Comparative study of restorative justice in international documents and Iranian Law (with emphasis on Criminal - judicial methods in the Code of Criminal Procedure Law 2012-2013)

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Abstract

In recent decades, two approaches of punishing of righteousness and developed justice have faced with the various objections realizing their efficiency and performance. This inability of the traditional approach caused the rehabilitation offenders and restoring the victims to the community; to enter a new approach in recent decades into the international justice system that It affects also haven’t been ineffective on the criminal judicial system in Iran. In fact, the traditional criminal justice has failed to solve the mystery the increased rates of delinquency as is expected of them. And this inability of traditional criminal justice Led to the emergence of new approaches in relation to criminal phenomena, effects and how to deal with it that one of the most important approaches is Restorative Justice. The emersion of restorative justice is a result of one of the created changes in attitudes to the criminal justice and thinking about the crime in the past two decades.

Keywords: Restorative Justice, International Criminal Court rulings, Code of Criminal Procedure of Iran, Criminal – justice Methods.
Introduction and Statement of the Problem

The problems caused by traditional criminal justice (justice based on the retribution systems and rehabilitation) including lack of sufficient attention to the rights and status of the victims and the community, and generally the confiscation of justice from the government and criticism and the objections on it rise to the emergence and the use of restorative justice programs and methods of its implementation in many countries of the world, so that the national efforts for the implementation of restorative justice programs quickly was considered and recognized in some regional institutions, including the European and then by the United Nations in international territory (Gholami, 2003: 189).

In fact, restorative justice is a process to engage the people who has a share of a specific crime to act as a collective manner due to injuries and damage to decide the needs and a commitment to healing and improving the affairs as much as possible (Zahra, 2004: 62). According to the restorative justice perspective, responding to crime isn’t only the government and officials of criminal justice, but it is in fact a crime, violations of human relationships and society which have been established for each of such people; so the right to respond to this disorder also belongs to them (Cadeno and Deignan, 2006: 320). In today’s world Restorative Justice has become a global and an epidemic movement. In most countries the Restorative Justice is one of several competing approaches related to crime and justice that it receives attention by courts and legislatures. Due to this progress, the restorative justice is accepted and has been more fortunate by countries and it has flaws in their legal system (Toufanii, 2009: 3).

According to the relationship between restorative justice and protective victimological this illusion may be considered that aside any compensation it can be considered restorative justice (Najafi Abrndabad, 2007: 4). Howard Zehr of the pioneers of restorative justice by drawing a chain stipulates that some of the institutions that arise as restorative justice are quite restorative. In return, some of them are non-restorative or false reconstructive and between these two categories there are also intermediate institutions (Ray and Zehr, 2009 98).

Restorative justice is not only compensation but also compensation due to the participation of the victim and the offender. Restorative justice involves a variety of programs that they all have in common, attention and consideration to the role of the community, the victim and offender in dealing with crime and its effects relying on the needs and capabilities of the community, the victim and the offender (Abbasi, 2003: 57).

Restorative justice programs are super traditional, ancient and even a prior to the Criminal justice as retribution, but its revival has begun about 25 or 30 years ago. The concept of harvesting of justice in criminal matters already has a large fan base. In 2001, the United Nations as recommendations addressed to member states, has issued a resolution that as much as possible use this paradigm.

Proceedings in the interim criminal court and the international criminal court, is based largely on the processes of retribution, therefore, the court proceedings is difficult to speak of healing, but as they tend to emphasize its peak, traditional processes of criminal can be used in order to achieve restoration processes. Identification of criminal individual responsibility, the elimination of revenge by victims, providing a platform for peace and reconciliation and recording crimes were committed, are the four-functioning international criminal justice (Natalia Krark, 2009: 464)
Now, considering that in many anticipated processes in the new penal code in Iranian law, the main question that has attracted the mind of researchers is that generally the current criminal procedure rules how much are restorative? And whether in the new criminal procedure code how much is valued in the international law to the topic of contained restorative justice?

The definition of Restorative justice
Restorative justice, first in North American countries, Australia and New Zealand were common as empirical - scientific in its various forms such as mediation, family group conferences or meetings, meetings or rings of healing, therapeutic, corrective, restorative and ... And subsequently it was considered for the doctrine and legislators. Actually, civil society and judicial authorities and the police tried to solve the light criminal disputes without judicial process in the form of group and local initiatives, as well as within the framework diversion mechanisms. (Delmas Marty, 2002: 31).

Supporters of restorative justice often considered the two main objectives first providing relief for victims and second, creating the impression in crime for those who are guilty and they will be dealt with fairly. On the grounds victim compensation losses of crime is the theme based on restorative justice, of course, this compensation was not only paid compensation to the victim, but might be working for offenders, for the victim, education, health and so on; restorative approaches refers to protecting the victims regarding the role of the victim in the criminal policy of Iran.

In criminal justice and worthy of its support is relatively modern in criminal sciences. This parties involved in criminal phenomenon that had been forgotten in the traditional criminal justice now has become the main topic of restorative justice. There are many definitions for restorative justice and there is no general consensus in this context like many other definitions in the human sciences. Howard Zehr for the definition of restorative justice keeps admits:

"Restorative justice is a process that as much as possible, encompasses those who are involved in certain crimes as well as the losses of the victim's needs and requirements to treat and compensate them" (Zehr, 2004: 62).

One of the accepted definitions for restorative Justice, is Tony Marshall's definition, English author and criminologist, which says: "Restorative justice is a process which all those who have a stake in a specific offense, come together, to collectively find a solution about how to deal with the effects of crime and its complications for the future." (Wright and Maze, 2005: 76).

According to English Martin Whright restorative justice is a “Justice in an attempt to balance between the interests of the victim and society and the need for open social offenders, and seeks to restoration and improvement of victim fulfill as much as possible and in this way call all those who in some way have an interest in criminal incident (like the victim and the offender and their dependents) and representatives of the public and criminal justice officials to participate actively and constructively for such a balance " (Mirghaii, 2004: 22).

In total from all definitions understood that the restorative justice seeks to a balance between the concerns of the victim and the community. Restorative Justice causes to rebuild the offender or community and seeks to provide for victim relief and to evaluate the damage done to his recovery (Wright and Maze, 2005: 14).
The Elements of Restorative Justice

1) Voluntariness
The voluntariness company in the process of restorative justice cases that some have noted that very much such as Tony Marshall, who noted unlike the classical criminal justice that one was forced to participate in the investigation process and if the company did not, faced with penalty. In restorative justice the person on a voluntary basis will participate in the process. According to Marshall in the process of restorative justice some people voluntarily come together to learn how to deal about future and decide about its implications and consequences of crime. Thus in defining of Marshall Voluntariness, the company achieves solutions in the process of negotiation and joint decision-making with intervention or oversight officials or mediation or an impartial person which is the facilitator or promoter gathering and negotiation. Finding the social restorative answers to the crime and its consequences as well as addressing the causes of crime and helping offenders deliver on promises to the victim and community makes the main features of restorative justice (Najafi Abrandabady, 2003: 22).

2) Repent
The defendant made during the conference in order to reach an agreement between the parties seeks companies and implicitly or explicitly accepts his culpability. In the course of discussions and dialogue which takes place between the parties he faces with a kind of remorse, shame and regret and shame that this shame is constructive, because the individual is compatible with the community and life-saving and it happened in an environment conference. It is an aspect that would have closed in this kind of circumstances even with remorse dates back to the community And accepts his guilt (Najafi Abrandabady, 2003: 190).

3) Confrontation
One of the most important elements of restorative justice is confrontation. In this case, where two people which together have a direct experience of crime are present. The showdown of course is not confined only to two the offense has been experienced, and may their families and friends as well face in this case together and with the goal to reach a solution Impeller be the subject of controversy.

4) Agreement
The aim of restorative justice process is peace and agreement between the parties. In fact with the approach of the views of the parties relative to each other will be provided. The basis for agreement and reconciliation the agreement in writing is signed and thus the diversion happens by agreement.

5) Supporting
As we know restorative justice efforts is the balance between the interests of the victim and the offender work and seeks recovery of the victim's situation. The victim or the victim of an act of secondary to this supportive attitude from the victim dedicated. In this project, in addition to the victim his family also were noted and designs and new recommendations presented about them (Mirghaii, 2004: 23). Supporting the victim and his entourage who somehow damaged are among the most important elements of restorative justice that takes place by mutual consent. This support can
be in most insurance plans and compensation in the form of spiritual, so as supporting in any way be realized.

6) Being confidential and non-public
Confidential and closed the restorative justice process, which is one of the most obvious characteristics the fans reasoning to it. Being behind closed doors condition of reconstructive procedures is a necessary condition for overview of restorative meetings and requires to be effective in the restoration process. Restorative justice seeks to achieve restorative understanding and in the end to identify and implement a repair response to the crimes and conflicts arising from it. Of course, there are the restorative justice process is being behind closed doors and confidential and that there is no guarantee which some or all of the parties involved in charge of negotiations and was not disclosed in the reconstructive meetings (Goudarzi, 2006: 26).

In traditional criminal justice, principle is the openness investigation of the case and for this reason if the judge decides meeting outside the openly mode must have a legal document to deviate from this important legal principle. In fact, one of the functions of the openly investigation is in the traditional system is the establishing transparency in the investigation. So the judge feels himself in the eyes of public opinion. And thus, avoid the issue of judicial tyranny and arbitrarily venture into the judgment (Goudarzi, 2006: 27).

Theories of restorative justice
Theories of restorative justice are the theory of social shame making. This theory introduced in 1989 by an Australian criminologist named "John Brays Witt", indicating that a criminal should be ashamed positively and constructive by their families, neighbors, friends and colleagues. Of course shaming the offender will not stain and alienate them by society. In other words, do not cause the rejection of them from the community. It faces the lack of effectiveness of sanctions and effective means of social control in order to achieve the fundamental goals of deterrence and the proposed reform, training and socialization of offenders. The theory, like most orientations of criminal justice has less emphasis on victim and is offender-centered. But this central criminal does not mean a significant emphasis on his report; but a positive pivotal offender is considered which resulted in rehabilitation and the opening of the social shame of crime (Abbasi, 2003: 63).

John Bright White distinguishes between the two types of creating a sense of shame: the open social shame and the shame of humiliation or disgrace resulting from criminal or deviant label. His attitudes of shame by defaming and denial of the social and public reputation for the offender is leading to the destruction and breaking the moral and spiritual relations between the offender and the community. But the shame based on rehabilitation wills strength these relations.
Brian Witt believes that this method have more control and more effective on crime and compels offenders has once more tried to make himself as a law-abiding citizen. (Gholami, 2006: 104).

Social control theory
The most famous and most comprehensive theory of social control of crime by Travis Hirschie was presented in 1969. According to this theory
No matter how human dependence to the social groups such as family, school and peers has less delinquent acts; in other words delinquency is the result of a rupture which the bond, communications and the social dependence is created. The interest and "the social constraints" have different elements and dimensions; the most important element of the bond and communication "emotional attachment" that is the love and passion than others. It is this element of emotional attachment which is essential for "Internalizing" the values and norms. This element has in fact indicated that whatever the consistency of human and links to the important people is lower Such as parents, friends, dozens of them, like the school and the club is more, he commits the crime.

The second element in Hirschi's social control theory is the element of "obligation or commitment" which represents an investment in the community and the amount of risk when disease or stroke in criminal behavior is acceptable. This investment can be various forms such as education, good reputation. Those who have this type of commitment to society, due to the risk of losing these great assets Committed offenses this investment can be various forms such as education, good reputation. Those who have this type of commitment to society, due to the risk of losing these great assets Committed offenses less. The third element "involved" with positive activities and common. People who often are involved in common activities, have the opportunities and less time to engage in their deviation. This Element is based on the widespread belief that "idle hands, is devil's workshop "(Son et al., 1380: 283).

The fourth element in this social dependence is "Belief". According to this element, no matter how people think and behave more properly be respected, this behavior will be more likely to comply with (Williams, 2001: 2610). Restorative justice for trying to get it by incorporating breaks and gaps that created in interests and social connections the prevention and control of crime To pay, associated with this theory. That created in interests and social connections to pay the prevention and control of crime associated with this theory. The theory of justifying mass on the other theories is that advocates of restorative justice based on the goals and programs of restorative justice which have been justified. The theory is justified considering the crime. This theory that was introduced in 1957 by "Sykes and Matza" (Marshall, 1996: 21) Indicate that criminals for wiping ugly image of crime from their minds and easier committing the crimes or have forgotten it, or reducing the works of their own mental, use specific methods for neutralizing. In the process of restorative including criminal mediation with The Dialogue of victims and offenders and as the story of victimization and events and facts related to it is provided. Background to discover the invalidity of such ideas and thoughts reform the ideas of offenders. Despite the importance of this theory that explains and justifies goals and restorative justice programs, does not have a comprehensive correlation. The major drawback of this is theory that all those who committed crimes are not using, the techniques of imbibing the mass procrastination that Matza and Sykes have mentioned to them, but use special techniques which can be referred to as risk denial technique. On the other hand, the theory of offenders like criminals into the habit or patients with antisocial
personality and basically do not believe in imbibing the mass obscenity, can not apply. (Pretty Vatl, 2003: 22).

**The theory of Repeal orientation in the Penal system**

Since the start of 1970 in the field of criminology and criminal policy proposed movement that first for decriminalization and cleaning and finally is shown in abolish the penal system. The Supporter abolition of the penal system is Dutch "Luke Hvlsmn". He believes that in order to avoid many of the disadvantages and shortcomings of the criminal justice system should be using a system of criminal law that has less of obligation and compulsion and scandal. In this system, civil rights (Bajbran) administrative rights (with controls and prohibitions) are sufficient for at least to ensure the maintenance of social order (gozón, 1991: 21).

Abolitionism theory penal system and triple diversion mechanisms, decriminalize, decriminalize all of which sought to limit or remove the domain of the criminal justice system intervention and the participation of civil society in the settlement of disputes and various problems are caused by the crime, have played an important role, in genesis and explaining the aim of restorative justice programs. Proponents of the traditional criminal justice system repeal orientation known as pure demand, believe that restorative justice as an alternative in the traditional criminal justice (Both punisher and the rehabilitative) to resolve disputes arising germ that, prevention of delinquency and even modify the offender is sufficient.

Repeal orientation theory of penal system and triple diversion mechanisms, decriminalize, decriminalize all of which have sought to limit or remove the domain of the criminal justice system intervention and the participation of civil society in the settlement of disputes and various problems are caused by the crime, in Genesis and explaining the aim of restorative justice programs have played an important role.

**Restorative justice in the context of the provisions of the International Criminal Court**

Outcome-oriented approach of restorative justice plans that if for some reason there is no possibility of healing must be an emphasis on restorative outcomes, traditional criminal justice applied in order to achieve results restorative justice.

In other words, the maximum demand planning that the success of restorative justice is subject to its acceptance as a parallel justice with classic criminal justice, this means that by offering readings and interpretations of the concepts of restorative criminal, the content of the classical criminal justice, taken restorative nature thus, the orientation of judicial in keeping with the classic form of restorative justice (Smavany win, 2006: 11).

According to the victim compensation and restorative approach to call the traditional criminal is one of the manifestations of this attitude. Restorative Justice at the outset support was formed on the basis of the victim, although this theory has grown over and inclusive the wider objectives, however repair the damages of the victim is one of its main objectives is considered.

Compensation of the victim that the statute is taken into consideration can be as a substrates review of restorative justice in the Statute of the International Criminal Court.

Today, along with the traditional goals, the aim is also to punish consider reconstructive surgery. By examining the regulations governing the sentencing is specified in the statute of
the court that this new approach to the punishments is also a consideration. Then the punishments in the statute of the court, then ruled that the compensation of the victim is checked from the perspective of restorative justice.

1) Criminal judgments
Punishment as a community response to crime, functioning or in other words, has multiple purposes.
In a general division Consequentialist moral function and these functions can be divided into two types. Based on an ethical approach, punishment response to irregularities committed the crime, without punishment, something must be considered. But in contrast, consequentialist approach focuses on the need for effectiveness that this effectiveness of can be in several molds the individual and collective intimidation and deterrence, handicapping and reform offenders be raised (Mahmoud Yjanky, 2009: 637).
Today, with the development of restorative justice teachings, a new target has been raised or function-based consequentialism and the restoration of punishment’s work. In the narrow sense of the word, restoration mere observer compensation to the victim but in a broad sense in addition to repair the damages the victim the restoration of disrupted social relations caused by the crime of humanity. Restorative approaches to punishment, attention to the needs and concerns of the victim in determining the penalty and its determination to form that can respond to these concerns.

A. Applicable penalties
In the article 77 of the Statute, applicable penalties are enumerated by the International Criminal Court. The main anticipated penalty for crimes in the jurisdiction of the Court, the maximum term of imprisonment is 30 years. However, if the importance of crime as well as the circumstances is required by the sentenced person, punishment of the offender would be life imprisonment. Imprisonment (whether long-term or permanent) the main punishment is considered. Forecast the imprisonment as the main punishment can be in compliance with the thought of all those people that know the prison sentences the only punishment of crime in civilized societies (Safari, 2007: 23).
However, the court in addition to determining the sentence in order to complete it, to a fine and confiscation of proceeds, property and assets which are directly or indirectly results of crime also sentences. Of course, with the condition that confiscation of property should not damage the rights of third parties with the goodwill of the damage. Imprisonment, fines and confiscation, are not restorative aspect. However, in paragraph 2 of Article 79 of the Statute forecast the Court may order funds and other property collected by obtaining a fine or confiscation of property transferred to the trust fund.
With this regulation, fines used to compensate victims which can be used, interpreted to modify the nature of traditional punishment to the punish repair through the granting authority to the judicial authorities to do so. As a general rule, all the institutions of the International Criminal Court under Article 86 of the rules of procedure and evidence must perform their duties to the needs of victims, especially children, the elderly, disabled persons and victims of sexual violence take note. In the case of criminal judgments issued by also court to the needs of victims and pay attention to their concerns.
According to paragraph 1 of Article 78, court during the sentencing should consider various factors such as the importance and seriousness of the offense and circumstances of the convicted person against the importance of and seriousness of the offense committed by the different aspects can be explained one of them is according to the type and severity of the damage to the victim And Also the extent of victims. Discussion of factors affecting sentencing for more detailed in Article 145 of the rules of Procedure and predicted evidence. According to paragraph 1 of the Court when deciding on punishment according to paragraph 1 of article 78 of the statute, other factors such as the amount of damages, especially damage to the victims and their families, nature illegal behavior and the means used to commit a crime, the participation of the convicted person, his deliberately degrees, the circumstances related to the commission approach, time and location, age, education, social conditions and economic convicted person will be given.

While the expression of factors such as the ability of individuals to blame and descriptions of the convicted person, suggests the traditional approach to the determining the penalty, in addition, due to the amount of damages especially to victims and their families implies on the restorative approach though mild, in determining the penalties.

In addition, referring to cases when trying to compensate victims as mitigation and include the defenseless victim and for crimes committed with special cruelty towards the victim and the number of victims as an aggravating qualities mentioned in Article 2 bode on the victim-centered approach in determining the punishment in the international Criminal Court.

B) The Punishment

By the advent of restorative justice, the new mission was defined for punishment that is the regenerative function of punishment. On this basis, the punishment must compensate for damages local community to be a victim. The main victim is as a right damaged in the commission of a criminal act that wants compensation from the offender. Apparently functions and purposes punishment in the international arena and to this day is almost the same in civil law countries is followed (Razavi Fard, 2009: 130).

But given the particular characteristics of international criminal law, the objectives and functions can take a special case. This can be considered the novelty of international criminal law, the severity of victims of crime and a wide range. While the criminal response to crime is granted in the domestic law, addressing crime in an international tribunal and the penalty for that offense in the international criminal law has no history over the decades.

By examining the statute and rules of the procedure and evidence of the court, can explain the objectives and functions of international sanctions are realized. In the preface of the statute, the most serious international crimes have been emphasized for perpetrators. (Jafari, 2010: 191).

Consequentialist approaches including restorative approach the punishment is recommended In the Statute. In the preamble of the Constitution has been emphasized That ending impunity for perpetrators of international crimes can have A preventive role In committing these crimes That this approach Reflect the retributive views To the international sanctions (Jafari, 2010: 192). According to the restorative function of punishment can be Obtaining of the various materials and rules of procedure and evidence.

According to Article 77 of the Statute, the court may, Sentenced to a fine Or Confiscation of property of the convicted person In accordance with paragraph 2 of Article 79 of the Statute,
These funds and property can comes to work in the event of compensation for victims. Due to factors in determining the penalties can also represents a restorative function punishment. According to section 2 of paragraph 2 of Article 145 of the Rules of procedure and evidence, criminal attempt in compensation to the victim

It can be seen as a step towards the restorative justice. Where for some reason, since the intensity of the crime, ability to apply restorative programs instead of the traditional criminal justice can by granting discounts to the offender compensation for the victim acquired. To an integrated approach from the punitive criminal justice and restorative justice according to article 110 of the Statute, after the verdict to punish by the court allows appeal In the penalty and there under the conditions by granting discounts depositing the losses that may be used for the benefit of victims, that one of them is granting discounts.

It is widely in the paragraph (d) article 223 rules of procedure and predicted evidence. Under this clause, any specific action by the sentenced person in favor of the victims were as well as any impact as a result of his early release is considered to victims and their families should be revised in the reducing the sentence.

2) Rules of compensation

In the meantime the victim compensation is one of the manifestations of restorative justice. In the restorative justice, collateral damage restoration, spiritual and emotional of the victim takes precedence. to the restoration of public order by examining the Statute of the court and the rules of procedure and evidence is determined that what the court intended in the first place of the restoration of world public order that attained by punishing the international criminals but compensation for victims also been considered that it although is secondary aspect, in relation to criminal proceedings compared by provisions relating to criminal courts, progress in this regard that it may be as grounds for restorative justice in the international criminal law.

Criminal - justice Methods in the Code of Criminal Procedure 1392

1) Sentence postponed

Code of Criminal Procedure 2013 this issue in the first part of Article 82 is considered. According to this article "Strengthening of in the crimes grade six, seven and eight that is their punishment is suspended, the judicial authority can take action by the request of the accused and agreements of the victim or the private claimant; and obtaining appropriate financing, maximum two months to give the defendant time the to obtain of forgiveness of the complainant (Article 82 of the code of Criminal Procedure 2013) mentioned methods in this respect, is regenerative the prosecutor after asking the defendant and agreed to victims venture to issue of postponement of criminal proceedings this issue was the parties to criminal case and the Attorney-dependent. That is, in the effect of the agreement among these actors that the criminal proceedings for a specified time interrupted in the light of these the defendants move in order to earn the forgiveness of the complainant - the victim or compensation of crime.

2) The suspension of criminal proceedings

These were according to the law amending some laws of justice adopted in 1977, prior to the enactment of the law it was also no legal prohibition. But legislator the new law procedure in
Article 81 in line with the principle of (position or the suitability of the chase) as is One of the alternative to prosecution the prosecutor contract as for prosecution If he has consequences for the criminal process know. For conviction Such as the stigma of criminality, Introduction to the prison environment and ways to commit crime more from the benefits to the community Framers of the law code of criminal procedure article 81 for the issuance of the conditions have been named. According to this article "The crimes according grade six, seven and eight That their punishment is suspended, if the complainant does not exist, or the damage was compensated or with the consent of the victim it is paid within the specified period and charged with no history of criminal conviction, the prosecutor can take action after obtaining the consent of the accused and if necessary by obtaining appropriate financing, he suspended his pursuit of six months to two years ...”

3) Leaving the chase
Leave the chase issued in Article 79 of the code of criminal procedure (2013) it has been mentioned. However, issued the left chase in the article 177 procedure act of the public and revolutionary court in criminal matters in 1999 was predicted but it was ambiguous and drawbacks that the law has been fixed. It is including the issuance of leaving the chase after offenses that have been prescribed. The timeframe for issuance of leaving chase is the maximum until the issuance of the indictment. The issuance of the leaving chase is the duty of the special Prosecutor and the magistrate does not have the issuance of the right, leaving the chase and shall suggest to the prosecutor. In the cases directly referred to court the court could grant itself. And leaving chasing after the issuance of plaintiff is only once could pursue the request again and request re-accused chase by plaintiff is up to a year it is possible on the leaving from the chase and after a year the validity ends.

Based on Article 79 of the criminal procedure code in 2013, in the past offenses, the claimant can request leaving pursue before indictment. In this case leaving prosecutor has indicted. Claimants can request the following the defendant again only once a year, from the date of issuance to leave the following. (Code of Criminal Procedure 2013)

The aforementioned arrangement the above-mentioned in this respect, in many ways is agreed that usually the prosecutor after the demand of the plaintiff - the victim inquired comments of offender in this area actually, the prosecutor in agreement of offender in this way can take action decide In order to the issuance of above-mentioned the prosecutor agreed by of offender in this regard, A fundamental condition in this way deal that gives aspect. The code of criminal procedure in 1392 in the final reform has removed this condition and in this way - that is an appropriate for settlement of criminal procedures - have aspects unidirectional twice. According to the issuance of above-mentioned is leaving the criminal proceedings dependent on three conditions. First, that the offense committed forgivable second, the plaintiff - the victim leaving criminal proceedings before the indictment requested and third, the prosecutor agrees by this request. This way, the prosecutor can take action aforementioned issue about forgivable crimes after the demand of the plaintiff - the victim and before the indictment (Code of Criminal Procedure 2013).

Considers that accused agreement with the prosecutor in cessation of criminal proceedings despite the fact that should be including the issuance of basic conditions to be considered, it is unexpected. The condition of the defendant's disregard and agreements by them, the above
method has distorted aspects of the agreement and therefore it cannot be this way the number of methods included in this strategy.

**Conclusion**

With time and duration of developmental stages of the criminal law it is observed that not only criminal and offenders phenomena, the victim but also has a certain importance. In these fields of restorative justice as one of the methods that in the past it considered to justice and compensation for damage caused located from the offenders to the victim. Similarly, our criminal law in recent years in the interests of the victim has changed and international documents and recommendations of international or regional organizations and resulting changes in the law of evidence to this claim. In the judiciary, authors of the law of criminal procedure, using international instruments, on the one hand, and the results of comparative law and criminology on the other hand, place and are placed; the effects of restorative justice in their studies and regulators being developed or considered what is certain is that the legislative approach In two laws adopted in 92 (Rules of Criminal Procedure) was a new approach and from the issues that the criminal laws of other countries used to apply offenders and development has created. It should also be said the legislative in the formulation of new rules from the repressive punishment to the punishment that is consistent with dignity and character of committed and from the repressive punishments reduced. The legislative has concluded that with the help of civil society organizations and the use of participatory criminal policy can pay better law enforcement and from the all devices in reforming the offender get help and these reforms on their own leads. To protect the community changes in the law should be stopped But other criminal laws must be reviewed they also need developments occur.
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