



The Role of Training in observing the Rights of under-surveillance accused

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ABSTRACT

The role of teaching the justice department law enforcement officials and the proctors of the investigation and suing institution in actualization of the criminal justice and fair trial is very essential and significant. Nowadays, one of the fundamental basics of a great importance in penal systems, international documents and human rights is the principle of fair trial and a problem that the law community is faced with is the observation of the same very principle in trying the lawsuits. This principle cannot be realized in a penal system unless the justice executives and trial proctors are sufficiently trained and one such addressee is the justice department executives and law enforcement officials who are required to be trained in order to get informed of the citizens' rights and their own duties to well serve their responsibilities and become immune of the compensations for the contingent losses incurred on the individuals as a result of not being instructed. That is because fair trial phase is a two-stage process the first of which is pre-trial and the second is examination at a court and the first stage that is the pretrial stage is more connected to the role of the police and the law enforcers particularly regarding the penal issues preliminary investigations and the time during which the accused is under surveillance all of which form the underlying premise of the criminal proceedings. Therefore, the role of training in criminal justice actualization and reaching to a fair and just trial is of a great importance.

Keywords: training, law enforcement officials, fair trial, under-surveillance accused

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The motive behind selecting such a topic:

The accused right to defend can be actualized when all of the warrants and securities related thereto are made available to the accused person and the sole consideration of a right to defend for the accused without providing for the facilities and the conditions would again be considered as contradicting the defensive rights, thus when there is a talk of the accused right to defend, it means that the accused should be able to freely and consciously defend himself in an appropriate time aided by a lawyer to remove the charged accusation(s) and this should be observed with the best possible ways in the entire criminal proceeding stages.

The defensive rights of under-surveillance accused though being supported from long ago and it is nowadays backed up in the global and regional announcements related to the human rights and the essential and normal laws of the various countries in different ways and there are warrants considered for supporting and observing such a right, unfortunately, in spite of the importance and the sensitivity of the topic and the legal, religious and ethical supports and securities, it has always been violated and today, the human beings besides becoming captives of machine life and the products made by their own hands, the violations of the accused defensive right happens in various ways by the judicial and executive officials and agents and such an offence and abuse has harmful influences which cause judicial mistakes, deprivation of citizens' legal comfort and welfare and damaging the judicial justice and security. Such a violation and abuse has always been existent and it is still in existence now. Therefore, a policy should be thought. This importance and the sensitivity of the topic, on the one hand, and its binary status of supporting and violating it, on the other hand, has been one of the author's motivations in selecting such a topic.

INTRODUCTION

“The first violation of the accused and other citizens’ rights takes place in the early criminal proceeding dossier filing because the justice department law enforcer is the first person who confronts with the crime scene, plaintiff and accused and should have the necessary qualifications. Qualification is attained via instruction and experience”¹. It is evident that the first impression of the under-surveillance accused on the police and the justice department law enforcement officials and the investigation and suing institution is very important and if this first encounter is not accompanied with elegance, consciousness, precision and correct communication, the cornerstone upon which the penal file is established would go astray and the judicial authorities who base their decisions on the contents of the file would make a wrong judgment and the solution to all such problems is teaching and training the law enforcement officials who deal with the people and the community rights.

Since training is one of the most pivotal essential bases of every administrative system, consequently such a necessity is considered as an evident issue in the criminal justice system due to its connectedness to the social rights and it is via the survey of training role that its standpoint can be pinpointed in preserving the accused persons rights and the criminal justice and fair trial actualization and hopefully training can be more optimally attended to by the law executives and the defenders of the social rights.

Stages are needed to be defined in every organization in order for the personnel to undergo training courses and the common stages of staff training usually are: “1. Specification of the training needs; 2. Setting of the instructional objectives and human resources development” and according to such stages the justice department law enforcement body is definitely not excluded from such an axiom and it has to advance corresponding to these general stages, that is in order to train the justice department law enforcement bodies firstly the training needs and the preliminary requirements should be determined and the instructional objectives and the human resources development should be predicted and then plans and programs should be devised to reach to such objectives.

“... Training is a very important mechanism of investing on the staff and the directed and applied training should be designed and implemented in the entire vocational levels. Therefore, it is necessary for the training measures to become standardized and, based on this, taking standard actions in training and educational management is of an essential necessity”². Therefore, planning and seeking for remedies in issues such as training the police and justice department law enforcement officials and judges should be brought to the attention of the custodians of the issue. The lack of specialized training of the law enforcement and investigation and suing officials and their disinterest in enhancing their knowledge of the law to gain domination over the rules and regulations are among the drawbacks of the criminal justice system. The law enforcers and executives should be trained to be in full control of themselves even in worst conditions and display proper behaviors, so they should be first recruited, next debriefed and finally expected.

Human resources training should be in such a manner that its output (discipline) be in line with correct rearing of the human resources to get to the instructional objectives. Discipline is the procurement of a situation where an organization’s employees adapt themselves to the rules and regulations and organizational norms and behave accordingly³.

Training the law enforces and executives should be along with order and discipline in order for the under-surveillance accused rights to be warranted that is because “discipline is a sort of training the objective of which is correcting the behaviors and the conducts of the employees in such a manner that it elevates their tendencies to observe the regulations and management organization”.

“It should be realized that the more the justice department law enforcement bodies are trained and the better they learn the judicial services under the supervision of the judicial authorities, the better the law will be served and it is via this well implementation of the law that the accused and the victim rights and the social interests are secured. Not all the agents are the justice department law enforcement officials. Law enforcement officials should be at the highest level of ethical, scientific, religious, physical and mental excellence in order to be able to provide the citizens with the necessary assistance, as required”.

Since a criminal lawsuit is started by the law enforcement and investigation and suing officials and a series of fundamental measures are taken when the accused is under the surveillance, thus the lack of citizens and under-surveillance accused rights awareness would incur the penal trial system with severe and irreparable harms, because “the law enforcer is sitting in the most sensitive chair of the trial process

¹ Akhondi, Mahmud, 2006, “code of criminal procedure”, v.4, Eshragh, p.164

² Abdi, Farzad, 2012, “law enforcement officials behavior standardization in criminal justice system”, MA dissertation, criminology and criminal law, p.175

³ Olivelandy, Allen Kauling, tr.Dr.Seyyed Hussein Abtahi, Shams Allah Ja’afariniya, Reza Tejari, Mehraban Hadi Peykani, 2007, “human resources strategic management”, Tehran, Khorshid, 1st ed., p.248

and should apply the necessary warrants in line with the fair implementation of this process to the maximum extent possible⁴ and training and commitment are two pivotal elements of such warrants the securing of which is a necessary and compulsory issue. As it was dealt with previously, the measures taken by a law enforcer construct the premise of the criminal dossier filing and it is among the preliminary expectations in respect to the idea that the foundation of the work should be corresponding to the engineering standards. The people in confrontation with the events that violate their rights or expose them to abuse or disturb the social order think of the police as the first place they can refer to and the citizens consider the police as trustworthy and as the sentries guarding their properties and lives and honor.

Neglecting the human resources instruction in every organization means subsequent suffering of the irremediable losses on the organization's body and it is non observation of the people and citizens' rights. Therefore, it is necessary for all of the administrative systems proctors and involved individuals to plan for training and fostering their human resources and it has to be attended to in all of the governance systems.

Training and education is one of the necessities of the society for human and mankind perfection and such a capacity should be employed based on ethical teachings. Training is important to the extent that its yields are manifested in the way the individuals and accused rights are preserved. That is because "the accused is innocent unless his crime is proved in a qualified court and an innocent person deserves every kind of respect and honor. In human-oriented or humanist schools there is this opinion that even when the accused is sentenced to a punishment his essential veneration as a human being should be kept"⁵. Therefore, ethics-based training should be applied to avoid individuals' personality destruction and that by the law executives to the maximum extent possible. That is because "ethics and law are in essence two inhibitive and confining factors of the human behavior but it is ethics which plays a part in navigating the law"⁶. Education is generally defined as understanding and perception which is displayed in behavior. "Such trainings should be conducted with an emphasis on conveying the ethics and rules charter and transparent codification of unethical and illegal behaviors as intended by the organization and management"⁷. Correct behavior in trainings is a common base of the ethics law that needs to be considered. "A sign of the social competency and adequacy is on-time expression of the ideas and timely implementation of the behaviors".

So, punctual behavioral training is among the undeniable necessities of a great importance and the governments should offer the necessary trainings to the justice department law enforcers and executives from the beginning and then expect them to act and in case of violation they should be reproached and they cannot be punished without first being trained because based on the axiom of "heinousness of the punishment without declaring", firstly they should be trained with the necessary regulations and then begin studying. On the other hand, "the governments are obliged to teach the required regulations to the law enforcement forces including military, nonmilitary, medical, state and all of the individuals involved in detention and interrogation that torturing is prohibited. They are also obliged to continuously and regularly review the entire instructions and methods of treating and interrogating the detainees within their jurisdiction and in case that torturing is perpetrated they should take prompt and impartial actions". The role of training the law enforcement bodies and the proctors of the investigation and suing institutions in the actualization of the criminal justice and fair trial is enumerated as very propelling and important. Nowadays, one of the fundamental basics of great importance in penal systems, international documents and human rights is the principle of fair trial and one of the problems in the face of the law community is the observation of the same principle in trying the lawsuits. Such a principle cannot be realized in the penal system unless the justice executives and the trial proctors are sufficiently trained and one such addressee is the justice department law enforcement officials who are required to be trained to get informed of the citizens' rights and their own duties in order to well perform their responsibilities and become immune of the contingent compensations for the losses incurred on the individuals resulting from the lack of training, because fair trial is a two-stage process, one of which happens before trial and the other is trial in the court and in the first that is the pretrial stage the role of

⁴ Abdi, Farzad, 2012, "law enforcement officials behavior standardization in criminal justice system", MA dissertation, criminology and criminal law, p.143

⁵ Ardabili, Muhammad Ali, 2007, "general criminal law", v.2, Mizan, 15th ed., p.145

⁶ Mousavi Bojnurdi, Seyyed Muhammad, 2001, "the collection of jurisprudential, law and social articles", v.6, the institution of setting and publishing Imam Khomeini (may Allah sanctify the sacred soil of his tomb)'s works, p.178

⁷ Olivelandy, Allen Kauling, tr.Dr.Seyyed Hussein Abtahi, Shams Allah Ja'afariniya, Reza Tejari, Mehraban Hadi Peykani, 2007, "human resources strategic management", Tehran, Khorshid, 1st ed., p.416

the police and the law enforcers is more tangible and obvious especially regarding the preliminary criminal investigations and the time during which the accused is under surveillance the output of which forms the criminal file, thus the role of training in the actualization of the criminal justice and reaching to a just and fair trial is of a great importance.

“Progress in a society can be perceived via the social justice assessment as the loftiest value and ideal of the human deliverance. Social justice is the ideal of Islamic Republic and it stems from Islam and its tradition but the today’s society requires the social justice and its culture which can be attained via justice-driven training. Justice-oriented training and attempts made in this regard are mentioned in the principles 1 to 3 of the Islamic Republic of Iran’s military forces law. Individual behavior change can be obtained via justice-driven training which will lead to social justice expansion in the society. In the meantime, such an important issue can be pursued via codification of the social justice charter with a particular concentration on training”⁸.

Justice-driven training is based on Islam’s original values (excerpted from the Holy Quran and tradition) and the Islamic scientists and thinkers concerning Iran’s justice and literature history which will, in the meanwhile, benefit from the exploitable and useful and successful experiences of the other countries. Such trainings aim at the corroboration of the personal values and capacities for observing the justice principles in daily individual and social behaviors hence such training should count on the cultural beliefs and norms.

Training should be enumerated as the pillar of a sophisticated and fair social system in order to take effective steps towards criminal justice and fair trial and it has to be taken into consideration that training is fruitful when it is on-time with a certain output, because the objective of training the justice department law enforcement bodies is the reduction and eradication of the behaviors against their prestige and in case such behaviors are shown it will be punished that is because “by punishment a science is intended which reduces the possibility of the repetition of a behavior”⁹. Enhancing the police and law enforcement officials training brings about a public satisfaction of the government and the difference between the police and the law enforcement bodies with the other military forces is in their effective and close relationship with the people and acquiring more knowledge and skill causes the enhancement of their services to the people and the costs of the trainings can firstly bring about a reduction in the violations and crimes in staff level and secondly cause the creation of a valuable wealth for the judicial system law enforcement officials. Thus, one of the indices of education in training the law enforcement officials is their familiarization with observing the people’s right and their own responsibilities in respect to the citizens and accused persons.

Generally speaking, it has to be said that training as the prominent pillar of the criminal justice system and fair trial plays an essential role in preserving the accused individuals rights and criminal justice actualization and this training should be manifested in law enforcers’ behaviors in order for its demonstration to become evident in the society and the training topic yield should be vivid to show how has it been effective on the law enforcers’ behaviors with the people and accused persons and finally “the result is that training, skills and commitment are among the issues deemed as necessary for the police in observing the accused rights and it prevents them from violating the primary rights of the accused”¹⁰.

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