



# Alternate Sentences of Imprisonment in Iran and International Criminal Law

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**Abstract:** *Many countries in international law have been wary of abandonment and wise measures, taking into account the dilemmas and consequences of the imprisonment imprisonment. And by stepping up their efforts to regulate their laws and judicial system. Prison punishment, as one of the most important criminal penalties, has been discussed more and more today, and it is clear that the prison sentence violates human rights. Prison sentences as one of the most important punitive penalties are now being discussed more and more often. And it's clear that prison sentences violate human rights, because they have effects and consequences that are completely different from the purpose of imprisonment. The fact that the collection of prison conditions and conditions does not only help to rehabilitate the accused personality and restore him to the community, but also provides grounds for repeat offenses for prisoners. The imprisonment, with its limiting nature, has experienced a variety of collective, individual, and gradual methods in its implementation, but despite the diversity and diversity of prison administration systems, punishment has failed in its function and achievement of its goals. Looking at the situation in our country, we will find that we are currently seeing a non-rational and irrational increase in the prison population and we are faced with an unreasonable, but at the same time, malpractice. The reason for failure is the lack of imprisonment and the ineffectiveness of the realization Purposes of punishment. The law enforcers of criminal incitement after seeking frustration from jail and clarifying the failure, sought alternatives to jail.*

**Keywords:** *International Criminal, Imprisonment.*

## INTRODUCTION

One of the most prominent achievements of the penal school and new thinking about the nature and objectives of the punishment was a gradual but strong imprisonment or deprivation of liberty as a punishment. The sentence of imprisonment as a major penalty comes from the second half of the eighteenth century as an inescapable reality in the penal systems of many countries. However, in the course of the evolution of the penal system, there are developments in the approach to the philosophy of the practice of imprisonment and how it is implemented better<sup>1</sup>, The promotion of citizenship rights increased the authority of the rulers. People were looking for accountable governments, and they expected the rulers to protect the rights of all citizens, including the right to life and the right to liberty, to the fullest, both against the aggressors and against government agents. The importance of the fundamental rights of citizens, in particular the right to liberty, was the denial of liberty as an exception and the last resort, and questioned the extent of the use of imprisonment and interim detention, and the denial of liberty was only permitted for serious and dangerous matters. Thus, the legitimacy of the imprisonment has been questioned, and less has anyone accepted the abandonment of all the criminals. Prison sentences as one of the most important criminal penalties are now being discussed more and more, many

<sup>1</sup> To know more about the history of the evolution of the penal system, in particular the sentence of imprisonment: Saffai, Ali; Criminology

countries are being discarded and wise measures, taking into account the dilemmas and Consequences of the imprisonment imprisonment have been reformed and limited, and they have taken great steps in this regard with the advancement of their laws and regulations, which can be used as a good example to refer to the country of France, which is to conclude scientific writing and leveraging Supervising and sanctioning cases This is dramatically reduced.

But, looking at the situation in our country, we will find that we are currently witnessing a non-rational and irrational increase in the prison population and we are faced with an unreasonable, but at the same time, criminally charged inflation.

Lawmakers of criminal perpetrators sought alternative alternatives to prison after disillusionment with the jail and clarification of their failure. Alternative measures are in place at different stages of the pre-trial and after-court proceedings.

Deploying substitute detainees has many goals. Reducing criminal offenses and preventing repeat offenses is one of the main objectives of the system of alternative punishments

#### **A. Concept and history of imprisonment**

The sentence of imprisonment

has been raised as one of the most effective and intimidating punishments in domestic law. This type of punishment, regardless of how it affects the condemnation of the custom and the public, and even lawyers and judges as punishments that can provide one of the goals of punishment, which is the intimidation, is the place where the defendants and keep the convicts in it. This word is accepted at the Academy of Persian Language and Literature instead of imprisonment. In the Pahlavi language "Zibandeh", Armenian "Zendan", Yves "Zindoun" ...

Prison, where the sinners are arrested, House decoration, Sejn, Dowrkh, Duplex, Strap, Straw, 3 F Convictions The concept of imprisonment with any form and title is denial of liberty. Despite the connection between

The prisoner and his outside world, like the use of telephone and computer by the defendants, have the right to visit, leave and ... and some other freedoms for imprisoned prisoners. Compared to other types of penalties based on legal constraints for the freely seizing of their own affairs It is referred to as the "Year of Freedom", the absolute denial of freedom.

#### **1. Imprisonment in the International**

The imprisonment imprisonment for international crimes is considered to be an embryo wielded from domestic criminal law and linked to the requirements of the international community. In general terms, this punishment is a word derived from the term "prison", ie the place of imprisonment. That is, the detention of a person within the internal boundaries of a prison administration. In fact, the imprisonment is in the midst of an interdiction and deterrence because it excludes the offender from society. Today, the rejection function seems to have emerged well in this punishment, and this is perhaps why it has become the only significant punishment for international criminal punishment. The imprisonment at the time of military trials, such as Nuremberg, was a supplementary punishment because, at the time of Nuremberg trials, execution was a major offense. But after many years, following the advent of the al-Qaeda movement in al-Adwad, there is now a prison sentence that plays a pivotal role at the level of the exclusive international tribunals.

It is very surprising that such a punishment, which from a long-standing educational point of view, has had many problems. At the present time, both at the domestic and international levels, it is considered to be a punishable offense. Therefore, while the death penalty has been removed from the field of international law, it is possible that the imprisonment can only be imposed by international criminal courts. And this is very important. (Anne Marie LA ROSA, 2003, p.196)

#### **B. Functions of imprisonment**

After the overthrow of the abusive minds about the death penalty for international crimes, the imprisonment became the first and foremost sanction of the International Criminal Court. And it is likely that a series of

international talks and talks argued that this punishment seems to be a serious alternative to the executions and the same expectations of its work. And it can be said that the imprisonment in the international community is a substitute for the death penalty. Accordingly, according to the French Lawyers Committee, the "feature of the incapacity and punishment of imprisonment in international criminal law / 185 is essentially violent and inhumane international prosecution of crimes We do not accept that we restrict ourselves to punishments of a purely symbolic nature

We know that from the point of view of terminology in French law, the term "imprisonment" is defined as a punishment. For criminal penalties in public law, the term "criminal conviction" is valid for up to 30 years, up to a maximum of 20 years and 15 years (32 l'ONU Doc.S / 25266, 10 février 1993. para 127, p.)

While political criminal punishments have benefited from the term "criminal detention"

Consequently, the term of imprisonment, as used in French literature, is unclear whether it could be appropriate to explain the blaming and blatantness of the severity of terrible and inhumane crimes of human rights law. In the same vein, during the follow-up to the work of the United Nations Commission on International Law, it was noted that, from the point of view of linguistics, the word of detention used by the Special Rapporteur in the first and second cases of legal material was vaguely described. Document A / 46/10. 1991, Vol. II 2 p. 87))

And that the domestic law of many countries provides for various types of imprisonment, including imprisonment and detention. " For this reason, many members of the International Law Commission preferred a less neutral term, such as "deprivation of liberty". (On the other hand, the term "deprivation of liberty" seems to be quite satisfactory and not sufficiently technical. The judicial process of the International Criminal Court, Rwanda, in one of its rare cases is the term "imprisonment" 511 (Affaire Emmanuel Ndindabahizi, para.). Using the term réclusion, which we consider to be much more appropriate than other terms. In any case, the use of this type of punishment between 1980 and 1990 has increased dramatically in a country like France (Bruno Aubusson De Cavarlay, 2002, p. 55).

It seems quite normal and necessary that the imprisonment is one of the penalties available to and used by international criminal courts because there is no longer a death penalty.

Today, this punishment is without a doubt one of the most important and universal punishments that are used everywhere.

### **C. Pathology of the imposition of Prison punishment**

Entering prisons leads to changes in benefits and costs. Prisoners are losing their jobs, lowering their living standards. The probability of obtaining a suitable job after release from prison is reduced. As a result, one loses the legitimate means of achieving the goals. Teaching and learning the techniques of committing crime as well as learning crime and increasing the quality and quantity of crime by the offender are among other negative effects of the prison. In this regard, Arnold Vahagan refers to the proverbial saying that "the prison is a criminal school".

Another of the most influential factors affecting prisoners' behavior is the prison environment. Important factors of the prison environment are the prison structure, the subculture of prisoners, the attitude of prisoners towards violence, the power structures and the hierarchy of prisoners.

### **D. Categorization of alternative prison sentences**

#### **• Profitable Punishments**

Another way to better offend criminals and refrain from detention is to allow us to completely substitute a new penalty for a not-so-useful punishment. In these types of punishments, we are not trying to improve it by changing the way prison sentences are imposed, but these penalties are in fact a substitute for imprisonment and they are looking for an escape route to avoid the destructive effects of modern prisons. When we can make use of these alternatives, we will no longer need prison buildings and prison officials, we will not have to pay for the needs of prisons and prisoners, and no more professional criminals will be away from the family

environment. Families do not spill over and more often than not, personal punishments. (Anne Marie LA ROSA 2009, 98)

When we talk about conversion, it may turn into a punishment in accordance with article 37 of the Penal Code, in which the legislator allowed the judge to turn the perpetrator into a more appropriate punishment, True, we are not exactly transforming it, although ultimately the new punishment can be better for the offender, but our goal is beyond the purpose of this article, and we seek to avoid the negative effects of the imprisonment and achieve the positive effects of the alternatives. Undoubtedly, every crime committed is at least one victim and a victim of crime. Sometimes this victim is a specific person and sometimes a community. In any case, the offender is required to compensate for the damage caused by the victim's action. This compensation can be through divorce and compensation for material damage in relation to a particular person, or through a fine and public service free of charge, which in fact compensates for the damage to the society, thus, without cost to the government. Profit The use of money through property has always been one of the various types of punishment of different individuals, and governments seek to achieve predetermined goals through the obligation of a person to pay a fine, or beyond, by confiscating the property of the perpetrator. Have been punished. (Concepts, Humor, 2009, 56)

- **Deprivation Punishments of legal rights**

The ways in which the substitution of imprisonment can be done is to deprive a person of the rights that are certain to everyone and everyone can exercise them freely, such as the right to work in his legitimate work of interest, the right to participate in the appointment The fate of the community and its impact on it, or the choice of the place that it likes to live in. Sometimes it happens that if a person is banned from these legal rights and feels that his hands are free to do his work, he will find a sense of regret and repentance, and try to reform himself and refrain from repeating the crime. (Mohaddesi, 2005, 176). It is clear that such punishments are only applicable to those who can be easily corrected and have not yet become dangerous offenders. Since the main features of these punishments are the greater permissiveness of the perpetrator to other punishments, including imprisonment, so that we can achieve our desired result, which is the rehabilitation of the offender We must first realize the real personality of the offender before any action and if we feel that he deserves to benefit from alternative punishments, including legal deprivations, we can condemn him. (Gholami, 2005, 48) no doubt Understanding the real personality of the perpetrator and understanding his pronoun is difficult and in some cases impossible, but this should not prevent us from guiding and guiding the psychoanalysis of the wrongdoer (Rohami, 2001, 29).

- **changes How to implementation of Prison**

The interesting solutions that are used today in many countries around the world to reduce the prison population and prevent its harmful and harmful effects are the use of mechanisms that will allow them to use the penalty of imprisonment. But not in a dangerous environment, but in a place outside the scope of society in such a way that we separate the individual for some time, and with punishment and at the same time taking specific training programs that are possible to provide It does not exist in the prisons' space, we will reform and revitalize the offender and prevent you from repeating your crime. In the future, in contrast to the huge costs associated with the establishment and administration of prisons, we should also avoid the inevitable effects of the prisons. Since the prison environment is as good as it does and agrees with the principles Establishing and managing a criminal convict and studying his profession, he is an artificial environment that socializes the prisoner with his own criteria and criteria, away from the general conditions of society. (Tadjin, 2009, 133) is one of the most useful ways to carry out imprisonment in a place other than prison, or to use methods that prevent the offender from entering the prison. The punishments that have become popular today and its use in the world are increasing day by day. Fortunately, our country has also seen some of the use of these alternatives, but it has not yet reached the level and level that it needs to be and still needs to be investigated and obtained statistics and analysis of the results of their application to the reformation and treatment of offenders. This requires the cooperation of several groups and factors. (Goodarzi Boroujerdi and Moghadadi, 2005, 39). House

detention and barracks of education and health are not punishments that greatly alter the structure of the sentence of imprisonment and present a completely new way. (Najafi Abedi-ibadi, 2001, 139). These methods have many similarities with the prison and keep the person away from the community. Nevertheless, they have characteristics that differentiate them from the prison, including the following:

- 1) **House arrest**
- 2) **Garrison Training**
- 3) **Careers centers and open prisons.**

#### **E. Legislative measures to avoid entering a prison**

Sometimes it is possible to use measures in relation to offenders who are not considered to be dangerous and usually accidentally commit crimes, which from the very beginning prevented them from entering prisons, which in their own words are schools of crime and delinquency., Was. (Divine Manuscript, 2012, 251) The "prison bar syndrome", or the adoption of the prison culture that Sutherland regards as "the wonders of the prison" (Gholami, 2005, 69), is truly a huge dilemma which today all the countries of the world somehow deal with. They can not be easily removed, so it is necessary to prevent the imprisonment of people and other criminals in order to prevent the criminals from entering various criminal areas. These methods are available in different countries in different ways. The postponement of the sentence, the suspension of the execution of punishment and the like are among these methods, which have long been found in the legal systems of different countries in the world for many years and have been used to reduce the population of prisons for many years to come. Including

1. Postponement of the verdict
2. Suspension of execution of the penalty

#### **Conclusion**

Despite the use of prison sentences and a look at the situation in our country, we will not find that we are currently witnessing a non-rational and irrational increase in the prison population, and we are faced with an unreasonable, but at the same time, censatory inflation. Looking at the history of imprisonment and its use, it can be clearly seen that imprisonment is one of a number of punishments that have been used since ancient times to this day in different ways, in spite of the development of its use, it witnesses changes in the conditions and conditions for the use of It is in different countries of the world. (Claudie FERCHAUD, 1995-1994p145)

Prison punishment, as one of the most important criminal penalties, has been discussed more and more today, and it has been established that prison punishment is a violation of human rights, since it has consequences and consequences that are completely and completely inappropriate for the purpose of imprisonment. Different. More specifically, the collection of prison conditions and conditions not only does not help to rehabilitate a personality and does not return it to the community, but also provides grounds for repeat offenses for prisoners. But despite the many positive points that we see regarding imprisonment crimes, we have the disadvantages of pointing them out:

1. All alternatives require a series of basic infrastructure that initially entails a lot of financial pressure on the state and society. Therefore, most societies face some limitations to enforce these penalties, for example, using bracelets Electronics, which is a restricted type of punishment, is a free and substitute for imprisonment, is very costly and has a lot of knowledge and expertise for installers, which is not widely used in many countries.
2. Perhaps the most important objection to alternative prison sentences is that such punishments are only applicable to low-risk perpetrators, and the more dangerous perpetrators are not considered appropriate

in any way to take advantage of these acts; therefore, they must inevitably continue to Use imprisonment for them.

3. In many societies, the use of alternative punishments that are not in the traditional form of the offender can be used for waxy wax and in some way even reverses the era of revenge. Therefore, the use of this punishment should be very careful and Risk taking. Also, people still have not been able to cope with alternatives as they should not be, and they are considered weak and ineffective.
4. The most important problem in this regard is the non-fulfillment of our expectations of alternatives in reducing the rate of recurrence of crime. (Immigrants, religion, 2014, 123) It can not be argued that these practices have had no effect on the reduction of redress, while on the other hand they have had an effect, but as we expected, the crimes did not decrease, and the world's nations are still rising. There is a crime. (Hadith, Husayn, 2009, 145) Although imprisonment alone does not cover all of the punishment objectives, it seems that the public view is a very punishable punishment

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