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## **Procedural Justice and Its Mechanisms in Iran's Judgment System**

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### **ABSTRACT**

*Procedural justice is interpreted as a set of guarantee form to protect people against judicial decisions. The nature of procedural justice, in administrative decisions, is different from the judicial decisions; so that it should be interpreted as a phenomenon depends on conditions and the surrounding areas; i.e. a manner upon which procedural justice and its conditions can be influenced by the backgrounds and circumstances on any topic, for example, it shows that a particular case probably be achieved procedural justice without resorting to an oral hearing. As a result, procedural justice depends on the importance and circumstances of each subject, the nature of the decision, the negative effects on the interests of the person, records of the subject, contradiction, and conflict with the public interest, its economic costs, proposes different orders. In Iranian law, recognition and exercise of this right suffer from defects, With all this taken but limited, Administrative Court of Justice, civil procedure, and criminal procedure have a development approach to applying it in an administrative procedure and judicial affairs, but a legal and judicial gape appears in legal decisions.*

**Keywords:** Procedural justice, judicial decisions, administrative decisions, procedural rules, procedural fairness, confiscation of property, legitimate expectations, audition.

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### **PROBLEM STATEMENT**

Nowadays procedural justice and respect to it is considered as the basis of human rights provisions and is named as a new strategy for fairness in the justice system. Indeed, procedural justice restricts the government, administration and judges' determination to establishing and enforcing penalties in the process of criminalization, prosecution, and committed to natural rights of human dignity, the rule of law and the impartiality of the judge that all are the foundations and structures of a fair hearing. Procedural justice is a general practice that respects it is essential for demandant and defendant not only at the stage of preliminary investigation and preliminary proceedings which under the protection of the presumption of innocence but it cannot be denied from those who were convicted and their sentences were determined. Iranian people and nation believe in Quran's right rule and justice for a long time and eliminating unfair discrimination and providing equitable opportunities for all, in all material and spiritual areas, have been introduced as the most important tasks of the government of the Islamic Republic of Iran. Also providing the rights of all individuals both men and women, and to ensure full legal protection for all and general equality of all before the law are the obligations of the Islamic Republic of Iran (Article 3 of the constitution) [1-5]. Now we consider this issue how is the fair trial in the Iranian legal system and what outcomes can have a fair trial.

### **Procedural or natural justice**

"Justice" (Adl) is used in things that are perceived by insight and awareness such as commands; and bale (Edl) and equity (Edil) in things that are perceived by the senses. On the one hand, natural justice is the principle of the fair judgment right and on the other hand it is the supervisor on the implementation of this right and it is based on the principle of neutrality and the right of the accused or defendant to providing reasons and fairness hearing right. Based on the principle that advance warning of charge, formally charged, the opportunity to provide evidence and documents and the possibility of having assignee and lawyer makes sense; as natural justice requires, possibility to provide evidences is the right of individuals in court, the requirement to use this right is the duty of the courts to hear a claimant and provide require opportunities to him. The concept of justice is based on a set of abstract moral principles

that the people are sensitive because of the respect to human values. About what justice can be considered important, two models can be identified: self-interest model and group value model. In the self-interest, the importance of justice justified on the grounds that makes it possible to maximize personal income [6-8].

#### **Formative factors of procedural justice**

Two factors in shaping perceptions of fair or unfair procedure play an important role. The first factor is dealing with interpersonal relationships and the distribution of incomes and rewards managers how to deal with people. Another factor is the extent that managers, across the organization, explained their decisions to employees[9-10].

#### **Indicators of procedural justice**

According to studies, people know procedures fair that are compatible with the following six principles:

1. Not contradicting each other;
2. Avoid prejudice;
3. Accurate;
4. Correctable;
5. Represents all opinions stakeholders;
6. Based on the prevailing moral standards

#### **The consequences of procedural justice**

Considering the expected requirements of procedural justice for expectancy and equality theories in motivation can reach to significant results:

Expectancy theory: the claim of expectancy theory is that people are motivated to work when they were believers. Their efforts led to achieving a satisfactory level of performance 2) their performance led to desire results in court decisions and being adhered. If people thought were that the distribution procedures are not fair results, in this case, they would not have the incentive to work harder and ignore to dealing with justice and injustice. Studies show that people who get average or high results, regardless of the fairness of the distribution procedures, the results are considered fair.

#### **Procedural justice in the workplace**

Courts and workplaces impact on their employees' perceptions and understandings in various forms. Most justice experts believe that, in any environment, a kind of culture and climate dominated in which people do the action based on opportunities, rules, and regulations and on available models. So far, five kinds of justice have been introduced: distributive justice, procedural justice, interactional justice (or communication), information justice and interpersonal justice. Among these dimensions, procedural justice perceived by Talbot and Walker in the early 1970s, were discussed and in term of nature, it related to following the principles of justice and fairness in decision making, communication and implementation of decisions. One of the areas that severely impact on perceptions of procedural justice in the workplace is decision-making about improving and promotion. When, according to defined procedures and acceptable, one of the employees was selected for promotion to a higher post, due to the fact that the person selected among the staff, the possibility of cooperation and compliance of other employees from this person rises. One of the areas where quantitative research has taken less attention, is the role of feminine models, recognition of job promotion qualifications and networking opportunities in the perception of procedural justice in the promotion of women working in different departments. It should be known, a positive perception of procedural justice procedures and processes lead to increase the level of trust. Cohen and Spector (2001) during a research found that procedural justice in the distribution or interaction pattern affected the employees' attitudes and confidence in the judiciary [11].

#### **Being systematic the principles of procedural justice in the Iranian justice system**

Constitution of the Islamic Republic of Iran have attempted to predict two separate mechanisms apply the administrative procedure at first mechanism within the framework of a special body called the court of administrative Justice to investigate complaints and protests, by article 173 is predicted "people of its officers or units with government regulations and the rights of the court to be established under the supervision of the head of the judiciary.

The courts' judges have obliged ratification and implementation of government regulations that are contrary to Islamic laws and regulations or outside the jurisdiction of the executive powers refrain and everyone can demand the annulment of such provisions of the Administrative Justice Court. Bill Procedure of the Court of Administrative Justice in the scales of procedural justice is the first important question whether the Court of Administrative Justice Act highlights the characteristics of procedural justice 2 (natural justice 3) or noted to a fair trial? The rules of natural justice and fair play in the process of dealing with claims and allegations. Natural justice can be a broad concept that one of the lords of the Supreme Court of England in the late nineteenth century represented, is the natural human feeling about what is true and what is procedural justice is based on two important principles. The first principle that

the principle of neutrality interpreted it, this is an expression of the old doctrine that no one can be a judge in the case that it is the beneficiary. It also demands that a person can act both as a prosecutor and a judge of the judgment. The second principle of procedural justice can be accused or defendant's right to present its reasons and, in fact, returned [12].

### CONCLUSION AND ANALYSIS

The goal administrative rights are to regulate and guarantee of jurisdiction by the extraordinary general interest by the public authorities due process. It is clear that in the absence of detailed provisions, updating and rationality, administrative proceedings cannot realize it the. The bill of court proceedings, despite the fact that finally codified the procedures in the Court's proceedings, without the spirit is transactional. Court Procedure Act of 2006 to adopt a reform bill, as the sufficient level and the creation of deep reforms in the administrative hearing process is avoided. The bill cooperative done nothing about the realization of the right to petition public office, the prosecutor's office are scrambling to fundamental rights, redistribution of jurisdictions Court of Justice and the acceptance of new concepts such as the principle of proportionality and the principle of legitimate expectation has not taken any additional steps.

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