultery with his lawful wife and he has killed both of them, if he is able to prove the general conditions of adultery in the scene, then he would not be sentenced by death or nemesis."

c. Murder with consenting the victim

One of the most important barriers of issuing nemesis is remission from nemesis by victim before death that with respect to the problems of this subject, legislator still considered it as one of the barriers to death sentence or nemesis. The criticism to this subject is that criminal laws of countries are to establish discipline and survival of society and basically people cannot permit, forbid, and forgive anything in general and especially criminal issues. Only legislator is qualified to allow something based on general benefits and interests. Discipline or general order states that one is free not to forgive the invader, unless legal interests provide the same situation. Giving atonement to others to remedy and recover from the losses is lawful and legitimate unless the same action would be prohibited. Therefore, individual contention is influential in some situations and this removes the nature of the crime so that the action not to disorder society or discipline.

Barriers of nemesis or death sentence:

When a killer murder one or more people, immediate parents have different conditions (mature, immature, and insane, absent) and with respect to nemesis they may have different decisions. Sometimes they are agreeing on nemesis, atonement or forgiveness and sometimes they act differently. In the case of murder if some immediate parents or relatives are immature and mature, then the mature is legitimate to request for nemesis considering the share of immature. When immediate parents of victim are absent and no one is accessible and also in the conditions that victim has no parents or is not recognizable the political governor is considered as his immediate parent. Conclusion In this research the most important barriers of nemesis in Iran's criminal law are discussed and analyzed. The following results are concluded:

1. Being liable enforce having some conditions. These conditions are maturity, wisdom and freedom that lack of condition is barrier to execution. Therefore, when one of these conditions nonsexist the guilty would not be punished by death sentence in the consequence of crime. But to know these conditions we should recognize willing, insanity and infancy beforehand.
2. The age of criminal liability should be distinguished from the age of religious maturity considering climate conditions, mental and physical development, in accordance with criminal psychology, criminal sociology and criminal anthropology are derived from some purposes like educational reforms, and developmental by considering facts such as emotional, mental and physical maturity should be considered in a higher level of religious maturity without gender discrimination.
3. It is suggested that by classification of punishments in accordance with relative differentiations in the intention of guilty person specially murder that is the consequence of using psychotropic drags, consider drunkenness to the extent is create disorder as a removal factor of criminal liability.
4. Iran's legislation criminal policy against crime of killing non-Muslim is not logical and needs modification, also today discrimination in punishment especially in crimes like murder not only it is not logical, but also it is not socially acceptable.
5. Criminal law with respect to victim and vulnerability components in the victim, has considered criminal activity against retarded minded people as of the extreme crimes and empower the judge to appoint extreme punishments, so that a guilty who abuse a retarded minded should tolerate more painful punishment than one who does the same action against one who is enable to defense.
6. Formally infanticide crime is not without punishment and killer would be punished by atonement and penalty terms or even complementary punishment. This means that the amount of atonement even heavier is not sufficient because most of the time it is forgiven for the sake of family relationships and by paying atonement the way to do other crimes would be provided. On the other hand our infants are social assets and society is damaged by infanticide. Also it is not tolerated by common sense and has more sensitivity than the other murders.
7. "Murder on the bed"is one of the most important subjects in Iran's criminal law. it is suggested that legislator by logical attitude toward issues and understanding them approve a law according to the today's social roles and accomplish them so that guarantee all rights of accused and be in line with principles of constitution and human right chart.
8. Depriving a victim from living even by allowance and previous agreement with any motivation (even by physician toward incurable patient) should be liable to punishment.

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