

Standards of criminal justice in hearing process, according to Criminal Procedure in 2013

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Abstract

Today's standards of criminal justice in the proceedings, there is a fundamental and non-negligible principle and regardless of consecrating it, we will not reach the ultimate goal is the same judiciary, justice and equality. In all documents and international treaties, the standards of criminal justice in human rights have been emphasized. The most important international documents existing in this field include the International Covenant on Civil and Political, the Convention against torture and other punishments and cruel inhuman and degrading treatments, the Universal Declaration of Human Rights, the African Charter on Human Rights, the American Convention on Human Rights, the Commission and the European Court of Human Rights and so on. It has been required around the documents and recent treaties of signatory states to strengthen the right to freedom, dignity and not doing inhumane treatment against their own citizens. The presumption of innocence, the openness of proceedings, independence and impartiality of the judiciary and the legislature systems, and being the personal criminal responsibility would be considered as the most important principles of a fair hearing. In law of Iran, based on admiring the legal and Islamic juridical grounds in legislation after the Islamic Revolution and as well as accepted international documents and treaties of human-friendly rights by the Islamic Republic of Iran, many of the principles of a fair hearing have been considered in compliance with the legislation. But in some cases, there are also disadvantages.

Keywords: standards of criminal justice, criminal procedure, documents of human rights, criminal law.

1- Introduction

Since the formation of society, the human has been faced with the phenomenon of "crime" and based on the study of historical events, the man has considered this event to be as a fault and disordered balance in social life; and for this reason they always would have reacted against the crime. The most important reactions were done against the "delinquency" in the form of "punishment" that in former times, social, moral and religious habits were mixed, and the responsibility for exercising them had been taken on by the victim or her/his relatives. But with the advent of the new requirements, development of human communities and the establishment of political order, not only the crimes have been more complicated than in the past, but coping and fighting the crimes are also looking more closely, the states also are also responsible for to executing the punishments (Habibzade, 2010: 7). Undoubtedly, the purpose of punishing would be to protect human rights and prevent oppression and violence to them in order to realize the ideal of "justice". Such a justice is called by criminal justice are encountering with the fundamental questions: why were the retributions selected among types of reactions that may be taken against crime? If a society treats such acts to be considered morally obscene, as knows a doer not only to be worthy of blame and condemnation, but exactly exercises the same behavior, as criminal acts, that s/he had done, would the society have taken action such as "offender"? Substantially, why do we know the crimes to be obscene and perpetrators to be punished, but the punishments have been considered legitimately and authorized, in order to realize the justice?

The fact is that ethical and legal scholars, under the value concepts, have accounted some things for the good practices and fair and others, for ugly and cruel ones and they know them to be worthy of punishment, while the value concepts such as good and evil, justice and so on would be considered a kind of ethical and legal interpretations of behaviors, and therefore they lack the stability and integrity. By a few-degree shifting in latitude and longitude, they get rummaged and poured by the time changing (1). These questions and objections that are drawn about the penalties in fact will involve a philosophical approach towards them; at this stage, thought go beyond the the laws and regard to the criminal justice roots, and naturally about which the specific issues are raised, such as what is the source of faith and legitimacy of the criminal? Does any law that the legislator, in accordance with accepted principles in the criminal justice system, sets would be legitimated and is binding it required? (Habibzade, 2000: 31).

In Islamic law although the will of God is the source and basis of criminal justice, this in no way meant to reflect on the sanctity of thought about penalties of Penance (at a person) by the lash, and blood moneys; and in case, we shall say later Islam has encouraged the believers to meditate and reflect on the philosophy and doctrine of legal penalties. Of course, with consideration of Criminal Procedure, year 2013, we can clearly see remarkable flashes and standards in areas of fair hearing in investigation process. One of these standards can be used to predict the public prosecutor's office of juvenile and court, the right to hearing participation, respect for the fundamental principles of criminal procedure, the Court of Appeal devoted to children, social work institutions' attendance to deal with crime and so on.

2. Background research

(A) Research conducted in the country

M. Abbas, (2003) conducted a study entitled “Restorative justice, a new vision of the criminal justice”, and has come to the conclusion that the emergence of the concept of restorative justice resulting from changes in public attitude and viewpoint of criminal lawyers, criminologists and practitioners working at the criminal system towards the criminal justice would be based on the punishment and suppression and the criminal justice is based on the "Rehabilitative" that introduces creative and dynamic criminal justice, in connection with human concepts and the culture and values of civil society. This emerging phenomenon, regardless of the historical and cultural backgrounds and before theorizing, have been experienced amongst the family's various programs, the restorative justice, such as criminal mediation, parties to determine the sentence and punishment, discussion of the family groups etc. and then the basic principles and goals and its functions have been theorized. The restorative justice provides a new definition of traditional and classic concepts of criminal law and criminal-law institutions' functions and in practice it leaves a significant impact on the fate of the criminal parties, civil society and the institutions of the criminal justice system. The restorative justice first considers the crime to be an aggression to people and human relations and next, a violation of criminal law and focuses on the victim and her/his basic needs at all stages of criminal proceedings, by taking into consideration of the fundamental interests of delinquent and civil society institutions, introduces the new functions, objectives and mechanisms in relation to the exercise of criminal justice and the criminal justice system. In recent years, the international community's efforts to create unified standards for restorative justice programs and mediation programs have been paid attention very significantly, including recommendations of Europe Council regarding the mediation, letter, United Nations Economic and Social Council resolution adopted in July 2002 (Abbasi, 2003: 85).

H. Hossein Akbari Nezhad, (2005), in a study entitled “A complementary jurisdiction of the International Criminal Court: the dynamics of national judicial systems to deal with impunity” came to this conclusion that this paper examines the concept of complementary jurisdiction of the International Criminal Court and its relationship with national judicial systems. Being complementarity makes a good interaction or appropriateness between the national systems and the international system which is effective to end the phenomenon of impunity. In fact, the complementary jurisdiction of the Court puts this authority not to contradict or conflict with national courts, although concepts such as "inability" or "unwilling" about the governments and qualifications of them may have indirectly led to the coordination of national penal systems on the basis of common criteria. In this regard, it is noteworthy attempts by governments for appropriate legislation before the claims from that states have not risen to the Court and the state's priority retains jurisdiction to exercise. Provided, it can be said that the complementarity of the Court's jurisdiction is included for legislating necessary laws in order to cognize the crimes and this also seems correct about not only in relation to States Parties to the Statute, but even in the case of non-member states (Hosseini, 2005: 25). K. Razzaghi, (2010) in a study entitled “Standards of criminal justice on international instruments and judicial system of Iran” has concluded that implementing the justice would be the ultimate goal of hearing and the fair

hearing is one of the most important characteristics of social development of any society which is measured. Assessing the fairness of the proceedings is possible only by defining standards as necessary minimums on which a fair hearing process is running. In other words, if the objective criteria can be offered to assessing the fairness of a hearing, it can provide more detailed comment accurately regarding the justice implementation in each phase of dealing with the disputes. As a result, it is necessary the fair hearing standards gets defined and used to measure fairness of the standards; this research is tried the concept of criminal justice standards to be fully explained and then searched for these standards of the most famous and important international documents that those principles that are treated the criterion of fairness of the proceedings in all modern legal systems become identified. In the end, the trial standards adopted in the Iranian legal system will be reviewed (Razzaghi, 2010: 85).

(B) The studies conducted abroad the country

V.b.Kilain, translator M. Shabrouvi, (2009) in a study entitled “Juvenile criminal justice system in England and Wales”, has concluded the criminal justice system in England was investigated, according to legal reform and judicial procedures in the field. However, according to official statistics, the rate of juvenile delinquency has not significantly increased in terms of severity and level, but current policies and procedures in England apply the retributive approach in dealing with juvenile offenders. To justify this, we will say that the policies dealing with juvenile crime arise from the fear-based structures that provoke the public mind against the juveniles and thus form a repressive response against them (Victor, 2009: 111).

E.Hill, translator M. Nasrin, (2007), in a study entitled “Criminal justice from the perspective of international law”, has concluded that from two decades ago onwards, along with an emphasis on making the penal system based on human rights; the criminal justice has gotten attention by international authorities, especially the United Nations. In this context, several guidance and binding documents as resolutions, conventions, declarations, etc. have been passed. All these aim at the influence on criminal juvenile justice of countries so that the rights of juvenile offenders and victims at all stages of the proceedings should be observed and appropriate reactions to juvenile character become predicted and applied (Steven, 2007: 48).

3- Methodology

A- A complete description of methodology in terms of objectives, and the kind of data and how to perform (including materials, equipment and standards to be used in the implementation stages of the research separately):

Note: For separating the implementation stages of the research and their own description, it was avoided to use general titles such as, "The initial data collection," "test sampling ", "testing", etc. and it is necessary that in any case full description be provided about the resources and centers of collecting data and facilities, kind of activities, materials, methods, standards, equipment and specifications of each.

Descriptive analytical method was used as methodology in this thesis that the library method with note taking from law books and also the use of Internet resources were used. To collect data in

the study, Internet resources, taking notes and reading relevant books and articles and theses to the research had been used.

B- A full description of the method (field, library) and tools (view and test, questionnaire, interview, note taking, etc.)

Data collection:

Two methods were used to collect the material.

A) The library method: Since all human knowledge can be found in books and libraries, to collect information, books are used, before using any other tool.

B) Internet: To adapt the content collected by library method with daily material, the Internet is used. With direct reference to the resources available in the library and reading various books and articles, the intended contents were collected by taking notes as well as computer networks have been used to collect information.

(C) Methods and tools to analyze the data:

The research topics were scientifically and practically described and analyzed in accordance with logical rules and therefore they reached the best ideas and uncertainties, and actual position of the topic were known and offered. The author is also seeking ways of presenting research, which have the theoretical aspects and practical aspects as well. In fact, in the preparation and compilation, using the analytical method and library resources, despite limited resources in the field, it is attempted to collect teachers in any relevant field and as much as possible with referring to their books and articles, the topics were investigated, and ultimately the results in order to provide appropriate answers worthy to the research questions were expressed, we end the discussion in the conclusion section.

4- Findings

4-1- Criminal standard in investigation or prosecution and implementation phase

The criminal standards may be conflicting with each other or the implementation of a principle interferes with one another. In this case, the balance and weighting could have been done and a principle main of more weight is preferred, there is a hierarchy between the principles which is well understood. By identifying principles of hearing, we could find out the nature of formalities of hearing and that of introduction to the principles to implement. At the level of those, some cases were brought are in the lower classes of general principles.

4-1-1- Openness of hearing

The openness of hearing is of two meanings: one is that the proceedings and arguments of the parties to be held basically in open and unclassified way, and everyone can be attend in the courtroom and be informed of the proceedings; second, a dictum will be determined is put to the public so that people can be informed of the result of the judiciary work and assess their credibility and legitimacy. The openness of trials has been foreseen in the constitution, "the public trials are done and the people is allowed to attend, unless the court recognizes public trials to be conflict with protecting public morals or public order, or the litigants demand the trial not public but in private.

The openness of proceedings should be designated one of the important indicators of fair hearing and observing the criminal standards of universal and regional human-rights documents such as in Article 10 of the Universal Declaration of Human Rights. Because if people attend in the session of hearing without any hindrance, it will cause they inform the trials and evaluate it in a public judgment if fair or unfair. In Iran's legal system, the openness of Criminal Procedure should be designated a improved and essential component in two Articles 165 and 168 of the constitution and also Article 188 of the Criminal Procedure Act would be anticipated that this implies Iranian legislator pay attention to the importance and effect of the principle in ensuring the rights and legal protection of individuals (Hadithi, 2003: 121).

Some conditions would be necessary to realizing the public hearing.

4-1-1-1- Dealing with obstacles in the people attendance and media at the the trial sessions

The main essence of a public hearing is the people to attend that it is conducted the public scrutiny on the courts. The mere attendance of litigants and witnesses did not provide the openness of proceedings, but the court doors opened to the public without any discrimination; however, when there is no general prohibition for the people attendance in court session, but certain individuals or groups will not be allowed to attend at the trial, investigation is still open. For example, the ban on the involvement of children in court can be expressed. For the particular case the public can attend at the hearing session, it is necessary that they are aware of the time and location before the start of the trial proceedings. In some countries, this procedure is that time in each branch of court would be installed in the corridors of the Palace of Justice, being mentioned the issue for a public observation (Khaleghi, 2010: 41). Unfortunately, in Iran, the courts are not required to declare the session time and location of the hearing. It is fitting that the Iranian judiciary system also makes the people to attend easily, by announcing early session time and location of the hearing.

In addition to the general public, media representatives also have the right to participate in the proceedings of the public hearing. They have to report the public hearing session to the people that failed to appear in court and observe the trial closely.

4-1-1-2-The possibility of proceedings issuing

This component contains the right of freedom of the press which is to publish the public hearing. The appropriateness of the openness of court hearings session that each of the members of the community has the right to appear in court and watch the process closely. But most people cannot personally and closely follow the trial, for various reasons, such as spatial distance between their own location and court or limited space of the court to accept all interested fans. Therefore, media representatives attend at the court and observe and record the trials and broadcast them for the interested persons to the proceedings who were not allowed to attend the trial.

The Note from Article 188 of the Criminal Procedure Act before the recent amendment has violated the right to freedom of the media to broadcast the proceedings. This was amended on 6/14/2006 as follows: a public trial means lack of making barriers for people to participate in the proceedings. Media reporters can attend at the court proceedings and prepare a written report and publish it anonymously or characteristics that define individual's identity or social or

administrative status whether the plaintiff and the accused. Violation of the decree from latter part of this note is sentenced as defamation (Khaleghi: 42).

4-1-1-3- The accused attendance at the trial session

On the basis of this right, the court is required to give them a notice on the time and place of capture when the accused or her/his lawyer is able to attend at the hearing. There are various minimum distances between the notification of the summons and the court session in different countries.

Code of Criminal Procedure determined at least three days as a distance between the notification of the summons and the date of calling. Of course, if the matter is urgent, the defendant can be summoned as soon as possible.

Article 177 of the Criminal Procedure Code.: The distance between the notification of the summons and the date of calling was determined at least three days and if the matter is urgent, the defendant can be summoned as soon as possible.

The principle of equality of arms is the basis of being the hearing in public. When someone goes to the accused, s/he has the right to benefit from the facilities are necessary and equal to the opponent. Therefore, the accused is entitled to be informed the reasons and the documents submitted to the court or the public prosecutor's office has collected on their behalf and to provide the evidence necessary for her/his defense due to having sufficient time. In the court session the plaintiff and representative of the prosecutor have been invited to attend, but not the accused, fair hearing and considering standards is not based on equality of arms (Ali Abadi, 2010: 6).

It should be noted that this principle is not confirmed absolutely and without any exceptions, because in many cases this causes the plaintiff's rights to spoil. Under Iran's Code of Criminal Procedure, criminal proceedings in absentia have been accepted to which Articles 217 and 218 of the Criminal Procedure Act have been assigned.

About the crimes on the human rights, the judge in order to protect and prevent violations of the plaintiff's, who is absent, is obliged to investigate the accusation of accused and to determine a decree. However, the crime on the right of Lord, the court only if the file content does not prove the accused to be guilty, attempts to determine the acquittal. Article 217 of the Criminal Procedure Code states in this case that: in all crimes related to the human rights and public order with no aspect of God's right, when the accused or her/his lawyer did not attend at any of the sessions or send a bill, the court determined the dictum in absentia, this can be protested after the actual notification within ten days in court which determines, after the expiry of protestation deadline, it can be appealed based on the appeal law (Khaleghi, 2010: 41).

So in the right of Lord, this is principle the accused to attend at the hearing session and only in cases where the case would lead to her/his acquittal, proceedings in absentia is not wrong.

4-1-1-4- The accused confronts the plaintiff and witnesses and the possibility to ask them some questions

The accused confronting the plaintiff and witnesses and asking them some questions would be related to the openness due to that the confrontation takes place in the presence of people more healthy and transparently and possible is lower the witnesses deviate from the truth and justice.

Because of public monitoring from the audiences, the witnesses are not easily allowed to deviate from the justice path. Confronting the accused with the plaintiff and asking them some questions are included as the rights of the accused and as one of the major components of the principle of arm equality. This right to defend involves in two aspects:

- The right to know the identity of witnesses who testify against her/him
- The right to confront and ask the proponent witnesses some question and also that to obtain the attendance of opponent witnesses testify on her/his behalf. In most cases, the assurance of first aspect is accompanied by a that of second one.

It should be noted that this right is not considered absolutely to the accused, and under some conditions, it is possible to be limited. National courts can, while complying with the soul of the guarantee under discussion, make decision about the question of whether the witnesses are in a contestation due to the incentive to discover the truth or not, and if the answer is negative, they refrain to hear their statements and to refer to such statements (Omidi, 2010: 64). Of course, the judges should not ignore the principle of fairness and equality of arms.

4-1-1-5 Given the identity of activist to the criminal justice process

The identity of those involved in the criminal process have been identified, including the accused, the plaintiff, the judge, prosecutors, jurors and witnesses, and it should be available to the public to aware. Failure to adhere to this principle of openness will undermine hearings, and the public monitoring of the proceedings and the truly implementing justice would be faced with the problem of removal.

This principle has exceptions, like other principles. As earlier mentioned, sometimes for the safety and security of witnesses' life and fear of reprisals by the accused against them or their own family, their identity are kept secret not to be available for the accused.

Iranian lawmakers in Article 196 of the Criminal Procedure Act made clear that the court has been obliged, before the start of the investigation, to inquire name, surname, father's name, age, occupation, degree of kinship and the status of servant and served with the private plaintiff or defendant. Also, in the preliminary investigation stage, which is to be held behind closed doors, the judge, before the start of the investigation, would ask name, surname, father's name, occupation, place of residence, level of education, degree of kinship whether relative or relative-in-law and being servant or served, the witness or informant towards the litigants and about her/him criminal background and record them (Omidi: 65).

4-1-1-6-Being oral hearing

Oral hearing has remained from accusatory oral trial period and now it is performed in many countries that this should be known as requirements of public and adversarial proceedings. In the court session, it should the sayings of the compliant and the private plaintiff, the informants and witnesses to be heard in an oral form, even if already in the stage of preliminary investigation they were written and the file is present, the judge cannot compose the dictum just based on that content.

The importance of the principle of oral proceedings can be summarized as follows:

1. The sayings and defenses of the parties and their reasons and documents are exposed to the civilizations to see and hear present at the court.
2. Debating and discussing that took place in the court session, some realities may actually have been discovered and uncertainties related to the issue are resolved.
3. The oral hearing can be the evidence based on which the judge evaluates and determines the reasons and is able to make good decisions.
- 4- The principle guarantees the justice to be properly done and fair trial and considering criminal standards. Because this makes an opportunity to the accused to provide her/his defenses on the basis of evidence presented in the case and that enables her/him to defend, expressing the documents and reasons.
- 5- The principle of oral hearing is subordinate the person to attend in the hearing, in the sense that the parties must attend in court to hear the expressions of the parties, witnesses and informants according which they express own sayings and arguments.

Hence, the oral hearing is a critical component of a public hearing. Because, public monitoring on the trial ongoing needs to know from the sayings of litigants, witnesses and evidence that has been raised. Therefore, there is no choice other than the above mentioned things are drawn in the proceeding sessions that people get aware of and observe how to access the justice. The justice becomes realized on the basis of written reasons, socially it is useless, because people do not see how to access the justice (Hadithi: 49).

4-1-1-6- Notification and readings of dictum in public

The main purpose of public notification of dictum is to secure the justice to implement and public scrutiny of the judicial system. So, anyone can have the right to claim from the other side, when the court announced the verdict, in fact, it disseminates the evidence on the basis of that the dictum was determined and this is essential that the accused has the right to appeal.

In the constitution and the Code of Criminal Procedure of Iran, this requirement is not clear, but according to that Iran adhered to the International Covenant on of Civil and Political Rights that Iran and passed it in parliament as a law binding, it is bound to consider it and it is logical that it is mentioned the statute. On the basis of Note 3 from Article 188 of the Criminal Procedure Code in criminal matters, in the final sentence for embezzlement, bribery, interference or collusion or taking a percentage in government transactions, disturbing the economy of country, abuse of authority to attract their own benefit or another's, customs offenses, tax offenses, smuggling commodity and currency and in general the crime against government finances rights, the court ordered determining the definitive dictum to publish its summary including individual characteristics, position or title, and the crimes committed, the type and amount of punishment for the perpetrators in their own expense in a widely circulated newspaper and necessarily in a local newspaper and to broadcast in the other media, provided that the proceeds of crime is more one hundred million Rials. The amended Note of this Article also states that either judicial or administrative authority, who violates or in some way prevents its implementation, will be condemned by the penalty prescribed in Article 576 of the Islamic Penal Code. However, it seems that the legislator aims when expressing the sentence to determine a punishment for the

perpetrators of these crimes rather than announcing the verdict in public. If it is proposed the verdicts are announced publicly, it should not distinguish between crimes (Hadithi: 52).

On the principle of openness of judicial proceedings, it must be admitted to considered confidentiality of respondents, in some cases, for example in family disputes and matters relating to the private lives of individuals, because in these cases the benefit of the parties requires that the presence of others in the court might not be authorized. In other side, the openness of hearings, especially in criminal cases, can cause disorder in the court, so exceptions arrive to this principle.

4-1-2- Justifying and reasoning the courts' dictums

Today, many legal systems expressly require the judge to argue the dictums. Thus, according to the current situation, the hearings provide better legal rights of the parties. The complainant and defendant or their lawyers regarding principles and documentation of the dictum can better justify their appeal (Shams, 2013: 161). Perhaps based on the same considerations that the constitution of the Islamic Republic of Iran, in a separate article, remarked this task in the form of a rule; the sentences must be reasonable and based on the laws and principles by which the dictum has been issued.

The verdict is justified and reasonable and based on law that is somehow rooted in the impartiality of the judge. Article 166 of the constitution of the reasonableness of the dictums says that the court dictums must be well reasoned and documented by the provisions and principles based on which they were issued.

Being justified and reasoned dictums are considered in two aspects: justifying or resorting to any reasons or investigation orders, and justification in not accepting and not restoring it, the principle of dictum justification of various decrees of court and Supreme Court Judges has reflected things such as:

- Lack of integrity of argument violates the dictum.
- When it is not known what the court has disregard the documents and expressions, the verdict will be overturned.
- Disregarding to accept referring to the expert and to interrogate informants without good reasons would cause violate the dictum.
- Ambiguity and not justifying cause the dictums to violate.
- Expert opinion should be explicit and justified. . (Moments, 1387: 73).

Accordingly, including those that must be met in court, the sentence must be reasonable. This principle of procedures was reflected in Article 166 of the constitution. According to the principle, the sentences should be reasonable and based on the provisions and principles by which they were determined.

4-1-3- Principle of the right to employ a lawyer

Though the judges with cooperation of justice take over to distinguish between right and wrong, the justice implementation and ruling the litigants in the courts, usually they require the cooperation of people who cooperate with the courts due to their expertise in these matters, because the procedure has specific accurate and difficult issues and problems that is not possible

the non-lawyers to surround them easily and speedily. For this reason, the parties are obliged in some references to perform their own actions through the lawyers.

According to Article 35 of the Civil Procedure Code, the agency contains all the powers of matters of proceedings in court, except what the client determined as exception or substitution which is unlawful.

Also based on Note 1 from Article 186 of the Code of Criminal Procedure, it is required that if without a lawyer, the accused be appointed by a public defender, for the punishment, according to law, of death, execution, death by stoning, and life imprisonment, unless regarding the crimes on inconsistent of the public chastity, the accused refuse to choose a lawyer. In other ones, also under the text of this article, according to the request of the accused for whom the court appoints a lawyer conditionally (Bazgeer: 74).

4-1-4- Implementing proceedings in reasonable cost and time

Sentencing within a reasonable deadline would be also considered as one of the conditions for a fair trial and criminal standards observing. Today, the biggest problems existing in our criminal justice organization to prolong the proceedings that make the justice implementations to understand and feel in society have trouble.

In this regard, a significant legal proverb says: a justice delayed is the justice denied. The proceedings becoming done in a reasonable deadline differ from reasonable deadlines for the completion of them; according to this point, it should be noted that when one poses a lawsuit in the court, s/he expects the court without delay as soon as possible to determine the dictum and render her/his deservingness. Obviously, success and favorable outcome are desirable and per se very effective when they are provided in happy and willingness modes. But after having taken excessively than expected, the rightful person confronts a lot of suffering obstacles, and doesn't satisfy with a decree determined that s/he is legitimacy party and will consider it with the utmost composure; also the prolonged trial is one of the disadvantages of the procedure, even to end and wrap up some of the claims, some plaintiff would die and it turns to the heirs (Bazgir: 74).

If the time for the hearings would be important, it makes not only the satisfaction of the parties but also politically, people are more confident at the regime and admire willingly its decisions, in fact, this will be the judge to be legitimacy, because her/his legitimacy depends on public recognition of the results obtained. This kind of legitimacy that is called the legitimacy in terms of the outcome is considered as an important measure to evaluate the fairness of criminal proceedings and observing the criminal standards.

Also at the hearings, the principle is of reducing the economic costs and mistakes. The costs of hearings, including the cost of papers and documents the evident, in the proper sense and the cost of travelling and those due to the employing a lawyer or a legal adviser all would be called by economic costs; and the costs arising from the issuance of false and wrong dictum, ranging from physical and spiritual, is the cost of mistakes in the trial. The organization of the judicial system with legal norms wasting the costs of the referred is far away from the fair requirements and criminal standards; a distance is not reduced unless by identifying the underlying principles of decreasing the costs of the parties and society, i.e. the economic costs and those arising from wrong; and disregarding them will cause not to realize the religious justice and thus inefficiency.

According to what was said, the procedure should be designed under reasonable and common costs that while it discovers the truth and ends the animosity, it makes easy access of citizens to justice and righter, as otherwise it should be said it is possible to achieve and expand the justice only for the rich and the poor who have more needs to be supported go the path of the justice organization and enjoy the judicial protection is not effective. Furthermore, if the victims of judicial errors increase due to not conforming to the principles of proceeding, the cost of compensation for them may be finally incurred on the public treasury that this results in increased public overheads. On the other hand, many judicial errors in the process of resolving disputes compel the rulers, as is common in our country, inevitably to add a number of ways to appeal that not only has ever not and is not worked, but it results in the rising up cost of the community and people and rising down the courts credit (Mohseni, 2012: 62).

So, the process of resolving claims requires to principles and rules that whilst simplicity and the ability to understand for non-specialist public, deal with the disputes and conflicts with the costs of reasonable by providing a platform to observe accuracy and speed of hearing and in order to create a balance between the duty of truth discovery and exactly end the hostilities so that the fitness rooted in justice and fairness has be seen between spiritual, material costs from both parties which are the burden on them and the benefits arising from judgments obtained from the courts.

5. Conclusion

According to the research questions, it can be concluded that the penal standards that ensure respect for the rights of criminal defendants and the interests of society During the investigation and trial, the basis for the formulation and adoption of the provisions of criminal procedure considered.

In ancient times and the Middle Ages, before the social and liberal revolution in Europe and the US, the principles, particularly in terms of considering the rights of defendants and the protection of honest and innocent people, have been completely ignored.

Consideration of the literature and resources on Islamic law on judicial procedure and the views of Imam Ali (AS) indicate that they from centuries before the evolution of criminal proceedings believed to the principles and ordained them. The principles such as the principle of equality of persons to the law and the courts, that of the prohibition of the accused torture wherein researches and hearings and principle of openness of trials are well seen in Imam Ali's (AS) judgment that were obtained across the centuries with the continuous struggle of the people against the kind of cruel governments. The modern civilized man is always in need of extensive contemplative judgment in the way of Imam Ali (AS) to explore further principles of his judicial procedure.

The principles of hearing would be of legal ones that can be applied are not limited to a specific case or issue and as long as they have not been replaced by another one will continue to exist. These single principles are visualized by the objectives in mind, and then are imposed by their value nature on legal reactions and implications. Some of these principles are considered as general principles of law. The principles of justice may conflict with each other or implementing a principle may disturb others. In this case, it could have considered balance and weighting ant

the more weight principle is preferred, as there is understandable hierarchy between principles. By identifying principles upon hearing, we could find out the nature of mere formalities of hearing and that of introduction to implement the principles. The principles govern the legislative process and the implementation of the rules so clear that although the legislator ordains the formalities and can even abolish them, it should also do upon the fundamental principles of proceedings. The most important role of legal-proceeding principles would be their strategic nature, when enforcing that is reflected properly and desirably, when preparing the judicial interpretations. The principled argument would be more weight, more preferred, more beautiful and stronger than unprincipled that they get unconscious mind to satisfy and necessitate, so we can easily find b what role the principle of hearings play; and without regard to them, how dry and lifeless principles and rules they are. In this context, referring to some points as a conclusion are expressed

Also the hearings to do are bound to observe and identify the principles which ensure the court's independence and impartiality of the judge and allow the judge according to the principles of reciprocity and rights of defense to hold a public hearing and at a reasonable cost and deadline, to determine justified and reasoned dictums so that the right to a fair hearing, which is one of the fundamental human rights, to be respected. On the other hand, a fair hearing should have been done under features such as being formality and apolitical whereby discipline is respected as well as considering the justice.

Recommendations

1 If having seen comprehensively, there is tangible impact of the stability of the proceedings. Furthermore, the law should be clear enough that it doesn't take a lot of time in order to understand legislator's meaning. Sometimes, the start time of law enforcement or its inclusion on past records is so ambiguous that so much discussion and consultation are done to fix it and sometimes lead to irregularities and violations of the right.

2. Considering the rights of the accused, including the right to remain silent, understanding the charge, prohibition of suggestion, prohibition of surprise and prohibition of compulsion to respond as legal rights and canonical principles in the process of hearing and investigation by the judicial system.

3. Creating and promoting a culture of using alternative approaches to deal with the disputation (arbitration, mediation and conciliation) and, above all, the criminal standards are remarkable things in terms of cultural-social aspects so effectively that can replace the reference to the justice and help in realizing the objective of a fair trial. Of course, the creation and promotion of this culture have also requirements that creating a legal basis for the use of these methods and the remove of barriers are put in that direction.

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