

Philosophical and Practical Foundations of the Individual to Penalties

AmirAhmadi (M.A)

Department of Religious Jurisprudence and Islamic law, Karaj branch, Islamic Azad University, Karaj, Iran. Email: Amir.ahmadiy91@gmail.com

Abdolreza Rezaei (M.A)

Department of law, Shiraz University, Shiraz, Iran.

Farhad Hatamzade (M.A)

Department of law, Payam noor University, Kermanshah, Iran.

Yoseph Niazi (M.A)

Department of law, Payam noor University, Kermanshah, Iran.

Abstract

The Individualize punishments law is the most important issues in the nowadays world that are considered criminal rights activists. The first word of the philosophical foundations of this research has focused on individualize and criminal penalties. First, the theory of individualism and individual rights, individual freedom and respect for the supply of natural rights and human character is that the objectives of legal rules and Theory of individualism and individual rights that are valuable in today's jurisprudence emanating from the place. Second, the nation of authenticity has been gathered that the original proponents of this theory believe the community against the individual; Principles rooted in fairness point decisively know that the observance of the rules of society is achieved. In the second article of basic scientific principles to interpersonal punishment is mentioned. The first difference is that the individual has been awareness of individual differences that exist among people, perhaps old enough to be a human creation. Because, early humans who lived in caves and forests were aware of the phenomenon of individual differences between people and groups worked on individual differences and Second, the ability to recognize individual differences are discussed; Whether there are individual differences in principle measurable characteristics, or are so recognizable or not? Thus, the results of research conducted on the use of patterns and individual corrective punishment and the philosophy and practice of punishment for this hypothesis, we have demonstrated that's the way they come with repeated offenses will have significantly reduced crime rate and repeat.

Keywords: the individual, Punishment, philosophical foundations, individual rights, practical.

Introduction

This study examines the philosophical and practical foundations of penalties paid by individuals and made clear that many of the traditional tools used to achieve these objectives have become ineffective tool and they have been replaced and scientific studies new tools that have been conducted and the results prove our hypothesis in this regard The implementation of modern tools of punishment primarily as an alternative to imprisonment, they will be remembered.

After the defeat in the fight against crime rate and repeating pattern of criminal charge, subject to correct and rehabilitate offenders treatment is considered. The research that has been done on the ineffectiveness of the criminal pattern and results of our research studies the issue of rising crime and repeat offenses that we have achieved reflects the fact that the fight against crime and delinquency and repeated professional use only and is not a successful criminal tools, rather, it means this weapon is ineffective that is why some of the ways that the social return to offenders and the reform of thought on the one hand and increase the efficiency and life skills are emphasized on the other side. And I reached to the conclusion that the philosophical and practical foundation to start and then go into other topics.

Chapter One: the philosophical foundations of individual sentences

Section I: The theory of individualism and individual rights

Providing of individual freedom and respect for the natural rights of human personality, which is among the objectives of legal rules theory of individualism and individual rights that are valuable in today's jurisprudence emanating from the place.

Particular philosophical schools of philosophical thought in ancient Greece, the Stoics and the Intellectual and sophists and Epicurean philosophers like Descartes to contemporary ideas of John Locke, there is the theory.

But who first proposed the theory of individualism in the world to rights and with respect to works of British philosopher John Locke was brought legal action in order his philosophy is based on the belief that he was a free man born and the right to develop their material and spiritual activities freely and enjoy the fruits of it. But for preserving the rights of all people should have the freedom of each individual part is formed (Paykyn & sterol, 1981).

He says in this regard: all normal people have the right to kill a murderer. Of in order to deter others from committing similar crimes and that human lives are protected against criminals. Delinquent because the principles of reason and the laws and commands of God is not something and Its violations and other crimes with which they are valid for all human beings will declare war(Jones, 1983).

He continued by posing the question, is it normal that a person can be guilty of breaking the law is a set of states is weaker. "Any violation of rape should be punished to the degree of severity and advise the offender that his work was done in vain and fruitless and he was remorseful and make themselves and others from doing such a thing might worry " (Jones, 1983).

John Locke believed that the government knew the social contracts: Under the social contract, the power of the state is competent to protect the interests and rights of human beings and guarantee their implementation. So who has the power not to act arbitrarily, but must adhere to the social contract, Aggression because it causes the power go back to the nation (Katouzian, 1984).

His thoughts and ideas of Rousseau and other schools of authors' rights indirectly in the development of human rights declarations have set the aim of every political society human rights are natural and inevitable decline (Vahedi, 1964).

The unique idea of individualism that the rule of law and the will of the people signing contracts and transactions not the source and origin of the criminal law principles; Including the principle of personal criminal penalties. Because according to this theory, humans can any action that you want without restriction or prohibition of deprivation of liberty should be committed. We should ban him from the act or omission of beneficial interests, and individual liberty was justified in law, anticipated and its associated penalty in accordance with the appropriate regulations is guilty of criminal acts and these also come in a matter of five declarations of human rights that are provided; Law prohibits acts that are harmful to the community. What is no legal prohibition can't be prevented, and no one can be compelled to do what the law does not matter, as John Locke said: "In a normal person with a criminal offense has been committed, must be punished in accordance with the crime." (Jones, 1983).

So scientists, philosophers and scholars of criminal and Criminology hence the high value of the human mind and the theory of individualism and beyond the abstract concept of justice and offenses under the theory of the offender as a human being attended and the reduction or elimination of the crime phenomenon in search of his situation had improved.

Section II: Theory of nobility gathered to punish the person who suggested to meet the individual rights and freedoms and respect for human personality, social and criminal penalties in accordance with individual state is determined and implemented. Proponents of this theory believe that the real nature of the person; Rooted in principles of fairness and justice that they do benefit from observing the strict rules of society is achieved (Katouzian, 1984). According to prominent German jurist "Ayhryng" when the only means of ensuring that the interests of society the punishment that should be imposed by law for delinquent social interest. Because the rules of law, the provision of social welfare and order in the lives of individuals (Katouzian, 1984).

Apart from its traditional goals of punishment must save the community from the dangers of the crime guilty person. If the first impression to say that the origin of the term social support collected, the individual has no absolute right against the public interest it can be picked up by one of the purposes of the prevention of crime punishment fit the person said. Because the appropriate punishment, assuming the offender from committing further crime to deny the harmful effects of the community from harm caused by the crime that is safe. It seems there are dangerous criminals who disturb the public tranquility, and the community has been ignored, because like all creatures of the spirit must defend itself and repel harmful to the outer (Fakhimi, 1997).

But it seems that the prevention of crime, for the protection of society among individual and social goals of punishment, consistent with the notion of authenticity we gather Thus, the offender must be improved and consistent with the principles of the theory of the origin of man as punishment. Personal goals to the goals of the criminal confluence of two streams of human thought, the originality and authenticity of the society.

Chapter Two: the scientific foundations of individual punishment

Section I: Individual Differences

Knowledge of individual differences among humans, probably old enough to be a human creation because early humans who lived in caves and forests were aware of the phenomenon of individual differences between people and the division of labor was based on individual differences. For example, a group of hunters and others were made of wood and food. Individual differences in ethnic background and has also been introduced. For example, the Iranian Aryans into three groups: warriors, agriculture and Taha are divided.

Plato, the three groups in terms of talents of gold, silver and copper are divided. He category refers to individual differences between people. Or "Rumi" with a very simple expression, such as individual differences are: Anyone can do whatever they want to throw at him.

Leo Tolstoy wrote: "One of the most common superstitions vogue is that each human has its own special features and ... but man is like a river, Water of all the rivers and streams with no difference but at one point in each of the rivers, narrow, steep elsewhere, in a quiet place, in large part, sometimes with clear water, when cold, cloudy and sometimes a hot time. Humans are the same way. Each of the existence of human beings by other human beings is that sometimes when the characteristics of the properties are glaring. Man is always the same "(Adrt, 1987). Yes, this is not only that it thinks Tolstoy. But, like many of his predecessors and his contemporaries believed. Because humans share three important birth, life and death in the same physical condition and physical demands and spiritual and relatively close, basically the same and there is no essential difference among them. While the different aspects of human behavior and physical conditions that are different. Thus, there are individual differences among nations in the history of human knowledge, and they were classified but this type of classification accuracy, they are not objective and scientific. Most psychologists in the scientific

study of individual differences (1796) consider the event that took place in England "Grnych" Observatory and others believe that the scientific study of individual differences was proposed by Darwin's theory of evolution. Darwin, in his book "The Origin of Species" explicitly refers to individual differences, he says, people have different personal characteristics and the characteristics of an organism thereby contributing to survival. Darwin's natural selection of favorable traits survives those calls. Among those who have studied individual differences One of Jean-Jacques Rousseau and Galton and "Alfred Binet" said. Differences individual differences between people based on the difference between that person and the other person is the difference between a personal talents; split. The difference between persons of different factors including heredity, environment and education depends. Today, different methods of recognizing individual differences such as intelligent tests are used but the main argument of this paper to examine individual differences in people is associated with formation of character that due to heredity or environmental factors may increase a person with nature and character of another person with antisocial personality grows. Unfortunately, the threshold of the factors causing offense was not the same and any person in charge of each of the phenomena of different reactions can occur. The advantage of this recognition, the recognition of individual differences, personality, criminal penalties are in line with the individual a problem that has been forgotten in the history of human evolution that thousands of innocent people by the sword of justice are unjust destruction. The question that is raised here is whether or not individual differences can be identified? Below we identify utterances as taking individual differences continue.

Section II: Understanding individual differences in susceptibility

Whether there are individual differences in principle measurable characteristics, or are so recognizable or not? In other words, when the trial judge is in a position to invoke the principle of individual punishment, whether the offender knows that such knowledge is possible or not? "E.I.thorndike" says: "What in the world is there a limit size is knowable"(Norman, 1983). Personality theorists, those who are compulsive and objectively, human nature can be studied thoroughly and objectively recognizable know. Watson believed accurate as with all scientific tests, to obtain the laws of human nature and the fundamental factors of her existence is possible. (Shamlou, 1991). But others, such as Carl Rogers believed that people is something completely personal and subjective internal business world is constantly changing. Therefore, assessment and academic achievement and cognitive ability as it is not generally possible and circumstances of each person may only be able to know her somewhat and can't be generalized scientific and general rules of recognition. (Shamlou, 1991).

If we say every human personality based on three fundamental areas the first field, the field of biology (biological) is. Some biological characteristics are the result of heredity, and some of their talent. The second field, so that the behavior of social learning is good or bad is to educate people and finally the third field of the person's life. The history of one's life, the common elements of impression and interaction of biological and social and according to sociologists, the personal history of each individual is created in this way, That date because it is unique to each person's individual judgment (Henry & Gvrych, 1999).

Conclusion

1 - First Speech to the philosophical foundations of this research in the individual sentences, the first and second theory is the theory of individualism and individual rights that have been collected originality.

2 - In the second article of the fundamentals of the individual has paid the penalty, first, we noted that individual differences in cognitive ability and second the individual differences were discussed.

3 - The theory of individualism, individual rights and the sovereignty of the people will not be signing contracts and transactions and the limits of criminal law and the principles of origin.

4 - Criminology and Criminal scientists, philosophers and thinkers, thus according to the theory of human origin have a high value, reduce or eradicate the phenomenon of delinquency to improve the human condition have searched.

5 - Prevention of crime, for the protection of society, personal and social goals in order to collect penalties would be consistent with the theory we authenticity and authenticity together with a consistent theory we and to improve the offender's theory of individualism and personal with the principle that punishment.

6 - Differences between individuals of different factors including heredity, environment and education depends, today, different methods of recognizing individual differences such as intelligence tests are used but the main argument of this paper to examine individual differences in people is associated with formation of character the effects of heredity, or environmental nature may develop personal character and another person with antisocial personality grows.

7 - Ensuring the liberty of the individual and respect for the natural rights of human personality and to the objectives of legal rules is and the theory of individualism, individual rights or that has a valuable place in contemporary jurisprudence is derived.

8 - Awareness of individual differences among humans, probably old enough to be a human creation; because early humans who lived in caves and forests, and individual differences between people were aware of the problem and were working on different demographic groups.

9 - Are there individual differences in principle measurable characteristics, or are so recognizable or not?

10 - If any men say that the character is based on three main grounds. The first field is the field of biology. Some biological characteristics are the result of heredity; and some of their talent. The second field, so that the behavior of social learning is good or bad is to educate people and finally the third field of the person's life.

Thus, the results of research conducted on the relationship between the individual and the breeding patterns of punishments and practical philosophy of punishment to prove this hypothesis we have the application of these methods come with repeated offenses manufacturers have significantly reduced crime rate and repeat.

Acknowledgement

Of those who have supported us in the printing paper, we appreciate.

References

1. Richard Paykyn, L& avordom sterol, General Philosophy, translated by Dr. Syed Jalaluddin Mojtavavi additions. Hekmat Publications, Tehran, 1981, p 114.
2. Jones, V.T. God Political Thought, translated by Ali Ramin, Tehran, Amir Kabir Institute Press, 1983, V2, P216.
3. Katouzian, N., Philosophy of Law, GR Publications, Tehran, 1984, V1, pp. 360.
4. Vahedi, J., history philosophy law, Lawyers Association Journal, No. 46, Tehran, 1964, p65.
5. Fakhimi, R, Paper and punished for it, according to the Journal of Legal Technical Department of Justice, No. 25, fourth year 1997, p837.
6. Adrt, Sh, human psychology dominant, translation doctor Qasim and Ghulam Ali Sarmad, Tehran, Sepehr Publishing, 1987, p81.
7. Norman (L. Mann). Principles of Psychology. Translated by Dr. Mahmoud Saatchi. Amir Kabir Publications, Tehran, 1983, p 140.
8. Shamlou, S., schools and theories in personality psychology, developmental Publications, Tehran, 1991, pp. 25 and 15.
9. Henry Mndras, & Rzhzhgvrych, Principles of Sociology, translated Bagher Parham, Tehran Amir Kabir Institute Press, 1999, pp. 84.