Judicial responsibility of state in protection of citizen's rights versus human rights violations; focusing on the judicial system of Iran

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Abstract

Without state’s legal protections, realization of human rights purposes is a troublesome issue. State must decide to preserve individuals and nationals public freedoms. The establishment of an adequate monitoring system can control authorities, prevent them to breach human rights and also conduct them in order to perform their duties. Due to this fact, establishing special judicial bodies, pursuing human rights petitions of citizens versus states, seems to be a necessary and undeniable point. In this assay, researchers, with examining of the foundations, principles and the extent of state judicial responsibility, show that in Iran, there is no special judicial body for protection of human rights and present structure of judicial bodies, cannot protect and apply human rights of citizens, Comprehensively.

Keywords: judicial responsibility, judicial supervision, citizen rights, human rights, judicial courts, internal courts, international courts, judicial system of Iran.
Introduction
Extension of state duties or responsibilities and increase of its control, supervision and intervention in various aspects of society, have caused a dramatic promotion in the amount of relationships between state organs and citizens which may augment their disputes and involvements. Due to this fact, the issues of corruption and abuse of power in this organ is much more possible than the two others because executive organ may deviate the legitimate strand in fulfillment of its legal duties and trespass to legislative body by passing state acts and regulation and violate neutrality principals regarding to cases which are alleged versus it, so causes some dissatisfactions among people. Considering different mortal revolutions happened all over the world and also, Iran, it can be understood that by abuse of unconditional power of executive body often violate fundamental rights and lawful freedoms of people and surpass oppositions tyrannically while justice implication entails that the activities of this organ be controlled strongly in order to prevent the infringements of its staffs. Owing to the maintenance and stability of society depend on vital principals of the absolute rule of law and the establishment of pervasive justice system. According to the first criteria, fundamental rights and freedoms of people are protected by rules which all individuals and legal entities in public or private sectors, in each situation and status must obey and apply it. Indeed, they must respect and fulfill each other's rights, reciprocally; otherwise, they will be responsible for their unlawful actions and also, redress the damages and lost. In conformity of pervasive justice system, regardless of the legal positions of the parties and the different nature of debatable decisions or actions and the diversity of dominant rules and regulations, judicial body must be able to consider all disputes between individuals or legal entities, including state bodies and their officials and try to resolve them and adjudicate victim's rights (Sadr-Olhefazi, 1992).

That is an absolute fact that in democratic systems, by accepting the people's self-determination about their social and political life and declining the absolute authorities of state men, fundamental rights and freedoms of people have become a core point of social expectations. Hence, selected politicians and officials are obliged, not only to respect and protect fundamental rights and freedoms of people, but also, must undertake several political, civil, judicial or other responsibilities to not violate mentioned rights (Hashemi, 2006).

In this article, we seek out to analyze judicial responsibility of state in protecting its citizens versus the infringements of human rights measures. Undoubtedly, determination and assurance of various kinds of these rights, including the right to life, the rights to freedom of opinion and beliefs, the right to have security and etc., cannot be observed without judicial protections and assurance; so, it seems necessary to recognize some justifier foundations of applying judicial observation on state actions before focusing on voucher mechanisms of judicial protection of citizens against human rights violations and then, survey the possible guarantees.

2. The foundation of judicial supervision on state actions
Judicial supervision on state actions is based on various conceptions. The most important of them are:

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2.1. Separation of powers
This theory, for the first time, was defined by Montesquieu, properly and in order to achieve some important goals, such as balance of power, establishment of a balanced government and opposition to governmental willfulness. He believed that the most significant reason of this separation is that the only way to protect the freedom of citizens is political separation of governmental powers; otherwise, if the legislator be the executor or the executor adjudicate the complaints about governmental authorities, the number of violations and reversals of rights and freedoms will increase. According to this point of view, integrate of powers may eliminate any kind of freedom. Organizational and functional separation is a reciprocal supervision among political institutions. As Montesquieu explains, if a person or a group of people own all three authorities, legislate the rules, perform the public decisions and policies and adjudicate the disputes, all of thing will be perished (Ghazi Shariatpanahi, 2007). Hence, theoretical foundation of separation of power theory and determination of an independent judicial body to pursue the petitions of citizens as the notion of rule of the law indicates lack of trust to government in managing its power.

2.2. Good governance
Sovereignty is one of the theories of political power concentration and it appears as the delegation of political independent. So it is the fundamental concept of modern public law. Naturally, Sovereignty reflects political relations and also indicates fundamental and political relations between people and institutional structure of governmental power. (Davenport, 2004) This official power which people are delegated it, must be applied in order to promote the governmental good, increase its capacity and gain sufficiency. This capacity depends on the stringency of loyalty relations between government and people. The most adequate method to reinforce this relation is architecting the Sovereignty, based on 'good governance' or 'statesmanship', which is the historical result of fundamental evolution. Good governance means applying of the governmental power in accordance with respective principals of rule of law, responsibility and transparency. Observing mentioned principals can improve the efficiency and productivity of government in affording public services. Judicial commission of UN, in resolution 2006/6 describes the characteristics of good governance as below:

  Transparency, responsibility, accountability, participation, rule of the law and responsiveness.

Apparently, one of the main criteria of good governance is responsibility, is an opportunity for citizens to assess whether decision makers and officials have fulfill their certain duties properly or not. So, in the light of this chance, they indirectly or directly, can demand the authorities to be responsible for their activities in their related official status. Good governance has enumerated responsibility as one of the mechanisms of applying social justice and democracy and has obliged all state members and components to accept their responsibilities before people and monitoring institution, in different ways. The responsibility of executive body to legislative body is a kind of state responsibility which guarantees the rights of the citizens.
3. Main principals of judicial supervision

Judicial control of the state has set down a number of major principles that convey in concrete terms the notion of a state based on the rule of law. These principles constitute basic references for all states.

Because of the breadth of the principles, just to mention the most important of them that deemed to be Introduction and the basis of the other principles of fair trial.

3.1. Pre-eminence of the rule of superior rank

The principle requires that each rule or decision applied by the state must be compatible with the rules of a superior value. In the event of incompatibility with these superior rules, the administrative authority must not apply it. The application of this principle, by recognizing the most important rules, guarantees their stability and protection with regard to political changes (Woehrling, 2005).

3.2. The conformity between the act of state and asserted rule

In order to achieve this goal and ensure that the government acts pursuant to law, there must be some effective institutions and procedures, such as judicial review. Suitable courts should be able to consider the cases between citizens and government. The courts must have sufficient power to bind the government to legal limitations. They must also, be able to control the conformity of ordinary rules with constitutional principles and administrative regulations with ordinary and constitutional rules (Hadavand, 2008).

3.3. Procedural fairness

This is one of those legal principals which limit the actions and decisions of state authorities. In order to consider the principal of natural justice, procedural equity, justice and rule of the law, this principal must be observed in all administrative actions and decisions. Procedural equity entails two main principals: no one can judge about those issues which himself/herself is one of their beneficiaries and the parties must be given a proper time and occasion to defend him/her in the cases versus them. In this situation, judges try to make administrative and governmental decision making similar to judicial inquiries and oblige official and authorities to consider judicial justice and procedural equity (Zarei, 2001).

The observance of procedural fairness in Iran about The number of administrative authorities which having qualified to investigate violations of citizens, issue the punishment sentence too, Cannot be justified In what concerns the independence and impartiality of objective and structure. Because the authorities are part of the Government and Administration and are under the rule of obedience to the hierarchy(Yavari,2007).

3.4. The principal of equity and indiscrimination

Equality before law, equality in using public services, equality in accepting public costs and accountabilities, equal behavior with equal individuals and inversely, prohibition of
discriminating based on gender, religion, beliefs and political attitudes or etc., are other concerned principals in judicial monitoring of state actions (Hadavand, 2008).
In fact, this principle observes that there should exist no discrimination and difference in treating government of a country towards citizens and residents and all the elements or triple powers in Islamic Republic of Iran and should impose this principle to citizens in total uniform form and without discrimination.
Constitution in Islamic Republic of Iran is the basic source of equity. In introduction this law was pointed out to various cases in ignoring Monopoly, tyranny and exploitation. It is obvious that rejecting monopoly leads to equity of all the citizens in exploiting social welfare. Provision in article 3 of constitution introduces one of the government’s duties for removals of unjust discriminations and fair facilities for everybody in all the material and spiritual fields. Article 14 in this principle suggests provision of comprehensive rights of individuals (men and women) and lack of public equity against law. Equity against equity and justice is aspects of equality. But fundamental principle of equity in constitution is article 20. In this principle equity of all the citizens against law was emphasized and this support was generalized to all the rights for them. In fact, this principle expresses that there should be no discrimination or difference in a government towards citizens. Also, all the elements and sections of triple powers in Islamic Republic of Iran should impose this principle to citizens in total uniform form and without discrimination.
Apart from above principles and principles of 11, 13, 14, 19, 22, 28, 29, 30, principles of 31, 32, 33, 34, 35, 37, 41 and 48 are among those in which equity of all the nations should be considered.

3.5. The principle of Non-retroactivity of laws:
Quoted “security of citizens makes it necessary that current condition and rights before approval of new law should not be violated by this law”. Under legal system of countries this topic is called “the law is not retroactive”. In Iran, in article 169 of constitution this principle was accepted” no act and omission of act is not regarded a crime according to the law which was imposed after that”. But its domain regarding criminal law was accepted and in civil law cannot be retrospectively turned according to article in civil law: “effect of any law is for the future and rule does not have any effect on its previous time unless there are certain rules in that law “. We don’t have this principle in legal cases in Iran, like what was accepted in civil criminal law, but usually in order to prevent chaos administrative rules don’t refer to administrative rules. If they are not followed presumably, there would be no performing guarantee in administrative specialized courts and administrative justice court. Of course we can argue that some materials are only for criminal crimes (and guardian council will object according to article 169 of constitution.

3.6. Principle of trial’s being public and real
Publicity of trial means opening investigation reference and juridical process to people. Right or principle of public investigation means that all the trials, civil, criminal and administrative should be guided orally in public. Publicity of trial is a main guarantee for interests of individuals and society (Joseph, 2005).

In Iran’s law, publicity of trial was pointed out. Article 165 in constitution argues that trials are done in public and people can attend. Also, article 188 made it clear that trials are public. In constitution of Islamic Republic of Iran moreover publicity of trial, some exertions were mentioned:

1. Incompatible with chastity
2. Incompatible with discipline
3. In personal hearings, request of both sides in which public trials are made is justifiable.

As it was pointed out, the aim of publicity of courts is observation of people and public opinion in process of trial. Therefore, except cases which were exceptional no obstacle and limitation exists regarding publicity (Hashemi, 2005). But unfortunately regarding administrative specialized references their investigating sessions are held despite trial court personally, although in most cases these references are side of the government which is in an imbalance level and possibility of violation of rights is more. So it is impossible to hold investigation sessions in front of other people. While due to publicity principle of trial and logics of article 165 in constitution we have to abide by this principle in administrative specialized references, but in practice we observe that due to various reasons such as expressing administrative and public problems while investigation, administrative specialized sessions are done behind closed doors (Hadavand, 2010).

3.7. The principal of the right to defense

This principal must be applied in both, before and after decision making process and can be categorized in two divisions of law:

a) The duty to hear the petitions of losers; the office must notice the concerned person necessary alarms and give them moratorium in order to express their critical opinions. Principle of correspondence and necessity of respecting it from references makes it necessary that they do their best on this. Regarding administrative specialized references in spite of lack balance among sides, possibility of violating rights becomes weaker and it seems that abiding by correspondence principle does not have rigor of public references. There are some other cases such as the right for requesting defense and audition of both sides, necessity of allegation and accepting accused person, request for providing time for defending and investigating new reasons. But there does not exist other cases where both sides can defend themselves, like calling for witness and hearing their comments, oath of sides, receiving the last defense, renewal of investigating session and so on.

b) The duty to indicate the reasons of taken decisions; the office must announce those decisions which restrain the freedoms and impose some punishments and etc. According to above principal, public authority must base its decisions and deductions on legal methods which are sufficient and reliable (Aghaei Toq, 2008).
This principle was accepted in rights of Iran. In constitution moreover legality of principle of crime and punishments mentioned documentation of voting was mentioned too. One hundred and sixty sixth articles in constitution argue that sentences of courts should be according to legal principles based on which sentence is issued. Maybe it can be argued that sentences related are regarding public courts, but in administrative rules this article was accepted. Also public board of justice department emphasized several votes such as vote of 68/16-69/5/27 or 298/77-78/8/20.

In an unprecedented vote, court announced this problem as primary and obvious principles of administrative and judicial proceedings and investigation.(Mansour abadi,2006)

Some parts of this vote are as follows:
Necessity principle of noticing reasons and evidences of claim and abiding by their value and credit in decision-making and votes issued from different jurisdictions are among obvious principles of investigation and trial which legal stipulation is confirmed in each of positions.

4. The extent of state judicial responsibility
There is an implied conflict between states and law; simultaneously, on one hand, states threaten human rights, but on the other hand, they are human rights main custodians. Each state encounters three obligations about human rights: respecting, protecting and applying them. The most significant state duty is to protect the human right of those individuals who are within the jurisdiction of that government (Raei, 2008). With accepting and promoting the culture of democracy, we need different methods to ensure mentioned obligations which have been located in the center of domestic and international law's concentration. Hence, state judicial responsibility can be discussed in both internal and international arena.

4.1. Internal state judicial responsibility
In domestic level, the main purpose is ensuring human rights. Due to the fact that human right principally includes the relations between state and individual and sometimes contains the relations among individuals, the issues of its protection and promotion must be rather an international issue, indeed, and the first queue of defending the citizen's human rights must be established within the territory of a state. Furthermore in domestic level of protection of human rights versus governmental breaches, it seems inevitable to have a comprehensive study about the states of international law and its relevance with domestic law of judicial regimes of different countries. Under customary international law a state will incur international responsibility for a breach of an international legal obligation, where the act in question can be attributed to the state. This has been codified by the international law commission (ILC) in its articles on the responsibility of state for internationally wrongful acts (Mccorquodale & Simons, 2007). Without a doubt, each state which has accepted credible international obligations by ratifying international instruments, have to enter those rules into its domestic law and necessarily have some amendments in its law, in order to fulfill mentioned duties and responsibilities (Vakil, 1).

1. Article thirty six of constitution expresses: sentence of punishment and performing it should be on behalf of just court only.
Along with constitution of state, ratification of each circular as an ordinary law, which determine the limitations of rights and duties of people in society is one of the important organs of internal protecting of human rights. The purpose of a circular is expressing current norms and obligations which must be applied in the governing policies; such a legal character that contains generality, applicability, precise determination of constrains, determination of the extent of human rights violations in emergency circumstances and the ability to pursuit it before judicial bodies. But in international protection of citizen's human rights, ratification of a circular, per se, cannot be so effective and the existence of an independent and neutral judicial body in order to operative application of these protections is inevitable (Vakil, 2006). Establishment of special courts of human rights may ensure international protection of citizens versus state actions. Additionally, applying and fulfilling human rights obligations and principals before international courts can guarantee individuals rights against state. Nowadays, the increasing number of courts in domestic level in different countries, civil law or common law, regularly interpret and apply international human rights rules. The following example shows that how international human rights standards can effect decisions taken by internal courts. Sampson v. general prosecutor is a human rights case in New Zealand that was discussed in 1994; the complainant alleged that the officials inspected his house, unreasonably and according to New Zealand code of citizen's rights, 1990, his rights were breached. The appeal chamber in its opinion emphasized on the purposes of this code:

The aims of citizen's rights code are preservation and promotion of human rights and fundamental freedoms in New Zealand and affirmation of its commitment to ICCPR. It can be derived from these purposes that sufficient and appropriate remedies must be available for those citizens whose rights have been violated.

The court added:

The right of an innocent person has been breached, paying financial redress are considered as the only suitable relief and the court believed that this kind of remedy id coherent with Law-oriented approach to citizen's rights code and international judicial procedure about redressing of human right violations. Furthermore, judicial procedure of human rights committee and American court of human rights about human rights remedies are also mentioned (Noori Neshat et al, 2010).

In Iran's Constitutional Act, the protection of individual's rights is indicated and the establishment of judicial body in order to preserve public rights and extension or application of justice, are also accentuated. According to this code, judicial body is an independent organ, which protect individual and social rights and has some responsibilities to develop justice and carry applications in this respect, such as: ‘Restoring public rights and extension of justice and legitimate freedoms'.

In various principals of constitution, especially in chapter 3, miscellaneous rights for citizens are expressed, among these, aggressing to individual safety is banned and respecting to public freedom in different grounds are obligatory lawsuit is an individual certain rights and everybody can petition before concerned courts to revival their rights and freedoms which have been violated (Hashemi, 2006). If the state authorities, based on their own standards and in excuse of
preserving public rights, ignore individual right of the whole society, it is apparent that individual freedoms are neglected and individual rights are effected by their personal and sometimes, illegal prejudices. So, existence of a criterion and legal standard to limit state duties and powers is a necessary and important issue. In addition to recognition of this general principal, the constitution has identified a body to prosecute and consider the petitions of citizens versus administrative mechanisms staffs, called: Administrative justice tribunal. Establishment of this tribunal, as a high judicial body, for considering individual petitions versus state actions according to the constitution, displays that, how much preservation of individual rights of citizens and ensuring of administrative body's actions are so important for legislator (Shahnaei, 2008).

In accordance with article 173 of the constitution:
In order to consider petitions, complaints and people protests versus state officials, units or regulations and redress them, a tribunal, named, administrative justice tribunal under the supervision of the head of the judiciary is established. The tribunal's jurisdictions and its working pattern are determined by act.
As it can be derived from the text, administrative justice tribunal, having a widespread jurisdiction, is enumerated as the most important body to pursue citizen's petitions about the violations and breaches of administrative mechanisms and their officials. The court's jurisdictions and limitations are mentioned in article 10 of this act, as below:
1) Pursuing the petitions, complaints and protests of individual or legal entities about:
   (a) Actions and decisions of governmental units, including the ministries, governmental organizations, institutions and companies, municipal bodies, revolutionary entities and their relevant institutions.
   (b) Actions and decisions of the officials, mentioned in part (a) about their duties and jurisdictions.
2) Considering to protests and petitions about judgments and final decisions of administrative courts, control commissions and the commissions like, tax commissions, workshop council, dispute settlement of employees and employers, the commissions of article 100 of the municipal code, the commission of article 56 of the preservation and exploitation of jungles and natural resources code and its further amendments, exclusively relating to the violation of rules and regulations or opposing to them.
3) Considering to the petitions of judges and those who are included in civic employment code and other employees of units and institutions, mentioned in part (1) and employees of those institutions which the inclusion of this code about them must be stipulated by name, containing civic or military institutions, about violation of their employment rights.
Additionally, in accordance with article 11 of the tribunal code, if the relevant decisions and actions have violated individual rights, the trial chamber, invalidate the judgments, make the decisions ineffective or oblige the other party to restitute violated rights.
At first glance, it seems that the tribunal attempts to adjudicate according to the citizen's rights and its efforts to apply human rights standards in the judgments, somehow, can ensure human
rights of the citizens versus governmental breaches. Follow instances can rather show the tribunal attempts to adjudicate according to human rights of equality, indiscrimination and the right to petition:

In decision 172 on 9 June 2008 public panel of administrative tribunal about the revoking of ratified rule 1100/31543 of social welfare organization on 14 May 2003, by which, the social welfare office apply a discriminative method in assessment of university diplomas, it is asserted that:
The mentioned sentence in single article of the affirmation of Islamic Azad university's courses, ratified in 1988, stipulates the responsibility and duty of both of the Ministry of Science, Research and Technology and the Ministry of Health and Medical Education about considering and affirming the diplomas of Islamic Azad university graduated students, determines that the value and reliability of these certifications are equal to state universities diplomas. Hence, part c (3) of employment regulations about recruiting in organizational jobs, in 2003 that was the subject matter of circular 1100/31543 of social welfare organization, on 14 May 2003 is revoked.

Because this document, respecting to employment preferences, has applied coefficient 1/1 in GPA scores of written exam and interview for state university diplomas in comparison with coefficient 1 for the certifications of other universities. This action is opposite to above code and also principal 3(9) of the constitutional act of Islamic republic of Iran about the necessity of eliminating unjust discriminations. Thereupon, with respect to article 42 of administrative justice tribunal act, 2007, part c (3) of this act is revoked.

Also, the tribunal in order to respect fundamental rights, such as the right to petition and bring the complaint before relevant courts has nullified the police force commander circular as below:

Due to the fact that according to principal 34 of the constitutional act of Islamic republic of Iran, petitioning or complaining is one of the personal absolute rights, under the criminal and civil procedure laws of the Public and Revolution courts2, like the exception of article 23 in Islamic penalty act, which authorizes the right to release to heirs, releasing and condoning of pursuit are enumerated as individual legal rights.

In accord with above reasons and because this is the legislator, who stabilize or divest the rights and the consent or release of complaint or private plaintiff in non-releasable crimes may not necessarily umbilical to punish the criminal person, therefore, the context of police force commander circular 402/01/17/30 on 4 June 2003, which consequently causes to elimination of the wills of those individuals, mentioned in the circular to announce their release and consent about criminal plaintiffs and the necessity to have a coordination with judicial units in this issue have been identified illegal and beyond the jurisdictions and authorities of public force commander in regulating obligatory rules and this circular according to second part of principle

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2. In Iran, judicial courts are divided to public courts and special courts and each of them have special jurisdictions. Revolution court, is a special court and its jurisdictions are address to crimes versus internal and external security, combat and corruption in the land, insult to the founder of Islamic republic of Iran and leader of Iran, conspiracy versus Iran or armed action and assassination and destruction of institutions in order to deal with the system, espionage for strangers, crimes related to trafficking and drugs, claims related to principle 49 of constitutional act.
170 of constitutional act, article 19(1) and article 42 of administrative justice tribunal act, ratified in 2007, is invalid (Hadavand, Ali Mashhadi, 2011).

The tribunal, also, has some decisions about ensuring the individual's positive rights (decision 430, 9 September 2008), the right to have and preserve the environment (decision 409, 4 January 2004), the right to have domicile (decision 577, 7 February 2005), respecting to ownership right (decisions 146, 147 and 148, 26 June 2006), prohibiting the retroactivity of act and individual rights violation (decision 1174) and some other similar issues which can effect on the protection of citizen's human rights. But, in spite of the application such issues, it can be derived from scrutinizing the tribunal's functions and other foreseen judicial body in act that the lack of determining a special judicial body to consider citizen's human rights petitions in Iran's judicial system is apparent. Administrative justice tribunal that as mentioned before, has the responsibility to settle the disputes between people and administrative or state bodies faces a lot of problems which can hinder its attempts to preserve citizen's rights. Some of these dilemmas are:

1) Administrative justice tribunal is only located in Tehran, so, it is not available for those citizens, live in the other cities in Iran;
2) Administrative justice tribunal does not have extensive or comprehensive jurisdiction for adjudicating. Instantly, among all governmental bodies, it can be just consider those petitions, related about people and executive body and if citizens have some allegations about other bodies, they cannot bring it before this tribunal;
3) The judges of administrative justice tribunal are not specific proficiency in administrative, employing or even financial law issues. Hence, they do not have enough information about these matters.
4) The tribunal act is brief and abstract.

In addition to these objections, there is not a special judicial body as human rights court in Iran that entail judicial function. Hence, apparently the lack of predicting this body to monitor state actions respecting to apply citizen's human rights, displays the absence of sanction to all.

4.2. International judicial responsibility of state

Today, human right issues are an international or transnational subject. Due to this fact, nowadays, state must be as a glassy house that everybody be able to look into it to know whether its actions are according to international standards (Movahhed, 2003). About ensuring international human rights it should be mentioned that states international initiative actions to promote and preserve human rights in different ways are experienced in state's position cooperation and assistance. These functions are non-judicial protections or international, judicial protections (Hashemi, 2006) and here, we just talk about judicial protections in international level to ensure state's obligations in applying the human rights standards for their citizens. Naturally, human rights can be protected in the best way in national level, but when a country does not fulfill its duty in a proper way, the issue of international action is discussed. Boutros-Ghali, former secretary of UN explained that in such circumstances, international community
means global or regional international organization, must transcend those countries that does not fulfill its obligations applying mentioned duties. It is a legal interpretation that does not indemnify current conception of sovereignty. As Ghali indicated, a country cannot use the conception of sovereignty in manner which global legal conscience rejects it (Vakil, 2006).

Individual complaints and petitions that are brought to international or regional bodies are counted as an operative implement to protect human rights. If a state accepts the substantial context of a human rights agreement but refuse to agree with its procedural mechanisms, specially ignoring rule of the procedure is a sign of distrust or suspicion. Nowadays, human rights have been commuted to an actual component of international law and it belongs to key determinative principals of a frame in which international law is applied and faced evolutions. Under customary international law a state will incur international responsibility for a breach of an international legal obligation, where the act in question can be attributed to the state. This has been codified by the international law commission (ILC) in its articles on the responsibility of state for internationally wrongful acts. Under these rules, a state is responsible for the actions and omissions of its executive, legislative, judicial and other state organs and officials, including police, military, immigration and similar officials (McCorqodale & Simons, 2007). As American court of human rights asserted in Velazquez Rodriguez case:

The breach of some rights that according to international law can be attributed to official authorities, make the state responsible. The court in this case, not only explains the meaning of article 1(1) of American human rights convention, but also, expresses a general principal of law which is applicable in international rules of human rights (Noori Neshat et al, 2010). If receptive countries of international conventions do not guarantee or protect their citizen's rights in international level or do not try to established a domestic judicial body to pursue human rights petitions of citizens, they are under the lens of international society and public opinion to be obliged to accept the jurisdiction of international independent judicial bodies in order to prepare the situation for protecting citizen's human rights. The establishment of an independent court in global or regional level has this manage that internal system governing the relations between state and its nationals is not sufficient or effective. The state human rights obligations must be regarded as international obligations (Movahled, 2006) and the state has the duty of codifying some sanctions for human rights and freedoms, mentioned in human rights treats or protocols.

Indeed, states must have international responsibilities for human right breach when the courts or responsible officials do not redress the victims of such violation, properly. In international level, there is a principal that according to it, all respected or effective actions must be done in internal level, before bringing the case to international judicial or semi judicial organs. Therefore, firstly, an opportunity is given to state in order to correct its wrong acts. Here, international mechanisms of individual protecting only play a subsidiary role along with domestic judicial systems; because they just put in to action when all internal tools have been used (Noori Neshat et al, 2010).

In global and regional level, the establishment of an influential body to pursue the petitions of human rights violations has been one of the purposes of many current conventions, which
consequently, due to continuous and serious attempts of judicial authorities and the politician of European countries is emerged in The European Convention For the protection of Human Rights and Fundamental Freedoms (ECHR). This convention not only promulgates human rights, but also has designed a rather effective judicial system for monitoring of human rights application. It is also, established European court of human rights, which has the jurisdiction to pursue individual and international petitions. The court can receive the plea of any person, NGOs or a group of people who allege their recognized rights in the convention and its additional protocols have been violated in one of the state parties (Shayegan et al, 2004).

European court of human rights, seeks the violated rights of citizens in transnational documents or authorities, especially in ECHR, not only in national rules and regulations; and as it is apparent, the court has condemn many state parties based on these document, several times (Arfaei et al, 1994). American court of human rights that has been established by American convention on human rights, also follow the same pattern of ECHR, before its amendment in 1998. In global arena, despite the fact that international court of justice (ICJ) as a main judicial body of UN barely has pursued some human rights cases, but its judgments have grounded some fundamental principals in this regard, as below:

- The Barcelona Traction case (on 5 February 1970), declaring international protection of basic individual rights;
- The hostage case of the U.S diplomatic staff in Iran (on 24 May 1980), condemning the privation of freedom;
- The Electronica syculla case (on 20 June 1989), defining arbitrary actions (Shayegan, 2004).

Generally, it seems that accepting mandatory jurisdiction of regional and global mechanisms to pursue state infractions to obey human right obligations in domestic level and also, ensuring citizen's rights are necessary issues from the perspective of human rights. Additionally, in these bodies the rules of individual petitions must be accepted and those people, whose rights are breached by state actions, should be able to bring their complaints before court. It appears that who are damaged from the violation of third party's rights indirectly, also should be able to petition (Ashoori et al, 2005). In prediction of judicial bodies in internal or international arena there must be some specific principals, governing the courts themselves and the way of proceeding to ensure the proper function of the courts.

5. Conclusion
It is good to mention that, in order to prevent anomalous and opposite judgments, judicial monitoring on state actions in internal level be delegated to special organs of judicial body which have the particular duty to consider human rights issues. It is also necessary that in various aspects of citizen's human rights, in each society, the judges be aware of the importance of sufficient preservation of these rights. They must be bound to make domestic Acts of ensuring human rights to effective judicial conceptions and apply international legal rules, where ever is possible. Furthermore, in order to make judicial decisions of internal special bodies about human
right cases versus the state, effective and applicable, some determinative legal measures must be considered such as:
1) Determination a period of time for applying judicial judgments, after this period, the court pursues the application of judgment by other legal bodies or special staffs;
2) Extensive propagation and public announcement of those actions which are revoked by the courts;
3) Execution of disciplinarian punishment or criminal penalties versus state staffs or, in necessary conditions, financial punishments against state organizations because of deferment in applying judicial decisions.
4) Establishment of special committees for monitoring on the allegiance of state institutions and also submitting regular reports (Hadavand, 2008).
Respecting international guarantees, it also must be remarked that by put the conventions in to effect domestic level, enumerate them in the rank of constitutional Acts or ordinary rules and the possibility of reasoning to mentioned principals in these conventions by individuals in internal and international bodies, judicial protection of human rights measures can be ensured.
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