Legal nature of Iran's suspension of prosecution in criminal proceedings

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Abstract. Basically speaking, when the court comes to the prosecutor's office called to mind. The prosecutor's office as head of the most powerful official in the judicial body which has the powers and duties considered in this regard is wide. It is essential tasks during the prosecution of the changes that have been made in this area has changed the rules of procedure. Therefore, duties and powers of the Prosecutor in this regard have been changed. In this regard, the prosecutor's deputies and prosecutors under which he will be required to follow all appointments so that they should be issued with the consent of the prosecutor, But investigators to two recent judicial authority with judicial independence is more than prosecutors.

Keywords: Suspension, Chase, Trial and Legislation pending prosecution

INTRODUCTION

Criminal procedure in general and how crime detection, investigation, preliminary investigation and criminal prosecution of the accused, as well as ways to protest against the vote of the competent authorities, judicial and quality of implementation of the provisions referred to Tremblay, With the aim of securing the interests of victims, defendants' rights of defense, security and public order and justice has been done and is worthwhile. Despite all the efforts and developments in decades and different eras in the process to reduce crime statistics, But with advances in science and technology and new areas of criminal justice objectives over time not gone as expected After the death of Criminal Procedure could provide targets to combat criminals and the punishment of imprisonment was imposed order and security The penalties in the eighteenth century as the best alternative was considered of capital punishment So that in the nineteenth century, was widely considered by lawmakers criminal system and the most common criminal policy tools was considered legal in the territory; But gradually in the next century in terms of the criminal and criminology, prison where the execution of punishment depriving liberty was seen as a factor causing offense was introduced especially for repeat offenses. Gradually, as a result of the events and protests to the prisoners, the new method was proposed correction And several categories with different standards in criminal thinkers Basic emerged and the issue of reform and treatment of prisoners and using scientific criteria sciences such as criminology, psychology and penology were introduced

With all these circumstances and valuable ideas in this area as well as the prison system in most societies are faced with many problems in terms of structure. The occurrence of adverse effects of imprisonment are now resorting to alternative ways lawyers were given prison This shows the failure of the prison as a place of rehabilitation and reform criminals is considered the most important goals of punishment is Prosecuting defendants and move to one of the important steps that can be Depriving the accused of the social rights that are at the head of it is free. Provide, the last act of departure must be made by certain people, but stability must be done with caution

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This approach can be seen in the context of legal regulations that implemented the Code of Criminal Procedure, experts Rights Criminal court proceedings in order to improve the efficiency of the discovery of the crime and prosecute the verdict and the sentence, Institutions and principles have been many predictions The position of the prosecution, suspension of prosecution, postponement of sentencing and parole suspension penalty is some of these principles. Among these institutions, the suspension of the prosecution that the evidence of the prosecution and sentencing in detention pending removal and delivery of the main goals of the reform of the criminal justice system, rehabilitation of offenders and crime control is very effective.

**Theory:**

**Suspension:**

Who or what action to suspend the suspension of the execution of punishment is to stop anyone who Corporal punishment or deterrent penalties if sentenced to a certain time and then there was another offense His conviction followed the court orders in this period will be deemed null and void (1).

**Chase**

To clarify the meaning of the term following the suspension of criminal prosecution states means The decision on criminal prosecution is a crime and is part of the process. Criminal process begins with the discovery of the crime and the prosecution and Preliminary investigation continues. The discovery of mass actions in order to preserve the crime occurs and prevent the escape of the accused. After the discovery of the crime prosecution begins at this stage, enough evidence to charge the decision. After obtaining sufficient evidence to prosecute falls to the preliminary investigation phase begins. Following the decision of the preliminary investigation period, there is no decision to prosecute involves decision making This is a crime of receiving the decision is made to prosecute the preliminary investigation phase begins If the issue of criminality and sent the case to court. The discovery of the crime are usually police and prosecution to the prosecutor and the magistrate in charge of preliminary investigation it usually is Terms divided prosecution from different perspectives. Term follow a strict perspective divided. The prosecution in the strict sense means making the prosecution crime. In its broad concept of a comprehensive range And include appropriate measures to prepare to send the case to court actions to defend the indictment in the court proceedings relating to the execution stage.

The prosecutor, after reviewing the facts of the case and its assessment of issues including the case of accused persons was done on the basis of the findings of criminology To conclude deals and to suspend the prosecution makes With this action, the interests of individual and social interests interweave and an antidote injected into the body to prevent personal and social community to fulfill its action. Following the suspension of the status of the prosecution's cases Based on this principle, the task of pursuing and prosecuting authorities do not have the right to apply alternative than important. Based on this principle, the task of pursuing and prosecuting authorities to send the case to the court of its. The legal principle of presumption that the prosecution of any offense in the public interest (3). Terms divided prosecution from different perspectives. Term follow a strict and broad perspective divided. The prosecution in the strict sense means making the prosecution crime. In the context of its broad range of comprehensive and include appropriate measures to prepare to send the case to court actions to defend the indictment in the court proceedings relating to the execution of the sentence. Terms divided prosecution from different perspectives. Term follow a strict and broad perspective divided. The prosecution in the strict sense means making the prosecution crime. In the context of its broad range of comprehensive and include appropriate measures to prepare to send the case to court
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The suspension followed in the pursuit of justice

The prosecution is one of the most important topics of Criminal Procedure that some of the rules of criminal law theorists were especially interesting. So that in order to realize the objectives of punishment in the interests of the individual and society, the need to prosecute or not to prosecute, the scope of the powers and duties of the competent authorities for prosecution, to discuss and exchange ideas with the international community, and regulators also refine them and amend the rules of procedure in this matter have not neglected. What has attracted the attention of legal experts in the field Decision to act or refrain from prosecution in which various methods were accepted and approved by legislators America's penal system because of the large volume of criminal cases, the prosecution of a wide discretion to accept or reject the charges, the proposed transaction and reconciliation through dialogue, to resolve the hostility and ultimately recommend to the accused to compensate for losses and non-recurring charges (4). Among the most important functions of prosecutor in the prosecution of this crime was informed that when the social conditions of the mass elements (elements of legal, physical, spiritual), and no obstacle to obtaining such madness, death of accused, there was no account of the young etc. directly or preliminary investigation by the prosecutor to the concerns. In fact, he wanted to move.

But the point that criminal drummer, especially in legal discourse today is concerned is whether the prosecutor's office, despite the crime with all its terms, the option to withdraw from the proceedings and the case file. In other words, if the prosecutor dealing with the crime that the prosecution had not only good for the community but will backfire and hurt the rehabilitation and reform people also, Can be used to prevent a repetition of the offense and the offender, social normative, regardless of criminal prosecution, or the use of alternatives to prosecution; this is about the two different legal theories and designs have been expressed:

1- The prosecutor's duty to prosecute and absolutely no right to refrain from this action. This theory is consistent with a system they call "the legality of the prosecution," they say.

2- Expediency prosecutor's discretion in the assessment and, if appropriate, and cannot understand the proceedings and issue a command to archive files. The latter coincided with the system that the "position of" or "right" of the prosecution say.

Based on penal policy with regard to the circumstances of the crime and the general public of government between the two methods, one or both are selected (5) In this regard, the pursuit of alternatives to public trial is one of the consequences of accepting the principle of "the position of the prosecution" is The prosecutor instead of pursuing criminal case using methods and measures that have been introduced in the law In reform and rehabilitation of offenders and protection of victim's rights of privacy and publicity than it used to be.

History of persecution, prosecution office and the legislative history of suspension of prosecution

In a historical perspective, can be seen, the evolution of criminal cases, the prosecution and the involvement of the victim, the term "private revenge" in which the private aspects of their crime-start and the "public justice" - where as Basic aspects of crime and punishment, the private as the two overcome led (6). In this part of the evolution of the way and manner the prosecution paid and the legislative process in the judicial system and legislation will be referred to the suspension of prosecution. In a historical perspective, can be seen, the evolution of criminal cases, the prosecution and the involvement of the victim, the term "private revenge"
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In the past, the criminal prosecution of crime generally affected application or complaint Private and community, despite the confusion about the order was given If the complainant of his complaint was ignored or even not make a complaint without any punishment and the punishment continued its trend But changes in the appearance of different schools of legal thought sociological and little idea of preserving and Was introduced to protect the rights of the offender and society as justice and prosecution of crime has been committed. Since then discuss how to restore the disturbed order and deal with the community Violates the rights of society, which is responsible for representing the community and thus the public prosecutor or the attorney general to grant some tasks He had the authority to set foot in the field of justice.

Thus, today the majority of the legal systems of the world it is accepted that the crime caused losses in addition to the individual of the population have, As a social phenomenon anomalous consequences, and social consequences of this phenomenon in society that is not free of damage and losses So the right track and make a dissonant in breaking the norm for society is recognized. Organization of the court - in the company of the courts - with all the features and elements of their functions and powers under the supervision of the Prosecutor has several In order to preserve and protect the rights of society and the rights of individuals against criminal acts and The rights and freedoms of persons criminal proceedings against unfair And pressure from the government forces will play a role. The topic of the history and experience of the public prosecutor, to the position of the institution in the legal system of the world will be referred to briefly Finally, due to the influence of the Iranian judicial system of the judicial system in the judicial system of Islam, The evolution and history of prosecutors in different periods of the Iranian judicial system will be discussed.

Before Islam

In general, in pre-Islamic kings of justice were based; accordingly, any action that would undermine the justice they were prosecuted and punished. The result was that the legal principle of crime and punishment and the presumption of innocence was unknown. Of course, this does not mean that there are no written laws, but they have also stated that Darius Following the letter of the law and procedure Hammurabi about punishment, laws and predicted (7). The remaining documents suggests that somehow, there is a judicial process, If the crime was, as law enforcement officials and members of the city police, charged with the task of detecting and prosecuting crime and arrest offenders had been proved in criminal proceedings and identifying the identity of the offenders, he was also responsible for (8). Regular procedure, and uniform and consistent in the kingdom there. It has been said that the first of those judgments had been among the people, and perhaps that is why the people as king of the Medes (ninth century BC) were selected. When he was informed of the crime and the accused was summoned personally follow, and finally according to the fault committed, the punishment is determined. Median after rule, like other wire, and government agencies, as well as the manner gave Darcy a particular system. the right to be in any way that recognizes that crime is prosecuted and punished. Dryvash in the inscription of Naqsh-e Rustam, had this to say: "... Anyone bother punished according to the abuse that I have."
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Place of prosecution (the prosecutor) in Iran

Changes in the legal system of successive long periods different from their own laws and regulations for the country's legal community. These developments, especially in the past century and especially after the advent of the Islamic Revolution, and more, so that now many laws on the principles of due process in the judicial system is seen. In light of these developments and the prosecutor's office and by the laws and regulations in place to remove and restore the fundamental changes and sometimes it has faced. In this section, the prosecutor referred to the background of ancient times, during the Constitutional Revolution and eventually paid the legal system after the Islamic Revolution.

Before the Revolution

That means in Persian means of justice and rule of law and the language used today. So just who is by virtue of the law and the regulations on Brntabd. The oldest written works of the Achaemenid inscriptions .NET Data Avesta and the means used. Later that in Iran in the Shah kings had a strong Zoroastrian priests And the people were tasked with complaints and lawsuits. At that time, a group of Dadvar decision on the complaint and the perpetrators of crimes and to listen and comment Kings, runs were made with the king penalty. So Dadvar the crimes that the hearings were a private plaintiff. As well as crimes against the interests of society took place. So the role of prosecutors who were still priests.

After the Islamic Revolution Revolution

When in 1290 Iran Solar, a temporary law was enacted Criminal Procedure, because it had adopted French law, the courts in this way the rights of way. After administration of justice in the law enacted in 1307 as well, which is still the material of the binding. The public prosecutor's office and pursue prosecution of reference as well as the public prosecutor was expected After the revolution and the establishment of customary courts to seal the top of the Constitutional also been approved by leading scholars "The court" as "public prosecutor's office," the official prosecution of criminal offenses and is among the most important institutions of the country. "The institution of the Organization of Justice Act (articles 49 and 50 adopted 04.07.1306 with subsequent amendments) is projected as a community lawyer and judicial officials has been placed on top of them" (10). Article 83 Amendment of the constitution even predict the position of public prosecutor and the judge has been appointed the official subject to approval. His duty according to the law of administration of justice, civil rights, law enforcement supervision, investigation and prosecution of crimes, was appointed as aforesaid, as well as government representatives presented. They should monitor the flow of currents even in case of rape and abuse were reported to regulatory authorities and the indictment. In addition duties of public prosecutor, the public prosecutor office form combinations (Court today) for various material organization of Justice Act and other regulations had been predicted.

After the Islamic Revolution:

With the victory of the Islamic Revolution in 1357, the court did not remove the Iranian judiciary and the work continued. However, more serious wake of criticism that followed the Islamic Revolution had started gradually to a court. Including the lack of judicial puts emphasis and believes it was concluded, The formation of the Public and Revolutionary Courts adopted on 15/4/1373.

The law provides prosecutors dissolution within five years was granted to the Head of the Judiciary

And his life in less than a year to more than eighty years ended in court.
However, the subject did not complete the court but in the company of military tribunals and special Clergymen would continue to survive. But no matter how the time was spent not only to improve the removal of the Judicial There reached Parliament. As expected, the law courts, and the monumental task of restoring the institution of criminal prosecution was stressed; However, duties will not be limited to criminal prosecution Affairs and Legal Affairs is responsible for the tasks. In the Civil Procedure Code adopted in 1318 the prosecutors involved in the lawsuits and the cases referred So was notified From the prosecutor's involvement in legal cases are not included

The legislative history of suspension of prosecution

Founded suspension followed a 40-year history in Iran's legal system, This law established in 1352 as article 40, paragraph two and three amendments into the Law of Criminal Procedure was coming. In 1356 some of the rules under the Act Justice, the suspension was pursued in part So that in accordance with Article 22 of the law "on all charges except misdemeanor of the second degree misdemeanor Penal Code, if the accused admits to criminal prosecution itself can be the first hearing With the following qualifications, prosecute him in accordance with the clauses 1 and 2 of Article 40 bis of the Rules of Criminal Procedure and the penalty part of accelerated reform suspend the public.

1. The defendant admits the contents of the file is actually effective.
2. Accused of criminal conviction is not effective;
3. The plaintiff or the private prosecutor in the extradition complaint is or is not.

Article 80 of the criminal procedure bill, which is now in the process of ratification in the parliament, This principle is considered. This article provides: "In the seventh and eighth grade physical punishment of crimes, if the plaintiff does not exist or has died, The absence of a history of criminal convictions, the judicial authority can then charge with regard t social status and background of the accused and the circumstances that led to the crime Thus, within ten days from the date of notification of the court is a criminal. " In addition, Article 81 of the Criminal Procedure Act and Article 82 of the bill followed the suspension mentioned in the case referred to mediation to achieve reconciliation between the parties is also mentioned. In this context, the UK Criminal Justice Act, passed in 2003 to the prosecutor regarding the exercise of limited relevance to criminal prosecution could follow the police and prosecutors has begun under stop. Subject to the assessment of the appropriateness of the prosecution case and evidence against the accused and the assessment of the public interest in the prosecution or non-prosecution is.

CONCLUSION

In fact, the prosecution authority decides on the basis of the common good, not the special interests of a person. Prosecuting authority is required to take into account the damage caused by the crime victim, but is not required to make a decision on his request (12). Applying the principle of proportionality so as to pursue the prosecution of certain competencies in the sense that a wide range of crimes, especially crimes, including the exclusion of heavy My¬Grnd (13). It can be said that the authorities have to apply English law appropriateness of prosecution, prosecutors and police. However, with reference to the rights of the individual to the judicial authorities, particularly prosecutors, and police to enforce the law suit is not being pursued.

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