

Judicial Procedures to Ensure the Observance of Legitimacy Principle in Obtaining Evidence during the Interrogation of Defendants and Witnesses

Abstract

Finding the truth is always regarded as one of the most significant issues in criminal proceedings, which can be accomplished through obtaining evidence. As the focal point of criminal claims, the evidence must be legitimate and legal, and its acquisition and use must also adhere to the principle of legitimacy in obtaining criminal evidence. Although one of the fundamental purposes of criminal procedure is to punish criminals in society, fulfilling this important purpose should not justify using any illegal force against the accused. It is because using illegal techniques can never be equated with fairness or justice; in such cases, discussing a fair trial would be unfair. Although the freedom of obtaining evidence is in opposition to the protection of human rights, public security necessitates that the judicial authorities not hesitate to use any evidence to ascertain the truth. Therefore, the first step toward ensuring a fair trial is to follow the principles and standards controlling criminal evidence, particularly when it comes to obtaining evidence during the preliminary investigation phase and applying it during criminal proceedings.

Keywords: *The principle of legitimacy of obtaining evidence, criminal evidence, interrogation, nullification of investigation, fair trial*

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Introduction

Undoubtedly, the best and most equitable resolution to any issue is attained in an impartial, independent court, following a proper trial and the requisite protections for the parties involved. A fair trial for the settlement of claims is directly related to the credibility of the legal system, the trust of the litigants, and the public. Therefore, a fair trial is a trial based on fairness, and unfair rules and regulations have no place in this realm. A fair trial includes the principles of access to the court, the principle of appeal, and even the principle of the legitimacy of obtaining evidence. A set of principles and standards intended to respect plaintiffs' rights when handling their claims are part of the right to participate in such processes.

These guarantees cover all phases of the criminal procedure, from the crime's detection to the execution of the sentence, and are mentioned in international human rights documents such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights. Evidence as a way of establishing the truth should not be abused in such cases, and individuals should be sentenced without respect for the term or title of "evidence." Therefore, adhering to the legitimacy of obtaining criminal evidence is the best assurance of a fair trial, particularly during the preliminary interrogation stage when evidence is obtained, accepted, and presented.

The primary lines of the defense rights of the aforementioned individuals before and during the interrogation following international and regional human rights documents at the stage of preliminary investigations have been determined because

the defendant's interrogation is considered the focal point of the preliminary investigations. Besides, it is necessary to protect the legal principles of the presumption of innocence and the principle of human dignity during the proceedings. The steps taken during the interrogation may result in the execution of a writ of security for the relief sought, limiting the defendant's rights and basic freedoms or temporarily depriving him of his freedom. It goes without stating that this restriction and deprivation of freedom is contrary to the presumption of innocence because restricting people's rights without establishing guilt and the certainty of civil condemnation is contrary to judicial justice. Despite this, all criminal justice systems have accepted the limitations above as necessary to protect the community's and victims' rights by preventing the suppression of evidence of the offense, obtaining evidence, and the defendant's flight or concealment. The principles of a fair trial and the documents above should be followed by criminal justice systems in all nations when determining examples of defense rights during interrogation procedures. For example, the right to understand the charge by mentioning its reasons, the right to silence and announce it, the right to have a lawyer, the right to preclude the delay in explaining the accusation after summoning or arresting the accused, and the right to be careful in statements, the right to prohibit physical and mental torture during interrogation, and the right to cancel investigations that violate the defendants' defense rights can be mentioned.

Although the Iranian legislator has declared some of the rights above in the constitution and criminal procedure laws, under the principles of fair trial and human rights guarantees, it is necessary to address the existing deficiencies during interrogation, particularly the lack of anticipating the

unconditional right to have a lawyer, the right to prevent delay in the explanation of charges, and the right to cancel investigations that violate the defendants' defense rights. Additionally, cases involving the rights of the accused before judicial officers should be clearly and accurately predicted when they are kept under their supervision in police stations or areas for conducting investigations, particularly during interrogation, which is currently presented in a partial, weak, and vague manner.

Regarding those above and the difference of opinions on obtaining evidence by the judge or the prohibition of the principles and rules corresponding to obtaining evidence in Iranian criminal law, it needs further investigation. This study examined the legal and jurisprudential principles and rules with an emphasis on the judicial procedure of the International Criminal Court to find a comprehensive answer to the following question:

- How are the jurisprudential and legal principles and rules corresponding to obtaining evidence in criminal law and judicial methods to ensure the observance of the legitimacy principle in obtaining evidence during the interrogation of defendants and witnesses?

The First Paragraph: The rule of the legitimacy of obtaining evidence and the requirements to comply with it in interrogations

The principle of legitimacy is one of the most significant principles in law, and it is also regarded in obtaining evidence and highlighted in the criminal procedure laws of the country. It is impossible to issue a fair verdict without considering valid evidence and submitting it to the court because the law has established the solutions necessary to obtain evidence and protect human dignity by prohibiting arbitrary and voluntary actions. The protection of individual rights and human dignity, the preservation of citizenship rights, and the right of the accused to have a lawyer are just a few examples of the principles that serve as the foundation for obtaining legitimate evidence in criminal systems, which is thought to be a form of respect for people as the supreme beings in society (Tadayon, 2012, 428). The prospect of any disorder and a violation of standards like human dignity, privacy, and the like in society is envisioned if the method for obtaining evidence does not adhere to particular guidelines and a predetermined framework. In this regard, criminal courts are instructed to avoid admitting evidence obtained unlawfully to prevent innovation in the criminal system. In general, the legal framework of the principle of freedom of evidence in the criminal sphere is confined on the one hand to the limitations of "legitimate evidence" and on the other hand to the bounds of a "legitimate way of obtaining evidence".

The prohibition on obtaining evidence and presenting evidence that has no judicial value, as well as the emphasis on proving some crimes with evidence and special judicial methods, all imply a limitation of the principle of freedom of evidence in the sphere of criminal procedure. The legality or legitimacy of the evidence is not enough in the criminal justice system; it must also have been obtained legally and legitimately. Thus, the most crucial evidence used to prove a criminal event is deemed invalid if the required terms and conditions were disregarded when obtaining it (Ashouri, 2004: 229), and this issue expresses the principle of the legitimacy of obtaining evidence. As a result, even though it is possible to utilize a variety of legitimate and legal evidence to prove the crime, it cannot be done by any means or technique. Consequently, the use of any means or methods that are unworthy of the criminal justice system and damage human values and the credibility of police officials is not permitted. Article 38 of the Constitution states that "any torture to obtain a confession" or "to obtain information" is prohibited. For instance, confession is an acceptable justification in Iranian criminal law, but the confessional statements of the accused must be voluntary and free from any material or spiritual coercion. A person cannot be forced to testify, confess, or take an oath; any such evidence, confession, or oath is worthless and invalid.

The process of obtaining evidence can be categorized as either legal or illegal. When obtaining evidence illegally, it is important to strike a balance between the two parties' interests. On the one hand, the public interest requires that the disclosed materials not be deleted from the list of evidence based on the illegality of the manner of obtaining evidence, and the justifications for the defendant's acquittal should not be offered. On the other hand, the individual's interest necessitates that the situation not be promoted and generalized by refusing to accept the illegal conclusions of the evidence obtained by illegal methods. Citing evidence without considering how it was obtained cannot be accepted as a whole. In criminal proceedings, objectives and means must often be balanced (Herzog Evans, Martine, 2003: 108)

One of the most crucial tasks a police officer or investigator can do is interrogate a suspect or potential criminal. By asking the right questions and getting the right confession, the interrogator can find out the truth because he has access to all the information about the case and the efforts made to find the offender. Interrogation has a special place in the investigation and filing of judicial cases. Any responsible organization that makes a claim, such as the police station, the court inspection, or another, must support that claim with evidence and justification. After the discovery and prosecution of the crime, the preliminary investigation takes place, and with the presence of the accused and the victim, witnesses, and informants in the prosecutor's office, the investigation phase

starts. The most crucial actions of this phase are summoning, arresting, inspecting, and examining the location, expertise, and interrogation (Najafi Tavana and Saadat Mehr, 2014: 64). With an emphasis on defending the freedom of defense and upholding human purity and dignity, the rules that should be adhered to during the interrogation and to secure the defense rights of the accused have been outlined. These regulations ensure the accused's complete mental and physical freedom during the interrogation. The most significant of these conditions is the permanent assumption of the principle of innocence as an established rule of law and jurisprudence. Hence, this requirement cannot be waived based on the rule of the legitimacy of evidence when questioning the accused in the criminal procedures of most countries. For example, in Iran's legal system, the constitution stipulates that the presumption of innocence is a legal principle, and that every person accused of any crime is considered innocent until proven guilty. Under the presumption of innocence, the legal burden of proof is thus on the prosecution, which must present compelling evidence to the trier of fact (a judge or a jury). In addition, the prohibition of compelling the accused to prove his innocence, the prohibition of forcing people to testify and confess against themselves or others, the prohibition of torture, inhumane, cruel, and degrading treatment during interrogation, the prohibition of technical interrogation, the induction of answers to the accused, and the necessity of providing the accused the opportunity to. The necessary facilities to defend himself against the accusation (acceptance of evidence) can be regarded as the most important rights of the accused and the most important requirements arising from the observance of the rule of the legitimacy of obtaining evidence during the interrogation. Any violation of these rights, regardless of the justification, renders the obtained justification inadmissible in terms of its essence and reduces its validity (Saber, Mahmoud, 2009: 167). As a result, they are considered free to the extent that they do not call into question the legitimacy of obtaining criminal evidence or, in other words, the "fair" description of obtaining evidence (Vanessa, Valette, 2007: 213). Litigants and even prosecuting authorities gather and acquire documents and evidence, as well as legal evidence in general, to support and strengthen their position and prove their claims.

The Second Paragraph: The necessity of assuring the judicial authority of the voluntariness and discretion of the persons' declarations and confessions before any reference to them.

Acceptance of the evidence for a preliminary act is regarded as the cornerstone of the subsequent proceedings in criminal cases because if the evidence is ultimately ruled inadmissible for any reason—the illegality of the evidence itself or the method of its acquisition—the investigation of the primary

issue is halted and the person is exonerated following the acquittal principle.

Although accepting evidence does not always result in a conviction, it follows logically and according to the actual procedure used in criminal courts when a conviction sentence is issued (Tahiri Bejad, Mohammad Ali, 2013: 320).

The admissibility of evidence in these crimes depends solely on the presentation of such evidence following legal requirements, even though in Iranian criminal law, the evidence that is used to prove a crime or negate an accusation is a confession, testimony, knowledge of a judge, and oath (Qassama). These types of evidence are admissible and valid if they meet the formal and substantive conditions intended by the legislator. Thus, litigants can introduce any other issue as evidence that does not have a legal or judicial ban, and many of these matters and evidence that does not have legal conditions can be accepted as judicial evidence. Finally, the judge must determine whether the evidence obtained from the accused's statements and confessions was gained freely or due to compulsion and reluctance on the part of the authorities in charge of the investigation. Then, based on his convictions and conscience, he should decide the judicial and evidential worth of the relevant evidence under the rules controlling the legal system, particularly the rule of a fair trial. As a result, in Iranian criminal law, the fair admission of evidence can be defined as the concept of evaluating and estimating the evidence presented by the parties to the lawsuit, which is taken into account by the judicial authorities and decided on admissibility based on the principles and rules of a fair trial, and their probative value is evaluated based on conscientious conviction. However, in the practical procedure of the criminal courts of Iran, less attention has been paid to this aspect of fair proceedings. Thus, much of the evidence presented by the plaintiff is considered admissible and has judicial value, in violation of the principles of legality and legitimacy of the collection of criminal evidence, and they are sentenced based on them.

Sufficiency of the rational probability of the truth of the claim that statements are not optional

Respecting people's rights and freedom, seen as the fundamental and main tenet of a fair trial, necessitates the presenting of competing arguments and even conflicting evidence, which readily and efficiently establish grounds for people's innocence and acquittal. Consequently, and in light of the current conflict situation, it is possible to allow accused persons to deviate cautiously from the principle of the legitimacy of obtaining evidence to prove their innocence, which is assumed based on the principle of presumed innocence to obtain and present evidence (Bernard Bouloc, Voir, 2006: 176). As a result, in the first instance, the judicial authority's duty in the context of respecting the rights of the

accused and assuming the principle of acquittal requires having a rational possibility and signs of probable occurrence based on the truth of the accused's claim concerning the optionality of the statements in the preliminary investigation stage, particularly the interrogation stage. For example, the violation of the accused's other legal rights, the similarity of the accused's statements in interrogation with other discovered evidence proving the crime, and the accusation of misbehavior with the accused or his lawyer can be addressed before relying on academic evidence. Meanwhile, an independent review of the accused's or his lawyer's statements and claims concerning the distortion of free will in previous statements and discarding the evidence should also be considered.

1. Treating the violation of other legal rights of a person as proof of his claim truth that freedom of will is distorted in statements

The accused's interrogation is the most delicate, intricate, and challenging aspect of the criminal process. As stated in the Iranian Criminal Procedure Law for the suspected accused and the assurance of applying these rules in the Islamic Penal Code, the accused being interrogated has rights both before and during the interrogation. The right of the accused to remain silent, the prohibition of asking suggestive questions, the prohibition of the defendant's deception, the right to use a lawyer, and the peremptory of interrogating the accused are among the most significant legal rights of the accused. Other rights include warning the accused to be careful with his statements, explaining the accusation and its reasons, and prohibiting the use of torture to obtain confessions, testimony, or oaths (MoazenZadeh, 2010). If any of these rights were infringed, the judge should consider that evidence when deciding whether the accused's allegation that he was under duress when making his remarks is true.

2. The necessity to refrain from citing statements' conformity with other evidence to refute the assertion that statements distort freedom of will

Materials used in crime detection, such as blood stains, fingerprints, hair, sperm, saliva, and other items, are collected from crime scenes. These materials have a specific significance and typically help the judge decide whether to prove or drop the accusation. Thus, the accused is frequently coerced into making a false confession under unfavorable circumstances, with incorrect implications, cooperation with the primary offender, and emotional motivations. These arguments and evidence cast doubt on the confession and aid the judge in imposing the punishment. On the other hand, the actual criminal tells the truth and admits to committing the crime when confronted with compelling material evidence (Saqian, Mohammad Mahdi, 2014: 125).

Now, if the aforementioned substantial reasons are consistent with the accused's voluntary or involuntary declarations, how

are the confessions obtained by compulsion and reluctance? What effect does compliance with the content of the hesitant confession have on demonstrating the accused's guilt if the material evidence is received after the accused's confession? In another case, what should be done if the material evidence is discovered before the accused's confessions and the authority in charge of the investigation attempts to establish a link between the discovered evidence and the accused's evidence by putting pressure on the accused and using the technique of infecting and indoctrinating the accused? Should we disregard the outcomes in line with the newly discovered material evidence in light of the falsity of the accused's confession, or should we accept the newly discovered material evidence apart from the accused's confession as special evidence under these numerous assumptions?

Coercion and resistance during interrogations are expressly forbidden by Article 60 of the Criminal Procedure Law, and the statements gained in this way are deemed invalid. Article 169 of the Islamic Penal Code also nullifies confessions gained through force, torture, or other forms of mental or physical abuse. There is no question that the term "coercion" in the article's text and the definitions of torture and mental harassment prohibit and render invalid forced confessions obtained through psychological pressure. The accused is forced to consider expediency and accept the commission of a crime that is not true when he makes a forced confession in response to the pressure of the interrogation. It usually seeks to avoid the unpleasant interrogation process or to profit from the promises made by the investigation's authorities. In this interrogation setting, the accused is obliged to surrender to the interrogator.

Despite this, the findings of the conducted studies in different criminal systems show that a significant number of accused who were convicted based on confessions, after providing new evidence or proving the falseness of the cited evidence, especially through scientific evidence, were found innocent.

Whatever the situation, admitting a confession that lacks the legal standing of the evidence under the guise of "presumption," even though it is thought to be required and helpful for administering justice, is pervasive and detrimental to individual rights (Heshmati Abulfazl, 2009: 75). Such a viewpoint should be supported since granting judges such authority over obtaining evidence could lead to the development of illegitimate techniques.

According to the police and judicial discourse prevailing in Iran, the process of detecting crime and proving accusations is impeded because there is not enough time to conduct fair trials. However, the activation of the guarantee of refutation of academic evidence of illegal activity, in addition to pressure on the police to demand the use of scientific and technical methods of crime detection and avoid traditional and

confession-based methods, led to the creation of a basis for using new platforms for crime detection, especially through training, software facilities, inference and reasoning skills training for law enforcement officials in obtaining evidence.

Furthermore, predicting the guarantee of evidence invalidation and illegal investigative action while promoting the status and importance of acquiring and obtaining evidence through legal means in the eyes of litigants and police forces creates an attitude in police forces that in the case of committing illegal actions while obtaining evidence, it is considered invalid.

Regarding the favorable results and consequences of the crime's discovery for the authorities in charge of the investigation and the criminal justice system on the one hand, and the non-deterrent consequences of committing illegal acts to obtain a confession on the other hand, the officers' motivations to discover the truth in various ways and coerce the accused strongly develop the confession. Because the investigating authority is confident in the efficacy of the accused's confession before the judicial authority, the reasons for using coercion and reluctance towards the accused will be presented. Therefore, even in the most pessimistic scenario, deterrent disciplinary punishment is impossible if the organizational incentive is used to achieve the result and conceal the action. Furthermore, in the current environment, the deterrence of executive regulations connected to infractions committed in the context of the accused's unwillingness and coercion of the official in charge of the investigation is inconceivable and typically unenforceable. As a result, to achieve the desired purpose of the criminal justice system and crime detection, judicial officers may alter the sequence of events to change the judge's perspective about the intended conclusion.

A) The necessity for an impartial investigation into charges of misbehavior by arrested individuals if such a claim is made during the procedures

In Iran's criminal procedure system, even though the legislator has stipulated some of the defendant's defense rights in the constitution and criminal procedure laws, and under certain circumstances, the possibility of guaranteeing the cancellation of preliminary investigations and evidence obtained by illegal means is anticipated. As a result, following the principles of a fair trial and guarantees of human rights throughout the preliminary investigation, the method of dealing with the claim is not anticipated (Tadayon, 2008: 92). It is obvious that the most important and main way, in other words, the golden opportunity to claim the violation of defense rights by the accused, including misbehavior of the arrested person, is at the stage of the prosecution. Because the time for the infringement of the accused's rights is in the preliminary investigation stage, dealing with the claim of falsified evidence or investigative

action should be done immediately and without a pause from the investigation. In other words, the defendant's golden opportunity will be missed owing to his lack of knowledge of his defense rights before meeting with the lawyer and the lack of clear criteria for analyzing the defendant's claim. However, the preliminary interrogation stage can address the defendant's claim. As a result of this delay, in addition to the defendant's rights being violated and damages being incurred, there may also be numerous negative effects of the defendant's defense rights being violated, such as torture, etc., which are typically lost and cannot be proven (Koshki and Sohail Moghadam, 2014: 220). As a result, to ensure the implementation of the invalidation of evidence obtained illegally, appointing a specific authority and conducting an independent investigation to immediately deal with the accused's claim or request regarding misbehavior during the proceedings is an unavoidable and necessary case.

The Third Paragraph: How to remove unpredictable statements from the number of evidence

The most critical aspect of a claim is obtaining evidence. Although the primary goal of criminal proceedings is to seek the truth, this cannot be accomplished by ignoring procedural standards and resorting to illegal means and methods. The dignity of the court system, as well as respect for justice and human rights, necessitates adherence to procedural principles and standards. As a result, gross violations of basic human rights standards in the process of obtaining evidence are not acceptable, nor are behaviors that limit human dignity and basic rights and freedoms of individuals, including violations of privacy and the dignity of the criminal justice system, and contradict the requirements of public trust in citizens. As for the criminal justice system, merely prosecuting offenders (either criminal or disciplinary) cannot have a sufficient preventive or deterrent aspect. An adequate preventive and deterrent component cannot be achieved through the simple prosecution of violators (either through criminal prosecution or law enforcement). Due to this, the legislative or judicial process in certain situations must acknowledge the gathered evidence as being unreliable and the findings of any illegal investigations to be unreliable (Tadayon, Abbas, 2009: 84). Invalidating evidence or the outcome of an investigation has an effective preventive component because it first removes the motivation for the violation from potential violators and, second, encourages and persuades the person affected by the violation to pursue the violation and prove its occurrence. Similarly, the assurance of nullity and invalidity of evidence has a symbolic aspect that reminds criminal justice authorities of the importance of associated legislation and the principles guiding evidence acquisition. As a result, this symbolic feature can serve as a deterrent from a spiritual standpoint, ultimately increasing public trust in the judicial system.

A) The necessity of considering the material evidence as circumstantial due to people's involuntary statements

If a person makes statements based on which evidence and material evidence are later discovered owing to reluctance or illegal pressure, it shall be assumed that those statements were made circumstantially. As a result, the consistent involuntary statements with found significant facts should not be regarded as evidence of the judge's awareness. For example, if a defendant confesses to murder or theft after torture and declares the hiding place of the body or stolen property, and later the officers discover the victim's body or stolen property from the same location, it should be assumed that the discovery of the dead body or stolen property was circumstantial, and refrain from matching involuntary statements with what was discovered outside. Otherwise, not only is the principle of voiding involuntary confessions breached, but there is also a significant motivation to increase pressure on the accused and those under custody.

B) The necessity for judicial self-awareness about the risk of contaminating confessions and statements by officials and police forces

Police personnel and judges are under enormous organizational pressure to resolve cases, particularly when they involve serious crimes like murder, rape, or terrorist offenses. Perhaps in such a scenario, we will see widespread officer-contamination of the accused and others being detained. This means that some of the discovered facts are revealed to the accused in the officer's suggestive inquiries to make the involuntary responses appear to match the material facts. Then they write up the interrogation as though the accused independently knew the concealed information and his involvement in committing the crime was the cause of his knowledge (Mouzinadegan and Sohail Moghadam, 2015: 249). For example, if the victim's dead body is discovered with two fatal blows to the head that fractured the skull, and this hidden fact is later revealed to the accused during the interrogation along with physical and psychological pressure on the accused, there is a risk of organizing the interrogation session in such a way that the judicial authorities believe the accused is truly a murderer, because how he would know that there were two fatal blows to the head. It is tough to avoid this risk. In such situations, they may suggest hidden facts to the accused in the face of their repeated questions and record his suggestive answers if they suspect someone who made a statement while under arrest and in favorable circumstances. However, the content of those statements conflicts with what was revealed in the scientific and expert research, for example, the minutes of the autopsy report. For instance, asking, "How many shots did you hit?" is true, but it is not acceptable to ask, "Did you hit the second shot?" Of course, the key condition and presupposition for adopting this strategy is that the

criminal justice system be completely independent of the police structure at all levels, including crime detection, preliminary investigations, delivering verdicts, and so on (Goldozian, Iraj, 2014: 578).

Unfortunately, in Iran's criminal proceedings, particularly during the stage of obtaining evidence, judicial authorities are less required to adhere to the principle of legitimacy of obtaining evidence. Even in serious crimes like drug trafficking, prosecutors and police forces are permitted to take actions using unusual and occasionally illegitimate methods to ascertain the cause and establish the guilt of members of the community (Farjiha and Yari, 2013: 25). Drawing a specific legal framework in the area of getting evidence for the responsible authorities is the best approach to be a guide in practice when we are faced with the lack of explicit and transparent legal texts to deal with the improper conduct of government officials in obtaining evidence. Determining the rules and conditions for gathering evidence following the philosophy and opinions of Iranian legal scholars is also crucial. Therefore, the legislator seeks to create competent and essential legal texts by advancing and generalizing legal theories and measuring them in practice.

Paragraph 4: The necessity of protecting the defendant's fundamental freedom to not be obliged to express material from undue restrictions

In addition to the rights and guarantees the accused has before interrogation, he also has rights during interrogation that ensure his freedom of expression. However, following international human rights trends, several of these rights in Iran do not entirely safeguard the rights of the accused. The most essential of these rights is the prohibition on using torture to gain confessions, testimony, oaths, the right to keep silent, the restriction on deceit and asking suggestive questions of the accused, and the right to use a lawyer. If any fundamental rights are violated or improper and unreasonable constraints are imposed on the accused, the authenticity and veracity of the defendant's declarations and confessions are jeopardized.

1. The impossibility of considering silence as a presumption of acceptance of accusations

One of the fundamental freedoms guaranteed to people at various phases of the criminal justice system is the right to silence or to refuse to speak. Some even contend that, in the broadest sense, the accused has the right to lie so long as he has not given a witness oath (Mamaduh, Khalil al-Bahr, 1425: 368). Although the presence of a right termed silence for the accused is the outcome of banning the pressure to confess and provide information, the existence of such a right has still been acknowledged in many judicial systems. One defense right of the accused nowadays is the right to keep silent during the police and judicial authorities' inquiries into the accusations made against him. By using such a tool, the defendant gains

the minimal opportunity to protect his defense rights which are either the right to remain silent in response to valid or invalid questions, without having to assist the judicial authorities (Tadayon, 2012: 180)

The right to silence combines various rights, not a separate one. When discussing the right to remain silent, the assumption of innocence, the prosecutor's duty to prove the elements of the crime, and the restriction on torturing the accused to obtain confessions and information, come to mind. These rights assure the accused's right to remain silent, founded on the principles of free expression and the obligation to preserve the accused's dignity. The presumption of innocence is important for the right to stay silent because it lays the burden of establishing the accused's guilt beyond a reasonable doubt on the prosecutor, and so the accused cannot be obliged to assist the prosecutor in proving the allegation against him (Rahmdel, Mansour, 2006: 190)

2. The accused is not required to identify the person who committed the reluctance, torture, and misbehavior against him.

The confession is relevant if the assurance of its voluntariness is gained beyond any reasonable question. In principle, a confession is suspected of being optional, and other evidence cannot constitute a document of the judge's knowledge. Article 162 of the Islamic Penal Code should be interpreted following Article 38 of the Islamic Republic of Iran's Constitution, which declares that involuntary confession and evidence are illegal and unreliable. Because most confessions are gained in the early phases of the police investigation, particularly during the police interrogation stage and without the involvement of a lawyer, there is always the danger of violating the accused's rights (Mouzinzadegan, 2009: 316). Therefore, if a defendant asserts in court or to the interrogator that he confessed grudgingly or under duress from the interrogators, his assertion must be verified. The accused should not be sent back to where he believes he was compelled to confess before this claim is made public and should not be in the hands of the officers and interrogators suspected of the charge. Furthermore, the necessity that the accused introduce and identify the offending authorities, as well as impose the burden of proof of wrongdoing on the accused, is inappropriate due to the rational possibility of repeating the torture and putting pressure on the accused by the same authorities (Mir Mohammad Sadeghi, Hossein, 2005: 155)

3. Failure to stop the removal of involuntary statements to the initiation of disciplinary or criminal prosecution against the offending persons or officials

According to Iran's criminal justice system, evidence gathered through forceful investigations is among the most significant examples of the duties of the authority in charge of the inquiry being violated. Under the clarity of Article 38 of the

Constitution, the evidence of coercion and unwillingness should be discarded, and the violating officials should also be prosecuted if lawyers or, occasionally, legislators realize that the evidence is invalid. Although the offending officials' criminal or disciplinary prosecutions are typically sufficient under present laws to satisfy the legislator, the consequences and benefits of the violations are not susceptible to annulment. In practice, despite the prosecution of the offending authority, the evidence and statements of the accused are still credible and acceptable as evidence. They can also prove the validity of other evidence, and it is prohibited to remove that evidence. Identifying and discovering the criminals' crimes are postponed and dependent on the investigation. The danger of referencing and utilizing these materials under pressure and coercion in reaching a judgment and sentencing the accused is presumed in all of these cases. On the other hand, it may lead to recurrent violations by the authorities in charge of the inquiry (Zarat, 2011: 44). For now, removing the involuntary statements of the accused from the evidence immediately and without condition and not ending this case with the disciplinary or criminal prosecution of the authorities or offenders has a significant impact on fostering public confidence in the criminal justice system. It can also be one of the most crucial government tasks to ensure the implementation of the invalidating of illegal evidence at the preliminary interrogation stage, which can stop the repetition of violations by investigatory authorities.

Conclusion

Fair proceedings and trials as essential human rights are mentioned in numerous international documents at the global and regional levels. It is explicitly mentioned in Article 14, Clause 1 of the International Covenant on Civil and Political Rights, Article 6, Clause 1 of the European Convention on Human Rights, Article 10 of the Universal Declaration of Human Rights, and Paragraph B of Article 19 of the Islamic Declaration of Human Rights. Some of the concepts and norms guiding fair procedures have been stated in the basic and ordinary laws of various countries, including Iran (Principles 32, 34–39).

The most crucial requirements and regulations governing fair proceedings include competent, independent, and impartial courts, equality of people before the law and the court, the openness of proceedings, a speedy trial without justifiable delay, interrogation of competent and experienced judges, and the requirement to adhere to formal and substantive guarantees relating to the rights of the litigants. A trial that resolves the conflict between the parties in a competent, independent, and impartial authority established under the law, in a calm setting, with equal conditions, by knowledgeable and experienced judges, publicly, and with formal and substantive guarantees relating to the rights of litigants, is therefore considered to be

and fair. In such procedures, evidence as the focal point of criminal lawsuits must not only be legitimate and legal, but the technique of obtaining and applying it must also be subject to the principle of criminal evidence validity. In a criminal case, people should not be convicted by turning to any means in the name and title of evidence, and legal and valid evidence should not be collected in unconventional and unlawful ways and used as the foundation for a judgment. Punishment of offenders in society is one of the procedure's essential aims, but this goal should not justify the employment of any means and force because, without a doubt, unlawful and illegitimate means and force cannot be defined as fairness and justice, and talking about a fair trial is unfair in such a case.

The criminal justice system cannot merely focus on the result of acquiring evidence and ignore its means of doing so if it is to uphold justice and provide a fair trial. Consequently, following the laws and regulations controlling the use of criminal evidence, particularly in obtaining evidence and applying it during criminal proceedings, is the first step in ensuring a fair trial. Compliance with these standards and principles can be assured by upholding the legitimacy of criminal evidence collection. The right to respect "human dignity" and "judicial dignity" which are the fundamental components of the principle of legitimacy of obtaining criminal evidence, should be the right to enjoy a fair trial, which includes a set of principles and rules that are anticipated to respect the rights of the parties in handling their claims.

Although truth detection is the main purpose of the criminal case, and thus freely obtaining evidence is a fair trial to obtain criminal evidence, the desired truth cannot be obtained by any means, including illegal means. The legal system's dignity and respect for justice and human rights need the prohibition of using tools and forces that jeopardize the fundamental principles of human civilization and the realization of a fair trial.

A fundamental right known as the right to defense is provided in the interrogation, which serves as the focal point of preliminary investigations, following international and regional human rights documents and the principles and standards of Islamic justice to ascertain the truth, preserve the sanctity and dignity of people, and disprove any reasonable or unjustified accusations that are made against the accused during the judicial process. Some of the above defense rights are either not envisioned or are in a hazy and inadequate state in Iran's criminal justice system. Except in the case of physical or mental torture, the assurance of the invalidity of investigations resulting from violations of defensive rights has not been established. The task of prohibiting delay in explaining the allegation is unclear, violating the right to defense as described in the article's wording. Interrogation is planned using scientific procedures and new technologies.

However, the definitions and examples of these methods are unclear. Although law enforcement officials undertake investigations and interrogations in some situations, the legislator has not established a clear requirement for them, except in restricted cases, to observe other defense rights, and this ambiguity can interfere with the defendant's defense rights. In the realm of criminal procedure in Iran, judicial officials always function under the supervision and training of the judicial authority and, depending on the case, seek and collect evidence and finish investigations under the prosecutor's or investigator's supervision. If we accept that judicial authorities are prohibited from using illegal and illegitimate methods in obtaining evidence, the logical conclusion of this viewpoint is that, first and foremost, subordinate officials and officials who perform their duties under their supervision and authority should be subject to the principle of legitimacy in obtaining evidence and should avoid using trickery and incitement to commit a crime, as well as resorting to illegitimate methods.

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