

Principles and Objectives of Fair Trial, in Crimes Against Physical Integrity of Individuals, in Iran's Penal System

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Abstract

Today, one of the most important components of criminal justice is its fairness. The right to a fair trial is one of the most famous, most popular and most important human rights that has emerged during the development of human rights civilization. This right, which contains a set of principles and rules that are anticipated in the pursuit of the parties' dispute with a view to respecting their rights, is the basic right to consider the religion of Islam for all human beings. And in international instruments such as the Universal Declaration of Human Rights, 1948, the Covenant on Civil and Political Rights, adopted in 1966, the European Convention on Human Rights, the American Convention on Human Rights, and the Islamic Declaration of Human Rights, as well as the fair trial, as one The rights are known to human beings. The foregoing study, documentary and access to the archives, and library information, has been compiled. The most important principles of fair trial are crimes against the physical integrity of people of justice, equality, human dignity, rule of law and procedural justice. In fact, first, the basis for a fair trial must be recognized, and then the fair grounds for fair trial. Moreover, the objective of securing the interests of the community, along with other goals set forth in the research, is considered as the most important objective of a fair trial in crimes against the physical integrity of individuals that are committed against the integrity of the body and the life of a living person.

Key words: Fair trial, Foundations and objectives, Crimes against the physical integrity of individuals, Justice

INTRODUCTION

The right to a fair trial has developed in the course of the development of human rights civilization. The right to return to the Anglo-Saxon tradition is in keeping with the law, which is rooted in the Great Britain's Charter. Of course, the principle of this right is in accordance with the nature and nature of man, and is based on the wisdom and wisdom of man, and the divine religions have also paid attention to human beings (Fazaeli, Mostafa, fair trial of international criminal trials, publication of Shahr Danesh, First edition, 2008, p. 35).

In principle, in different periods, crimes against the physical integrity of individuals, with intense reactions, were often faced with retaliation, since these crimes contradicted the right to human life, and targeted it. (Elahimanesh, Mohammed Reza, Moradi Ojaghaz, Mohsen, Crimes Against Individuals, Majd Publication, Vol. 1, 2013, p. 21)

The term fair trial is a hybrid, which, in order to understand the exact meaning of it, is necessary to understand each of the terms of this combination. The fair trial is: judicial review and judicial, civil and criminal matters between the parties to the dispute Either in matters of a ruling or in matters of affairs, in a competent, independent, impartial and non-prosecuted court with guarantees, and observing the legal rights of the parties to the dispute, in the course of various stages of proceedings, in other words, the fair trial of a form of justice is in judgment., Observing this justice, in order to achieve the result that, in doing justice, fair, fair and impartial, respect for observance Fairness and justice, especially in criminal proceedings, under the heading of rules of form and ritual, is not new

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and has an old background, but in criminal procedure, has never been a specific and distinct right, or Full is not supported.) Mosadegh, Mohammad, *Criminal Procedure*, Jangal Publishing, Fifth Edition, 2015, pp. 26-25.), With this description, a fair trial has the basics and objectives in order to achieve its true mission, which we will discuss in the following.

ORIGINAL TEXT

The Ethical Principles of Fair Trial

Justice and Equity, from the main pillars of Islam, and the basis for the enjoyment of individuals, are the rights to a fair trial, which is dealt with here.

Justice

Justice is one of the main pillars of Islam. According to the orders of Islam, no one should act contrary to the justice and humanity, and should not be oppressed and oppressed against any person. Judgment among peoples should be based on justice, justice, fairness and conscience. This recipe includes social justice, government, judiciary, arbitration, as well as procedural principles. Demanding in Islam is emphasized, and observance of justice on the other side is necessary in judging between the people. (Bahadori Jahromi, Ali, Hoseini, Seyedeh Latifeh, the principles of fair trial in the light of Islamic thought, and the domestic law system, *Quarterly Journal of Law The Islamic concept of humanity*, No. 7, third year, p. 9 2014 According to Tabandeh Soltan Hosein, Islam and the cases of the Declaration of Human Rights, *Darbasteh Negar*, Mohammad, 2001, Tehran, publication), the concept of justice is objectified in a variety of proceedings; Where the notion of justice is aligned with the principles governing the proceedings, it has been traced. Religious sources of Islam have talked about justice very much. In many verses, the word “justice” has been emphasized as one of the values of Islam, in the sense that, verily, God rules for justice and goodness), or whenever you judge between people, to justice Judge or righteousness is that justice is closer to righteousness. In some other verses, the installment is mentioned as an Islamic value, and the purpose of the prophets is mentioned.

The concept of justice in Islam can be seen in the traditions as well. Imam Sadeq (pbuh) said: Imam Ali (peace be upon him) also said: If people are treated fairly, they will all be needed. Justice is one of the most important legal foundations, and is, like many other value concepts, derived from the creation of the world, and governs the legal system and the rules in the field of justice. Justice comes to light with its own examples. Identifying the principles of the proceedings, including the principle of innocence,

demanding, the access to a neutral arbitrator, and the observance of equality between the parties to the dispute, are among the principles that justify their existence.

Equality

Islam is the harbinger of human equality in human nature. As the Holy Qur’an states, “O people, fear your progeny, who created you from one and created his wife from him.” All human beings share in human nature, and this is the equality in humanity and its accessories. (Bahadori Jahromi, Ali, Hoseini, Seyedeh Latifeh, the same source of p. 13, quoted by Mesbah Yazdi, Mohammad Taqi, a quick look at the rights Humanity from the point of view of Islam, Qom, Imam Khomeini Educational Institute (p. 182), as well as among humans, there should be no unjust and cruel discrimination. Throughout history, and during Shrek, Islam has severely condemned women’s cruel and discriminatory behavior. Due to this approach, humans are equal in law, and in equal terms, enjoy common rights and duties. Equality requires that humans, regardless of gender, race, ethnicity, and religion, have access to fair hearing equipment. The obvious example of this equality is the equality of individuals against the law, and the points of the human being are in the shadow of piety, with God. In this way, Islam emphasizes the equality of all in human dignity, and natural or acquired inequalities do not detract from any of its basic human rights. (Bahadori Jahromi, Ali, Hoseini, Seyedeh Latifeh, p. 12, quoted by Mir Musavi, Seyed Ali, Haghghat, Seyed Sadegh, *The Foundations of Human Rights in the View of Islam, and Other Schools*, 2012, Tehran, Publishing Organization of the Research Institute of Islamic Culture and Thought, 11th edition).

LEGAL BASIS FOR FAIR TRIAL

Human dignity, natural rights, rule of law, and natural procedural justice are considered as fair grounds for fair trial, which is dealt with in this section.

Human Dignity

Dignity has been used in the word meaning of value, sanctity, dignity, magnanimity, dignity, dignity, rank, rank, dignity, chivalry and generosity. But human dignity is of great importance. Therefore, philosophers and thinkers have tried to define human dignity and clarify its meaning. (Rahimi Nejad, Esmail, *Human Dignity in Criminal Law*, Mizan Publishing, 2008, p. 27). Emmanuel Kant, by proposing the theory of moral self-determination, states that human dignity is a dignity and value that all humans inherently and equally enjoy for their inherent independence and moral ability. This dignity, in Kant’s terms, is inevitably related to the rational self-consciousness of man. It seems that the definition of this thinker is not comprehensive

and a hindrance, because human dignity has two inherent and acquired features. In other words, intrinsic dignity is said to be the kind of dignity that all human beings have innate and equal in terms of their inherent independence, their ability to think and reason, but acquired dignity is the kind of dignity that humans By volunteering, through the utilization of their talents, and their intrinsic ability, on the path to growth and perfection and the acquisition of moral virtues, they obtain it. International human rights instruments, including the introduction of the Universal Declaration of Human Rights, the inherent dignity and dignity of human beings, are based on the enjoyment of equal and inalienable rights; the Declaration, as a milestone in the formulation of universal human rights, identifies Intrinsic dignity considers all members of the human family the basis of freedom, justice and peace in the world. Human's enjoyment of dignity In the Universal Declaration of Human Rights, the basis for the enjoyment of individuals from the right to a fair trial has been regarded as human rights. It is due to the dignity that, if people are charged with a crime, they must have full protection against the abusing, and the tastes of government agents, and as long as they are charged with a The fair trial, with due observance of the guarantees of the proceedings, has not been proved, is guilty of innocence, and, in any case, there is no aggression towards them. (Rahimi Nejad, Esmail, Former references, pp. 30-28).

Natural Rights

The term natural law is one of the oldest words that, historically, maybe reaches centuries BC, is, in fact, the natural law of all the eternal rules that have come from the will of the superior governments and the desirable human goal. So that the nature of nature is human, and the mind of no one decides it without any intermediary. (Katouzian Amir, General Law (General Theory), Publication Joint stock., Tehran, First Printing, 2000, p. 39), Human Rights, The sublime form is the elementary concepts of natural law, and natural rights. The main representative of the theory of natural law, in the modern world, was John Locke, who developed his philosophy within the framework of humanism in the 14th century. Natural rights, because they originate from human nature and are found in the law of nature, the basis for the enjoyment of human rights is human rights, including fair trial. Natural rights are the reflection of the natural order of the universe (Hashemi, Seyed Mohammad, Human Rights and Basic Freedoms, Vol. 1, No. 1, No. 1, 2005, p. 76). In other words, nature can be the source of a right that its theologian To God. According to this view, man is also a part of nature and carries the natural laws in himself. (Javid, Mohammad Javad, Natural Justice, The Natural Peace Foundation, From Natural Law to Natural Rights, Quarterly Journal of Law No. 4, 2011, p. 30), The Right to Defense Is one

of the natural rights of individuals, the legislator is obliged to accept and support it. (Baheri, Mohammad, the right to defend the defendant or the right of innocence, Art and Thought Magazine No. 2, no data, p. 108)

Rule of Law

The rule of law is the manifestation of legal action, therefore, arbitrary and arbitrary use of power in government decision making can not be justified. The general rule of law, the announcement of general rules, the clarity of laws, the rules of prospect, the ability to enforce, and compliance with laws and the continuity and stability of laws are the central principles of the rule of law. The relationship between the rule of law and the fair trial is that the independent legislative authority, the effective legal means available, the legal system by ensuring equality of all before the law, the appropriate punitive system with respect to human, law enforcement, and the people All of which are fair trial examples, are listed as components of the rule of law. One can expect in a society to be fair, that the rule, not the personal tastes of the rulers of power, is dominant. The separation of powers and the independence of the judiciary are the result of the rule of law. A fair trial will take place in the light of the separation of powers and judicial independence. The existence of an independent judiciary is one of the most important factors of supply, and a fair trial. In order to secure the rights of individuals, in the area of fair trial, independent tribunals should be established in the country, which should be referred to and accessible to anyone in the context of a lawsuit or a suit. The establishment of judicial security, and the enjoyment of citizens from a fair trial, depends on the regulation of the authority of the governing body, through legislation that rationally identifies the limits of their authority, in the light of the rule of law. (Hashemi, Seyed Mohammad, the same source, pp. 292-291)

Procedural Justice (Natural)

Natural justice is a kind of justice that is based on nature, because it is considered to be just creation, and the resulting laws will naturally be fair. (Sharifi, Samira, Comparative study of fair trial, in Iran's criminal law, According to the Rome Statute, the Master's Thesis on Criminal Law and Doduction of the Islamic Azad University of Kermanshah, 2017, p. 31, quoted by Javid, Mohammad Javad, the same source of p. 76), natural or procedural justice is the natural sense of man, What is right, and what is wrong. In particular in the field of public law, and in particular in matters relating to judicial review. Natural justice in this area is synonymous with the meaning of fairness, and must be a guideline of practice in the field of observance, and guaranteeing a fair hearing. Natural justice, on the one hand, is the basis of the right to a fair trial, and on the other hand observes the exercise of this right, and is

based on the two principles of impartiality, and the right of the accused or the accused, to provide reasons and the right to fair hearing. It is based on the principle that the warning and advance notice of the charge, the charge, the opportunity to provide the reasons, and the evidence and the possibility of a representative and lawyer. As the natural justice requires, it is possible to present the cause of the rights of individuals in the court, the exercise of this right is also the responsibility of the court to hear the statements of the claimant and the defendant, and provide him with the necessary opportunities.

FAIR TRIAL OBJECTIVES

Ensuring the Interests of the Accused

After the issuance of the first Universal Declaration of Human Rights and the publication of the views and opinions of various penal schools, the Criminal Law scholars believed that the criminal procedure should be governed by rules and laws that, in the light of those honorable and honest individuals, Stay safe, and if they get caught, they can prove their innocence. Due to the dangers of this kind of thoughts and the opinions of the legislators, they tried, in their turn, to show respect for the fundamental human rights, and to preserve and protect the freedoms, and the dignity and value of human personality, thereby endeavoring In order to establish the rules of the Criminal Procedure Code, no one would be prosecuted for no reason, and if he was allegedly prosecuted improperly, he could prove his innocence.

For a long time, inspired by libertarian ideas, from social and political revolutions, and in order to guarantee the rights of the accused as much as possible, especially during the preliminary investigation, the rules of procedure, subject to the principles of the prosecution system, are subject to modification and correction And refined. During this period, in the creation of the rules of the criminal procedure, it tried to maintain the pre-trial stage of the defendants' freedoms, and without sufficient reason, one could not be summoned, captured or arrested. (Akhundi, Mahdi, Criminal Procedure, Volume First, the Printing Office, Fourth Edition, 2009, pp. 57-56), as a result of precautionary seizures, was significantly lower in the laws of most European countries, and even in some of the rules, which stipulated the duration of custody, It should be appropriate that the punishment be commensurate with the amount of punishment, during these years, for the accused in the preliminary investigation phase, the right to a lawyer, freedom of conscience

The person facing the charge must be able to defend himself freely, if he does not consider himself to be a crime, if he/she denies the act of doing so, he/she

must be given the opportunity to be defended, fair trial conditions should be provided, The impartiality of the authorities, the discovery, prosecution and proceedings must be guaranteed, the provisions of the fair trial should be adjusted in such a way as to ensure that the offender is punished in the shortest possible time, and in the same way, the possibility of pursuing and harassing innocent people is by no means provided. (Madani, Seyyed Jalaloddin, Criminal Procedure, Vol. 1 and II, Payedar Publishing, Fourth Edition, 2008, pp. 5-4)

Providing Community Benefits

Although the rules of a fair trial must protect the interests of the accused, it should not be forgotten that the society also needs order and calm, without punishing the perpetrators, increasing the crime, and eliminating the security of the community. And disrupts the system of society; the wise path is that, along with the useful rules of the perpetrator, one has to think for the sake of securing the community and preserving the interests of the community, and not letting the lives and property of individuals The will of the criminals. The interests of the community are that crime is not to be committed; the criminal procedure should achieve this goal. To achieve this goal, the creation of heavy and horrific punishments alone is not enough, because on the one hand these types of punishments are less timely And, on the other hand, unreasonable dedication, ends up being harmed to the detriment of the community. When crime can be prevented more effectively, punishments or ordinances, as foreseen by law, are implemented, albeit mildly, promptly. Finally, the interests of the community must be preserved in any way, albeit this jeopardizes the rights of the accused. The idea of protecting the community, against the criminals, has led legislators to lay down the rules of the court in such a way that the escape route for the offender will be closed. (Akhundi, Mahmoud, the same source, pp. 60-59).

The combined society is from families, whose people, in proportion to their talents, experiences, teachings, are part of their duties, and they advance society to perfection. All scholars and scholars have considered for civil society and the evolution of the foundations of security, culture, health and justice. The health of the community in the order and security, and the observance of its rights. Also, justice, which is the ultimate goal of life, requires proper rules and procedures; crime and crime are a phenomenon that disrupts the order of society and endangers its security. Crime is a serious obstacle, in the path to the fullness of society, from the very beginning of the formation of society, the phenomenon of crime has always existed. The law involves the identification of a crime, and the determination of the punishment that is being discussed

in resorting to punishment is not enough to protect the community, the purpose of safeguarding the community can be to secure the accused, the rules that are in the Darcy code, and this A fair trial is to be restored from the time of the crime to the disrupted order of society (Madani, Jalaloddin, the same source, p. 4.)

Providing Victim Benefits

In fair trial, providing victim benefits is one of the basic objectives of the trial, so that the perpetrator, one of the actors, has been involved in the criminal process from the discovery stage to the execution of the sentence, and can be Special circumstances play a decisive role, especially in transgressed crimes; restorative justice has also been based on the principle of improving the provision of victim benefits and compensation; it is also sanctioned by the Code of Criminal Procedure, 2013 Article 9 has named the term criminal procedure, in fact, in principle, only the direct victim is someone who, directly from the death penalty It has been damaged, and the legislator has committed crime with one, one of the behaviors he intends to support, or is considered as such a person; therefore, the victim can, in the criminal process, demand the prosecution of the accused, and may also, in addition On the pursuit of a criminal offense, in accordance with the damages, the claim for damages from the crime. Therefore, the relationship between the two is logically general, and especially absolute (Khaleghi, Ali, points in the Code of Criminal Procedure; Fourth Edition, 2015; Shohud Danesh Publishing; pp. 32-31).

Balance between the Interests of the Community, the Accused and the Victim

Generally, in certain countries, it is in the formulation of rules of law; usually, the provision and safeguarding of the interests of the state and society are preferred to the interests of the individual; however, when a fair trial is established in the legal system, the community, the accused and victim, as criminal proceedings actors, They play a role in each other, because once justice is accompanied by fairness, firstly, the accused carries a punishment for his anti-social action, and in the meantime, And his dependent family does not receive a bad blow from the lack of such a person; secondly, for deterrence and With these components, the balance between these keywords can actually be created. Therefore, the equality of the parties is part of the constitutional structure of the trial, which is based on the concept of a fair trial as a dispute between the two parties.

Prevention from Judicial Mistakes

Indeed, creating security and peace in society has been ruled by governments through the provision of security and security measures for the perpetrators. Judicial errors

will be minimized when the fair hearing rules are correctly and rigorously formulated, and the fair trial framework has been set up at various stages of the trial; it seems that when judicial authorities are scientifically in a reasonable degree, avoid arbitrary actions; the process of filing files, the systematic branches, or the number of prosecutors will be as good as possible, will be prevented equally from judicial mistakes. Indeed, the better the system of the proceedings is, the more lawful and rigorous, the possibility of judicial mistakes in this regard will be minimized.

RESEARCH RESULTS

- 1) It seems that a fair trial, which has always been a concern for them, as the aspirations of the human community, by considering and explaining its foundations, including human dignity and dignity, which is the most fundamental basis of the fair trial It can be used quickly to achieve justice.
- 2) The most important basis for a fair trial, from a moral point of view, justice and equality, from a legal perspective of rule of law, procedural justice, human dignity and natural rights.
- 3) The rules of the law have been developed in accordance with ethics, and the relationship between morality and law is always a fundamental and important connection.
- 4) Objectives of a fair trial are to ensure the interests of the community, the accused, the victim, and the balance between them.

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