

Difficulties And Arrangements Of China's Criminal Strategy In Backing Of Detained Kids

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Abstract

The family as the most important social unit has a determining role in social development and sociability of its members and disturbance in family such as existence of delinquency is considered as factors causing crime. If the parents as family foundations commit crime and become prisoned, the family encounter a crisis and sustain some problems. The jail penalty and imprisonment in addition to negating the freedom of prisoned person, prevents its role performing in the family that it necessarily is accompanied with some consequences that lead in disorder in family and its functionality. Furthermore problems that emerges for children of these families include social maladjustment and their children can be subjected to delinquency more than everyone else. On this basis supporting prisoned ones' family is highly important that this support should take place through numerous aspects. Financial-economic, emotional and psychological support as well as support in the form of preventive measures for members of imprisoned ones especially their offspring means that penal justice system at the same time with imprisonment of parents should take action in decreasing harmful effects of this penalty by supporting their children. On the same basis and in order to penal justice system can have the best function in this area one should examine existing gaps in the way of supporting offspring of imprisoned one and presenting some solution for presenting solutions.

Keywords: penal policy, preventive criminology, developmental prevention

Introduction

Since offspring of prisoners suffer some difficulties in socializing procedure and adjustment with social norms, besides they suffer from numerous financial and emotional problem as well due to absence of parent and the same financial and emotional and psychological problems are considered as dangerous factors for them. Numerous supportive factors should be adopted to prevent this group of children to step in delinquency realm. Criminal policy seeks to find preventive responses to criminal phenomenon and take action toward preventive support for children of prisoners. The main unit in this area is prison. Prisons organizations is in charge with bringing about necessary preparations to perform such supports. Beside this institution, some other centers such as education and training, assistance ministry, work and social wellbeing and Imam Khomeini relief foundation undertake support of such children as governmental institutions. Also social establishments are active in this area that their most important is association of support prisoners that in their statute assigned aid to prisoners' family and attempt to guidance and their rehabilitation for a healthy life as their main duties. Beside this association the establishment of assistance and job-training of prisoner plays an effective role in this respect.

Nevertheless it seems that mentioned centers does not address this support seriously and sustain some weaknesses and deficiencies in this regard. These deficiency can disturb their performance quality and decrease their effectiveness in terms of their duties and charges. But the important issue is understanding these challenges. The issue that is often neglected by experts of a society and even in case of addressing it no significant attention is paid to proper understanding of weaknesses and problems of the organizations and establishments. By understanding challenges we can present solutions for removing such challenges and help to better performance of responsible institutions in this area. Therefore in this research we intend to examine criminal policy challenges in China for support from prisoners' children and solutions for its problems.

Challenges of China criminal policy in support of prisoners' family

Understanding these challenges is the first step in finding solution. If we pay accurate attention we observe challenges of criminal policy in two areas. One in legislation area that in this area lack of required laws for helping children of prisoned parents is seriously tangible and the other is executive area that one can say the related establishments and organizations have weak performance due to lack of financial facilities and lack of necessary expert workforces.

Legislative challenges

Developmental-based prevention play the most importance role in the field of support to children of prisoners as one of forms of social preventions. Because this prevention seeks to neutralize factors forming crime through bringing about change in social milieus of person such as family milieu that is origin of its antisocial behaviors. As a result legislative gaps in this area consequently results in inability of criminal policy institutions to carry out their obligation in preventing delinquency of prisoner's' children. With this view which challenges threat this duties in the field of prevention from crime and especially developmental-based prevention.

The important points about developmental-based prevention is operationalizing the developmental-based prevention. Naturally effectiveness of preventive programs for crime depends on availability of mechanisms such as national and comprehensive programs for prevention. In fact, such programs is equal with predicting all requirements of prevention and its first product is crime prevention management.

Determination of crime prevention management is sort of guaranty for adopting effective material and human resources together with planning, organizing, mobilizing, guidance for control and access to decreasing delinquency rate. In other term when crime prevention management is determined in the society, from one side duties of different parts of society and organization and different people is determined in respect with prevention and from other side necessary integration and coordination between all institutions takes place officially and socially. In most criminal schools of world there are rational solutions for preventing and decrease of crime occurrence that is adopting preventive measures. Unfortunately this issue in our country (China) is subjected to prolongation and with 30 years delay in executing item 5 of principle 155 of constitution still we are unable to approve the law of crime prevention. But a bill titled "crime prevention" is in approval procedure to turn into a law [1]. But over years since its approval procedure and legislative ups and downs as well as non-expert remarks and opinion changed this bill into a weak program that according to majority of criminologists cannot be a comprehensive program in crime prevention in China.

Therefore lack of specified program and management in the country suggesting that there is no institution for developmental-based prevention in the country. In other word there is no institution in China for crime prevention and there is no fundamental and essential way for developmental –based prevention in its scientific meaning.

Lack of national program for preventing crime leads in the fact that in some governmental institutions and organizations relying on the belief that they have some duties about criminality and social maladjustments, they assigned some units in their organization for crime prevention or in more accurate term to developmental-based prevention and this brings about numerous disorders such as:

Firstly the first product of lack of prevention crime management in the society is emerging divergence and diversity in institutions in charge with crime prevention, those institutions that engage in crime prevention according to their corporate objectives.

Secondly mismatch and parallel work between institutions is another problem for developmental prevention and in general crime prevention can have an effective functionality when a fundamental order would be established among preventions establishments. Since different institutions have different functionality that sometime interfere in each other therefore establishing the mentioned balance is sometimes difficult. Though different institutions may can meet similar needs, but however it is necessary that a single center be dominant to other centers and exert a significant authority to other institute. Thus lack of crime prevention management often leads in disorder and inconsistency. So that in majority of developmental prevention official establishments we observe parallel work, incoordination and overlapping and such management cannot emerge without enacting a comprehensive law.

Thirdly lack of national program and crime prevention management leads in waste of sources and capacities in developmental prevention institutions.

Fourthly criminal policy is extensive and has different stages and in constitution issues have been addressed in a scattered manner such as prevention that there is possibility of participation of people into such issues.

Despite such capacities still the culture of using people participation is not well established in China and one feel the need to a clear legal setting.

Furthermore in ordinary laws some governmental organizations are in a scattered and loose manner in charged with crime prevention and there is no room assigned for people and nongovernmental participations. The main reason of this issue is governments and official's negligence to people and their role and position in such issues. Because the crime is a human-society event and human commit it in a society. It is quite natural that people should take part and crimes should be prevented by measures that people take.

Fifthly some establishments apparently are accepted by legislator but in practice some limitations govern the circumstances, for instance current regulations are not comprehensive and exclusive and though the principle of the institution is predicted in the law but its responsible and executive mechanisms are not anticipated.

However despite constitution and predicting crime prevention the necessary ordinary laws and regulation for implementing principles of constitution is not enacted comprehensively whether in its

preparatory that concerns the prevention or the principle 156 or 8 of constitution about Enjoining good and Forbidding wrong.

If we want to examine mentioned challenges in legislative area in a more accurate manner we can point out to problems of associations of support from prisoners in legal dimension. The association of support from prisoner is the only center that address directly prisoners' family and regarding the fact that there is no explanation about nature and manner of supports and measures of this association and the only executive measure that is discussed in this executive regulation is appointing social workers that they support prisoners' family, and make social work record for them and describe a summarized report from prisoner and its family specification and conditions and a report from measure for helping and guidance of prisoner and its family (article 12). Owing to fact that no specified program for executing experienced and purposeful scientific program is considered for family of prisoners and specially their children in the association, it seems that the current situation of association is involved in insignificant financial aid, casual conversation and there is no essential and effective help to children of prisoners [2]. Therefore it is necessary to essentially revise the statute and settings of the association and providing a support comprehensive program for children of prisoners.

Ministry of assistance, work and social wellbeing based on " the law of comprehensive system of wellbeing and social security" is in charge with to support financially and spiritually from parentless or bad parented children and helping to improve their economic and health condition that this indicates the attention of legislator to issue of prevention from social harms such as prevention of delinquency. Nevertheless existence of parallel institution in this area confused the mentioned ministry for accomplishing this duty and in addition to precise statement of duties and with specifying duties of each institution legislator should prevent overlapping duties of these numerous institutions.

One of other few institutions that is engaged in support of children of prisoned parents is Imam Khomeini relief foundations. This center focuses on financial assistances too. Therefore if we observe in few supports of children of prisoned parent in China we observe that these supports include rather financial aspect. In other term supplying the least livelihood is the main approach of these institution and support of these institution and lack of encompassing a program for other support such as spiritual supports is obvious. While every year six hundred thousand persons enter the jail and such amount deprived the same number of families from support and make them vulnerable and lack of appropriate supportive program is equal with expanding the circle of persons subjected to developmental-based prevention [2].

As one can observe there are some legal weaknesses in the area of crime prevention especially developmental prevention. These weaknesses definitely disturb the performance of society in prevention from delinquency of children especially youth with prisoned parents. Furthermore other legal gaps and deficient in the area of support of family and children of prisoners redouble the problems. The lack of specified law for support from children of prisoners as well as lack of determination of organization or integrated institution in this regard and its management, disorganization of responsible institutions, lack of coordination among them and lack of law to brings about integration as well as lack of pondered, scientific and comprehensive policy in area of research about children and making such policies are among legislative problems in this regard.

Weak performance of civil institution should be added to other support obstacles. The legal system of China can brings about some obstacles on the way of formation and manner of participation of people-based institutions in different social processes. Among them one can point out to these cases:

lack of integrated and comprehensive law in China, there is no law about the role of civil institution and their manner of interaction with official institutions and identifying their rights and their contribution in decision making. Though their formation is recognized in constitution. This issue is considered as an important obstacle on the way of activities of civil institution in social process.

Executive challenges

Lack of executing laws and failure in accomplishing duties is a common issue that is found in most official institution that we have examined. In other word in addition to problems found in these institutions these centers even does not enforce their own laws. Lack of financial facilities and sources are among main reasons of failure in laws. For instance the welfare originations as an official center that acts under view of ministry of wellbeing and social security. Though it has sought to decrease the amount of some social harm through executing some plans such as supporting parentless or bad parent children. But lack of expert workforce in this regard, lack of integrated statistical system in the area of social harms and lack of appropriate setting for social prevention has caused this organization measures as main responsible of prevention from social harms be deprived and devoid from appropriate tools and facilities.

Also the ministry of training and education as one of effective institution in delinquency prevention despite of structuring delinquency prevention in this ministry and providing short term, middle term and long term preventive programs that can be definitely effective in delinquency prevention of youth subjected to danger, especially after inauguration of prevention management from social harms and confronting natural disaster encounters numerous deficiency such as lack of expert workforce in this regard and lack of appropriate financial facilities.

It seems that in China prison system the support for family of prisoners especially their children is not considered and addressed seriously. Lack of integrated structure for such supports, lack of number of social worker active in prison area and lack of appropriate financial facilities for financial –economic support of prisons family, especially their children are among most prominent executive challenge in this area.

In some case the execution of laws is not possible without assistance of people and in fact it is a public duty. For instance crime prevention is for all and meanwhile accomplishing this issue is not just in charge of judiciary power, but the government is unable to do it singly and people participation is necessary. But at current time societal institutions in China don't play any role in developmental-based prevention. In China essentially no societal institution have been formed in order to crime prevention and support of children. Failure in considering a specified position for societal institution participation and failure in providing some settings for formation of such institution by government result in that societal institutions would not establish well to proper extent.

Deficiencies that leads in that civil institution sustain propel and disturbance in contribution in crime prevention process as a social activity and fails to play their role in an effective manner is related to their manner and quality in accomplishing activities.

In such manner that activities of these institution with low quality in short term leads in activities of these organizations would not yield the desired outcome and it cause that people become disappointed from membership in such organization and participation in their activities in long term and they show their protest by their silent shout and so the civil institutions lose their effectiveness [3].

One of structural obstacle in attracting people participation is socialization. It means people for social reason did not get through socialization and sociability process properly, for the same reason the participation culture is not well established in the society. The institution in the society has not managed to play their duties properly. Among existing institution in the society the family is more emphasized and there is no or very weak intermediate institution between this unit and the government, and the main reason is that the government is very large and extensive. While as the intermediate institutions are less, in the same proportion people are less sociable and when such culture does not emerge, people would not find civil culture and the civil society cannot be formed [4]

Very few social institutions that are emerged have rather presented services in a very limited range and these services due to lack of sufficient facilities of these institutions often does not lead in preventing danger subjected to children and adolescences. Furthermore some of these institutions are emerged and established in line with people participation but the participation is superficial and apparent and their members are not real representative of people and are government or state representative. On this basis lack of social institutions for crime prevention and support for children and adolescence can be considered as deficiency of policies and government management for supporting these centers to be emerged. Therefore problems in structures related to children and adolescents namely family, school and etc. from one side and lack of integrated and expertized center or program that is emerged for removing the dangers of these centers and for dangers of children and adolescents from other side lead in emerging many problems and disorders in in such centers. Thus lack of developmental prevention centers and disorder in socializing these centers bring about a great obstacle on the way of their suppers.

Among social institution that are in charged with support of prisoners' family is association of support of prisoners. This institution though has set its objective as support of children. But it seems it lacks suitable facilities and human resources and lack of belief in this center ability as capacity in help of prisoners' family especially prisoners' children is one of most obvious problems of this center.

Another important challenges of government is how to courage various sections so that instead of following their own objectives and tasks, get involved in collective work and cross functional work. One can scarcely persuade ministers such as housing and healthcare and work that can play the role of crime preventive and support of prisoners' family. Most of governmental section consider the crime as an event that is merely matter of judiciary power and tend to leave the task to this established. The other problem is that governmental centers typically are not intended to yield their information and data to other governmental or non-governmental centers or refrain to allocate some part of their budget to common projects of crime prevention [5].

It is obvious that in response to legislative challenge, one needs legislative solutions. The solutions that enable the legislator to make a step toward a clear and transparent enactment. the executive challenges seek way to executing and accomplish for solutions that aid the government to execute the laws in a proper way and present some ideas so that the government can approve useful regulations and instructions in line with existing law and make use from its highest capacity in this area. Therefore we examine the solution into two forms of legislative and executive solutions.

Legislative solution

Lack of national program and management for crime prevention is one of most important reasons for disturbance in developmental prevention and it is as such of waste of facilities and capacities. Thus

making national programs with a national center for crime prevention is tremendously effective. This issue is addressed by collectors of "bill of crime prevention" as well.

Increase of delinquency, incompetence of experience approaches, developmental approaches effectiveness, international commitments of government and stress on most international documents on special attention on children and adolescents and supporting them against danger throughout all periods of developments are all as factors that highlights the need of developmental –based comprehensive prevention plan.

It is worthy to mention that supreme council of judiciary development delivered the bill of crime prevention to consultative Islamic assembly that in the case of the approval of this bill in the council, a lot of its ambiguities, deficiencies, objection and criticisms on crime prevention law in criminal policy would be removed. In this bill after definition of prevention the issue of people participation, civil society and nongovernmental organization is discussed. In article 2 of bill of a council named "supreme council of crime prevention" that emphasis on participation of people, local societies and non-governmental organization together with official authorities and this can be realized by having participative approach for crime prevention. Meanwhile it is anticipated in item seven of article 3 of this bill that " making necessary decision for attracting participation of people and civil organizations in providing and executing crime prevention plans and programs are among duties of supreme council of crime prevention" [4].

Also among official organizations merely the wellbeing organization is in charge with children of prisoners. These children are often within in development and growth stage or even education. Thus the organizations such as Ministry of education are engaged in support of children and providing proper setting for training and socializing this group. For the same reason delivering this duty to Ministry of education that after the family is the most influential environment in forming the personality and behavior of children can be considered as an appropriate measure. But in regulations of Ministry of education one has address problematic children to some extent but it seems that this support should be more organized and comprehensive.

Executive solutions

After stage of understanding executive challenges and weaknesses for support of prisoners" family one should presents some solutions for solving these executive problems.

Maximum usage of governmental organization: regarding the fact that all governmental and semi-governmental and ministries and in brief administrative ad political and organizational skeleton of each organization is dependent to government and most programs and developmental based prevent measures are executed by government, therefore the government place in a pivotal position. another term numerous developmental rights of children and adolescents in international documents about survival right, identify right, the right of benefiting from support, the right of benefiting from family, the right of desired socialization, the right of protection against negligence, the right of benefiting from education and training, from one side and national duty and international commitment of governments from other side place the government in a pivotal position.

The responsibility of government in executing constitution according to principle 113 with observing 10th, 21st , 28th, 30th, 34th principles of constitution, problems such as developing an appropriate environment for development of ethic virtues , enhancing public awareness level in all aspects with correct usage of media and collective medias and other tools, training and education and free body

training for everyone, developing wellbeing, removing every kind of deprivation in areas of nourishment, healthcare and supply the insurance, developing appropriate areas for developing woman personality and regenerating her material and spiritual rights and support from mothers and parentless children that are all excellent examples of social prevention and especially the developmental prevention place the government so as to have pivotal role in developmental prevention and therefore it is necessary to produce appropriate structure and complete execution of laws and developmental prevention programs and solving problems of institution of government. And since prisoners' children among children and adolescents need more than any groups the preventive support through developmental preventions and the government should attempt to implement preventive programs through different ways.

Formation of social institutions in an expansive manner and people participation in preventive programs: for various reasons the nongovernmental organizations are the main source of governments in prevention strategies accomplishment. These organizations that have specialized experts in some special areas are subjected to more local collective support as supporters and citizens services suppliers are active in site and for the nongovernmental situation that they have, the nongovernmental are usually flexible and variable and in the case of existence of resources it is possible that start new organization and pilot projects rapidly. Furthermore in order to perform new policies of government they can help through developing necessary institutions. Also these organizations usually communicate with different groups such as important members of society, experts and officials and journalists of media. Therefore it is necessary to form nongovernmental centers for crime prevention and supporting children's rights especially those with prisoned parents regarding vulnerability of these layer of society. But formation of social institutions needs support and providing required settings by the government.

On this basis if the government provide the necessary awareness about crucial conditions of childhood and adolescence stage and necessity of social organization intervention in programs of developmental based prevention, then definitely more social organization will emerge in this respect in the society. Furthermore if some circumstances is provided for income-producing for social organizing this leads in more people be encouraged to establish such centers because though producing income in not a part of objectives of social organization formations, but at current conditions of our society and lack of social organizations, this component is considered as a stimulant or incentive.

Conclusion:

The future of children is one most important concerns of human society. Because they are future-makers and future parents of the society and the type and nature of their behavior and manners play an effective role in orientation of society. Thus the manner of training and formation of their personality establish the base of behavioral pattern of a society. In this manner, human society should pay attention with a comprehensive approach to how train this generation that determine the destiny of society. Children behavioral pattern is affected mostly from family milieu. This milieu specifies the behavioral orientation and personality nature of this group with interaction with them and the family milieu is the main founder of training system of society. If this milieu perform its training function in a proper manner, the children's behavioral system can be founded in a desired manner and this group turns into normative citizens. Because this group get familiar with social norms in such environment and learn how to respect the rules. Nevertheless sometimes the mentioned environment for some reason or other fails to perform properly its mission and as a result the children in such environment find tendency to deviation from the norm or even to commit delinquency. In this point intervention of

society numerous organizations can play a pivotal role in filling the gap of training of this group of children that have not get through the developmental processes so that they can come to the following social essential values and benefiting appropriate behavioral state. Because presence of children in inappropriate family environments is a predictor of danger that provide the possibility of chronic delinquency in this group of children.

Different institution are determining the role of China crime policy in supporting prisoners' children. Nevertheless it seems that the mentioned institutions did not addressed this support seriously and it faces with some weaknesses and lacks in this respect. These weaknesses can disturb their functionality and decrease their effectiveness in the area of their duties and tasks. Then it is important to understand these challenges, however this issue is often neglected by experts of society or if they pay attention, it is not a significant attention to identifying properly weaknesses and problems of organizations and institutions. With accurately understanding and identifying the challenges and offering some solutions for solving and coping such challenges we can help to better performance of related institutions in this area.

References

- [1] M. Pashai Vahid, "institution in charge with developmental -based prevention in China and comparing it with England," disseretation of M.S, law faculty of Beheshti university, 2007.
- [2] S. Ebrahimi, "preventive criminology; first edition," Mizan publishment, Tehran, 2011.
- [3] M. S. Emarati Nushabaadi, "the role of civil society in crime revention, the dissertation of M.A," Law faculty of Beheshti University.
- [4] R. Alireza, "the obstacle of people participation in China crime policy, doctorate dissertation, law faculty, Beheshti university," 2007.
- [5] A. Javan Jaffari and S. M. Seyyedzadeh Sani, "scientific guidlines for crime prevention," Mizan publishment, Tehran, 2012.