

The challenges of executing penal financial convictions in IranAli Abdipour¹, Mahdi Saghian^{2*}, Rajab Goldust Juybari³

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Abstract

Purpose: Penal procedure is a long process starts from crime discovery and ends to penal verdict execution. The result of such process can be observed in final step of penal procedure, that is, penal verdict execution. Convictions mentioned in penal verdict in Iranian legal system are too diverse so they can be initially divided into financial and nonfinancial convictions. **Methodology:** The present research is applied in terms of purpose and content analysis method. In the organization of research, the documentary and library methods have been used and the information analysis has been obtained qualitatively and based on the inference of the researcher on the sources and texts.

Findings: The execution of penal financial convictions including cash fine, property restitution, crime – related loss, blood money, expropriation and destroying the assets are encountering with a series of radical challenges. Iranian Penal Procedure Law (2013, amended in 2015) and law on How to Execute Financial Convictions (2015) have resolved some relevant problems while some issues such as abusing the payment of financial convictions in instalments, the possibility of abusing in proving insolvency by the attestation of two witness, transferring the burden of proving losing party's affordability to winning party are still remained. **Conclusion:** In this vein, some conflicts between legal provisions, transferring procedure previous problems to penal verdicts execution, lack of an independent and strong structure and machinery to execute penal verdicts are, *inter alia*, the most important challenges for executing penal financial convictions in Iran.

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1. Introduction

Penal procedure is a process to examine a crime started from crime exploration and ended to penal verdict execution while most concentration in a penal procedure is on preliminary investigations and trial and verdict execution is less paid attention; however, the result of penal procedure should found in penal verdict execution. In other words, it is necessary to pay more attention to verdict execution. In the laws of countries with several punishments, verdict execution is more complicate. In Iran where there are various punishments, penal financial convictions are either purely financial or like blood money, they have the nature of both financial and punishment and some others are only penalty like cash fines (Mohammadi, 2015: 117).

2. literature Review

Certain laws are needed to execute each case in order to realize justice in trial and to protect the rights of winning party and government and to prevent curbing human principles and/or destroying losing party's family; thus, by adopting Penal Procedure Law (2013) modified in 2015 and the Law on How to Execute Financial Convictions and innovations, Iranian legislator has been successful to some extent in removing barriers on executing financial convictions while there are still challenges to achieve a desired point and it is necessary that by its own and adopting new laws, the legislator attempts to remove such challenges and ambiguities. For instance, it seems necessary to establish an independent verdict execution department with an independent judge and sufficient forces.

3. Methodology

The present research is applied in terms of purpose and content analysis method. In the organization of research, the documentary and library methods have been used and the information analysis has been obtained qualitatively and based on the inference of the researcher on the sources and texts.

4. Finding

Preliminary concepts: Before addressing on challenges on executing penal financial convictions, it is necessary to clarify and regard relevant preliminary concepts.

the concept of enforceable definite verdict: Upon termination of hearings, the court issues a verdict. The ramification of court hearing and/or judge's opinion on the case expressed by words are called verdict. In terms of nature, verdict finishes the subject. Court verdict is on the nature of claim wholly or some problems raised during hearing. In the first case, court verdict is called verdict while in the second case it is called award (Ashury, 2015: 217). The considered verdict in present papers is enforceable definite verdict issued by a competent judicial authority on the nature of claim and is partially or wholly definite.

Definite verdict is one that cannot be complained or objected through normal complain processes including revision and appealing (Akhundi, 2009: 219). Verdict definiteness can be happened in various cases. The issued verdict by penal tribunal may be considered as definite. Such verdict by penal tribunal court may be finalized due to lack of appealing in determined deadline while such verdict may be finalized after hearing in appealing court or by Supreme Court.

After finalizing issued verdict, the office of tribunal which has issued the verdict would send the case to verdict execution office. Now, the question is that which verdicts should be executed and are seen as enforceable. Types of enforceable verdicts are mentioned in article 490 of Penal Procedure Law (2013).

According to this law, the verdicts became enforceable upon communication. Enforceable verdicts include (Namazi Makki, 2016: 29).

Issued verdict by tribunal court should be definite; these verdicts are enforceable; issued verdict by tribunal court is appealable and is not objected in determined legal deadline; issued verdict is appealable and is confirmed upon appealing. The issued verdict by tribunal court can be appealed in which appeal court would cancel the verdict and the new one can be issued upon appealing; here, the verdict can be executed if it is finalized and communicated. If the appeal authority is Supreme Court which violates the verdict and submits the case to a peer court so that such court can reissue the court. In cases that there is no re-appealing, the verdict is definite (Namazi Makki, 2016: 29).

In all abovementioned cases, upon verdict communication in accordance with articles 67 to 89 of penal procedure law, the verdict is enforceable and the case will be sent to execution office by the tribunal court that had already issued the verdict.

the concept of penal financial conviction :In penal laws, conviction has the nature of punishment in any case. Thematically, conviction may be financial or nonfinancial. Nonfinancial convictions are those one in which the subject is not on property; however, this will not prevent nonfinancial convictions from financial impacts (Shabani, 2012: 20).

In contrary, there are financial convictions in both civil and penal convictions. Legislator has considered financial convictions in both civil and penal scopes and it has devised certain verdicts for executing both convictions in relevant laws. Whether penal or civil, financial convictions demand their own execution method. Therefore, the important thing in describing conviction as a basis for legislator's thoughts is the financial aspect of convictions; hence, recent categorization is more consistent to such thought (Shabani, 2012: 10). The concept of financial conviction in civil affairs and financial conviction in penal ones needs a separated definition and also recognition of their differences.

In many cases, financial conviction is emanated from a penal verdict. The result of penal verdict which should be enforced is a financial conviction in varied cases. For instance, a financial conviction is established by issuing such verdicts as restitution of properties or the price of crime – related property in crimes like breach of trust, destruction and fraud. Or, a penal financial conviction is established due to losses from crimes of issuing an uncovered check or selling others' properties (Bahrami, 2015: 38).

Such convictions are on property and their subjects are directly belonged to assets; however, such convictions are not subjected to compensations in terms of contractual or non-contractual civil liability; rather, these are penal convictions which pursue penal policy goals and pave the way for its realization. Penal financial conviction is established by trial. Penal financial conviction means a conviction by court verdict in a penal issue. Penal and civil financial conviction is another type of conviction by court verdict and is directly on property which has two penal and civil aspects of which one implication is blood money. Blood money is either for loss compensation or for penalty and deterioration of criminals as a penal and civil financial conviction (Akbari, 2017: 123).

penal verdicts execution: Law experts have categorized penal process into four or five steps in which the last step is penal verdicts execution (Goldust Juybari, 2017: 377). Briefly, upon crime realization. Penal justice system including police, prosecution office and penal courts take measures and upon crime exploration and prosecution of defendants, preliminary investigations and trials, it is the time of its execution. The importance of verdict execution steps is not less than other steps (if not more) since the ultimate goal of previous four steps is to execute verdicts and the times and costs by private or governmental plaintiff during a penal case hearing, realizing the rights of victims and finally achieving the goals pursued by penal laws on executing penalties for criminal behaviors.

In fact, to expose provisional/educational punishments or initiatives in their best manner and to achieve determined goals, verdicts execution should be always adapted to right training and educational principles and methods as well as rational and reasonable judicial rules. The knowledge which studies such principles

and methods is the execution of penal verdicts. Noteworthy, penal verdict execution is also referred as punishments execution knowledge (Akbari, 2017: 123).

main structure of penal financial conviction: In Iranian penal system, execution of penal verdicts is assigned to public prosecutor's office and attorney general is responsible to execute financial and nonfinancial verdicts. One issue on executing penal verdicts is that execution should be conducted by verdict issuing court or public prosecutor's office and it should be assigned to a third party entity; finally, public prosecutor's office is selected in Iranian penal system.

In article 22 of Penal Procedure Law (2013), public prosecutor's office is defined as: "public prosecutor's office is established to explore crimes, to prosecute defendants, to conduct investigations, to protect public rights and to conduct needed claims, to execute penal verdicts, to conduct all legal tasks in jurisdiction of all cities concomitant of such jurisdiction courts and public and revolutionary courts and military courts. This office is headed by attorney general with needed deputies, interrogator and administrative staff (Khaleghi, 2016: 48). In summary, in clarifying the status of this office in all countries, one can say that prosecutor's office is a judicial entity without any right of trial and is tasked to prepare public indictment and to facilitate court hearings (Ashury, 2009: 85). A very important part of penal trial is raised in public prosecutor's office. In Penal Procedure Law, article 484 explicitly reads that attorney general is assigned to execute penal verdicts and "deputyship of penal verdict execution" is headed and monitored by him in regions recognized by Head of Judicature. So, public prosecutor's office is assigned as an entity to execute penal verdicts.

Deputyship of penal verdict execution is, inter alia, an issue which was entered into Iranian laws for the first during the approval of Penal Procedure Law (2013). Its main activity is to focus on important predicament of verdict execution under the flag of an independent entity in public prosecutor's office. To clarify the concept of penal verdict execution deputyship, we have no option that referring to article 484 of Penal Procedure Law. According to this article "attorney general is assigned to execute penal verdict execution and penal verdict execution deputyship is public prosecutor's office under his supervision in areas recognized by Head of Judicature." (Goldust Juybari, 2017: 382). As observed, in national penal system and except than in district jurisdiction, the execution of penal verdict is conducted in penal verdict execution deputyship headed by attorney general. In district jurisdiction and according to article 484(3) of penal procedure law "in district jurisdiction, head of court is assigned to execute penal verdicts and, in his absence, alternate judge is assigned for the same task." An existing challenge is lack of verdict execution deputyship independence and lack of its sufficient authorities.

In the meantime, penal verdict execution deputyship is a legal entity which can use one or more specialized units, if necessary. In fact, according to article 484(1), legislator has granted such permission to deputyship: "penal verdict execution deputyship can have specialized unit(s) for verdict execution".

According to article 485 of penal procedure law on the persons who work in penal verdict execution deputyship, it should be noted that such deputyship can employ sufficient judges, social workers, officers and attentive forces. According to articles 22 and 484 of Penal Procedure Law (2013) and its modifications (2015), public prosecutor's office is penal verdict execution entity (except than district jurisdiction). However, one should separate acquittal and conviction verdicts since acquittal verdicts (acquittal, prosecution stop awards, leaving the prosecution, postponing the prosecution and postponing the punishment) should be executed by court when they are issued by court while they should be executed by public prosecutor's office when they are issued by this office (in the cases that the court is not competent to issue such verdicts as acquittal and postponing punishment award). It does not true for conviction verdicts and public prosecutor's office is assigned to implement all these verdicts (Farahi, 2015: 242).

types of crime – related penal convictions: What achieved as a financial conviction and constitutes the scope of our discussion includes: Cash fine and property confiscation which are solely a punishment. Blood

money and compensation which is both punishment and damage. Property restitution, destroying the property, procedure costs and crime related costs which are solely financial.

challenges on financial convictions execution:

determining real status of convict's properties: Practical execution of financial conviction is depended to attain real status of convict's property. Despite of innovations in new law on how to execute financial convictions in 2015, a very important challenge in executing penal financial convictions is to attain the status of convict's property. New law on financial convictions (2015) has provided a new guideline on how to execute financial convictions. Its article 3 reads: "if convict's vindication is not possible in any way in this law, by the request of winning party, the losing party will be sentenced until the execution of the verdict or not accepting insolvency claim or attracting the satisfaction of winning party. In the case that, in thirty days upon execution notification, losing party provides the list of all his/her properties and pay the insolvency, he/she will not be imprisoned otherwise insolvency claim is extradited or is refused by definite verdict.

In the case that losing party provides the list of all his/her properties and pays the insolvency out of determined deadline and winning party accepts his/her freedom without obtaining any security or losing party provides bail or valid and equal pledge due to the distinction of the court, the court will issue the acceptance award on pledge or bail until clarification of insolvency and would refuse imprisoning the losing party and, if he/she is imprisoned, the court would order to release him/her. In article 8 of the law on how to execute financial convictions (2015), in the case that winning party is obliged to prove that, for instance, he/she has received a property in excess of debt, he/she is also obliged to attach its indictment, the written testimony of at least two witnesses in addition to the list of its properties. Witnesses should be aware of insolvency claimant financial situation and his/her subsistence.

Likewise, insolvency claimant should attach all list of properties including the quantity or amount and price of all tangible and intangible assets in detail containing cash sums in all domestic and foreign banks and financial institutes along with precise account specification and all assets in the hands of the third persons and all receivables from the third parties as well as the list of exchanges and any other changes in mentioned assets within one year before insolvency claim to his/her insolvency petition. In cases that debtor is liable to prove insolvency and in cases that his solvency records are determined, whenever debtor wants to prove its claim by witnesses' testimony, he/she should attach written testimony of at least two witnesses aware of his/her subsistence conditions to his/her own insolvency petition. In addition to identity and residence of witnesses, such testimony should imply information source and contents of article 9 of this law (Najafi, 2017: 29).

Finally, article 10 reads: "upon registering insolvency petition, the court is obliged to ask competent authorities urgently or in any other possible manner, to investigate losing party's financial situation in order to clarify insolvency or solvency. It is important to implement and justify judge's impartiality; otherwise, such cases are seen as legal obligation on request and limited to necessary initiatives to recognize and investigate and take decision on it and it should not be seen as leaving impartiality and evidence acquiring and issued verdict should not be seen as a permit to leave impartiality and evidence acquiring to accelerate and facilitate verdict execution (Bahrami, 2015: 37).

giving respite to losing party: Executing financial convictions is encountering with challenges where someone should select between not executing penal financial convictions and executing it in instalments overtime. Many believe that paying financial convictions in installments is better than not paying them or paying them through difficult and complicated process of confiscation and selling losing party's properties. To the same reason, mitigating instalments has been considered as an accepted innovation in the law on how to execute financial convictions (2015). Often, absolute insolvency by claimant is not admired and it is ordered to pay in installments. Since orders on insolvency or instalment payments are relied upon insolvency claimant's status in the time of verdict issuance, it is possible to change such condition upon

verdict issuance. Therefore, legislator has not considered it as verdict with definite validity and has accepted changes in the conditions of both losing party and winning party based on revision request in issued verdict commensurate to status quo. These persons can reclaim and submit their request for instalments to the court based on article 11 of the same law. According to advices by Legal Department at The Administration of Justice in 2014, since solvency and insolvency are changeable and someone may be able to pay instalments in the time verdict issuance while he/she cannot pay in future due to reducing his/her incomes or increasing in his/her expenditures, the losing party can submit instalment mitigation petition to court. Since it is a new claim, it can be heard in tribunal and cannot be refused (Mohammadi, 2015: 117).

In chapter 3 of Penal Procedure Law (2013) modified in 2015, legislator allotted article 529 to 540 to execute financial convictions. In article 529, the law has permitted paying financial convictions in instalments to the first court that the relevant verdict is executed under its discern in order to arrange payment in instalment by obtaining proper securities while such security does not exist for paying other financial convictions in instalments.

various executive methods for issued verdicts by different authorities :One of the most important challenges in executing penal financial convictions is that there is no an identical and uniform procedure for action in all penal financial convictions. However, it is met to some extent by positive insight in new law. The Law on How to Execute Financial Convictions (2015) is toward financial convictions from legal verdicts and, as observed, it is extended also to financial convictions from penal verdicts except than cash punishments while one of the important innovations of this law is the development of its verdicts to issued orders by quasi-judicial officials. Legislator has forecasted all financial convictions including blood money and crime-related losses as cash punishment that its mechanism is articles 529 - 540 of Penal Procedure Law (2013) and has paved the way for the possibility of paying in instalments and, on the other hand, to harmonizing verdict execution mechanism, it has extended the new law provisions to modified reports of judicial authorities and issued verdicts by quasi-judicial officials executed by court and civil verdicts issued by governmental ta'zirat (discretionary). Therefore, one should say that issued verdicts by labor law dispute solution board as well as arbitration orders are covered by new law due to legislator's verdicts since they are executed by the courts.

Modified report by judicial authorities is that court's decision after compromise by parties is composed in a minute and is signed by judge and parties. . It is so-called modified report or compromise award or judicial contract. Then, the court announces the end of hearing and would prepare modified report as mentioned in above compromise.

Other officials to which The Administration of Justice is assigned to execute them means those authorities mentioned in article 33 of the law on dispute solution councils by which definite verdict execution in civil affairs is conducted by the request of beneficiary and the order of the judge of the council upon issuing execution sheet in accordance with regulation on executing court verdicts by Execution Unit in the Administration of Justice.

Definite issued verdicts by labor dispute solution authorities are enforceable and executed by the Administration of Justice. According to article 488 of Civil Procedure Code: whenever losing party does not execute arbitration verdict within 20 days upon notification, the referring court to arbitration or competent court is obliged to issue arbitration execution sheet by the request of beneficiary and the verdict will be legally implemented. According to consulting theory (2013), modified report in court or devised agreement in notary office is apart from insolvency and instalment verdict issuance. Concerning modifying report and official agreement, beneficiary can only seize another party's properties equal to instalments that their payment dates are reached (Bahrami, 2015: 71).

One of the most important legislating problems in our country is the existence of different procedure and trends for affairs with identical natures. The steadiness of executive discussions on types of financial

convictions including civil, penal financial and discretionary and issued verdicts by quasi-judicial authorities are acknowledgeable since they make it easier for people and executors to understand more easily. There is no need to have a different executive trend for any type of financial convictions.

relativeness of debt exclusions concept and changing its implications: The concept of debt exclusions is a disagreed concept in executing financial convictions and there are a lot of disagreements on its implications and their amount. According to the Law on How to Execute Financial Conviction (2015), winning party or creditor is always forced to introduce or block debtor's properties, to put them in tender and, finally gather the receivables by recourse to judicial official's order or order. On the other hand, based on Islam and subjective laws, losing party does not lose the right of life and by expedience, some of his/her properties should be protected from confiscation and bid. Therefore, legislator has exempted properties as life necessities and has recognized them as debt exclusions. In the Law on How to Execute Financial Conviction (2015), changes are made in debt exclusions including: Home belonged to losing party in his insolvency conditions. Needed furniture to satisfy necessary needs of losing party and individuals under his/her guardianship. Foodstuffs needed for the life pf losing party and individuals under his/her guardianship for the period such foodstuffs are normally stocked. Books and scientific and research tools for scientists. Tools for job of businessmen, farmers and those ones whose subsistence is depended to such tools. Debtor's needed telephone. A sum under a rent contract paid as debt to lessor, provided that its payment is without distress and constriction.

Note 1: in the case that losing party's home is bigger than his need and custom dignity and there is no other available property, by winning party's demand, it is sold by verdict executing authority by respecting legal protocols and surplus price is used to pay losing party's debts.

Note 2: in the case that by legal order, debt exclusions are changed to something else such as a home located in constructional plans is changed to cash or due to destruction, such thing cannot be confiscated otherwise, it is proved that debtor does not intend to pay the first issue.

In new law, legislator has expelled vehicles from debt exclusions. Despite of such exclusion, now the vehicle can be considered as a debt exclusion:

Case 1: vehicle is a necessary tool for losing party's job and subsistence like a taxi driver and similar cases clarified in article 24.

Case 2: passenger cars and so on as personal vehicle which is not seen as a debt exclusion.

Case 3: a public vehicle like buses which cannot be confiscated in parking albeit there are no problems for its executive confiscation and then used it for selling and paying debts.

Case 4: a joint vehicle between losing party and other person(s) by which it cannot be confiscated in parking since it hurts third party's rights. However, there is no problem in confiscation for paying debts by preventing transferring the vehicle and then selling the share of losing party (Bahrami, 2015: 93).

In addition, the sums paid by tenants to landlords in some rent contracts are considered as debt exclusions provided that the case is a rented residence is not more that losing party's dignity. In the case of disputes in such cases, the verdict issued by the court is enforceable in resolving the dispute.

The term of losing party's properties is confiscated by respecting debt exclusions, in article 1 and article 4 by the term that if losing party is imprisoned or entitled to be imprisoned, whenever a property is explored by respecting debt exclusions so that such property is sufficient for losing party's life, he/she will not be imprisoned and if he/she is already imprisoned, he/she will be released. Article 523 of Civil Procedure Code asserts that in all cases where court verdict is executed on-time to realize debt, it is forbidden to execute the verdict from debt exclusion of losing party's properties. However, one should say that in such cases, due to request, the properties should be confiscated and in the case of losing party's protestation, it should be investigated whether confiscated property is among debt exclusions or not.

Without debtor's confiscation and no objection, one cannot confiscate such property in the excuse that this property is a part of debt exclusions. Although money is more necessary that anything else to satisfy

requirements of losing party and individuals under his guardianship, considering the logic and concept of article 24(b)(c) of financial conviction law (2015) and article 65(1-4) of the Law on How to Execute Civil Verdicts (1986) and articles 524(c)(d) of Civil Procedure Code (2000), saving account, deposits and/or sums are not subjected to debt exclusions law.

Is a detained rented property out of debt exclusions? According to article 24 of Financial Conviction Law (2015), debtor's residence is not a condition that a property is subjected to debt exclusions, rented property cannot cause that such property is exited from debt exclusions; rather, benchmark is to discern the need of losing party and individuals under his guardianship are subjected to debt exclusions by respecting conventional norms. Therefore, renting a home would not make it out of debt exclusions. Advising opinion by Legal Department of Judicature (2011) confirms this.

Article 24(a), a home conventionally in losing party's dignity is in insolvency and in article 24(z) a sum is paid to landlord as mentioned in rent contract, provided that paying such rent would not lead into distress and constriction and the debtor should need all rent and it should not be higher than his dignity and should be considered as debt exclusions. Article 24 of Financial Conviction Law indicates that these can be aggregated. However, it would lead to an unfair result since someone has rented his home and then goes to another rented home so none of them can be confiscated and cannot be used as receivable which is in contrary to debt exclusions limitation that has expelled vehicle from its subject (Mohammadi, 2015: 68).

Finally, based on article 24(1)(3) and article 4 of the Law on How to execute financial conviction (2015) and articles 49 to 66 of Civil Verdicts Execution Law, the confiscation of joint property belonged to losing party is permitted while it is necessary to respect relevant protocols to sell and pay debts (Bahrami, 2015: 72).

In the case that debt exclusions are changed by forced factors for instance a home is in a constructional plan and is changed to money then it can be confiscated otherwise losing party intends to prepare a home. Noteworthy, when a property is initially subjected to debt exclusions and then it is converted to another property by forced factors, it cannot be confiscated when it is clear for the court that losing party does not intend to prepare the first issue. Therefore, if someone intends to buy work tools from earned money in above case, such tools can be confiscated. In the case that the verdict of debt exclusions law is converted – for instance, a home is converted to cash since it is in a constructional plan or it is destroyed, it is possible to receive that money otherwise it becomes clear that debtor does not intend to prepare the original one and it is subjected to debt exclusions. On the other hand, he prepares tools for the subsistence of himself and individuals under his guardianship which are subjected to debt exclusions by article 24 of financial convictions law (2015). In article 24(2) of financial convictions law (2015), if a property is converted to something else by debt exclusions law, in the case of preparing the original property, this prepared property is still subjected to debt exclusions (Mohseni, 2016: 103).

Some legal authorities have different opinion and believe that detained rented property and not residence in detained property would expel it from debt exclusions since lack of residence in property would not confirm owner's need. It is in contrary to debt exclusions.

Concerning paid sum by tenant to landlord, one should say that judicial procedure tends to not confiscate while no norm is provided in this regard. However, considering article 24 of Financial Conviction Law, some conditions are considered for not confiscating paid sum to landlord; the rented property should be needed by debtor and should not be higher than his dignity. Paying the rent is tenant's distress and constriction. The important point is the lack of impact of legal nature of paid sum as deposit or borrow or mortgage or pledge in the verdict of lack of confiscation. Some believe that personal passenger car is not a debt exclusion which may be sold since one can use public vehicles. Ahnaf and Hanableh Emamieh opinion is what mentioned while there are differences on executing verdicts by the Administration of Justice and enforceable documents and according to article 61(5) of the recipe on

executing enforceable formal documents (2008), the vehicle of debtor and individuals under his guardianship are subjected to debt exclusions (Mohammadi, 2015: 105).

Another type of converting debt is predicted in financial conviction (2015) by legislator in article 25. This article reads: if the debt origin, borrow or possessing properties from other by any contract and losing party has intended from the beginning not to pay debt or change it to one of the debt exclusions in order to escape payment, any property purchased from such property or owned by other contracts, it is obtained as fine and it is convicted to pay the debt and to extradite the remained to debtor. To realize this article, below conditions are necessary: the origin of borrow or contract should be reciprocal. Losing party intends from the beginning not to pay debt. Converting borrowed property or converted property to debt exclusions in order to escape from paying the debt. Losing party has converted borrowed or reciprocal property to one of the debt exclusions. In the case of above condition realization, any property owned in exchange of mentioned property through buy contract or other alternative contracts are obtained as fine and the conviction is paid from there (Bahrami, 2015: 96).

Based on this article, if debtor's debt is due to borrow or any transaction and he uses receivable to prepare debt exclusions, then he will not be immunized by debt exclusions. This is a new verdict which prevents escaping debtor's debt. However, such legal prohibition has no opposition to purchase cancellation verdict or establishment of transaction cancellation right; rather, purchased property acts as the pledge of debt to sell it by debtor's debt and the remained is for debtor as owner (Mohammadi, 2015: 104).

An objection to this article is that it is difficult to recognize initial intention on not paying the debt and escaping its payment as an internal issue, how a judge can proceed the claim and can explore debtor's motivation so judges are tasked to hear the claims in accordance with laws and issue the relevant verdict and their verdicts would not be general and holistic. How can a judge explore the real debtor's impetus? (Bahrami, 2015: 89).

Another discussion is how to hear debt exclusions. In this case, one should say that if the evidence of execution is court verdict, the discussion on executing issued verdicts by the Administration of Justice is raised. Different officials in the Administration of Justice may be seen competent in taking decision on being or not being exclusion on debtor's properties. Also in authorities except than Administration of Justice, Registration Office, Tax Office, Labor Office and higher hearing authorities, verdicts issued by above authorities may be raised as competent authorities in taking decisions of recognizing debt exclusions of debtor's properties or commitments.

In the case of any problem in verdict execution or and bottleneck in confiscating and selling properties or in executive operation, so that winning party introduces properties as a part of losing party's property debt exclusions or after property confiscation, losing party claims that confiscated properties are subjected to debt exclusions, such objection is not toward uncertainty or shortness in verdict; rather, it is toward verdict execution.

In discussing on debt exclusions, legislator has introduced enforceable verdict issuing court as the competent authority to hear disputes between parties on debt exclusions in article 525. Concerning a verdict confirmed or violated in revision authority, one should say that since enforceable verdict is one issued by revision court, any disputes on determining debt exclusions by parties should be stated and decided only by revision court (Erfani, 2013: 269) As a result, in cases where it is possible to sell exclusions, it is necessary to respect losing party's right for his/her survival.

5. Discussion

Although a major part of courts' penal convictions includes financial conviction, no cohesive and clear structure is not yet forecasted for executing penal financial convictions. For example, although Prison Organization is liable to execute imprisonment penal verdict, it is currently encountering with a series of radical challenges so that in many cases, it is impossible to discover the reality and to obtain real assets for losing party. Although it is right that the law on how to execute financial convictions (2015) has forecasted modern facilities and authorities to achieve convict's properties, currently it is easy to hide properties by different ways. On the other hand, executing penal conviction verdict in instalments is better than not executing it even though some courts do not use them despite of such facilities.

Confusion of many individuals who are engaged with the execution of penal financial convictions – either losing party or winning party and others – is to high extent due to varied methods in different financial convictions and it is necessary to pursue an identical trend for all financial convictions aside from verdict issuing authority. Finally, debt exclusion is a relative concept which is different in terms of place and time and even the positions of convicts and to the same reason, considering identical norms for debt exclusions in this regard would create paramount problems while legislator could convert debt exclusions from a typical and identical criterion for all people in the society to a personal one in terms of convict's personal status.

The history of laws in Iran in this field overtime intends to answer all above needs which has been successful in some cases while failed in other ones and has led into amending the laws and regulations. In the most recent legal changes in this field, one can refer to Penal Procedure Law (2013) modified in 2015 and also the law on How to Execute Financial Conviction (2015) which attempt to resolve problems in executing penal financial convictions. Legal analyses are mostly around these two laws. Despite of the ratification of both laws, there are still serious challenges on executing penal financial convictions.

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