Judicial supervision Arrangements in the Code of Criminal Procedure under Islamic penal code of Iran approved on March 12, 2014

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Abstract

Judicial supervision is a strategy of freedom and liberty in Iran's legal system as a complement to other arrangements. The purpose of the issuance of judicial supervision is rehabilitation and reforming the criminal and to ensure the rights of the victim. By this assumption, it can be argued that the legislator tries to create an opportunity that the judge could protect the victim's rights by issuing the judicial supervision orders and refuse to the arrest and detention of the accused. This study is accomplished in the library method, and the results are analyzed in descriptive and analytic method. The results indicated that the Code of Criminal Procedure Act of 17.03.2014, Iran has set judicial appointments in the criminal justice system for the first time. The stipulation of Article 250 of this law, the issuance of "the judicial supervision" as well as appointments for issuance of a criminal should be reasonable and justified and comply with the principle of proportionality. According to the Article 247, the complementarity of the judicial supervision order is based, and it should be issued alongside the criminal order, the subject of Article 217. The study examined the different aspects of judicial supervision and judicial monitoring proposals, and to improve the negative points of the judicial supervision orders, some suggestions are offered.

Keywords: judicial supervision, the defendant, victim, prevention, rehabilitation.
Introduction

Code of Criminal Procedure adopted in 1392 to reduce the limitations of alternative detention arrangements, in addition to developing security arrangements criminal, the judicial supervision of the criminal justice system has arrived. Article 247 of the Act, appointments to independent judicial oversight of criminal security arrangements and issue them basically said the following a penal provision may be considered from the perspective of history, history of the French justice system of appointments to the returns. Thus, for the first time consolidation of rights and freedoms under Articles 138 to 143 of the Law of 17 July 1970, the country accounted for judicial appointments, asking them to be remembered as a substitute for preventive detention. Reform 4 January 1993, the successor of preventive detention to 16 recipes, including traditional criminal security arrangements and also extended judicial appointments, and on the seventeenth of April 4, 2006 is added to it (Ashouri, 2010: 264).

Iranian criminal law for the first time in 1392, judicial appointments add to the Code of Criminal Procedure, and the separation of criminal security arrangements, their number is only limited to five. Login This is supposed to Iran's Penal Code, a milestone in the development of Iranian criminal law and criminal procedure would be as in England, so to speak, "tradition has been encouraging the release of the accused over his arrest" an extension of jurisdiction in order to reduce the accused be detained. In other words, the development of alternative temporary detention can protect collective interests, along with the rights and freedoms of individuals, namely, "to create a balance between public order and individual freedoms".

1. Examples of judicial appointments

Code of Criminal Procedure (1392), in addition to developing security arrangements criminal cases, in Article 247, "the judicial supervision" and introduced innovative and it has taken five instances as follows:

1. Introduce your turn to centers or institutions that the investigator determines
2. The prohibition of driving a motor vehicle
3. Prohibition of employment to activities related to crime
4. The prohibition of the possession of arms licensed.
5. Ban on leaving the country

2. Objectives of judicial appointments

It was set in Article 247 of Q.A.D.K in 2013:

"Interrogator can be tailored to the crime, in addition to the security issue, the judicial control that includes one or more of the following commands is set for a certain time". The main purpose of the institution of judicial supervision is the maximum liberty to the accused that it is compatible with the need to uncover the truth and preserve public order. The accused under judicial supervision not only in traffic, in his social life, some will tolerate restrictions and compliance with the obligations that have been imposed on him, will be monitored. With
an overview of the principles of judicial appointments, it can be concluded that the legislature considered in the formulation of this type has the following objectives:

1-2. Amendable Offenders

History reminds us that the prison reform plan among the goals of punishment depriving liberty returns to the second half of the eighteenth century. However, plans to return inmates to society, both for reasons of circumstances and situations and also structural reasons seem very inadequate. In addition, conditions in prisons and punishment depriving liberty to create an environment for this crime, instead of creating obstacles in the way of recidivism (Javanmard, 2014: 332).

Finally, it seems that the objective and plans of prisoners return to society only items and punishment alternatives to imprisonment are under judicial supervision, the reintegration policy can play an important role in reforming the juvenile offenders. With regard to Article 247 of the Code of Criminal Procedure can be said that judicial supervision with negative and positive instructions provided in paragraphs "a" to "e" on the supply side and the suspension of criminal prosecution is an important step, in order to protect society from dangerous criminals and criminal correctional that new legislation has paid enough attention to it.

2-2. The rights of the victim

Guarantee the rights of the victim as well as a target for these commands. On this basis, we can guarantee the rights of the victim requires that the defendant have available and somehow she left her hiding or we prevent and even in some cases, the financial burden also in place, add. So with these arrangements provide for criminal purposes listed in philosophy, can extend the rights of the victim, this philosophy also apply to judicial appointments. Something that makes this argument is that according to Article 247 Note: Crimes sentenced in grade seven and eight, in the case of providing the necessary guarantees for compensation can only rely on the judicial control.

2-3. Prevention of Crime

Prevention of crime may be realized in two ways: First, the treatment of the perpetrator; and second, to neutralize his dangerous state. However, rights and freedoms of the individual who made the crime a person to be placed under the authority, and therefore safeguarding measures and education about personal acts that committed the crime, and the mere existence of a dangerous condition and suspicion of committing a crime, Disciplinary action is not permissible (Mosaddeq: 301).

The prevention of crime in the judicial monitoring purposes not mentioned explicitly. But according to the various provisions of Article 247 to conclude that implementation of the ban, such as motor vehicle driving ban, prohibition of employment in work that provides the context of the crime, and a ban on the possession of arms licensed and can be effective in the prevention of crime by the defendant. So we can say that in addition to the goals mentioned in the law on judicial appointments, prevent repeat offenses and even they can be considered as the most important function of these appointments.
2-4. the accused denied the opportunity of favorable delinquency due to his obligations

The judicial supervision of the alternatives to depriving freedom is, how it could remove criminal detention and makes the offender while being free, is under the control of criminal justice. In addition, the above statements involves a number of negative aspects to them (Mosaddeq: 299).

Negative aspects of judicial appointments, including duties and prohibitions referred to in Article 247 of the new law, the negative obligations under this article include:

"Forbidden to drive motor vehicles" (paragraph c), "a ban on the possession of arms licensed" (paragraph d), "prohibition of leaving the country (Section C). The judicial authority can be based on the material and with a view to identifying different aspects of the character of the offender, in line with the orders before that step. The negative aspect and be preventive orders and toys away from the accused crime provides favorable opportunities.

3. Review of judicial supervision

As we stated in the legislation referred to in Article 247, paragraph five of judicial supervision is predicted. In this review, the review and analysis of each of these articles will be discussed and the scope of their use. Moreover, for better segmentation, those involved in the act are positioned separately on the basis of arrangements to leave some of their actions, we evaluated.

3-1. Judicial appointments contain affirmative obligations

Those judicial supervision on the acts of the accused indicate to the appointments of judicial supervision area containing positive assignments are known. An obvious example can be seen in paragraph A of Article 247. This paragraph is taken from paragraph 5 of Article 138 of the Code of Criminal Procedure in France.

The introduction of intermittent accused of centers and institutions to provide the kind of appointments under Article 217 paragraph (e) is projected similarly foreshadowing. Therefore, the sum of these two paragraphs of the article of the law, we can conclude that the judicial control centers concerned, although generally mentioned but are not subject to judicial or disciplinary proceedings. They also know that if these centers are subject, shall we say to these centers with the aim of providing the accused referred to in paragraph (e) of Article 217 is different. Looks at providing the accused to ensure their presence and lack of escape and hide them, have been introduced to the judicial authorities or the police, but the appointments of judicial supervision, the defendant's reference to the reform done. It seems that these centers are institutions that can be used to correct the alleged act. Such as correctional institutions, welfare and social work. Therefore, the reform's goal, the framers had in mind.

Judicial appointments with negative obligations

Judicial review of negative decisions assignments meetings is said to refer to the omission charged. So banning monitoring arrangements, shall be prohibited between crime actions. The need to consider this relationship, judicial supervision of the principle of proportionality (Khaleqi, 2014: 247). The provisions of paragraphs b, c, d, e, Article 247 of the Criminal
Procedure Code contain assignments negative examples of judicial appointments that will be discussed below in each case separately.

4-3-2-1. Forbidden to drive motor vehicles

The driving ban as a judicial review, most aspects of the prevention of the commission of the criminal act of vehicles. These issues will be issued in respect of offenses that it has a significant role in vehicle. Such as assault and battery and even wrongful death caused by negligence in driving, the judge considered the circumstances of the case and the likelihood of this is that the vehicle can be charged in the context of the realization of the crime charged prohibits them from driving (Allah Bedashti Siahkol Roudi: 195).

It should be noted that instead of providing criminal, along with paragraph (b) of Article 247 as an additional consequential punishment can be used alone Article 718 of the Penal Code was documented votes in the courts. However, as a principle of judicial supervision must say this has been banned until the end of the preliminary investigation and the punishment will continue. Security and judicial appointments because generally the date of issue until the verdict or acquittal verdict, and will continue to prohibit or suspend prosecution.

4-3-2-2. Ban on engaging in activities related to crime

It also aims to prevent crime and reform the accused is considered. If the magistrate issued, should be prohibited and also the relationship between professional activity is a crime that justify his pursuers. As we see in the Code of Criminal Procedure of 1392 these provisions have not seen and if the law in this regard may be problems in the future (Allah Bedashti Siahkol Roudi: 197-198).

In the end, it could be said, of course, it will be issued when this employment in some of the works created by him is a crime in the future. In this regard, there is a possible suspect records can help to judge the probability of future crime was anticipated.

4-3-2-3. Ban on the possession of licensed weapons

This is supposed to in paragraph (d) of Article 247 of the Criminal Procedure Act 1392, is projected to prevent crime from the accused, his weapon is registered will be taken from him. Thus in paragraph 14 of Article 138 of the French Code of Criminal Procedure states. The difference is that weapons are delivered in French court office. In order to run this place, "the issuance of a ban on the possession of arms licensed and license-related weapons acquisition and possession of weapons delivered to one of the authorized, and the investigator the matter to the reference issuer with the license". With reference to the above exporter necessary permits for its placement in reference to alleged withholding of license replica (Khaleqi: 219).

It can be said that the subject, obtaining weapons that are licensed by the accused and the accused may be used as a means of committing the crime or the crime is committed mainly. It is natural that unlicensed weapons and prohibited weapons is considered one of, if the defendant is the kind of crime is Independent and the weapon will be confiscated.

4-3-2-3-4. Ban on leaving the country
The ban on leaving the country as the judicial supervision in paragraph "c" of Article 247 of the Criminal Procedure Code 1392 is predicted. The features of this place can be said on the basis of Article 248 of the Act prohibited from leaving the country for six months applying for credit extended and if the exit ban expires the period stipulated in the order, the order is automatically canceled and the relevant authorities cannot be prevented from leaving. Plain meaning of the phrase "this statement is self-rule, and references cannot be prevented from leaving". No need to re-order the judicial authorities to lift the ban on exit, after the expiration of the aforementioned period of six months (ibid: 219). The issuance by the beneficiary, in the revision is objectionable.

The lack of arrangements to leave the country by providing penal philosophy is closer to the philosophy of judicial appointments, though in France this type of place among the judicial supervision. But we must consider appointments categories mentioned in the Code of Criminal Procedure 1392 and our laws are different from those in the current French law.

4-4. The rules governing judicial appointments

The judicial control since judicial decisions are subject to the rules and provisions of the criminal security arrangements. For example, a certain period and the closure of the case or issue cease or prosecution or acquittal, decays. The agreement must be reasonable and justified and the punishment should be proportional.

But the specific nature of these appointments are demands that are subject to special rules. What the law states is very general and sometimes it is important, and thus the detailed provisions of the Regulation, is inserted. Regulations governing judicial appointments can be expressed as follows:

The optional use of this order

Unlike the criminal provision is not mandatory, but the judge has the authority to issue its own when it's necessary to take advantage of it. With regard to Article 247 Q.A.D.I and the word "can" in the material suggests that the issue of judicial supervision of the prosecutor and the court for a possession, and export it in any way is not required (Nobahari Tehrani, 182).

But it may be said that the monitoring authority on the issue, but the investigator to choose the kind of possession. The phrase "the interrogator can be tailored to the crime," the article said confirmation of these claims are optional, for example if the defendant had the power to use weapons, and fear of crime should be the next prosecutor maintenance of weapons export ban, so it does not comply with the law and the judge should be related to the issuance of the selected type.

4-4-2. Objectionable

Thus, contrary to the Criminal supply arrangements (other than detention) are objectionable or appeal. It was issued by a prosecutor requires consent by defendant's attorney, however, it is objectionable. The trial judge could be the exporter, the issuance of this court can be appealed against in court in the province (ibid: 181).

So the accused should be informed of their right. Objectionable because of the monitoring that restricts public freedoms of individuals and, unlike decisions related to the provision of a criminal defendant. Then, he should be allowed to protest against the monitor, ensure that the
prosecutor unduly not issued (Zeraat, 2014: 264). To protest the security arrangements in the same court (ten days) and only reference to these arrangements is different. The Chairman called Clause 2, Article 247 Q.A.D.K is clear that in addition to the supply arrangements, the competent authority will be the judicial supervision also objectionable.

4-4-3. How to intensify the order

"When accused of carrying out the judicial review that the security has been issued with a violation, and the cancellation and provide supervision. In case of violation of an independent monitoring implementation, the issue becomes proportional to the supply. The provisions of this article on the issuance of judicial supervision to be formally charged. Note: In implementation of this article will be placed in temporary detention turned out. According to the provisions of the above it can be concluded that, firstly, this article suggests the possibility of issuing a joint and separate security and judicial supervision. For each one, an enforcement is anticipated.

Secondly, the independent monitoring will be issued in crimes punishable in paragraphs 7 and 8 of Article 19 of the Penal Code and the penalties foreseen are the mildest of penalties. Therefore, in accordance with the provisions of this article, converting the penalty into temporary detention does not seem logical. Thirdly, in case of violation are accused of carrying out independent monitoring, monitors are transforming the supply is not intensified (because the hedge was not worse). Meanwhile, in contrast, are charged with the implementation of judicial supervision which the security has been issued with the infringement, there is the possibility of intensifying security and intensified security at the request of the accused by the prosecutor in accordance with paragraph "b" of Article 270 is objectionable.

4-4-4. Certain Period

The criminal provision by the end of the trial and execution and closure of the file is valid, but Q.A.D.K Article 247 stipulates that the monitoring should be issued for a specified period and the state legislators, cause ambiguities including: First, Article 251 Q.A.D.K, the end of the monitoring period is specified. So the question arises of whether the interrogator can determine more or less time. Secondly, it seems that the prosecutor can be appointed to the same period for closure of the case, though the law, the term "fixed-term" express, but there is no such prohibition. Third, while the magistrate to determine if there is an end to the possibility of extension. In this case however, there is renewed affirmation is subject to export, and as a result, is objectionable, however, the law appears likely to the contrary can be deduced. Another term expires arrangements judicial supervision, the appointments shall be canceled and jaw. This means that if the judicial supervision with security or with other judicial appointments is issued if there are legal requirements appointments the judge can be canceled. The accused should not however without judicial supervision or stay secure until the end of proceedings and execution.

4-4-5. Enforcement

Article 254 Q.A.D.K, the violation of the provisions of the monitoring stated:

"When accused of carrying out the judicial review that the security has been issued with the infringement, the cancellation and the security monitoring intensified. In case of violation are
accused of carrying out independent monitoring, are issued with appropriate security grounds. The provisions of this article on the issuance of judicial oversight is explained to the accused”

Note: In implementation of this article will be placed in temporary detention turned out. As we see in case of violation are accused of carrying out independent monitoring, monitors are transforming the supply resonance is not provided (because the hedge was not worse) to be objectionable (khaleqi: 247). In contrast, if charged with monitoring the implementation of judicial security has been issued with an infringement intensified security at the request of the accused by the prosecutor objectionable. This issue is caused when some of the defendants deliberately refuses to submit to the orders of judicial supervision. Perhaps the best solution is to say that the principle of the division as the judicial and security arrangements are not appropriate. And it may be appropriate that all cases under judicial supervision or the other as to be next to each other as French law, and if necessary, specific or general guarantees in relation to each of the following be considered.

**Conclusion**

1. The status of judicial oversight arrangements that explicitly accused intended to amend the law in a very positive measures considered

And makes the criminal justice system from the beginning of reform and rehabilitation of offenders on their agenda, which will be established over time.

2. The diversity in judicial appointments and that some of these are associated with certain crimes that usually included a wide range of criminal cases, the judge can issue any of these appointments.

3. According to predict the new law will be put under the conditions provided independently or in conjunction with other orders issued while the limit on the exercise of a judicial review to judge does not exist.

4. The nature of judicial appointments in such a way that further improve the accused is considered, but predictions are the rights of the victim as well as one of the goals that can be seen as something positive because it has been less attention to the rights of the country.

5. In the implementation of this agreement is that if the provisions of this agreement by the defendant, this action can be considered one of the aspects of mitigation of the accused

6. The use of judicial appointments by placing stringent negative aspects that could be conducive toys offenders provided deprivation of opportunities and to reform offenders helpful

7. With regard to Article 250 of the new Code of Criminal Procedure can be said that the legislator with the criminological approach is viewed as judicial supervision. Accordingly, the judicial authority can be used to rehabilitate offenders in the criminal justice process and, whenever adopt such appointment under this article open capacity leisured offenders through evaluation factors such as mental, physical, age, gender.

8. Using the judicial review of paragraph "b" of Article 247 to "turn accused of centers or entities designated by the investigator" can be used as a measure Up Minnie and training, and the control of dangerous offenders and take steps to correct it.
9. Considering that the judicial supervision in the Code of Criminal Procedure 2013 as a supplementary measure considered is minor, so not only away from their original purpose, but an additional burden on the accused would also be inconsistent with human rights. According to the something that is mentioned despite the fact that there are shortcomings in the judicial oversight, it is expected to use the judicial appointments process fair hearing on the defendants to improve the conditions. But alongside the positive aspects, the negative aspects of this appointment should not be ignored.

Suggestions:

1. With regard to optimum functionality judicial appointments reclamation and rehabilitation as well as prevention of crime, it is suggested an increasing number of criminal and judicial supervision of security arrangements, including the following that in some countries legislation is also seen. The next review will be added to the Code of Criminal Procedure:

A) Deposit of identity documents, particularly passports positive to the investigating judge's office or police department;

B) Temporary delivery driver's license in order to refrain from driving motor vehicles;

C) Deposit and guarantee that the frequency and the installment that determine the investigating judge charged according to the facilities;

D) The assignment to a temporary residence at a place other than his residence at the time of the crime;

E. Refusing to meet with certain people and those who animate the movement of the accused in the crime and without considering the effects they may play a role;

F) Refrain from participating in the places that are more likely to meet the victim and his relatives.

2. It is proposed that the legislators instead of imposing the same 3 with supplying the accused (by judicial review, are leaving the country and one of the agreements provide for criminal ten persons referred to in Article 217 of the new law), according to the philosophy and objective judicial oversight to As an alternative to measures depriving of freedom, the reform involves the development of appropriate requirements and obligations of judicial supervision, the authorities put the issue on priority measures, and the use of penal provision for exceptional arrangements in case the inefficiency of the judicial supervision.
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