THE PRINCIPLE OF PROPORTIONALITY OF CRIME AND PUNISHMENT IN IRAN AND ENGLAND’S CRIMINAL LAW

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ABSTRACT

Proportionality, harmony and alignment between punishment and crime is one of tools of balanced penal system. In order to release from the conflict and contradiction in goals of criminal policy must recognized standards and its principles to be able to justify criminal policies. In order to create equilibrium, balance, proportion and expression of quantity (intensity and degrading) and the quality of punishment annoyance with any criminal behavior it is necessary to follow criteria that not face with chaos in punishment determining system. Proportionality between penalties and criminal phenomena is a prudent measure can consider as explanation reinsurance in penal system. Theories influence among the early supporters and later view it the offender is entitled on the basis of crime as punishment fit the criminal behavior locate their basis theories. Therefore, recognizing the principle of proportionality and conditions since the foundation of the theory of punishment-oriented and the criminal law of England and in some cases is also on the Iranian penal law and in this respect, the victim of a crime will play a key role in determining the proportionality of punishment to crime is necessary.

This papers sought to clarify the concept of proportionality between crime and punishment and its conditions and the role of crime victims in it. Provide objective and not subjective criteria is one of its goals the principle of proportionality of punishment and crime and its place in criminal law of Iran and England.

Key words: Proportionality, Harm, Culpability, Victim, Aggravating and Mitigating Factors

1. INTRODUCTION

Make reasonable basis in determining the punishment needs to follow the principles and rules that prevent arbitrary enforcement of sentences; limited lawmakers criminalize behaviors, avoid suspicion, revenge, malice and stupidity of the results is considered. Inappropriate punishment for the crime, criminal justice and enforcement is always a concern. A look at the fundamentals of each criminal law schools shows that the main justification for determining penalties, compliance and punishment fit the crime, on this basis, to express their views for the purposes of determining their punishment. How should comply with and be bound by these fit the criteria and principles to which, no one does not hear. Sometimes the offender is considered the basis for determining the appropriate punishment and to protect individuals or society as punishment another worthy know. But through it all, we can even view that in determining the punishment, based on reform offendors, especially in view of its modified, the harm to victims of crime and the prevention of it, will play a key role. However, due to the lack of clear criteria for suitability, different interpretations of it (in various penal systems), it seems natural. Access to many of the principles for establishing the criminal system based on intangible assets and reliable, the criminal justice system designers have been long-standing aspirations. Although Iran and the United Kingdom's criminal law in order to fit the crime, the interpretation of the concept of proportionality and the conditions that have been expressed? And the role of the victim in the punishment fits the crime, what is? And in the law and practice of the legislation they have adopted an approach? A subject that in the future the lines will try to respond to it. But it is necessary to explain the concept of proportionality and conditions.

2. FIRST SPEECH: THE PRINCIPLE OF PROPORTIONALITY AND CONDITIONS

Talk about the punishment fit the crime, but it seems very easy, but provided a measure of absolute and practically impossible for it to appear. The principle of proportionality of the requirements of fairness and justice for all including determination of the criminal. The criminal law of the reengeancefulness date to the present time, the drafters of the penalty is always one of their arguments to justify it, the punishment fit the crime they observe. If ask the question from supporters of revenge approach of punishment why the death penalty for certain crimes have been appointed, the position of observation between punishment and crime, we hear the same answer, say the defenders of social protection approach. The punishment fit the crime, it is an obvious and set it on the basis of Criminal schools function of ideology and values of the communities. That is the definition of easy is impossible. To clarification and stated that the penalties paid in respect fit. The basis for determining England’s penalties or criminal law and since this paper was within the laws of England and therefore, it is necessary first and literal meaning of the term and conditions, according to the criminal laws of the two countries, especially the United Kingdom presented the position of the law in this area described the two countries.

3. THE CONCEPT OF PROPORTIONALITY

Fitness weight, Triad further from the root “installation proportion” The current concept is a party. The word means to "link together, with the occasion of the existence of a relationship between one or two things, and the ratio of equality of proportions." In mathematics, the numbers in the sense of equality meaning that when the two are compared with each other, the proportion between them will be established. The logic of the overall concept called four general contrast, equality, public and private money are my absolute. In terms of the means to maintain a proper ratio between the two elements. The Islamic texts, Some jurists fit to justice and justice rooted in the Quranic term. Justice has interpreted several meanings, one of which is a right granted to the beneficiary. The social relations in the sense that everyone should be treated the people who deserve it. Fitness means that any individual conscience demands it. Why is basically fit the category of beautiful people tend instinctively. Proportionality in punishment of crime is based on the grounds of justice to everyone that He is worthy of him, and in this sense is the sense of entitlement. When the punishment fit the crime comes about, it means that there must be harmony between the
two. Providing such a measure of eligibility and will fit into the concept of justice, limited the judges and the legislature and the
defiance and authoritarianism enforcement and other criminal justice and revenge and milder will prevent pessimism.
In general it can be said that the punishment fit the crime is first and foremost determined by the degree of civilization
and culture of each country, and thus, the concept of historical periods as well as developments in the criminal has changed. In
determining the penalty when considering the concept of abuse against harassmentThe emphasis on measures to improve the
conditions and characteristics of the offense and if someone guiltyRelying on the characteristics of the offender linked to the first
case in which criminal law penalties are inflexible and lack of punishment available to the court and the second in the form of
convention and the punishment it is manifested by the court. Since the early 90s British lawmakers have paid penalties. The
legislation put penalty on principle of proportionality of punishment and it's yeast crimeAndEfforts that objective criterion of
proportionality of punishment and crime, with a focus on providing victims of crime. The views it as a new retribution or school of
"new neoclassical" Called their targets on the basis of established entitlements. According to Alan Light "Not in the center of
Kant's philosophy of punishment and the punishment must fit the crime, it is thought to be such that the potential punishment
and retaliation and criminal action to be bad is reprehensible. "As never be general and vague concepts as well as the issue of
proportionality of punishment to crime fluid (According to the principles of public and criminal schools) B. Identification other
words provided concrete information regarding the characteristics and conditions of each concept. For this purpose it is
necessary that the basic elements of fitness with an emphasis on criminal law, especially criminal law of England that the new
approach based cache side of the penalty is to describe and explain and compare the position of penal provisions and country.

4. THE PROPORTION
The approach paid penalties based on retribution and emphasis on the characteristics of the offense. Should be
punished with the severity of the crime is assessed to be a fit between them. In other words, based on the severity of the
offender and the severity of punishment is determined that the rate of degradation. Some scholars of criminal consider the
definition of "severity" They do not believe that the definition of an abstraction and the formal definition can not be done, and to
assess the severity of the crime, only to have their sufficiency of classification. But he said that although it may formalize is not
possible, but the criminal law can be used to extract the elements and components of the knowledge it is possible. Thus,
understanding and it is more than ever necessary in order to create a program of shows provided that is based on the severity
of the offense in terms should be graded punishments. Theory of Justice paid important principlesIn short, they can be included,
which is the first of these cases similarity concept as well as the second establish the guilt of the perpetrator of the crime would be for criminally.
Thirdly, the severity of the punishment should be proportionate to the severity of The damage caused to the victims of crime and offense and the ability to blame. The two basic elements and the formation of the seriousness of the crime and the proportion that are analyzed as follows.

4.1. The amount of damage
And calculating what damage has been done in several studies and experts from different criteria, such as economic
criteria, the religious and the selection of the basis for determining the harm to the victim of a crime is presented. This implies that
the relative nature of these measures. But it may be said that the most perfect expression in this standard by the "von Hirsch" and
"Jarvbrg" That standards of living have offered sacrifices to explain the severity of the offense. The first important thing for them
is that the interests of victims of crime or threatened breach. Their interests are victims of crime into four sub-categories:
1. The physical integrity Including health and avoidance of physical pain (including psychological cause) is.
2. Material support, providing for comfort Including nutrition, shelter and other basic facilities is welfare.
3. Avoid degrading and disrespectful behavior.
4. Privacy and autonomy that means the right to privacy, and freedom.

They said after expressing interests, a breach of any of these four levels of classification is considered include:
1. Survival or survival and existence including the level of interest is the effect of a violation of basic human functions is
   essential for survival.
2. The minimum comfort and well-being: Means maintaining a minimum level of comfort and respect for individuals.
3. Adequate welfare: It includes a sufficient level of welfare and respect for individuals.
4. Significant increases or higher: Means increasing the level and quality of life that is the most superior level of comfort
   and welfare spending is sufficient.

Violations of any of the interests and its effect on the rate and quality of life and standards amount and type of
harminfection on the victim is determined. In other words, harm or threaten the interests of the victim delivered in one of four
levels above shows. Each show levels of damage and harm that the victim is in. In level four, the loss of life (mortality) sacrifice
as the highest human interest (typically) is in. The first level of the hierarchy and exclusion from traffic (for example) in the
quarter and decreased well-being as important (important), is placed. So far this is between them in proportion to the violation of
any of the interests mentioned, injuries are classified and calculated on the same basis and in proportion to the severity of the
crime, the punishment is determined. As it was expressed, sometimes these interests are infringed upon and damage the
victim into concrete and tangible, it seems that much of the problem that was expressed in its calculation does not exist, but
sometimes the concrete harm the interests of victims have and that criminal acts threaten and harm stopped before entering the
nature of the damage in this case was similar to the previous step and hence the severity of the crime and the punishment will
not be uniform. In other words, far and near of the harm. Also contributing to the severity of the crime. the risk for damage from
lack of speed made sure the car or commit criminal acts such as illegal storage of weapons in crime compared with the same
careslessness in the car that caused injury problem or a resulting in death, the cause of the damage and to avoid the occurrence
of such calculation is that the severity of the crime and the sentence is effective. So far mentioned, the new approach of harmor
threat of retribution. A victim of the levels of living standards, the center of the severity of the crime that is standard on paid
penalties and victims of crime are the main points. According to the same amount of harmor threat to grading the severity and
degrading crime victims Penalties appear and attempt to determine the appropriate punishment. given the severity of the
damage to the victim of the crime is not the only ingredients but also other elements that play a major role in the severity of the
crime rate of the blame that is the subject of the next.

4.2. Capacity ofcensureharm
Ability to blame, pointing out the intention, motivation and other circumstances that indicate the level of responsibility of
the offender in the criminal act has been committed. This element, in turn, influences the severity of the crime. The traditional
norms is attributable to the time taken to pick him and this is why for the most serious crimes, the offender's criminal
responsibilityDepends on the knowledge of his choice. Such as intent, motive, recklessness, carelessness and neglect, mental
Principles have criminal liability against injury or threat of injury given that the objective elements of criminal responsibility, the criminal division of general and mental states are all part of this. In general intention, recklessness, carelessness and negligence of the traditional mind that in some countries, including the UK each of them contain a wide range of mental states to be determined on the basis of the ability to blame. The country itself has a hierarchical plan, which includes pre-designed, purpose, intent immediately or sudden decision emotional response. As a result of this even a moment does not understand the nature, the scope of the intention seems to be enough. In the hierarchy of blame can be said that a person who has already designed and mass retrospectively to finalize its decision, far from anyone in the emotional response, is done crime, and the blame his crime is more severe. Due to the effect of the above in assessing the severity of the offense, he will miss the offense leads Disclaimer.

The madness, reluctantly, self-defense stimulation, subornation, and a verdict is wrong subject as a general defense called, due to lack of blame, to free the perpetrator of criminal responsibility. The impact and severity of any of these elements, the severity of the offense is different. Sometimes the harm is severe, (such as the death of the victim), while the ability to blame for morally murder (eg carelessness in driving) this type of crime is compared with murder retrospectively the decision with the highest state of mind (moral) Responsibility is (although in terms of damage are the same), but the ability to blame for the act committed murder retrospectively can not decide on the basis of the principle of proportionality, the same penalty issued for them because they have the same ability to blame is not. The rule in all cases of psychological harm mental acts and implementing acts is committed to relying on it can be governed by rules in determining the severity of the crime and the crime. It seems the laws of countries including Iran and the United Kingdom with the same amount of harm the mental element of the crime severity of crime and punishment have been considered. The effect of various scenarios for each of them, the severity of the crime imaginable. When the poor harm, such as the ability severe blame Mass killings began in comparison to the problem of severe physical damage will be more severe. In the same way, different types of crimes can be found in the criminal laws that has always been not equally in a state of damage and legislators punishment. Due to all the harms and the time when the count rate of the blame on the front and another one over the other on the severity of the offense, considered a general rule, we can say that has always been able to blame on the harm to determine the severity mass, is considered a priority and precedes it.

According to what was said, because the new retribution view, the basis for determining the severity of the crime and the punishment is proportionality with regard to the damage and harm caused to victims of crime blamed elements that make up the victims of the crime gravity of these factors, it can be argued that the approach and the main victims of crime a major role in determining the severity of the crime. It is a determining factor to desire and punish offenders compared with the desire and desire. In this way, the severity and the degrading punishment will depend on the offense in which the rows of the hierarchy. "This type of fit, the internal structure of punishment, but also on the balance and its overall size (rating) attention." In fact, the proportion of controlling the overall level of punishment, the criminal law is that governing a country that is unfair punishments of retribution for the offense does not exceed certain maximum levels or below is not. In the view of the two elements constituting the offenses that are close to each other the principle of proportionality, would be the appropriate punishment. On this scale, to measure the levels of punishment is so severe that petty crimes and crimes punishable by severe penalties mild and light are not met. The penalties such as life imprisonment for crimes committed in the hierarchy below located in this row will not be imposed. The first and most important step to achieve the necessary balance between punishment and crime. see that at this stage only the legislative approach and the penalties paid retribution criterion and the goal is to follow.

The second stage of the first phase is not less important, the law allows (the court) that the scope and range of penalties specified in the previous step, can be given the circumstances aggravating and mitigating factors which should be interpreted, in particular in terms of determining the severity of a criminal act and punishment in accordance with the conditions mentioned elements fit for the perpetrators identified and implemented. In this sense, unlike the previous phase to determine the length and severity of the offense on the basis of the proportion of crime in comparison with other types of crimes (such as murder, compared with profanity mass) were measured. At this stage, the court is allowed within the limit of a particular crime (like) that can be committed in different conditions, to determine the sentence. In fact, at this stage, the proportion of different degrees of crime or other crime With that, considered in such a way that criminals commit offenses with the same intensity Punishment by their equivalent. Nevertheless, this type of punishment in proportion to the exact meaning of equality and will not be, but the way of the approximation to balance and proportionality in the punishment of crimes will be similar. An example in this regard could explain this. Suppose that the murder was committed two have. As mentioned crime committed for each one (the same), it is. If a person decides retrospectively and the other in an emotional state, committed murder, the question is, in accordance with the principles of proportionality, whether the severity of the offense is the same? Is the ability to blame both uniform? Whether they should be punished the same way? Certainly not doubt of murder is, but according to estimates presented in the severity of the offense in the theory of retribution and punishment of merit that yeast is the principle of proportionality, it should receive the same punishment. Conditions governing the offense referred to in time is different. The circumstances in determining the severity and degrading crime, no doubt influence. Nobody can deny the fact that the morally murder together with the decision retrospectively, the ability to blame than murder in an emotional state no decision has retrospectively. Therefore, the same penalty for them, according to the circumstances in the opposition elements would fit. Lawmaker to court can provide to be able to calculate these factors fit to fulfill the demands. The maneuverability in the range of punishment prescribed by the court (eg life imprisonment) for parallel offenses (such as murder) to fit the width or relative interpreted to be. In fact, the proportion of the difference in the severity of punishment in the range that has been set before the legislator, authorize the court, but the court should be punished for the same crime, and even though this is done the same issued, but because of the factors, the punishment of such crimes will be different in this area. Fitness is a relative expression is that those crimes with the same intensity, would be punished by the severity, comparable sentenced. However, this does not mean that people necessarily about a specific crime, punishable by the same recipient, but in the sense that crimes that are comparable in terms of severity, should be punishable by the same degree of intensity to be followed. In addition, the relative proportion of the expression levels of the crimes that are within in a row, in itself also has some degree of severity and degree of severity of the
punishment will be having. So, too embedded within the meaning of the sentence the perpetrators of crimes to justice and not the severity. In this way, the structure of sentences and the length is interpreted according to the general or the relative proportions and the structure or cross-punishment, with specific rules will be disciplined.

In order to determine the punishment in the United Kingdom on the one hand the legislator to determine the length of the punishment fit the crime in order to achieve the result retribution and on the other hand, with the authority granted to the court (the proportion of the cross) seeks to benefit from the convergence of punishment is. This is the Criminal Justice Act 2003 explicitly, position determination system determines the punishment in the country. Due to mitigating and aggravating factors in determining the severity of the crime and the punishment should specify their relationship to their importance in determining the punishment should be lighter. For this The next chapter deals with the same subject.

Second discourse: the role of mitigating and aggravating in proportion crime and punishment (severity of the offense)

The crime, the offender and the victim of the crime is so heterogeneous expression and uniform definition for each of them by the legislature is neither possible nor reasonable. Defining characteristics of the crime and the punishment of the offender at the time of the law, based on common general conditions it is, however, various factors related to the circumstances of the crime, offenders and victims of crime and the complainant (legal definition) is calculated by the legislator and the courts to interfere in the intensity and degrading crime the action is. This mitigating and aggravating factors, the variables are known. It seems that the arrival of these factors, incompatible with the principle of proportionality in determining punishment (calculated from harm and blame) There. In fact, the factors that eventually was effective in assessing the severity of the crime committed, to respect the principle of proportionality that the center of gravity of penalties paid and newretribution distorted and court interference of other factors (the amount of damage and the ability to blame) actually undermines and destroys the foundations of this approach. The problem is more complex when you factor in the severity of crime and punishment are determined not to do with the crime. Measures the offender after committing the offense (like admitting guilt) or issues related to it is before (for example, records of criminal convictions) and the courts as a factor to mitigate or exacerbate the punishment is an example of this cases. It seems that the understanding of these factors are associated with the severity of the crime, can be explained by the above-mentioned conditions. Because the creator of this view claim that the punishment must express the main purpose of The amount of the penalty is to blame for that error and a criminal charge related to the transfer of condemnation. Therefore, there is no evidence that additional factors in determining the severity of the offense that the primary basis for determining the coordination penalties are calculated not to.

Various penal systems, the approach of aggravating factors in the severity of crime have taken. If these factors are identified and elements of the crime, and accordingly, the penalty has been determined. As mass robbery abuse and harassment and armed robbery in the criminal law in Iran which are considered each as a separate offense. When, as a definition for a robbery in which a wide range of criminal harassment is a crime and it is different from the most minor to the most severe case is in. As for the stolen weapons as an aggravating factor in criminal law of England as the theft is an aggravating, rather than a crime of theft to be considered independent. Therefore, it is subject to legislator, who considered them part of the elements of the crime or not. But this will not cause the expression of these factors are not considered in calculating the severity of the offense. In general, it should be noted that the three conceptual response to the factors in intensity or degrading every crime there:

1. Mitigating
2. Natural
3. Aggravating

When you talk about the existence of an element, such as a confession of criminality and lack of mitigating or aggravating done and that as a calculated, there is no answer in this respect, that in the absence of mitigating factors, necessarily be aggravating factors. For example, admits to criminality in British criminal law mitigating factor is an aggravating factor if not the calculation shows. But it must be said that this lack of relief for not admitting a normal response to crime. In the absence of mitigating factors, the normal punishment for his crime is not necessarily that it be considered as an aggravating one. So, if a young person or a crime against and age be considered as an aggravating factor, this does not mean to say that the lack of victims aged 20 to 40 years of age is a mitigating factor, but it should be noted that this is only a natural cause of death does not increase the age of criminal victims.

In any event, we have to recognize that this is an issue of absolute and can not be ignored in the calculation of the severity of their offenses. On the other hand, observing the principle of proportionality is. Therefore, the violation it is impossible to consider new retribution. It also does not claim that observing the elements and proportions must be respected in any case, will otherwise have problems with their predecessors. This view, penalties paid to obtain the maximum range (penalty) in the legislation and to and flexibility in determining the punishment, the penalty, taking an approach is a combination of penalty goals. Therefore, the two base harmlessmitigating and aggravating factors and the ability to blame, then, to achieve other objectives, such as penalties intimidation, rectification, compensation and the foundation is weak and therefore that states that the main basis for determining the severity of the crime to punishment in its criminal law, to mitigating factors and aggravating for the punishment of the law to punish fit have.

However, this is also the mitigating and aggravating factors that, if the cases mentioned in the rules and guidelines, in line with and split fit elements are analyzed, we found that these factors, as well as the two elements of proportionality and are to be effective in the intensity of the crime. For example, if the vulnerability of the victims of crime or committing a criminal offense or motivation posts of crime aggravate the victim or a crime against government officials, as aggravating the stimulation of the perpetrator by the victim in the crime as a mitigating factor to be considered, it is the essence of each one of them, login or risk of injury and the potential entry blame exacerbate or mitigate them. Therefore, can be said that these factors can be isolated instances of elements of mass proportions of the elements and not considered fit.

Third speech : Proportionality in criminal law and penalty guidelines

British criminal law criminal justice system since 1980, the basis for determining the punishment fit the punishment to the crime and justice has been paid to the content standards and guidelines set forth in the rules of criminal punishment is emphasized in determining punishment. Investigation of the criminal law and the principles of criminalizing them, (Apart from limited crimes like about the system following their own criminal) shows that in criminalizing behavior and determine the punishment, including corporal punishment sentences which make up close to the place of criminal law, restriction There is to be punished for the ruling military unit, he said. However, it can not criminalize such that it has the capacity of subordinate military units, military units and clear basis for determining the punishment received. If the punishment fit the crime victim can rely on criminal law in IranGet? Subject that will be discussed with reference to criminal laws.

The proportion of criminal law

Observation between crime and punishment in the legislation allows law provides that the internal consistency of the criminal provisions exist. The criminal justice system of the need criterion is to ensure that the legislative used to determine the
crime and punishment Following specific purpose or purposes. measures to achieve the targets set in the right direction and whether it should be reasonable. In this section briefly criminal laws and guides for determining the severity of the offense punishable under criminal EnglandAnd the principle of proportionality it is necessary. In fact, in the final provisions of the criminalThis system, in section (1) 143 Criminal Justice Act 2003 Explained that the court is required to assess the severity of the offense of damage to the victim of the offense and the ability to take the blame. In fact, the court is obliged to observe the proportion of two elements formed the. However, under section (2) 29, b) (2) 2 b) (2) (1) (2) 151 2000 and the powers of the criminal courts(1) 156 (2), 143, 145 and 146 and Table 37 Criminal Justice Act 2003 and the provisions of Section 7 of the Anti-terrorism Security Act2001 32-29 of law and order in 1998 to support the punishment of the court is allowed to "maintain public support.” And punishments and penalties of imprisonment longer than the proportionThe sexual and violent crimes and religious issue. In such cases, the death penalty is one of the principle of proportionality in determining punishment the court may allow the procedure to issue a punishment for the crime in the first place, it seems, with the harm and the ability Blame is not appropriate and proportionate regulation and punishment of the crime will be tarnished, but it must be said, first, mitigating and aggravating factors in many of these types of calculations can be explained by elements of the principle of proportionality. Second, the principle of proportionality of punishment The merit principle is not decisive and the law in different directions and to achieve objectives such as intimidation, or correction disability and compensation to the violation of the principle that penalties to the other purposes (other than retribution) is. This point important to bear in mind that the principle of proportionality in determining punishment in violation of the provisions should draw a strong reason to deviate from the principle of proportionality provided by the court and the punishment issued by the ways and reasons to be mentioned. As the regulations come The emphasis on respect for the principle of proportionality and in violation of the principle of proportionality in determining the court to limit punishment severe crimes such as sexual and allowed only a few crimes, and the court should respect the principle of proportionality in determining punishment for the crime of punishment to consider. With regard to the above, we can say that although the main basis for determining adherence to compliance penalties paid or retributionpunishment in England, but to accept the violation of rules and conditions mentioned above, we can say that the penal system The approach of "Integration" Construction is based. The description in the retributive view that the center of gravity to criminalize the victims of crime and the severity of conditions fit the crime, the penalty and then performed with no benefit and result oriented aggravating and mitigating factors. The court is allowed to consider and to discuss the border and abuse retribution and the value of the crime, the punishment that has been determined based on retributive view of punishment prescribed it. Thus combining two traditional rivals have provided the basis for punishment.

In criminal law Iran should follow the general rule to determine the punishment on return. But searching for different materials on punishment, in Iran, it can be somewhat as follows with the principle of proportionality of punishment, the justice.

The death penalty is essentially on the equality respect the principle of proportionality is observed in the real sense, but in some cases, such as paragraphs (b) and (c) and (d) of Section 291 of the Penal Code in 1392 lawmaker committed to the principles of proportionality is not. Why is that person who is subject to the provisions above, the blame is committed under paragraph (a) will be less able to blame and therefore it should be less than that is severely punished. The element of blame legislator in it is not considered one of them and make the distinction and difference in determining punishment for its various forms is not allowed.

In the case of offenses punishable by "value" regardless of their piety, we must say that when we speak of this kind of punishment comes, the military is discussing God and religion, the philosophy, they should be referred to the principles they sought imagery interests and corruption. In comparison with the penalty in criminal law, the United Kingdom, it can be said that the crimes punishable by penalties so typically as armed robbery, war, rape (Adultery rape), and theft, violent crimes and frightening the public that are causing insecurity. Therefore, assessment of severe penalties for perpetrators more severe with the justification for public support or maintain the system of English in severe crimes including sexual and violent crimes, comparable, and due to the same reasons, we can target other objectives of the paid authorized equipment such as intimidation, disabling, and reform will follow.

In the punishment of atonement, according to the difference between Muslim and non-Muslim blood, men and women, the healthy and the unhealthy relationship of proportionality has been manipulated. This imbalance is mainly based on the reasons for such penalties, but say in some cases, after less piety and the legislators are changing in some other cases, such as the difference between healthy and unhealthy atonement, which may be expressed, according to the unhealthy individuals compared to healthy controls, in terms of capacity, with the difference, and if the injury bug, the In healthy people, they will be less harm and therefore the damage must be calculated, based on the principles of proportionality less damage, less punishing offenders found to be safe, it must be said, according to the rate of the act committed blame In these people, the majority of healthy people is always the same in the absence of damage and the ability to blame, the blame can calculate the punishment fit the crime will be a priority, it seems, not only to punish the perpetrators. Offenses unhealthy people, not less, but on the contrary, according to the ranks (The ability to blame more) Shall be punished exacerbations of offense against them.

Contrary to the above within the limits of piety and religious civil penalties as retribution and not subject to punishment, the possibility of establishing a balanced and proportionate measure to make them. Take a look at the criminal laws of the beginning. So far, shows that there is a bit of crime and punishment when it is more important to know the number of offenses and penalties in this field.to the crimes subject to the limits and retaliations not comparable. Limited extent subject to punishment and retribution change in the legislative and legal foundations and divine, and the fourth constitution of the Islamic Republic of IranWe will get to without consider penalty to design and explain the basis for determining we punishment, corporal punishment of crimes to provide a single, uniform standard for determining any punishment. Considering that the majority of crimes, and punishment criminal laws in this area are located in the most turmoil in determining the punishment of the execution of the punishment, the current rules provide a reasonable basis for determining punishment unit more than ever necessary.

Legislator EnglandThe identification of the criteria for eligibility and compliance punishment fit the crime, and has made the punishment and the punishment of the hierarchical order of the legal conditions shall not, without the offense other deviate. The punishment of imprisonment, fine, suspended sentences and criminal penalties are established. The court is not only on the balance between the crime and punishment in times of absolute freedom. The court should be based on the severity of the crime, to determine with respect to each hierarchy it. There is no hierarchy in the Iranian penal code, and sometimes punished for a crime types and court has authority to determine one or two of them have been convicted.

It is no difference was that for the legislature of the offender confined that lock in the cell or whip or pay a fine. While this is a natural law that must be made between penalties hierarchical. For considering characteristics of punishments and the level
of harm and harassment for criminal each "kind" and differed in terms of quality and quantity, can not be placed in a row. the most important in this regard, it is stated that due to the lack of a hierarchy of punishments, the question is the relationship between prison sentences and lashes, or a fine and other penalties exist? How long before the number of lashes or imprisonment or the fine there? In addition to each of their relationship to each other. Although Iranian legislator to determine their difference in quality is not allowed to punish the question is whether the relationship balanced and reasonable (a little) can be found among them?

In the study of legislative regulations in the prison sentences, particularly in the Islamic Penal Code 1375 (the sanction), it can be said that the relationship between prison and a fine in 1375 on the legislator's desire is that for every five hundred thousand Rial a month put in prison But sometimes deviate from this approach and did not observe it.

The relationship between lashes and a fine of two thousand four hundred Rial in some cases, the lashes and in other cases for every eight Rial, put the lashes. The flogging and imprisonment, the legislator did not make logical relation between them, a fortnight before each lashes to thirteen percent a day against the lashes varied.

With the approval in 1392 of the Penal Code, particularly Article 19 Has been trying to fit a certain extent between different types of punishments to be established. It follows that the legislature review the material every month to about three million and three hundred thousand Rials fine and lashes for each one million Rials fine (with a little moderation in punishment of six) put. In Section 27 for each day of the arrest of three or three hundred thousand Rials fine lashes or a fine of three hundred thousand Rials one day in prison (Articles 516 and 529 of the Code of Criminal Procedure 1392 Note a) put. But according to the provisions of Clause 4, Article 19 of the grading of penalties, which has a minimum and maximum of laws, has not affect and courts should continue on the basis of current regulations to determine the sanctions and penalties under Section 19 can not grading preclude application of the regulations. This problem is magnified when according to the provisions of Article 25 and 26 of the law for some of the punishments, which are consequential punishment, this proportion is distorted. Embed eg. 360000000 Rials fine degree that it lacks conviction consequential punishment while Sentenced to ten years in prison consequential degree of punishment can not justify their relevance and equal level. To get rid of this problem should also amend existing legislation, particularly in the prison sentence will have to declare the Punishment of criminal behavior of the basis of the Penal Code not by reference to the degree of the punishment is expected to be 1392 jail determination of punishment but and the degree of dispersion of the vote to determine punished, otherwise the courts will continue. This approach in Section 49, 53, 54 and 55 Family Protection Act was enacted in 1391 substantially, which can be the right position to fit the type of punishments to be considered together.

In general, (regardless of the problems that exist) of the criminal law is always the potential for harming the severity of the offense and the offender blame is tied and thus the difference between the two elements, the crimes are different and even in the absence of British lawmakers blamed element as exempt from punishment the perpetrator is known. An example of this can be the difference between murder and manslaughter (due to the difference in the rate of blame), and carelessness in driving causing bodily harm with fatal carelessness of the driver (in terms of harm to victims of crime) and the difference between punishment them in the Iranian penal code, observed that the effect of these two elements constitute the principle of proportionality.

In addition, given the lack of criminal hierarchy, another important issue in the field of general punishments exist in Iran, that offenses and penalties in relation to each other, there is a certain rule. For the legislator of Iran the punishment of a spy has no difference between criminal penalties which is the foundation of national security and has blamed the high rate of injuries and can be punishable by the same penalties for offenders are bankrupt due to fraud does not exist and has. The study of disturbance, Iranian regulations criminal Menstruation is full.

Proportion in guidelines of punishment

Another important issue is the issue of punishment in the penal system is that in some cases the legislator to determine the maximum punishment for a given crime, and sometimes it is at least, in a measure of operation and the observance of the courts requirement. The variation between the minimum and maximum punishment does not exist. In such cases the court determines the punishment and can in between the minimum and maximum, determine the amount of penalties. In cases where the penalty is at least not and the maximum penalty is determined, the Court holds that it is up to the minimum figure of mathematics, to determine the sentence. Thus, in the same case with the two offenders who are similar in every respect, when out of punishment difference 40 doubles. So far the court without any concerns can be set to any amount of punishment for crimes, inquiries and the task is not legally or in practice, to calculate the severity of the crime and the punishment in the range between maximum and minimum, and where the maximum penalty (based on the severity of the offense), was not. On the other hand, when several of the penalties is to determine the need to calculate figures and their relationship was generally depending on personal taste and judge.

However, in order to determine the punishment in the United Kingdom, in addition to the criteria provided in the Rules of Court Act and the House of Lords and in recent years the Advisory Board of the Punishment and the Council of Punishment, By providing guidelines to determine the penalty for the courts of England and Wales, a major role to play in their sentences, coordinated and appropriate action. The structure of the guidance and coordination of the courts, the whole spectrum of criminal cases in the sense of proportion and the relationship between the types of crimes and based on the express provisions of the law, the courts must abide by them in violation of their decisions and are not permitted.

Basically, the law is the expression of general principles. Due to the long process of law and that the law can not be subject to any criminal offense and explain the details and circumstances, and only gives general guidance in this area, such measures can be useful and effective guidance to the courts and consistency in the decisions issued by them. The courts of England, has been abandoned in practice and, where necessary, the guidelines issued by the Council shall determine the penalties. The professional and knowledgeable members of the courts, prisons and care of the overall strategy, policy and academic and determine their punishment planning regulations. In any case, it must be said that this directive, along with the vote The appeal court has a crucial role in determining the penalties prescribed by the legislature on the basis of merit and the punishment fits them and, where necessary, to achieve the targets of intimidation, unable to, reparation and reform criminals play the.

And finally Another important key role in determining the penalty to determine the severity of the offense and play in England as a legal obligation (except for rare cases) in the preparation of a report on the state of crime and the case of including victims of crime before determining punishment by punishment. The report, which contains information about the circumstances of the crime, the offender, the victim of the crime and the harms based on materials (2) 79 (1) 81 law courts of criminal jurisdiction in 2000, when the court is obliged to issue freedom depriving punishment or sanctions depriving freedom longer than the severity of the crime, the report is received before issuing the punishment. It can be an important tool for determining penalties, particularly given the demands and needs of individual victims mass. As far as the Iranian legislator, before the 1392 Code of Criminal Procedure in Section 288 It is important for crime, children, who are mandated
cases the accused person, (This is the case with criminal records can help to understand the characteristics of the individual, family and social accused) Such provisions are not foreseen. The hope is that by providing the accused person in the criminal case in accordance crime punishable by a step to be taken.

5. CONCLUSION
A reward system that criminalize and punish the behavior of the coordination and coherence in the implementation of criminal justice have reasonable legitimate population will face no less. If in the process of criminal justice, the basis and criteria governing not unlimited arbitrary legislation in criminalizing behavior, malice and cynicism to the enforcement of the punishment will be normal results. Punishment fit the crime is always concerned about criminal justice administrators. Main justification schools penalty in respect of criminal law and the punishment fit the crime. Iranian penal system in general and specifically to the early 90th-century British penal system can not be the criteria and general principles governing the determination and enforce legislation governing criminal procedure is generally in criminalizing and the punishment determined in the principles of a profit have taken part. Legislator of England in the early 90s with the criminal law in 1991 and in subsequent laws, including the powers of the courts in 2000 and the quality of criminal justice in 2003 And 2005 on account of the principle of proportionality in the legislation retribution the themes of crime and punishment is, and then the powers of the criminal courts, but with guides and guidelines determined by the courts of appeal and the Council to punishment is not required and that the proportion of damage to victims of crime and blame the rate of damage to determine the punishment. The recent approach seeks that the penal system in Legislation to comply with the criterion of proportionality, the principle of crime and punishment (Article retribution) Which is based on the extent of the damage and its reprehensible and in the implementation of the authority of the courts and provide guidance to other objectives of the penal system of punishment so they coordinate and formulate your own.

Iran, however, can punish the criminal system of penalties in each of, retribution, and punishment Dyat corporal punishment by reason of any of the principles of punishment was justified, but it certainly can not be said that all of them have the purpose and basis single. inconsistency and incoherence in determining punishment (legislation and implementation) of the penal system, it is that this is no secret to anyone. The distance between the minimum and maximum depth punished without criterion that will never forty times, lack of commitment to the enforcement of criminal justice hierarchy of punishments, lack of legislator’s commitment in determining the punishment and criminalize the base of the unit, especially in the form of punishments, corporal punishment, the punishment of the major classification lack of criminal and Mead to head lot of the problems that Iran is facing criminal system. That is why if the offender committed the same offense in the same conditions, that is not allowed. As part of the mesh of the British penal system was expressed has overcome. Iranian penal system, especially in civil penalties, the stage can be dependable military? It seems no way but to resort to concrete and objective criteria for determining the system is governed by rules of That is not allowed. As part of the mesh of the British penal system was expressed has overcome. Iranian criminal law, although the legislature has, in some cases following the adoption of the Penal Code of 1392, as well as the reasonable punishment (such as the Family Protection Law) establish but the Iranian penal system, especially in civil penalties, the bulk of the power is governed by rules that there is still no concrete and objective measure of punishment commensurate with the offense.

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