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Semi-Liberty System Investigation in Iranian and French Law
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Abstract:

The semi-liberty system was first established in French law and accepted in Iranian criminal law before Islamic Revolution Laws. In 2013, it was proposed in Islamic Penal Code with regard to detention policies and reducing the number of criminal cases. The semi-liberty system is one of the borderline penalties and it is moderate for crimes considered. In this case, the perpetrators are reformed in these crimes and they demand corrective actions based on middle legal sanctions. The mentioned item is one of the manifestation principles of individualizing punishment. The gradual progress of the convicted person is included in its working schedule. It has agreed with his/her liberty. This system gives an identity to criminal people to avoid him from labeling. It also gives job and family stability for convinced. It is matched to criminal justice response based on criminal status. And finally, it reduces the criminal costs. The purpose of the execution of punishments is reforming the criminal person. The jurisprudential foundations are not in conflict with the implementation of punishments with regard to demanding of the criminal person reforming and reducing the harmful effects of imprisonment on convicted person, his family and society. The privative liberty is minimized based on international documents. They develop liberties before the deadline and items including the mid-liberties. Finally, this item tries to create at least distance between the community and the convinced person and obtain the most benefit for society with regard to implementing this system. This study investigates the system of semi-liberation in Iranian criminal policy and French law.

Key words: semi-liberty, detention, reforming and educating, Criminal Laws of Iran, Criminal Laws of France.

دراسة في نظام شبه الحرية في القانونين الإيراني والفرنسي إيرج جلدوزيان^(ع) حميد رضا ميرزاجاني^(و) سمانة اقتداري^(ا)

المخلص:

أسس نظام شبه الحرية لأول مرة في القانون الفرنسي وقبلته في القانون الجنائي الإيراني قبل قوانين الثورة الإسلامية، في عام ٢٠١٣م، تم اقتراحه في قانون العقوبات الإسلامي فيما يتعلق بسياسات الاحتجاز والحد من عدد القضايا الجنائية. نظام شبه الحرية هو واحد من العقوبات الحدودية وهو معتدل بالنسبة للجرائم التي يتم النظر فيها. في هذه الحالة، يتم إصلاح الجناة في هذه الجرائم ويطلبون بإجراءات تصحيحية تستند إلى عقوبات قانونية متوسطة. البند المذكور هو واحد من مبادئ تجسيد الفردية العقاب. يتم تضمين التقدم التدريجي للشخص المدان في جدول أعماله. اتفق مع حريته. يعطي هذا النظام هوية للأشخاص المجرمين لتجنبه من وضع العلامات. كما أنه يمنح الاستقرار الوظيفي والعائلي للإقناع. يتمشى مع الاستجابة العدالة الجنائية على أساس الوضع الجنائي. وأخيراً، فإنه يقلل من التكاليف الجنائية. الغرض من تنفيذ العقوبات هو إصلاح الشخص الإجرامي. لا تتعارض الأسس الفقهية مع تنفيذ العقوبات فيما يتعلق بمطالبة الشخص المجرم بإصلاح وتخفيف الآثار الضارة للسجن على الشخص المدان وعائلته والمجتمع. يتم تقليل الحرية السرية إلى الحد الأدنى بناءً على الوثائق الدولية. يضعون الحريات قبل الموعد النهائي والبنود بما في ذلك منتصف الحريات. أخيراً، يحاول هذا البند خلق مسافة على الأقل بين المجتمع والشخص المقنع والحصول على أكبر فائدة للمجتمع فيما يتعلق بتنفيذ هذا النظام. تبحث هذه الدراسة في نظام شبه التحرير في السياسة الجنائية الإيرانية والقانون الفرنسي.

الكلمات المفتاحية: شبه الحرية، الاحتجاز، الإصلاح والتعليم، القوانين الجنائية الإيرانية، القوانين الجنائية الفرنسية.

Introduction

The imprisonment of the laws and imposing policies on different crimes including crimes committed in Iran have a serious and important challenge with regard to the prisoners and facts statistics, prison sentences. 4 people return to jail from each 10 prisoners. Some of them are trained as a profession, and they never go to justice by repeating the crime. A few of them are reformed and spend the rest of their lives on the road between religion and the world. They choose the second one because of not finding the good work. In fact, a deep monitoring to the prison problem shows that the reasons why they are being imprisoned, not only it is not resolved but also it creates a lot of problems for society, his/her family, and his/her own person. Such punishments are not available for plaintiff or victim in many cases.

In 2013, some regulations and guidelines as instruction manual for prisoners and the reduction of retributory population are partly moderated. It was proposed by Islamic Penal Code and the chairman of the judiciary speeches. There are clearly observed many effects in Islamic Penal Code about reducing the use of imprisonment, the use of alternative punishments, the use of items such as suspension and deferral of punishment, the use of imprisonment punishments as the last resort and, the reforming of this punishment. Therefore, it seems that the reforming of criminal law is unlike to increasing of alternative punishments in imprisonment and reducing the imprisonment penalty. It also decreases retributory population.

The semi-liberty system is a new legal establishment. It is used for imprisonment retribution. It is a way to reduce the retributory population and reform and rehabilitate of criminals. The mentioned items are in articles 56 and 57 from Islamic Penal Code (Book 1, General, 7th chapter). It is said that the imprisonment is not imposed in absolute terms, but it is implemented in part. In this system, a convicted person can be become free to perform professional, educational, and therapeutic activities. It will have many benefits for convicted person, his/her family and society, because He/She can be reformed step by step, and his/her family will be preserved. The semi-liberty system is one of the manifestations in personalization of punishments and is a way to reduce the retributory population. The findings of criminal and criminological studies suggest that the privative punishment is not effective for all convicted people and some of them should not enter to this harmful environment. The results of these studies indicate that new items as semi-liberty mention in the law. The legislator predicts these items in two stages of criminal justice. The first stage is a consider in the court. It has been predicted some convicted people to prevent the arrival of them in special circumstances. At this stage, the judge can order the execution of this item. In this case, it can be said that this

item is a new subject in the Islamic Penal Code. The second one is executing of imprisonment. It can be considered as a step in the process of custodial imprisonment. In this case, convicted people who have the necessary qualifications, can be subjected as semi-liberty rule based on their self-desirability. It increases their self-esteem and prevents their social abandonment to learn their profession during the execution imprisonment. In addition, it is prevented the convicted person to think against the community and calls him/her based on more preparations.

In fact, the legislator sought to detain and punish the imprisonment detriment. He reduces the destructive effects of imprisonment. But this punishment does not mean abandoning jail and other traditional punishments. It is an attempt to complete them and diversify the criminal options. Therefore, judges can use the semi-liberty penalty as an independent punishment if the prison be in an inappropriate circumstance. They can apply it for reforming convicted people, and consider the closed prisons for those people that are more dangerous. In this regard, it is necessary to pay attention to provide a solution to prevent further problems based on problems created by the prison and prisoners' penalties.

Part one: The semi-liberty system for Laws in Iran

1. The criminal and legal nature of the imprisonment

Absolute negation liberty or the imprisonment is related to crime and punishment. It depends on the purpose intended, and is distinguished in two ways:

The nature of criminal imprisonment (deprivation and restriction of liberty): Prisoning a person at first sight is a form of punishment. Because this act is one of the attributes of punishment and is against the person's willing. Imprisonment creates limitations for convicted people and is imposed on a person who is not reasonable and desirable in a normal way. This is a common feature of all punishments that its result is kind of limitation as financial, physical or psychological, verbal or behavioral in the right of property, life, liberty, dignity, or dignity. Custodial imprisonment effects on movement, behavior, speaking, eating and sleeping in a convicted person, for example, confiscation of property or fines takes away all or part of the property of a person, or whipping and execution threatens temporarily or permanently the physical and mental integrity of a person. Therefore, it can be said that the imprisonment is a punishment, but it cannot be said that the prison is the place of punishment.

The penalty for privative liberty is like to all other punishments. It can be applied as criminal (inferior) and inhuman methods or applied in human being methods. In addition, the existence of specific rules is related to spending time as resting for prisoners, the time of sleeping and awaking,

meals, and other personal prisoners' matters (the subject of various chapters and sections with regard to the prison's executive code).

The nature of imprisonment (custodial, deterrent, or Hodud): As previously mentioned, sentencing to imprisonment is related to nature of criminal form and legal effects. It is mentioned as a neglect due to the difficulty of distinguishing between them. This aspect of imprisonment is interpreted as the significance of the works.

In accordance with Article 173 of the Public Procurement and Revolutionary Courts, only crimes are punishable by punishment or preventive measures⁷ have not been prosecuted in this article from the date of the crime up to the expiration of the specified materials or from the date of the first prosecution until the expiration. The following were in accordance with Article 173:

- A) The maximum sentence for more than three years is included imprisonment or a fine of more than one million Rials with a ten-year expiry date.
- B) The maximum punishment of less than three years is included imprisonment or a fine of up to one million Rials with the expiration of five-years
- C) A penalty is included imprisonment or a fine for a term of three years.

Therefore, only the prosecution of crimes was subject to a time-limit. It was punishable by deterrence. The other types of crimes and punishments (except for measures of hedging and upbringing) such as qisas, diat, sanctions, and time limits was not included for a time-limit. In 2013, the term "deterrent punishment" was removed based on the passage of the Islamic Penal Code, and the prosecution time limits are punishable by all types of punishments and punishments, including first-degree imprisonment up to eight based on Article 105⁸.

It is noteworthy that, apart from some legal effects, there is no significant difference between the types of imprisonment (for example, punishment or limitation), especially in the manner in which they are executed, imposed, or treated with a prisoner. All prisoners of imprisonment are admitted and held in accordance with the provisions of the "Prison Rules" in one of the types of closed prisons, vocational centers and employment or other institutions of the prison, and no distinction is made in terms of treatment with prisoners. These prisons differ only from the viewpoint of certain physical characteristics and rules governing them, and the type of imprisonment convicted in a margin of intent or imprisonment does not affect the deployment of a particular prisoner, but the criteria for classifying prisoners have determined this.

2. Basics of the semi-liberation system

In this section, we will look at the reasons justifying and the legislator's standard for predicting this regime in Iran's law, and we are going to clarify the criteria and legitimate reasons for the legislator. Because it lies behind any substantive and legitimate reason that can persuade people to deal with the issue and want to know what was the legislator's basis for this issue?

2.1 Scientific Classes

2.1. 1. Neglecting Poetry

Relative detention: At the time prison sentences were foreseen, two kinds of theory and thought were created. The first theory was that the main purpose of the prison should be reform, and reform should be placed as the most important goal in the execution of imprisonment. The second theory was the rejection of the condemnation of society. Of course, there was much social benefit in this regard. (Salahi, 2007, p. 122). Therefore, it was initially supposed to reform and punish the perpetration of the imprisonment and prevent repetition of crime. It also prevents potential offenders from carrying out a crime because they have a general intimidation and deterrence. However, it was not too late that all of these hopes fell, and the imposition of imprisonment was confronted with challenges, and the prospects for the implementation of this punishment were not only not achieved, but the prison became a repeat offense.

Excessive use of imprisonment raises serious criticism of this punishment in such a way that its followers were skeptical, which ultimately led to a reaction to this punishment. Experts have spoken about the disadvantages of imprisonment, including issues such as gradual corruption, health problems, moral problems, psychological impact on prisoners, population density, and the weakness of facilities.

Preventing Deduction: One of the results of the reform of the prisons regime in the present century is to maintain and keep the prisoners in contact with the outside world. This relationship involves different aspects. Maintaining a person's relationship with the family environment, friendship and kinship, maintaining a connection to the work environment, and not losing the means of subsistence, adapting to the social environment and facilitating the return of the family and community embraced. It is clear that the prison is considered to be a component of the community, and since the human being is a social being, it is inevitable for the prisoner to not communicate with the members of this community. But experience has shown that linking is not beneficial to uncontested sentences, convictions or short-term imprisonment. Because it does not result in the mere commission of new methods of committing a crime. One of the most valuable benefits of the semi-liberation system is to prevent the convict from termination of his social, family and professional life, and the convict

can also serve his convicted person while maintaining his social activities. Indeed, the semi-liberation causes the period of punishment to be carried out in a different way. This means that the penalty is executed, but it will be different in how it is implemented. The convict would be allowed to maintain his relations with the outside world, while tolerating the prison. Obviously, this tactic will be applicable to those who will be trusted and able to give some kind of respect. (Najafi Abrandabadi, 2000, p. 329)

For reasons and reasons for preventing socialization, we can see the reasons for not breaking in family relationships, friendships and kinship that affect its (individual, community, and children). Also, the lack of discontinuity in job relationships, the non-breaking of social relations and facilitating his return to society are among the principles of preventing socialization for the semi-liberation system.

Reducing the cost of criminal justice: A large amount of money is spent annually on the administration of prison affairs and convicted prisoners. But while spending huge amounts of time and manpower has failed to achieve the desired result of reforming offenders and preventing repeat offenses, it may have repeated the crime. Prisoners are part of the human resources of the community, with huge human and financial resources spent on storage. The prison, in addition to preventing prisoners from working and activity, will prevent the community from benefiting from their activity, and the state treasury will also be costly in the form of non-restraint (Goodarzi, 2005, p. 34). For this reason, thought-provoking measures are needed. In addition, due to the increase in the out-of-date population, criminal charges have increased the cost of food, clothing, and health facilities, and, on the other hand, the prohibition of criminal proceedings for imprisonment has caused other material costs, such as The construction of women, the recruitment of police and executive forces, and the high costs of prison administration (Wengmo, 2014, p. 96).

Hence, in our era, the employment of prisoners as one of the most important means of professional training and infiltration in the prison for remorse and regret of past practice and preparing prisoners to return to social embrace have attracted the attention of scientists and lawmakers. (Valid, 2007, p. 40) Thus, convicts are sentenced to industrial, agricultural, service centers. . . They will be deployed in order to make use of the workforce of the population and, in this regard, they will be able to take steps to reform and rehabilitate convicts. Hence, working environments in the prison environment or in open environments were foreseen in various prison regulations.

2.2.2 Criminology

Considering that semi-liberation is a kind of punishment for liberation, and the science of pyrology examines it, but with regard to the relation

between these two fields, the criminology has considered the basis of this punishment.

Clinical Criminology: One of the focal points of the discussion is the issuance of a semi-liberty ruling by a judge in a court where the judge can at this stage, by using the findings of criminology, identify the offender's social illness and make him punish appropriately. The issuance of semi-liberties for those who are in a state of danger or those who are not prepared to use semi-liberation punishment should not be issued. The detection of a hazardous state or the capacity of the offender to use this punishment is possible by using the findings of clinical criminology. However, according to the findings of this science, some offenders do not deserve the use of this punishment and may need to spend some time in a closed environment. Convicted by experts in this field, after serving a prison sentence, he can enjoy half-freedom.

However, we see that in the Code of Criminal Procedure, the Penal Code of 1392, the filing of a personality for certain crimes is necessary, and other than the formation of this case is not necessary. On the other hand, the only perpetrators with a crime rate of 7-5 are subject to this institution. However, Article 203 of the Code of Criminal Procedure, approved in 1392, states that "only in crimes that are punishable by deprivation of life, amputation, life imprisonment, or imprisonment of a degree of four and more, and also in deliberate crimes against the physical integrity of their deity One third of the full Diyah is either ... or more than ... "The prosecutor is required to file a personality file for the accused. Therefore, the investigator has no obligation to file a personality for penalties of grades 6 to 3, which will make the judge difficult to issue half-freedom to convicts and their exact recognition. It is true that the judge can recognize somewhat of the convicted person according to the case and the personality of the parties, but this alone cannot be held accountable, since the issuance of such a trusted institution necessarily requires the exact identification of the convict and his talents for issuing a proper command. Otherwise, the failure of such an institution is definitive.

Under the teachings of criminology, one way of reforming criminals in preventing the repetition of crimes by them is to be able to be rehabilitated in the vocational, educational, and ... centers, and to reconcile with society. The filing of the personality and the doctrines of clinical criminology is at this stage, with the help of workers and prison staff. Because those who are in a dangerous state and who are likely to commit a crime in the future cannot be subjected to this system.

In addition, half-freedom can be applied as a gradual imprisonment. In this case, the people who are in jail and their dangerous condition can be relieved of the help of the workers can be placed under this system upon

request. The system seeks to reform the convict, and when Saleh believes that if a convicted person is under such a system, he will be corrected in this way or that he will no longer be prosecuted.

Interaction or labeling theory: Half freedom as a new way of enforcing the punishment of liberation, although it generally does not label a prison, but somewhat reduces the negative effects of this label and reduces the resulting psychological pressure. Also, the judgment of others about him as a person who has been completely imprisoned for a while is not. The interaction of an individual with his family, friends and acquaintances, as well as going to work or studying and, in general, his presence in the community, would prevent him from engaging in such a negatively impacted book. Moreover, it is unlikely that the person will not be aware of such conviction. Therefore, the execution of this punishment will in part diminish the psychological and psychological burden of sticking the label to him. On the other hand, the implementation of this system will minimize the perceptive interaction with prisoners and executives of criminal justice, since, based on the principles of this theory, part of the repetition of the crime caused by the perpetrators of the perpetrators of punishment is condemned.

2.2.3 Legal Litigation

Since the age of liberty is contrary to one of the fundamental human rights, in addition, the prison environment is in such a way as to expose the person to degradation, so that the penalty must be at least used or enforced in a way it can minimize its disadvantages and put the person on the path of excellence.

Human dignity: Some believe that someone who has committed a crime and has undermined the system of society has lost his human dignity and there is no longer any reason to respect it, but we must say that dignity is a feature and honor that Human beings are only human beings, and this dignity does not disappear merely for the commission of crime. Rather, prisoners and penal institutions should try to remind the dignity of the person again, rather than distorting it in a worse manner during the execution of the punishment. In the sentence of imprisonment, although convicted of committing a crime, he was sentenced to a punishment, but this does not justify ignoring other rights and his dignity. Convicted with one of his most fundamental and basic rights, freedom is denied by imprisonment. The same deprivation is a great disgrace that should not be exacerbated by neglecting its dignity and dignity. With the implementation of the semi-liberation, it can be conveyed to the convicted person that, although he has committed a crime, the criminal justice and its implementing institutions recognize the value, dignity and dignity of the individual and demand that they be given an opportunity to be sentenced so

that they can have a past. Because by reducing the length of the imprisonment, the judiciary is demanding that a person be able to maintain his dignity with a minimum period of imprisonment, and this dignity will not be compromised. Human dignity has led to the adoption of recommendations and documents for the minimum use of imprisonment.

A Minimal Approach to Denial of Freedom: The punishment for liberation, the violation of one of the most fundamental and fundamental rights of the human being, the right to liberty, must therefore be applied in its use of perfection. In other words, the penalty must be minimal. Because the punishment for the liberation of the year has many defects that put the individual at risk of collapse. Although it is not absolutely possible to say that prison punishment is flawed and does not contain any benefits, it can be said that the prison is still the best solution for a number of criminals, and it should be noted that at present, in general, the prison sentence cannot be eliminated, because if we remove it completely, in countries where the death penalty is still there, judges of those countries would be more likely to resort to capital punishment than they would otherwise be. For this reason, they consider the existence of a prison institution as a necessity, but due to its disadvantages, it should be used in very limited cases for dangerous perpetrators, while prescribing it for short-term punishments with regard to its detriment.

In addition, "the crime has been identified causes and factors such as poverty, unemployment, illiteracy, immigration and so on. The prison does not play any role in eliminating them, and as long as the causes and grounds for committing the crime exist in the community and intensify every year, the prison will not prevent the commission of the crime and, accordingly, the prison should only be the last and in very limited cases" (Goodarzi, 1392, 110). Because of the disadvantages and irreparable effects of imprisonment on people's spirits, in various documents that show the policies of the country and emphasize the decline in the use of this punishment, Sense in General Policy of the System in the Perspective Period in the General Jurisprudence Policy "Revision of the Laws to Reduce the Headings of Crime and Reduce S The use of prison punishment is one of the policies that practitioners need to work to achieve, and the appearance of such a policy should be seen in criminal law. Also, various international documents have also emphasized the minimal use of this punishment.

Semi-liberation is a way for the convicted person to spend some time in prison on his or her conviction. Hence, it is better to order a perpetrator who is not in a state of danger and can be subjected to Article 57. By using this punishment, the use of prisons decreases somewhat. This can help us comply with international and regional laws.

Part II: Conditions for enjoying a condemnation of the semi-liberation system in Iran

With consideration of Article 57 of the Penal Code, one can conclude that for the application of this system to the perpetrator, conditions can be assessed from two perspectives. One is in terms of the circumstances in which the offense must be committed, and the other in terms of the circumstances that the offender himself must abide by and give them to use to use the system.

1. The terms of the crime

1-1 Grade 5 to 7 Thieves

With precision in Article 57, it can be seen that the semi-liberal system is capable of imposing specific punishments for crimes. The article reads: "In grades 5 to 7 of the prison sentence, the court issuing a definitive sentence may, under the conditions of the convicted person, be placed under the semi-liberal system ..."

In the Penal Code of 1392, they are punished for imprisonment. Referring to the article on the grading of imprisonment (Article 19), it appears that grades 5, 6, and 7 are, respectively, imprisonment for more than 2 years to 5 years, imprisonment for more than 6 months to 2 years, and imprisonment from 91 days to 6-months imprisonment.

It seems that the Iranian legislator has sought to reduce the criminal population, although temporarily, but it should be acknowledged that this handy punishment for up to 5 years of imprisonment cannot serve the legislator's intended purpose. It is true that the purpose of the semi-liberation is to condemn the opportunity to associate with professional perpetrators. In his educational and family career relationships he will be discontinued. . . But this condition cannot work for all criminals, because social defense must also be provided. The author is of the opinion that imprisonment for up to 5 years cannot provide social defense as it should. Looking at the law of imprisonment, it is clear that many prisoners of between 6 months and 5 years are convicted of not securing a semi-liberation of their own interests⁹, including crimes such as forgery, crimes against security and so on. . .

It might have been better if, like a half-open prison, certain crimes were subject to this system. In the words of the legislator, in determining the cases of partial liberation, the system of criminal offenses was imposed, rather than on the basis of the amount of the sentence, half-freedom was issued.

1-2- The plaintiff passed the crimes that are passed

Article 555 of the Criminal Procedure Code states: "The issuance of a suspension of the execution of a sentence, a conditional release order, a postponement of a sentence, a semi-liberation system, and a release under

the supervision of electronic systems, in accordance with the provisions of the electronic procedure, and the order or orders of the judge to enforce criminal sentences, The consequences of the non-compliance of the defendant or defendant from them, as well as the effects of the commission of a new offense, shall be communicated to the plaintiff or the private claimant. If the convicted offender or the accused during the aforementioned period does not comply with the orders of the judge or executes criminal offenses without reasonable excuse, or if he / she commits a deliberate crime, the plaintiff or the private claimant can declare to the judge the execution of criminal sentences for the enforcement of the relevant regulations. "With careful consideration in the text of the above article it can be seen that the issuance of a semi-liberal system will be issued to the plaintiff or the private claimant by orders of the judge administering criminal sentences, the effects of the defendant's non-compliance or accused of the judge's orders, as well as the effects of the commission of a new offense. Of course, the reason for this is obvious, because, as we said, such an action is anticipated in line with the victim's rights.

1-3 conviction of the individual

Article 555 of the Code of Criminal Procedure states: "The issuance of a suspension of the execution of a sentence, a conditional release order, a postponement of a sentence, a system of semi-liberation and release under the supervision of electronic systems, in accordance with the provisions of the electronic procedure and the judge's orders or orders. The execution of criminal sentences, the effects of the offender's conviction or accused of them, as well as the effects of the commission of a new offense, are communicated to the plaintiff or the private defendant. If the convicted offender or the accused during the aforementioned period does not comply with the orders of the judge to execute the criminal sentences without making a valid excuse, or commit an intentional crime, the plaintiff or the private claimant can declare to the judge the execution of criminal sentences for the enforcement of the relevant regulations. "It can be seen that in the article the term "convicted or accused" is not restricted to the defendant, and it can be said that it includes half-freedom. Of course, given that the Penal Code explicitly states that this system applies to convicted offenders, the term "accused" may be said to relate to other punishments that are at the top of the article.

2. Criminalistics terms

The legislator, in article 57 of the Islamic Penal Code, has imposed conditions on the perpetrator, which, if the offender is admitted, the court issuing the decree can benefit from this system. The above article provides: "The court issuing a definitive ruling may be subject to the prosecution of

the plaintiff and the provision of appropriate care and commitment to conduct a career, vocational, educational, vocational, partnership, family life or the treatment of addiction or illness Which is effective in the process of correction or compensation for the victim, the convict will be placed under his own consent under the semi-liberal system ... "According to this article, three conditions must be met: to provide the proper provision by the convict, the obligation to perform an activity and the consent is condemned to its execution.

Part III: Semi-liberation in French law

1. The concept of the semi-liberation system in French law

In France, the semi-liberalization method, adopted by the post-World War II reforms, was accepted in the country's rules and regulations. This approach was considered as the expansion of the Irish system as an intermediate stage of imprisonment and conditional release in which prisoners were held to full confidence. Article 723 of the country's penal code, which sets out this transitional period, states: "The semi-liberalization method involves settling out of prison, without any permanent care, and free-pay conditions." The law of July 17, 1970, has generalized this method in two directions: first, in the form of a new correction, the second in order to preserve the interests of a prisoner with a normal environment. In the first instance, prisoners can not only enjoy free working conditions and labor privileges but they can either study or go to work or receive medical treatment. In the latter case, the court can allow prisoners who do not exceed their six-month prison term to continue Professional activity or professional training or medical treatment, and maintain their connection with the environment outside the prison) (Ardebili, 1366, 173).

In France, the Criminal Procedure Act of 1958 (Morse, 1985: 553) recognized the system of semi-liberation. The semi-liberal system is a way to restrict the freedom of the punishment that allows the offender to go out of prison without uninterrupted supervision and conduct a professional activity in the same conditions as a freelancer or an educational activity. . Either an internship and a temporary job for social integration in the future. It can also play an important part in family life or undergo medical treatment.

The offender is required to visit the prison every day and stay in jail for days when this activity is stopped for any reason, to the detriment of the offender. (Article 26-132 of the Criminal Code)

Until the July 17, 1970 Law, the acceptance of the use of the semi-liberation system for an offender convicted of a limitation of freedom was only a matter for the judge to enforce. The law aims to facilitate the individualization of punishment and avoid the consequences of imprisonment against short-term sentences, including the consequences of

losing a job, cutting off family ties, overcrowding the criminals in prison, by judge The Court of Justice allows him to issue a prison sentence issued on the basis of a semi-liberal system. The new penal code has expanded this institution on a superficial level. The Code of Criminal Procedure was established by the Code of Civil Procedure in accordance with article 25-132 and article 26-132 of the Criminal Code and Articles 1-723 and 2-723. The couriers also use this code in a humble manner.

In the case of anticipated by proprietary laws (JF, 1996: 311), permanent or temporary compulsory residence may include a guarantee period. (Minor Child Punishment Code, June 7, 1994, Bul., P. 224). The length of this period is half the length of the sentence or 18 years for permanent compulsory residence. The Criminal Court can increase or decrease the length of the course (up to two-thirds of the length of the sentence or 22 years of permanent residence). A court of law may decide to terminate or reduce this course if there is a serious commitment to the social reconciliation of the offender. If the thirty-year guarantee period is taken into account for the offender (under Articles 232-221 and 242-221 of the Criminal Code), the reduction in the amount of the penalty after twenty years is possible. The first law of February 1994, even if the offense against an underage age of under 15 years of age was committed, established an enforceable sentence. This punishment is a life sentence that can be enforced in the event of a major crime or murder (Articles 232-221 and 242 of the Criminal Code). The Criminal Court may provide for a thirty-year period of probation or for a mandatory sanction. However, after thirty years, the Penal Proceedings Tribunal may refer to a three-member commission of medical practitioners registered on the list of specialists admitted to the Tribunal. The commission commented on the peril of the perpetrator's peril.

The penal court decides whether it has the right to terminate the criminal court decision (Article 4-720 and 3 of the Criminal Procedure Code) in the light of the Commission's decision. In the event of future conditional release, auxiliary and regulatory measures can be determined without time limit. Such regulations have been set up to combat the repeat offending by the killers of children who had raped the victim before the murder. These regulations determine a kind of life imprisonment. There are also restrictions on the conferral of some supportive measures (such as the placement of a business outside the prison, the semi-liberation, conditional release) in favor of convicted offenders under the age of fifteen who have been raped, tortured, and behaved brutally. These measures are not accepted without the opinion of the psychiatric expert (Article 722, Article 5 and 6 of the Criminal Procedure Code and Article 21-712 of the Criminal Procedure Code). If the special law does not refer to Article 23-132, all

jurisdictions - who are voting on a free-sentence penalty of no more than five years of suspension - can specify a guarantee period (including the prohibition of supportive measures Taken in the first row of Article 23-132), the length of this period cannot exceed two thirds of the imprisonment or 22 years in the case of conviction for permanent criminal convictions.

In a closed environment (jail), it is the duty of the judicial authority to make the most important decisions during the execution of the sentence. He determines for each offender the general manner in which the exercise of the punishment restricts freedom (Article 1-712 of the Criminal Procedure Code). Adoption of a half-life sentence or occupation outside the prison is his responsibility. One of his options is to agree with the departure of the offender from prison and can also advise on various situations. (Boolean Journal, 2007, No. 26)

The law of December 29, 1972, extends the scope of his authority, in particular by granting him the right to consent to conditional release - the failure to exceed the penalty for five years - as well as the right to agree to the reduction of the punishment (up to 25%). In addition, the law of July 19, 1975, permission to decide on the suspension or division of punishment (Article 1-720 of the Criminal Procedure Code), and the acceptance of a reduction in punishment if the exam is successful or the time required for the probationary release 1-721 and 1-729 of the Criminal Procedure Code). However, on November 22, 1978, the judge's powers reduced the execution of sentences against those convicted during the period of assurance. (Article 1-722 and 2-722 of the Criminal Procedure Code). In completing the provisions of the ruling, the law of March 9, 2004 renamed the local council to the court for the execution of the sentence and The court of appeals brought the appeal court. In addition, the enforcement judge has the power to directly shift the court-approved measures to the suspension of supervision. (Tadayon, 1394: 504). This confidence in the judiciary is such that some of the current enforcement penalties are taken only on the basis of a commission of commissions that provides a reliable place for the judicial officer. (Article 1-522) of the law, the decision on the entry and residence of foreigners, the expulsion of undesirable aliens, decide on their compulsory stay. Moreover, the sanctions imposed by some independent executive authorities in Shabaa raise an appeal to the court.

2. Conditions for the convict of the semi-liberation system in France

Convicts in which the semi-liberal method is applied to them should be kept in a special building completely separate from other convicts. One part or a clause from the prison can be assigned to execute this procedure, provided that convicts who are in the closed environment (jail) cannot be contacted.

3. Methods of performing the semi-liberation in France

A) convicts serving unannounced visits outside the prison, with the same conditions as a freelance worker, to work either individually or at the employer or in private institutions, and lunch at work or at the workplace and, upon completion of work, to jail Returning to jail in holidays and unemployment.

(B) convicts who are released from jail and returned to jail for training or medical or scientific training or the treatment of various illnesses or the treatment of addiction for a specified period specified by the relevant authorities.

Convicts who use the semi-liberal method should spend their holidays in jail. Sometimes, exceptionally, as encouragement, leave the prison can be issued on holidays. Usually, community members are not trusted and pessimistic about convicted prisoners in any title. Social workers and honorary mediators and members of charity groups and the Association for the Protection of Prisoners and members of the Committee of Guardians of released prisoners must cooperate with the institutions of workshops of factories, Employment agencies, trade unions and guilds, after gaining their trust, provide the means of employment of the convicts outside the prison, and before convoking the meeting, they interviewed and interviewed him psychologically to work in a free environment. And execute regulations.

Condemned in the first days of employment is psychologically distressed and upset. The desire for regular work does not have. Convicting spiritual strength and encouraging him to work is a task of social workers and members of the population.

The work must be determined by considering the taste, talent, career or profession that the convict has learned. The workplace should be even near the prison so that the convict can easily be present at work and not be physically and mentally depressed. Convicts are contracted orally or in writing signed between the prison authorities and the employer. The convictions that the semi-liberation method applies to them should do the referrer work with the utmost care and pleasure, and be kind and polite with their colleagues, dressed up and clean. (Williams, 2007: 84)

The care and control of the offender's work and behavior should be carried out by social workers or members of the charitable group and members of the Association for the Protection of Prisoners and Guards of the Released Prisoners. Police and gendarmes and other security and law enforcement officers are not competent to intervene in the implementation of the semi-liberal method. The employees and the persons must constantly be in touch with the convict and the employer and closely monitor and supervise the work and conduct of the convicted person and advise the convicted person in the new environment and to eliminate the obstacles and

resolve the problems and strengthen his spiritual life. In case of necessity, the guilty will be guided and advised and report the results of the actions and duties assigned to the head of the prison where the convicted person is held there.

The employer pays a cash payment or a bank transfer order to the prison authority, but, with the consent of the prison officer, the employer can pay the convicted wage in respect of the spiritual impact he has to pay him personally to the prison officer. The prison administration divides the wage of the convicted person according to the rules and regulations of the prison, and he / she will pay his / her entitlement according to the rules. Part of my entitlement must be deposited with the savings and savings fund.

Convicts who use the semi-liberation method, unlike closed prisoners, can have some cash to buy and pay their travel expenses.

The convict should not change his job without the permission of the employer without leaving the work permit without the permission of the head of the prison and the authority competent to issue a semi-liberalization. Any changes made to her job, as well as all incidents and incidents, should immediately inform the prison officer.

In France, the following authorities can issue a semi-liberalization order:

Courts: If the length of the crime is not more than 6 months, the court hearing the case may issue a decision to execute the semi-liberal procedure, depending on the personality of the offender, provided that the defendant has evidence of regular employment or education Helping your family, or being trained or treated.

A. Courts that sentenced have been sentenced to imprisonment for prisoners as follows. (Giora Shohm, 2008: 91)

1. The convicts are sentenced to 10 years' imprisonment or more after half the punishment

2. Sentenced to life imprisonment after 15 years imprisonment

B) Judge for execution of punishment: Judge executing a sentence In accordance with the following conditions, the order of the implementation of the semi-liberal method

To issue.

1. Convicted sentences of one year or less.

2. For convicted prisoners who are eligible for conditional release.

The issuing court and the judge administering the punishment for offenders under this system may require the following conditions to be determined and the sentenced person is required to execute it.

1. It is not present in designated areas.

2. Continue education and training.

3. Be under medical care.

4. Provide evidence of family assistance.

5. Pay your spouse's alimony of the wage received.
6. Pay your debt to the state treasury.
7. Do not use some designated vehicles.
8. Do not go to some public places.
9. Do not associate with some convicts or some individuals, in particular with deputies and partners.
10. Do not carry a gun.

Other conditions are as follows:

1. Judge for the execution of the hours of arrival and departure and how to use vehicles and their type (bicycle, trains, buses

Etc.) and the length of the distance between the prison and the place of work or education or treatment. Convicted without supervision from prison and return to prison after the completion of work or hours of study or treatment.

2. The convict spends food in jail or at work or at school. The convicted person must conduct referrals with care and order with good deeds. The convicted person signs the contract with the employer personally and at the time of the contract the amount of his wages is determined. The employer places the convicted wage in charge of the prisoner's office in accordance with the provisions of his right to receive compensation.

3. The convicted prisoner without the permission of the head of the prison and the judge to execute the punishment does not have the right to change his job or field of study without the permission of the professor or his employer or supervisor to leave the work or study. All the changes and incidents should be immediately reported to the prison officer.

Offender's punishment: If the convicted court does not comply with the decision to exercise the semi-liberation procedure or is not satisfied with its work or education or its conduct and conduct, the head of the institute that is convicted shall immediately inform the judge of the execution of the punishment. The judge also informs the court that issued the ruling on the implementation of the semi-liberal method and determines the ruling in order to determine the punishment which is appropriate and in accordance with the personality.

If the judge has executed the punishment order for the implementation of the semi-liberation procedure and does not respect the convicted conditions, he will revoke the implementation of the semi-liberation procedure and issue the decree of keeping the convicted person in a closed environment. (84: 1976, Baechrold)

Conclusion:

Character studies and experiences from prisons and prisoners have shown that imprisonment in the form that it is carried out does not achieve the desired goals. Therefore, the need for review of this punishment is

essential. Meanwhile, in Islam, the aim is to protect the guilty or criminal offender, and not to make him degenerate.

Similarly, the implementation of the imprisonment penalty, as it exists today, conflicts with the human rights regulations. Therefore, under the influence of such thought, it was decided that he would make corrections in the implementation of the sentence of imprisonment. Of course, the author believes that the principles of punishment are more than the other legitimate grounds.

Regarding the severity of the offense of committing, gaining competence and showing good behavior, one can put the person at half-freedom. But the results of the research show that in addition to these conditions, there are other conditions under the law so that the convict can benefit from this system. According to the Penal Code, the offense must be a crime of grade 5 to 7, the plaintiff has been sentenced, sentenced to appropriate care, or to carry out a career, vocational, educational, vocational, family life or addiction treatment, or A disease that is effective in the process of repairing or compensating for the victim, while satisfying himself is also a condition for the implementation of such an institution.

The system is foreseen for detention and reform, but the nature of punishment and criminology is not foreseen, but the criminal nature of this system is also considered. In the modern era, the criminal nature of the past has not been the same as the past, and the humanization of the penalties has caused them to change. Regarding the purpose of the punishment, it should be said that the restrictions that are available for the semi-liberal will have the effect of punishing the punishment, although this goal has been moderated in this system, which has two reasons: first, the punishments towards Being humanized and adapting to human standards. Secondly, the principle of proportionality of crime and punishment is necessary to reduce the limitations for criminals who committed crimes committed in the style of crime and ready to return to society, and thus reduce the effect of the reduction of penalties on this category of offenders. Regarding the effect of punishment, it should also be noted that in the semi-liberties of a convicted person who is serving a prison sentence for a day or night, the intrusive and punitive effect of the imprisonment remains. Because the imprisonment scandal also has its own intrusive effect, in addition to the deprivation of total freedom, the parasitic aspect is also pursued, and as a result, the intent of intimidating punishments is realized. Therefore, it should be noted that the criminal nature and the attainment of the objectives of the execution of the penalty is also considered in this institution.

Implications:

Based on the findings of this research and in order to make it more suitable, the following suggestions are presented:

1. Joint participation of judicial and executive bodies for the implementation of the semi-liberal institution.
2. Co-ordination of semi-liberal centers with other organs for vocational training and job creation for semi-free convicts.
3. Provide professional backgrounds and allocate funds to tailor-made day care to semi-free people.
4. Increasing health and treatment services for use by clients in areas such as drug addiction, psychotherapy and psychotherapy.
5. Provide educational services for continuing education at all levels, especially for young people and adolescents.
6. Training specialized trainers for counseling and speaking with semi-free individuals and helping to resolve their problems, as well as providing a report on the above-mentioned actions.
7. Provide counseling centers for convicted families to facilitate convicted partnerships with their families.
8. To carry out actions for information and culture building through mass media for the cooperation of the citizens of the community in order to change their view and judgment towards the half-prisoners of conscience.
9. Teaching judges to use more than half-freedom in issuing sentences, especially before entering a prison environment.
10. Training judges on the immense disadvantages of prison sentences and issuing them as the last resort to dangerous perpetrators.
11. File a personality file for convicts of the semi-free regime in order to implement more precisely and to obtain the appropriate results of the convicts.

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^٥ - دكتوراه في القانون الجنائي والعلوم الجنائية في جامعة ستراسبورغ ، أستاذ مساعد في جامعة آزاد الإسلامية فرع مشهد.

^٦ - ماجستير في القانون الجنائي وعلم الإجرام ، محام أول.

⁷ The deterrent punishment and preventive imprisonment have been removed from Iranian legal regulations in 2013 with the enactment and entry into force of the Islamic Penal Code and in accordance with Article 11.

⁸ In 2013, Articles 105 and 106 of the Islamic Penal Code state that there is a timetable for passing the time, but these provisions are predicted for implementation of definitive rulings with the differences in the period of inclusion. It seems to be unjustified and time-consuming in Articles 107 to 111 with the same law.

⁹ Looking at the law of imprisonment, it can be seen that many crimes can fall within this system:

- Article 102 on espionage in favor of a country and to the detriment of another country in Iran, a subset of crimes against security with a penalty of one to five years
- 103 in connection with theft by mapping of political and military places, a subset of crimes against security with a penalty of six months to three years
- Rule 112 on incitement of people to disturb security with a penalty of one to five years.
- Article 131 on the use of a document with a penalty of imprisonment from six months to three years. . . .

These cases were only a few examples of punishments that the author has only mentioned, for example, several examples. Dear readers to study

More to the law of imprisonment

References:

1. Ardebili. Mohammad Ali, Short-term Phonological Alternatives to Iran's Criminal Law, Journal of Legal Research, Autumn and Winter 1992, Spring & Summer 1993, Issue 11 & 12.
2. Ardebili. Mohammad Ali, General Penal Law, Volume 3, Mizan Publishing, Tehran, First Edition, Spring 2014.
3. Ardebili, Mohammad Ali, semi-liberal system, legal and judicial studies, No. 10, summer 1987.
4. Tadayon, Mohammed, Law of Procedure of France, Tehran, Khorsandi Publishing House, 2015.

5. Danesh. Taj Zaman, Who is the culprit and what is criminology? Keyhan Institute of Publications, Tehran, Sept. 1995.
6. Danesh. Taj Zaman, Prisoners' rights and the science of prisons, University of Tehran Press, May 1989.
7. JF, Swim, Pennett Magazine, 1996.
8. Salahi. Javid, Pathology and New Perspectives, Mizan Publishing, Tehran, First Edition, Spring 2007.
9. Minor Child Punishment Act, June 7, 1994, Money Magazine.
10. Goodarzi Boroujerdi. Mohammad Reza, in collaboration with Abbas Javanfar, Prison failures, Theology and Law Journal, Autumn and Winter 2003, Nos. 9 and 10.
11. Goodarzi Boroujerdi, Mohammad Reza; Moghadadi Leila, Utilitarian Pathology, A Powerful Extreme for Detention, Journal of Rehabilitation, Oct. 2005, No. 44.
12. Morse and Thorneley, Retirement Offense, 1985.
13. Najafi Abrandarabadi, Ali Hossein; Narrations of the Criminal Law General Law (1) (Substitutions of Prisons and Abductions) (in Criminal Sciences Issues), Master's Degree, Shahid Beheshti University, by Mehrdad Rayejian, 79-78.
14. Williams. Frank; McCain; Marilyn Lee, Criminological Theories, Translated by Hamid Reza Malek Mohammadi, Mizan Publishing, Tehran, Second Edition, 2007.
15. Validi. Mohammad Saleh, The Consequences of Professional Training and Employment of Prisoners, Journal of Work and Society, March 2007.
16. Baechrold. A "Semi-Liberty and Semi-Detention in the Correctional System In Swiss Law." *Reviwe Internationale De Crimionlogic Et De Police Technique* 29 (no. 1 (1976))
17. Giora Shohm (Shlomo and Beck (Ori and Kett. Martin International Handbook of Penologyh and Criminal Justice (CRC Press is an imprint of the Taylor& Francis Group an informs business (2008.
18. Wengmo. Tenzin (Giraldune Runz (Jeesica Sinclair (Patrice Mangin (and Berruice Simone Elger The Loveshgation or Deathlis In custody A Qualitative Analysis of Problems and Prospects (Journal of Forcasic and Legal Medicine 25 (2014).