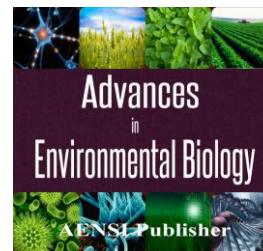




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The reasonableness of verdict of the court

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ABSTRACT

In Article 214 of the Criminal Law Procedure Public and Revolutionary Courts, the ((reasonableness)) of verdict in one of the main characteristics of it. Some knows the reasonableness of the verdict as a conviction or acquittal votes warranted to justify being considered, while that of the definition of evidence as described in the above mentioned article of the law. The reasonableness of votes is other than being reasonable. It may be a reasonable assumption, but not warranted. It seems reasonableness of votes means basing the votes based on principles of law, correct custom and precedent, in other words it can be said that to determine the reasonableness of the vote is that the verdict does not interfere with the conscience and wisdom.

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INTRODUCTION

Criminal Procedure as one of the branches of the criminal law is applied that this directory is a subset of the Criminal Law. Criminal law or criminal procedure deals with how to run the application form and apply the principles reflected in the substantive criminal law [3, 4] Thus, the substantive criminal law matter how comprehensive is, as long as have no organized manner in the implementation and realization cannot be hopeful that justice is implied. That's why the listed words are justified as worthy for interpretation of expressions describing the verdict.

Although the Code of Criminal Procedure and the court ruling did not mention any specific models for writing in the manner of its composition the limitation does not apply to the tastes of the judges, however, a general conditions are listed for setting the minimum requirements in the ingredients on the ballot votes without which no correct sketch is like qualities, such as the Code of Criminal Procedure that are listed in Articles 213 and 214. This condition can be considered as mandatory sentence.

But in addition to the mandatory conditions, there is also a range of optional attributes that are not mentioned in the law, including the principles of literature and writing and actually observe the burdens the beauty of votes, failure to follow them, although highlighted the weakness of the judicial author, but is not considered an offense.

It seems although the existence of the ((reasonableness)) of the verdict, is one of the mandatory conditions to vote, but less attention has been paid to this important subject and warranty has not appropriate enforcement. Yet to be reviewed below.

Discourse I: Tracing the legislative debate:

Stating the ((reasonableness)) of the provisions in the Criminal Procedure is mentioned several times in different Procedure Codes which are mentioned.

- 1) In [Article 289] of the Code of Criminal Procedure Amendment Act, Act 6 September 1982 with subsequent amendments stated: ((the provisions of criminal courts must be well reasoned and justified based on laws and principles that the rules are issued by ...))
- 2) In [Article 29] the formation of 1 and 2 criminal courts and the branches of Supreme Court Act of 31 June 1989, the same phrase is repeated.
- 3) In [Article 214] of the Criminal Procedure Act of 28 September 2008, General and Revolutionary Courts in the Judicial and Legal Affairs Committee of Parliament ((justified)) have been counted along with documentary proof of a completed vote.

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4) In [Section 38-133] Criminal Procedure Code bill has been repeated which presented to Parliament awaiting approval yet.

Discourse II: Principles Governing the Court to be reasonable:

A) *The reasonableness of the votes in accordance with justice:*

1-*Concept of justice and its relationship with the court:*

The word justice means judgment and perseverance, namely a person stay on the right track with the kind of passion and emphasizes on equality [121: 1] In fact, justice is one of the goals of Law, although some of the ideas of creates security and order, but if not accompanied by justice, is not valued. Because the order can lead to injustice and strengthen the oppression is not equitable.

Justice requires that there is a tendency to run in the essence of the votes, and the judge's decision is applied in a manner that is fair.

(2) *Example of unreasonableness of the verdict without being lawful:*

No discounts or converted a penalty, even though the defendant meets these conditions, vote may be a clear example of unjustified verdict, where the justice has not been met: although the judge sentences the person has the authority to convert the penalty, mitigate or the same penalties apply under the Act and when such a vote is issued, the Magistrate cannot be questioned because of Votes documentary evidence issued and Articles 22 and 728 of the Penal Code as well as the context suggests that transform and commutation of the sentence of the court is optional. But justice requires that if extenuating circumstances exist and the barriers are missing, amidst the love and tears to get away from the court, since the discounts are commuted on the rights of the accused in such a situation and if it is ignored causes the implausibility of the vote.

B) *The reasonableness of the votes in accordance with the fair:*

1 *The concept of fairness:*

Fairness is a moral concept that actually the wise person tries to be flexible in the order shown to establish the order in relationships. Some legal experts have said the wording of the concept of fairness: ((Fair, is a vague sense of justice that arises to enforce the legal rules on the parties adjusted and tailored to the individual with certain conditions)) [456: 3].

One of the options is usually given in deterrent punishments to the judge is determining the minimum and maximum penalties and suspension or convert of the punishment is authorized. In fact, the option to fit the punishment to the defendant's character. And judgments about the defendant's character can be based on social status, criminal record, authentication mode, and dangerous status. Fairness dictates that the magistrate charged with the appropriate treatment prescribed. And in deciding does not violate the scope of the fairness, fairness in this case means that the right of a person is full.

2) *Instances of unjustified votes because of the lack of fairness:*

1-2: *converted the penalty to Fines with the level desired:*

One of the penalties are fines based on the principle of individual punishments are applicable; the penalties enumerated in prison, respectively, imprisonment, flogging and fines.

Fine is a good policy for poor inhibitors but a poor view of defendants and pretending the poverty does not affect much on the mind of the judge who makes the penalties too minimum of the discounts not only contradicts with the philosophy of punishment but makes practical objections of the other potential perpetrators.

Of course the opposite is also conceivable, in turn; the punishment should not overspend that obviously, this conversion is considered an aggravated sentence. However, where appropriate justice asserts that the judge in determining the sentence should not ignore the path of moderation.

2 2: *undermine the dignity of the individual in the context of ratings:*

Dignity is synonymous with prestige, reputation and social affairs, human dignity causing the flow of spiritual life and individuals to protect it may endanger their lives and property. [Article 22] The constitution of the Islamic Republic of Iran attaches great place for the protection of the dignity of people. Sometimes the dignity of people intentionally or unintentionally is undermined in judicial opinions, example can be seen in some of the ideas when a witness have not one of the conditions to witness, it is explained in detail to prove why the witness of he/she has not been considered, Alas that the witness's reputation as a neutral member who wishes to help the judge to find the truth is endangered. Other cases in which the dignity of the individual will be ignored in votes relates to some of the records relating to the illicit relations that actions of the defendant or defendants is described in detail regardless that is a kind of describing the prostitution that strengthen the possibility that after popular issuing of the vote also marred the dignity of the children and relatives of the defendants.

C) *The reasonableness of the votes in accordance with the norm:*

One of the sources of law and legislation is the custom and habit, although the rules of custom and habit was the early lawful life of human, and still have a particular importance in the legislation, the law and its implementation in all human societies' conventions.

1 *The concept of custom and its relationship with the court verdict:*

Some authors have considered the norm for all rules derived from social events and without legislative interference in the rule of law.

And some have said, the customs is the culture of most people in word, deed and leave [346: 2]

Therefore, it can be inferred from definitions of the author that the norms are a public manner, and repeated in a long time.

However, in criminal law, a judge cannot invoke custom, tradition, practice or confine the impunity outside of the law to recognize crimes of specific individuals, but in terms of legal interpretation requires the norm. And the norms might affect the criminal law.

2) *Votes unjustified true regardless of the norms:*

Judge in determining penalties acts between minimum government and maximum of punishment. This means that he is authorized to decide between the minimum and maximum penalties, depending on the defendant's history, character and other circumstances, or else convert it into another appropriate punishment. Despite this authority, the verdict of the court shall be appropriate with the degree of hatred that people are committed to do the crime. For example, in some parts of the country, according to the custom of the region, the degree of sensitivity and hate toward the immoral crimes is high immoral. In such circumstances, people expect if the court determines appropriate punishment for the perpetrators, regardless the norms of society, the punishment was disproportionate to the sentence, which will pave the way for personal revenge, and caused cynicism for justice system to be described which is not compatible with ((reasonableness)). The court's decision should not be affected by public clamoring, but it is better that all the terms involved in the decision. Sometimes seen that a punishment has become the fine that cannot be paid even in banks. Such vote may be called ((Average ridiculous law)). Reverse can be true means that the crime that has the lowest sensitivity and evil in the society.

D) *The reasonableness of the votes in accordance with the principle of equality:*

1- The principle of equality is that all individuals have equal rights and duties that their basic human rights and individual freedoms could be found in human equality [60: 1]. Natural factors such as climate, geography, conditions life heredity caused the differences in humans. These differences should not be the origin of inequality among human beings as individuals and nations are equal in principle of humanity.

The equality made the greatest impact on the fundamental rights of the country. As the equal status of individuals regardless of religion, gender and the like. To investigate all cases of equity requires a separate discussion. But one of the issues that is related to the research topic is the principle of equality of persons before the law. (The lawful equality differs with equal law considering the fact that people are different in terms of gender, etc. the equal law does not seem fair for everyone, but for the legal equality of all individuals are the same before the law).

Equal protection of the law and extend the same to all members of society, irrespective of their social or political position is the base of the principle of equality before the law. In this regard, the law would have to be the same for everyone; the judge may order the person to comply with applicable sanctions and penalties with individuals, different offenders who have committed the same crime, different penalties instead. But legal equality requires that the law be followed in the selection of the penalty and the court cannot prescribe penalty under the guise of a penalty in any manner desired. For example, the openness of legislative punishment prescribed for the offense, so it makes the sentence of the court, which is not compatible with ((reasonableness)). It explained that although the publishing and implementation of public punishment, causing the edification of others and is included in the bill is pending in the House of the Penal Code but in the current situation with regard to law enforcement in order to open the penalty will be considered for non-designated areas an additional punishment that tarnish the reputation of the accused.

2) *Sentenced to punishment publicly clear example of violation of the principle of equality*

Earlier mentioned that the principle of equality requires the enforcement penalties for offenders are the same and comply with the principle of legality of penalties. How could the court implement the punishment on the thousands of offenders publically in order to excuse the public.

Article 5 of the Regulations for the execution, the Prison is named in Act of 1928 of the Department of Justice for execution.

In [Article 10] of the bylaws of executions, stoning, crucifixion, amputation or mutilation enacted in 1989, authorized the implementation of the execution in prison or another specific location.

[Article 290] of the Code of Criminal Procedure is also subject to the discretion of the court has upheld the sentence of flogging.

[Article 11] The Narcotics and Law Reform Act to include provisions in the Act of 03.08.1367 The Expediency Council prescribed the execution of drug trafficking offenses committed in the interest of the community.

Subject description: It seems that although Article 10 of the bylaws predicted the implementation of death sentences.... selected a place other than a prison sentence, but only permits a sentencing judge in public, [Article 11] Drug Law Reform Act, it is about armed drug traffickers sentenced in place and otherwise the sentence is not justified. In this regard, public stoning sentence to execution of both the letter of the law and the lack of respect that would insult Islam does not seem justified. But in accordance with the lashing sentence according to the letter of [Article 290] Code of Criminal Procedure, the court determines the place of performing the sentence, the how we can consider to perform it publicly unjustified?

The answer: first, the implementation of public floggings because it implies contempt of the offender Deals would impose a penalty greater than what is prescribed by law that is a serious casting doubt [6: 5] second, if the above argument is accepted, we are forced to realize that it refers to cases where courts have not been able to attend due to illness and/or that is dangerous criminals are transported from jail and makes his escape in such cases, the court has the authority to implement the execution of the sentence outside the court premises and even sentences in a non-public place.

Conclusion:

Since, the result of judging is the final product of the ((Court)), this result should be a consequence of the strong, rich, believable and influence. To achieve this goal should adhere to the principles, including those which are part of the bylaws 213 and 214 of the Code of Criminal Procedure and another aspect of the principles, such as principles of justice and equality and so inferred. If all the rules are obeyed, the vote will be described ((reasonable)) but if these rules are not complied with, the vote would not be reasonable even though it is documented and justified.

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