Repentance and Role of it in Elapse of Punishment

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**ABSTRACT**

From the holy Quran point of view repentance has special place and it had been mentioned in different verses. It means that the word of repentance and It's derivatives are repeated 92 times and retraction word and It's derivatives are repeated 45 times. It has been mentioned also at different other verses. Without pointing out to that words directly. All the traditionalist s and narrators of hadith books, myths, ethics, speakers and men of letters each in turn have subject in their books that talk about repentance and put it on elaboration. Repentance from perspective of Islamic criminal law, was counted as one of the deterrents, and because of that, it is law foundation in Islamic criminal law. For recovery to revision and training felon was anticipated by judges with conditions for realization and authentication. Revision training of felon has been set as one of the most important condition of realization and at the and elapse of punishment.

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**INTRODUCTION**

It has been mentioned about repentance in several verses and narratives, human beings in these verses were persuaded to repent. In some of these narratives and verses elapse of penalty was considered explicitly.

Human beings in some cases, in the way of life, encounter with problems. These problems should not make him hopeless, because the mercy of the god is always upon his servants. Repentance is common issue in ethic, theology, jurisprudence, and law, and it was interpreted from one aspect of repentance in every sciences. Repentance is the foundation of islam penalty law, that was considered for revision of convict and wrongdoer. And even in some cases, it makes elapse of punishment. According to Islam legal after victory in Islamic revolution, provisions improved and repentance was called as one of the factors in elapse of punishment.

Nonetheless, repentance is used less in elapse of punishment on decisions and judges. In criminal law the right methods, like suspension of penalty and postpone the verdict was used to revise and train felon and preventing from doing that crime again, in a way of the principle of individual penalty. In this situation we can make similarity between repentance and that custom but with greater deepth.

Ebne manzur mentioned in his book which called lwsan alarab repentance means leave sin… turn to god and return to god means leave disobedience and come back to obey the god.

Back to god means god accepted his repentance and give his servants mercy. The gid managed him to return and he is so relenting and compassionate. The repent, covers the repentance of god and repentance of servant. But when human being turn to god, repentance word use with the "from" word like repentance from sin, and in repentance and turn of god to human being in verses the word "to" is used, like returned to him for mercy. In terms of Islamic law, repentance means penitence or compunction and of course return from sin. Also repentance means regret and decide to don’t make acts that is sin and committing sin is bad and illegal.

These things done because of the just god order and not any thing else. In terms of religiuos and ethics, repentance means don’t commit sin in a way that the sinner being regreted and decide to don’t that again. The god in holy Quran persuaded human beings to repent in several verses. The holy Quran inset repents and innocents in the same places, and stated: the god loves those who repent and loves innocents.

There is one surah in the holy Quran that was called tobecrepentances. In holy Quran repentance and its derivatives are repeats 92 times retraction words and its derivatives are repeated 45 times. At the same time it was recommended in some narratives that had been written by excellecies infallible.
In this essay according to conducted studies and by using methods like research and having documents, it has been tried to clarify the meaning and pillars of repentance.

**Criminal pillars of repentance:**

In Islamic criminal law repentance is counted as one of the factors in elapse of punishment and because of that it is law foundation in Islamic criminal law. In a way that is wasn’t mentioned in other modern criminal schools. The most significant point of the repentance is that, its one of the best methods which prevents felon to do crime and to the same time revise felon. If we think about verses and narratives and also statements by Islamic theologians, it can be inferred that, to repent, real regret and deciding to leave sin is enough and it doesn’t need any special words or actions.

**A.Repentance on right of people:**

Right of people is the right that is determined for individuals and societies and is used in verses of the rights of god.

In other words right of people is the crimes that is the crimes that is private and some special individuals would be affected. These rights are skinds: the financial body right and the spiritual.

1) **The Financial:**

Some crime In pepleright, are the financial ,like: robberysentence and related financial crime. Insach cases repentance is regretied from past action , decide not to do it again, and return stolen wealth.

2) **The Body Right:**

In some crime, by human action.right to the body, iscaued. like crime againtbodily integrity that the panishment of this action is retaliation.alsoassault and batte,iec.sente is retaliation. In such crime, c repentance is regread from past action, decide not to do it again and retalitate penalty or pay blood money.

So, effect of repentance relate to the hereafter life of individual

3) **the Sprital:**

In some crime, by human actin, hurt may be the prestige of individuals hurt that in such sitiations again crim related to is right of people, for example qazaf crime in this position the prestige of Individual is atrish. in such crimes , repentanceis regreting from past action, deciding not to do it again and accepting the implentaion of qazaf also, effect of repentance relate to to the have after life of individuas.

**b) Repentance In The Right Of God:**

Crimes that are detrimental in public order good ethic are considered as crime against right of god

In some crimes repentane is the elapse of penalties which the philosoply of this crime is just, that the individual reject and disobey the order of god.ponishment no punishment of them hold the punishment in accordance with cadictions which stipulate in religay .then, bali and intercession disproving with god. because repentance from such actions, brought down eternal punishment and the god loves such person, the god gifter the purdise and elapse this earthly punishment

**C) Repentance In Public Crimes:**

The crime philosophy of this action is not only disturbing the order or hart somebody but also disobey the god orders and reject the god existence. such crimes are unknow in todays right schools. In some cases we face with crimes that society punish these peple not for their actions but because they distribute the public order when they punish felans for the actions that we mentioned they don,t pay attention to this point that these actions are legally prohibited. or not there fore this kind of crimes repentance cant unseat the penalty

We can infer from narratives wich was write by in fallibales the person who commit crime, deserves punishment and discussin public. Furthermore, even when mett ruling he should not admit punishing him. because distributing these crimes has bad effect on some people and thisaction may tempy some cravings to commit errors.

Then it worthes that this person repent truly and the god accept his repentance. ali ebne ebrahim that quote from ahmad ebne mohammad ebne khaled,aman came to imam ali and said.

I,m commited adultery, so purify my soul and me has used tried to encourage him to don’t admit, but when he saw that, this person urge to his adultery, after admitting 4 time, he verdicted the punishmet and then said this sentence angrily ; How bad is for a man like you that comit such indecency and ten disgrace him self in public , was not it better to repent in his house; I swears to god, the repent af this person between himself and his god is better than my punishment verdict.(have 4 meli.779.1403)
In this context the effect of repentance on elapse punishment in the penalty and has two title repentance before proving the crime and repentance after proving crime. In this part of discussion first it was been mentioned to attitudes then comments of sunni jurists.

A) Repentance before proving it:

If the sinner repent before the crime would be proven by judge; the Imami judges should lapses the punishment either through confession or by admitting it apprently.

Just if aperson be wworrior penitence ,the situation with charge .In this position the convict should repent before arresting not after that.

The result of that action is appreant in holy quran.

Sureh maede verses 34, sureh nesa verse 16 that talks about repent af adultery ,sureh nesa verse 43 is talks about repentance the repen of burglars.

But some af the jurist, believe that if sinner after repentance , admit his sin to the rule and want the rule to punish him this position rule held the punishment hence , if sinner repent privetely with himself and his god , his repent will accepted and punishment elapse and want rule to punish him , the rule holds the punishment.

if the sinner , repent after after admitting his crime to the autho rity to pardon or punish criminals.

Af course such repentances don’t elapse the punishment just give authority of amnesty to the rule.

In worrior repentance he should repent befor arrecting not after that the repent after arresting is not in the result of fearing the god , but because you fear the punishment and it is not true repentance.

As the verses clarify in other crime like adultery or consumption of alcohol the canviet can repent, be fore the crime will prove . If hi is arrested as a suspect , he should before a miting and.

Express it appreantly,and in this situation his repent can be accepted(eslampour 2004.237)

In general imamis believe that repentance be fore arresting and proving crime , elapse punishment and prof of this view is verses , narratives and Imamis judges .the below verses is related to the repentance before arresting.

Sureh maede verse 33,34 is abut warrior repentance , in sureh nesa ,verses 16 , is about adultery repentance sureh maedeh 39 verse is about repentance of burgl , byreferring to the mentioned verses ,Imamis sadegs elapse the punishment for their repentance (mousavi Khomeini 2000:416)

In this position just there is one question , if criminal claims that he had reppented before lestifying and of course repent before winess testifying his punishment will elapse .

B: Repentanse after admitting to a crime:

If a person admit to a crime and then repent , is the punish elapse from him or not?

Saheb sharaie says : If a person admit to a crime and the repent , the judge will be athermalised about punishment is toning or lashes.

Of course there is a difference between the repentance after admitting to the crime and repentance before proving the crime. The punishment will elapse in repentance before proving the crime .it means that it has direct effect on repent will be proved , the judge can not punish the sinner , but it’s

Differ In repent ance after proving crime appreantly,in this wation, the judge decide to amnesty or punish sinner,this kind of amnesty was predicted and it talks about penalty.and if it has been admitted after repentence like adultery,sodomy,lesbianism or consumption of alcohol,of the judge may ask for annmesly from the guardians although this kind of omnestes was net mentioned in article Z4of Islamic penal code,bot naturally it’s a kind of private amnesty(coldaziyan 2011:51)there is another narrative that motabar talihat ebn zeyd quoted fram Imam sadeg that he said:some of my friends narrated that :a young man come to the Iman Ali and admeted to theft,some words exchanged between them then Imam Ali said to him :Isee you a young man and its ok to forgive you,did you know any surah in Holy Qaran?"Yes Iknow Baqare ",young man answered.then Imam Ali said:Iforgive you for sarah Ba

C.The role of elapses of repentance betare trail:

There are stages betara trail which contwins crime,chase wlprit and preliminary investigation th issuance of the indicim and convicit and sent the case to gurt Flor trail.the role of repentance with conditions that was discussed above,are as fonows :if a person commit a crime and it couldn’t be discovered by judicial authorities,then he repent to the God, and observe the repent conditions like satisfy harted people and revise.His behavior and action, beased on these verses the god will forgive his sins and his punishment will elapse.

According to the holy quran , surah maedeh , verses 33 and 34 , in serious crimes like worrior the chaser of this crime , should elapse the punishment before he has been arrested by judicial authorities.

Then in other crimes it will be acted like the first method.

To the god honestly and with required conditions his prosecution and punishment will be elapsed.
the second by pithesis is that crime is reported to judicial authorities. In this situation the crime will be
informed to attorney, and after referring to judicial and initial reviews the problem will assign to judge by
attorney for preliminary investigation, the judge that follow this investigation according to issue will access to
culpity by summons or arrest.

From the vius of holy quran, if judge be sure that culpity repented with determined situation, he should
ban the chase of issue, because stripping off the hudge to collect reasons, in order to proof crime. Also if the
crime is proven by judge, demonstrator could not be punished about for this proof, but according to narratives
about this issue the view of the judge is important to admit it. If the mention decrees proven apptmty and
sinner subsequently repent by conditions, mostly scholars of jurisprudence by asiny verses, believe that
repentance of sinner is effective before express it appreantly for elapse of punishment. But if crime was proven
apparently (Baïene), the repentance of sinne is lack of affect.

d) Repentance offer affirming the crime apparently there are two theories about this issue: Imam
gurists, believe that if the crime prove by wintess testifying and sinner repent, the jury cant pardon him, and he
ohold punish him.

Imam Khomeini in Tahir olvivesale said about this issue that: if he repent befor admit apprearntly
The punishment will elapse: and if repent after that, it dosen't elapse and jury doesn’t have any authority to
pardon him after claiming appreantly, but if repent after admitting punishment apperently A few of jurists
believe that if convic after proving crime repent by wintess testifying, his repentance will be accepted by jery and
can be pardoned sheikh mofid, one of the followers of this opinion belies that originity of being innocent in not
proving of punish ment to sombody in elapse of punishmet in early life is prior to hereafter life.

Another resan is that the early punish mounted is prior to eternal punishment. It means that if a person doesn’t
punish in hereafter life for his action he don’t deserve punish in earth too.

Genevally in legal tests, repent after crime is expressed in two forms: repentance after confession and
repentance after the expressing appreantly the repentance.

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Generally in legal testy, repent after crime is expressed in two forms: repentance after confession and
repentance after the expressing appreantly the repentance.

Some jurists believe that it, s judge authourity to forgive or punish criment that repentance after confession.

Even current jurists claim that this they is acceptable. the jurists believe that not to elapse punishment after
express appreantly and admitting punish.

Their views accounts on several verses.

Types of from crime and quality of repentance in Islamic penal gode.
Sins have different btyps and the quality of repentance is diverse to each of them. in general these sins is 3 typs
1) it dosen't the right of the peple and there isn't any penalty from god, but the sin is relate to the person himself
like jealousy an lies.

In this position repentance is related to the person himself that is rebellious and sinful, if he regred and
decide to repent, his repentance will be accepted and the effect of repentance will in flunce him.
2) Elimrate the financial right of the people or god like elimant to pay khoms and zakat.

In this situation the repentance is effective when in addition to regref from past action, pay the right of the
people or god.

3) He make shari punishment. This one from aspect of right in the quality proving is divided to 3 groups.
A) the quality of repentance in crime that make punishment the question wich will be expressed is, if a
person repent before confession or express appreantly (Baïene), is his punishment will elapse or not?

There are two types of view according to narratives and sentences of juristis.
- the punishment will elapse.
- The If after repentance he admit his sin to the rule and wants to hold punish, the judge will hold the
punishment.

Like maze that wanted prophet to punish him and said: please purify my soul, and in forth time the prophet
ordered to stonimg him. In another subject when aperson commited sodomy and admitid it to Imam Ali he said I
cant leave the god punishment and authorized him in several punishments. The sinner selected fire punishment at
the end although Imam Ali pardonned him some narrative was ased here to in people that if a person a fier
commiting sin admit his fault to the rule, the punishment will hold on this person. Now there is one question, How
we can glect there two views the frisi one is repentance elapse punishment and the second one is admit oar sin
to jadge and then the punishment will held the justities say that if the sinner reoent in his awn and to the God
his repentance will be accepted and his punishment will elapse. But if after repentance refer to rale and
admitting his sin and want the rale to punish him,in this position the punishment will held on him of the sinner repent before present in ceart, its enoag hand his punishmit his sin to him,the punishment will held except worrier and ...

In,when calcript repent before proving the Islamic penal code ,article  t it was mentioned aboaf it In all crimes ,punishment ,when calcript repent before proving the crime and revision of him being abvious to the judge his punishment will elaps.

Also if the mencined crime s except will be proved by admitting , and if the sinner repent even after proving crime , the coutean ask amnesty of criminal from the head of judgi capture from the leader.

According to clause above article worrier before arresting deserves punishment . also in clause z article above it was mentioned that in adultry or sodmy , if the crime of rape was happen with reluctant or deception of victim , repentance elapse punishment , as described in this article he will sentence to imprisonment or 6 rate mandatory whip or both of them.

B)repentance to with right of people and the effect of repentance in elapse of punishment , was discussed in legal and regulatory texts , are theft and worrior.

1)theft:
Shahid sani in explanation of theft which result in penalties says:

Theft is grabing the property of some one else by a wise , mature , and independent of wealth , it means wherekeep the property there , after assets the rape ------------------
1)grabing was done secretly
2)the grabbing property will be one forth of dinar or something worthy to this price
3)theft doesn,t grab his child property
4)It doesn,t be food that is very unsufficent

1)repentance of theft before admitting:

Undoubtedly repentance in this stage deserves punishment , but because stalen property is the reserved right of people , he should return it to the owners if the property it self is available but it is faulty he should again pay the price of that .If the owner was died , the theft is responsible to pay it to his heirs so in this case repentance is not completely amnesty pay of property
The repentance is not enoagl and sinner should pay the property , unless the owner or heirs absolve the theft.

1-2:repentance of theft before expressing appreptly to admitting (Baieneh) repentance of the theft before wintess testi fying is punishment quashing.

1-3:repentance after expressing apparently to admit (Baieneh)in this case the judge should held.

2)repentance during execution:

In clause z of article 278 in analyzing the punishment of theft ih is mentioned teft: In section cof this article and other sentence that don,t quality chastising whenever sinner repentance during execation and if the leader deemit,s necessary to forgive him , with his amnesty he will relase from prison .At the sometime the leader can clarge his punishment to the other kind of chastising punishment.

The section and the other parts are like the below casec.

a)At first , amputate 4 firgers of the right of the burglar so that stays , his them band palm of his band .
b)At second amputate the left food of burglar elow the bulge , so that just remain one halfe step , and of the anointing.
c)the third stage is life imprisonment.
d)at furth , is gallows , even if he lifts in prison.
2)repentance and insult

Realization of adultry repentance is require 2 case:

First the should deny his speaking so that if his clim will be untrue . it doesn,t need to deny it , but the denial should be besed on .It means that if he says inadmissibility words to an indridual in community , he should fining accusations and deny his elams . But if his elaims are real he should some how jus tify or deny it the god doesn,t count it as alie of guld,t elapse with repentance.

3) Worrrior:

Worrrior is aperson who fight with the god and propert and make corruption in the earth.

There is a consensus among jurists that the warrior punishment is one of the quad case in the 33 verse of surah maedeh , But the consensus among them is that mentioned cases in verse – like murder , gallows, amputate and exile are in holy qurun , it has been listed exception after explain the enmity and punish worrior : and in this way, if worriors repent before arresting and over coming , they would be amnesty from punishment
as mentioned in verses. If the worrier repent before arresting, he should get all the rights that he has been deprived in his worrier time it meant that.

If warrier will kill someone, and parents of the killed dose not pardon him, he will be gallawed because of execution. But if amnesty him, the judge can’t punish him because the punishment of worrier in result of repentance terminated. of course if he will theft the property of somebody and then repent and return that property to the owner, he would not. But if repent after arresting and kill somebody, the murder punishment will be warrier penalty. So in this situation yallow will be cancelec and if amnesty worriers, the murder would not terminate from him, because holding of the warrier punishment is certain according to article 116 of Islamic penal code in relation with penalty of worriers, in general this law does not permit to repentance to elapse the punishment.

c) apostasy and the role of repentance on elapse of punishment.

In imamie juridice there are two kind of apostate: Innate apostate that means, a man who was burn from muslem parents and bring up in Islamic sociaty and after puberty he also express his faith but then he leave Islam, and national apostate that means, a man who is lack of all the conditions that we said in innate apostate, being regret and came bach to Islam.

There is a difference between these two apostate and it is that a man has permit to repent when he is national apostate but onnate apostate dose not have this permit it means that the rule does not ask the innate apostate to repent and as soon as apostasty will be proved, he holds the punishment but the rule ask national apostate to repent and if he reject it, sentence for apostasy will held.

The main reason of categorizing in shiee to innate apostate and national apostate to repent, in which to national apostate should allow to repent.

**Among shiee jurists there are 3 opinion about innate apostate:**

the repentance of innate apostate and his Islam is not accepted and like other infidels they will be eternal in fire of divine and the penalty of apostasy is in any situation murder, whether the apostate repent or insist on his accepting of repentance.

A group of researchers believe that the repentance and islam of apostate will be accepted either in reul or in appreant, but it would held 3 sentences about him.

most of Imami jurists make distiretion between innate ant national apostate and said: if the repent and Islam should be pertesnted to him

And if he don’t accept it, he should be killed. if innate apostate be aman, it does not make any difference to repent or reject it, any way he should be killed so, demanding to repent is meaning less.

Almost all the later jurists agree on this question that those who accepted apostate repentance or who doesn’t accept repentance and islam, have 3 righ like others and they are murder, divorce and division of property and according to narratives, these cases are exception in repentance reason.

There isn’t Any difference between apostate of innate or national in apostasty of woman it means that even though the woman be innate apostate, she is not killed, but she will stay in prison and at the time of prayer, she be beated, the value ruling decide and torture her, the harshf clothes that are usually used to cover, is wearing to her and feed her with undesirable food, till repent or die.

If she repent, her punishment will elapse and she will rease, other wise she will remain in prison and being harassed Imam khomeiniin tahrirb all vasile says: apostate woman is not killed, even she will be innate apostate but she would be sentence to life imprisonmment and at the time of prayer, she will be beated, and her livihood becomes difficult and her repentance will be accepted. If she repent, she will release from imprison.

Repentance and suspended of Islamic penal code legislator is expressed just in Islamic penal code of article 115 that repentance of sinner just make fall of suspend punishment.

The article 115 Islamic penal code clarifies: In ranking six, seven, and eight suspended crimes, if the sinner repentand his regret and revision certinafe to the judge, his punishment elapses. In other crimes the suspender of court can impose provisions that relate to communication of sentence.

Also according to clause 1 mentioned article, provisions that related to repentance doesn’t held about someone who has applied the mandatory crimes reaped on their provision the 6,7,8 rating suspened crimes are

**Rate 6:**
- imprison more than 6 month till 2 years.
- fines more than 20 million rials till 80 million rials.
- from 31 ti 74 strokes of the whip and to 99 strokes in immoral crimes.
- Loses of civil rights for more than 9 months to 5 years.
- publishing the final decision in the media.
- prohibiting from one or more social or occupacional activities for legal entities up to 5 years.
- prohibition from public invitation to raise capital for legal entities up to 5 years.
- prohibition from issuing some business document for legle entites up to 5 years.
Rate 7:
- Imprison from 91 days to 6 month.
- Fines more than 10 million rials to 20 million rials.
- From 11 to 13 strokes of the whip.
- Prohibition of social rights till 6 month.

Rate 8:
- Imprison till 3 month.
- Fines till 10 million.
- 10 strokes of whip

Qualifying repentance:
Because in some cases repentance has legal effect and legal penalties can be brought down, the judge should be aware of that. This issue will need to be verified and proved to the judge. Here we encounter with a question and it is that if a person commit a crime and then claim to repentance, who can prove his repentance? And is his claim enough to accept repentance or not?

Because repentance is something that is knowable only to the repentant, if a culprit claims to repentance and the judge would have doubts, in this position his repentance is accepted unless their would certainty doubt in his repentance.

It seems that with little doubt in repentance the punishment lapses. And this statement with the interpretation of law in favor of defendant.

The other repentance issue in criminal proceeding is meaning of arresting. That it seem there should be vague and contain situation that the crime is proven or unproven, so if there are enough proof to prove his crime, but the culprit has not been arrested and before arresting he repents again, here he benefits from repentance before arresting. Although arresting was happen Justin worrier crime, but some people think it requires to repent in all crimes before arresting.

In religious books it was discussed about "But he was not know about him" and in result of that, when a person say right statevents or claims, if in some part of such claims, the demand was not effective or cause to distress and constriction of him, and at the some time there was not any one that discuss with utterer, it is possible to give effect to his claims. It is an established legal that many traditions and narratives that from based on confirmation of customs and habits.

Further more, there is no reason to lie in the fight that is uncontested.

It is true in the action of the person who claims to repentance. This is something that couldn't be asked devanc.

Because it has not be excepted from the repentance person to provide proof during his repentance and asking for demand cause him to distress and constriction, so, although the rule have doubts in the repentance of repentant person, but his claims will be accepted. Because as it was expressed, it couldn't be wanted from repentant person to provide reasons in order to elimination of doubt, unless the rule be sure about the false of repentance.

Several conceivable mode is required to the judge in relation to the repentance of culpritry:
1) the judge should be sure about repentance. And he get that repentance is true or not. The jurists is said about this: it is good that the judge act his jod an right of people without expressing appreantiy and admid to the swear.
2) the judge, have doubt to sinner in his repentance.
3) the judge himself have doubt about repentance of sinner but at the some time ther isn't any proof to prove unlike of it.

In the last two cases, there are metho that the judge can use to finad away to get rid of uncertainty.

In the hy pothies that the judge have doubts about the false of repentance, because the doubt is not special suspicious that will be authentic, such suspicious couldn't be eliminated. And in the other case that the judge have about fake repentance the doubt is not that this person says lie.

But repentance can be determined from repentant person, and if a culprit claims to repent and the judge be sure of his repentance, it is true and accepted.

Result:
By paying attention to cases that was mentioned in the essay the repentance categorized to below cases.

- Elapse of punishment:
  The punishment of calcripts willelapse if the real effect of repentance will effect. This case is related to the repentance before proving to the crime that was accepted by all the Imami jurists.
The Islamic law of Iran also fallow wit:
-capability of amnesty by the judge: the other effect of repentance is related to the influence of repentance after proving crime, and in this situation the repentance can not elapse the punishment, But give the judge authority to amnesty, the judge according to expedient of society and arguable point in this context is that how the judge cold be sure about the repentance of sinner? When he declare to repentance, his repentance is acceptable or there is postpone in proving certainty of repentance in the amnesty sentencing?

The Islamic penal code did not present any method in the mentioned question, just authority the judge in holding the punishment, But it's better that judges provide anough opportunity to sinner for revision and training themselves, and don't take it so easy in holding punishment or accepting repentance according to this opnion the judge can give opportunity to sinners that shows their own qualifications in that time to amnesty, Because revision of behavior is important in accepting repentance.

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