



Human rights obligations of the prosecutor in the Iranian legal system from the perspective of public law

Bahman Ebrahimi¹, Faramarz Atrian^{2*}, Alireza Ansari Mahyari

¹PhD student, Department of Law, Najafabad Branch, Islamic Azad University, Najafabad, Iran.

^{2*}Assistant Professor, Department of Law, Najafabad Branch, Islamic Azad University, Najafabad, Iran.
(Corresponding Author).

Email: atrian.f.1001@gmail.com

3. Assistant Professor, Department of Law, Najafabad Branch, Islamic Azad University, Najafabad, Iran.

Corresponding Author: Faramarz Atrian

Abstract

In addition to its traditional role as a prosecutor, the prosecutor in the Iranian legal system has extensive responsibilities in protecting human rights and ensuring public justice. From a public law perspective, these obligations do not simply stem from the rules of criminal procedure, but are rooted in the principles of the constitution, international law standards, and the requirements of good governance. The prosecutor is obliged to prevent violations of the fundamental rights of citizens, such as the right to freedom, human dignity, fair trial, and immunity from inhuman treatment, as an enforcer of the law. A comparative study of domestic laws and international documents indicates that the prosecutor's duty is not limited to prosecuting the accused, but also includes supervising the implementation of the law in such a way that criminal justice can be achieved in compliance with human rights standards. This article, with an analytical-critical approach, while explaining the theoretical foundations of the prosecutor's obligations in public law, examines the shortcomings in the Iranian legal system in the field of institutionalizing these responsibilities and offers suggestions for strengthening the human rights position of the prosecutor.

Keywords: Human rights, prosecutor, public law, Iranian Constitution.

Received: 15 October 2023

Revised: 18 December 2023

Accepted: 25 December 2023

Introduction

The different subjects of lawsuits and their effects, which are applied by the judicial authorities of the prosecution and the court, do not merely guarantee the realization of the criminal and civil rights of individuals, but are also a benchmark in the judicial system to demonstrate the rule of law in the rights of citizens and human rights. Therefore, their faults and shortcomings in securing the interests and interests of the country, which are among the duties of the judiciary (Article 156 of the Iranian Constitution), may cause dissatisfaction with the judicial system, and this can be considered due to the legitimate and rightful expectations of the people from the government, which is obliged to secure and protect their public rights. This issue has also been rightly emphasized by some authors of administrative law: "Administrative proceedings are based on a fair administrative system, and (both) judges (prosecutors and courts) must defend the interests of citizens against government violations of their rights" (Arian and Malmiri, 2016: 87). Therefore, the protection and preservation of the rights of the people and society is considered one of the most important and main concerns of all governments, which should be achieved, as the case may be,

with the cooperation of the three branches of government, organizations and relevant custodians. Thus, according to the Iranian legal system, the judiciary is one of the important pillars of the government that is responsible for the protection and preservation of public rights, and the Attorney General and the county prosecutors are also considered the main pillars of the prosecution and one of the most important officials in the judiciary that are responsible for the protection and guarantee of the human rights of the people and society.

The present study, entitled "Human Rights Commitments of the Prosecutor in the Iranian Legal System from the Perspective of Public Law", should examine the relevant issues from both international and national perspectives, because the "prosecutor" is of great importance among the judicial authorities of the court and the prosecution, and the importance of such a position is not hidden from anyone, given its special role in defending public rights and interests, in such a way that the prosecutor can be introduced as one of the foundations of preserving and supporting the human rights of individuals in society (Mehrram, 2018: 16).

This role is increasingly important in that, in addition to performing the functions foreseen in the criminal and civil fields, he also has a set of non-criminal duties and authorities of the subject of public law. But this must be done in accordance with legal standards and regulations at the national and international levels, and the realization of such a matter requires predicting an appropriate position in the legal order, regulating correct relations with other institutions and authorities, and also having competence commensurate with the intended goals (Moradi Berlian, 2018: 210). However, with a comparative study of the approaches of countries that have accepted the position of prosecutor to perform criminal and non-criminal duties, the role and duties of the prosecutor in the field of human rights obligations of public law (fundamental-administrative) are sometimes different and do not have the same pattern. Of course, in some international human rights documents that will be studied in the following discussions, rules and regulations are foreseen in this regard, in order to encourage governments to establish such uniform rules. Therefore, in analyzing the various issues contained in the following thesis, we must, in addition to critically analyzing the international law governing the prosecutor's human rights obligations and its comparative study with the Iranian public law system, study the Iranian legal system with the legal systems of some countries based on comparative studies.

Therefore, considering the Iranian legal system and some international rules, the following points should be considered in explaining the topic of the thesis "Human Rights Obligations of the Prosecutor:"

Firstly, the purpose of the administrative prosecutor is primarily to explain the role of his public prosecutor in the field of administrative law.

Secondly, with the establishment of the prosecutor's office, investigative judges can also be formed, such as the prosecutor's office, in which the investigation and inspection authorities will perform their duties. This means that the trial of the Administrative Justice Court will change to the investigative trial, which is in line with the current problems of the court, such as; Delayed proceedings, inequality of the parties, the inability of the plaintiff to present evidence and other issues that can be discussed under the title of the prosecutor's human rights obligations in the field of administrative law can be an appropriate approach so that the plaintiff can file a lawsuit with simplicity and ease and benefit from specialized and sometimes complex administrative organizations, and at the same time have his rights respected and guaranteed by the prosecutor and other competent authorities. For example; the prosecutor, as a person who is at the forefront of the principles and values of administrative law, must take care of the rights of the public, monitor and strive to implement the rule of law, and in the matter of proceedings, also seriously guarantee and observe the principle of innocence, equality of arms, and the documented and reasoned nature of decisions and actions.

Thirdly; By accepting and implementing the above-mentioned approach; in the implementation of human rights obligations in the field of fundamental rights, he should try to play his role in protecting citizenship rights and public rights, fundamental rights of elections and the like in the best possible way.

Fourthly; When the issue of guaranteeing and observing human rights obligations is discussed, the purpose is that the prosecutor should try to guarantee dignity, security, freedom, justice and other related rights to all members of society, in accordance with international and national standards. Respect the rights of children and women, religious minorities and human rights issues of asylum. Finally, accept the environmental rights of all members of society, both present and future, and not commit illegal acts in its realization and protection.

In this regard; in the following thesis, by examining the human rights obligations of the prosecutor as the guardian of public rights at the level of society and in the role of "Government Attorney" and "People's Attorney" and by scrutinizing their simultaneous role within the framework of the laws of the Islamic Republic of Iran, the following issues and challenges will be studied:

- What is the prosecutor from the perspective of administrative law and fundamental rights and analyzing its distinctive aspects with similar concepts;

- Explaining the principles governing the prosecutor's human rights obligations in fundamental rights such as; human dignity and personality, justice, security, environmental rights and the like, in light of international documents related to each issue and its application to the Iranian legal system.

- Explaining the principles governing the prosecutor's human rights obligations in administrative law such as; the principle of impartiality and independence, the principle of observing a reasonable deadline, the principle of the right to be heard, the principle of legitimate expectations and the like, by scrutinizing the international documents governing it and the approach of the Iranian legal system.

- How is the prosecutor's competence and role in protecting fundamental rights and administrative rights for the purpose of analyzing and criticizing the Iranian legal system.

Theoretical foundations and research background

Human rights:

In the Political Encyclopedia of Human Rights, the set of rights that, based on the theory of natural rights, are given to human beings equally by natural law and are considered an inherent and inseparable part of human existence and must be defended by legal and judicial institutions.

Right- Rights:

The word "right" is used in the dictionary with the meanings of proof and conformity with reality, correctness, truth, certainty, deserving, right, the opposite of falsehood, the name of God, the attribute of God, Islam, a certain share of someone, etc. (Dehkhoda, 1377).

Of course, most jurists consider "proof" to be its main meaning, because it is considered to be inclusive of all meanings of right (Misbah Yazdi, 1391).

From the perspective of Western thinkers, the concept of right is divided into the meanings of "being right" and "having the right", but in the science of law, jurisprudence, and even political science, its second meaning, "having the right", is used more (Farsi, 1380).

It has also been said that right in the general sense includes all established and signed rulings, but in the specific sense it is placed opposite the ruling (Naqreh Kar, 1391).

Furthermore, regarding the concept of right, some have stipulated; The aforementioned term means the science of law, the set of regulations governing social relations and the plural of right (Jafari Langroodi, 2005), which is explained below:

- The science of law; in this sense, the aforementioned term refers to the knowledge that analyzes and examines the rules and regulations governing social relations and the course of their developments.

-The set of regulations governing social relations; Law in this sense refers to the set of musts and mustn'ts that regulate the relations of individuals in society and provide order and security, and the state is responsible for guaranteeing its implementation. Although the word law in this term is always used in the plural and has a plural meaning, it is not intended as a plural word that has a singular, but rather is used as a plural noun like group and tribe. Thus, the equivalent of the concept of law in the above meanings can be searched for in the English words "LAW" and "Qaun" in Arabic literature.

-The plural of right; Another meaning of law is the English equivalent of "Raght". In every legal system, to ensure the social and individual well-being of man and to prevent any aggression and conflict, certain legal privileges and powers are recognized, each of which is called a "right" and their totality is called rights. Rights in this sense are a set of individual or group privileges recognized in society that arise in a situational and contractual manner from the laws and regulations governing it.

Human rights in relation to ethics

Islamic legal laws are closely related and proportionate to ethics. For this reason, a Muslim who acts ethically is also, to a great extent, an agent of legal laws, and conversely, a Muslim who acts according to legal laws certainly has a moral character, and the purpose of law in Islam is essentially related to ethics.

One of the Islamic scholars and thinkers writes in distinguishing between the relationship between law and ethics in Islam and the relationship between the two in non-Islamic schools: The legal purpose of society is to secure the social interests of humans in the world. Islam and other legal systems agree on this matter. What distinguishes and distinguishes Islam from non-theistic legal systems is that non-Islamic systems do not see anything beyond the ultimate goal of law, but from the Islamic perspective, the ultimate goal of law is - in turn - an intermediate goal and a means to achieve the ultimate goal of morality, which is the perfection of the soul and approaching the divine court... In Islam, the legal system is a subset of the moral system and with all its small and large rules, it is such that it can be easily and without any effort or artificiality incorporated into the moral system and is completely compatible and harmonious with it... For this reason, in the Quran, legal rules are expressed along with moral rules (Misbah Yazdi, 2018.)

This is while in the Western legal system, the connection between law and morality is severed and, as Robert Hugot Jackson explains in the introduction to the book "Law in Islam", the law in America has only a limited contact with the performance of moral duties. In fact, an American person may be a law-abiding person, but may also be a lowly and corrupt individual in terms of morality. Therefore, our law in America does not specify religious duties, but in fact, it consciously eliminates them. Thesis by Behrbar, Farshid, (2019) entitled "The Legal System of Protection of Public Government Property in Light of the Supervisory Role of the Prosecutor", (Islamic Azad University, Electronic Unit). In this work, the author has attempted to describe the types of executive, follow-up, supervisory, and preventive duties of the prosecutor in protecting public property. He then analyzes the effects of the prosecutor's membership in government jobs for the purpose of protecting public property and the factors that prevent the return of public property. However, the human rights duties and responsibilities of the prosecutor in this regard have been limited and scattered, and are not comprehensive.

Ebrahimi, Bahman, (2015), in his thesis entitled "The Role of the Prosecutor in Environmental Protection in the Iranian Legal System", (Islamic Azad University, Central Tehran Branch, Faculty of Law); after analyzing the principles of environmental protection from the perspective of international law and Islamic jurisprudence and analyzing the types of guarantees of execution related to environmental crimes, he describes the position of the prosecutor in protecting the environment. In this case, in two separate chapters, he has studied the explanation of the legal duties and responsibilities of the prosecutor and then his powers in environmental protection.

Principles governing the prosecutor's human rights obligations in administrative law:

Human rights documents:

The Covenant on Civil and Political Rights stipulates that the impartiality of the Prosecutor is absolute. Article 4 of this document stipulates: "1. In times of public emergency when the life of the people or the existence of the nation is threatened and this is officially declared necessary by the situation, the States Parties to the present Covenant may, to the extent strictly necessary, derogate from the obligations contained in the present Covenant by adopting measures; provided that such measures are consistent with the other obligations of that State and in accordance with international law and do not discriminate on the grounds of race, colour, language, religion, or religious or social origin. Among the non-derogable rights mentioned in paragraph 1 is the right to an impartial tribunal. Article 5 of the Covenant states: "1. Nothing in this Covenant shall be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Covenant; 2. No limitation or derogation from any of the fundamental human rights recognized or in force in any State Party to the Covenant under law, convention, regulation or custom shall be justified on the ground that the Covenant does not recognize such rights or recognizes them to a lesser extent" (Naji Zavareh, 2019.)

Violation of impartiality, in a way, involves a violation of personality rights and the principle of recognition of the personality of individuals. Considering that the interpretation of the articles of the Covenant should not be narrow and the right of access to an impartial court, given its long-standing, continuous and constant repetition by individuals or subjects of international law and its mandatory nature, has become part of customary international rules and has been accepted in accordance with the internal customs and habits of each country as well as fair trial regulations; therefore, considering paragraph 2 of Article 5 of the Covenant, the right of access to an impartial court cannot be considered derogable on the grounds of lack of clarity.

Iran's fundamental rights

As stated, in domestic legal and human rights matters, the prosecutor seeks to administer justice and will do so based on the reasons presented by the parties. In other words, the prosecutor is bound by the reasons and demands of the parties to the lawsuit in his proceedings and cannot directly attempt to obtain evidence. This, which is a result of the principle of impartiality, is known as the rule of prohibition of obtaining evidence and was clearly stated in Article 358 of the former Civil Procedure Code: "No court shall obtain evidence for the parties to the lawsuit, but shall only consider the reasons presented or stated by the parties to the lawsuit..." Although the aforementioned article has been deleted in the new amended law, according to Article 199 of the new law, the court continues to consider the reasons cited by the parties to the lawsuit based on their evidence in all legal matters. However, the judicial authority has been allowed to conduct any investigation or action necessary to discover the truth in relation to the subject of the lawsuit and in accordance with the evidence of the parties to the lawsuit. Thus, in the new law; The total elimination of the rule prohibiting the acquisition of evidence is not an option, but rather the legislator has sought to modify the rule and has attempted to make the freedom of inquiry related to the evidence that the parties have provided the basis for presenting.

The independence of the judiciary and the prosecution is also emphasized in Article 156 of the Iranian Constitution; "The judiciary is an independent power that supports individual and social rights and is responsible for the realization of justice and is responsible for the following duties."...

Article 164 of the Constitution also provides guarantees for the independence of judges: "A judge cannot be temporarily or permanently removed from the position he holds without trial and proof of a crime or violation that warrants dismissal, or his place of service or position can be changed without his consent, except when the public interest requires it, by decision of the Head of the Judiciary after consulting with the Chief Justice of the Supreme Court and the Attorney General. The transfer of judges is carried out in accordance with the general criteria determined by law." (Naji Zavareh, 2019)

Prosecutor:

The word prosecutor means one who administers justice, a judge, a king, and a prince (Abdollahnejad, 2009). The administrative prosecutor is referred to as a specialized prosecutorial institution, with the administrative clause as a distinguishing feature from the criminal prosecutor. Such as; tax prosecutor, clerical prosecutor, etc.

Some legal sources explain the concept of a prosecutor as a public prosecutor: "The prosecutor is an official who performs duties to protect public rights and supervise the implementation of laws and legal regulations, who is sometimes called a public attorney and a prosecutor (Jafari Langroodi, 2015). Of course, the prosecutor's intervention in the courts is mainly for the purpose of a criminal matter, but according to the claims of the Court of Justice, it is an intermediate matter (Nahrini et al., 2015).

Prosecutor from the perspective of administrative law

The administrative prosecutor is a person who, in a specialized and specific area, controls and supervises public rights and the rule of law in the administrative and legal sphere of administrative officials and employees, and can have a prosecution role in the Court of Justice, depending on the task. For example, he/she submits a petition to annul an administrative decision in the Administrative Court of Justice or prosecutes the refusal of an administrative authority to implement the court's decisions. Therefore, the task of the administrative prosecutor is not to discover a crime or, in popular terms, "to fight". Therefore, the prosecutor is assumed to be a representative of society and public order who strives to fulfill the standards of human rights and citizenship rights.

The prosecutor's office is, in principle, an important judicial element that, depending on the case, attempts to discover the truth. According to various sources, today the main function of this office is to protect the rights of society and citizens. Given the law-based nature of the Iranian legal system, in order to assess the possibility of such an institution in the Administrative Court of Justice, one must first refer to the Constitution. The purpose of the Administrative Court of Justice in Iran, in accordance with the judicial system, is to protect the rights of the people in the Islamic line of action (Hashemi, 2015). Considering this point, that is, there is no prohibition in the substantive laws and the general aspect of administrative lawsuits, the institution of the administrative prosecutor has a theoretical basis and legal possibility in the Iranian legal system. The position of the prosecutor in administrative law can be examined in terms of the duties of administrative law. Therefore, the most important duties of the prosecutor's office include; protecting the rights of minors, the insane, and the missing, and other duties that the legislator has assigned to the prosecutor in the field of administrative law.

The Prosecutor from the perspective of fundamental rights:

The prosecutor, as the guardian of the public rights of the nation, plays a prominent and important role in most fundamental rights systems in the world. Sometimes he plays a role as a defender of the rights of the state (Vakil al-Dawla) and sometimes as a defender of the rights of the nation (Vakil al-Mulla), and sometimes he plays a role in realizing the rights of the nation and the state.

Looking at the constitution, we find that three phases have been considered by the legislator with respect to public and public rights:

- Implementation and granting of public rights;
- Realization and fulfillment of public rights;
- Restoration and establishment of public rights.

In these cases, the prosecutor can play a role in accordance with the fundamental rights of the subject of public rights (Koshki, 2009). In other words; the prosecutor's office, prosecutor, assistant prosecutor, investigator and prosecutor's judges in the judicial system of the Islamic Republic, like the judges of the courts, see themselves as representatives and protectors of the rights of the people. Public law, which is mentioned in the Constitution in the section on the Judiciary and states that the Judiciary is responsible for

restoring those public rights and protecting legitimate freedoms, indicates that these matters are related to the duties of the prosecution and prosecutors.

The connection between the prosecution and public law:

Today, as a result of the changes in the role of the prosecutor into two categories of criminal and extra-criminal roles, the connection between the prosecution and public law can be accepted more easily. This has prompted us to examine the developments in the extra-criminal role of the prosecutor and address these issues: As a result of the developments in the extra-criminal role of the prosecutor, what changes have occurred in its role and authority in the field of public law? And in this regard, what principles should the prosecutor, who is the subject of public law, observe in carrying out his duties? And finally, how many types of prosecutions or organizations with the role of the prosecutor, the subject of public law, can be mentioned?

Evolution in the Role and Competence of the Prosecutor

As discussed in previous discussions, the Prosecutor's Office in its current form should be sought in French law. This institution, which was initially established with the aim of protecting and securing the interests of the Shah, emerged in the fourteenth century as a defender of the interests of the Shah (Shamsaf Abdullah, 2001). With the evolution in theories in legal and political theories and the foundations of political power and the proposal of theories such as "public interests or public rights", it was born and expanded, and gradually in the process of changes and developments in various public institutions and organizations and the level of expectations of society and their representatives, the originality of the interests of government agents gave way to the originality of the interests and rights of the people, and the rights of citizens were placed in the priority of rights alongside human rights. Therefore, the Prosecutor's Office, a subject of public law, was born in the light of elementary concepts such as; public order.

As a result of such developments, the role of the prosecutor in public law **gradually underwent fundamental and serious changes, which can be mentioned as follows:**

- Changing the type of support provided by the prosecutor, meaning that the foundation of the prosecutor's office has changed from individual support (support for the ruler and its structure) to collective support (support for the people and society).

- Unlike the past, when the government was the gendarme and the provider of public order and security, the prosecutor and the prosecution institution currently have such a fundamental duty. In addition, based on the initial requirements in the past, the role of the prosecutor was mostly limited to maintaining order and security, but today the prosecutor has a wide role and authority in various security, financial, tax, commercial, civil, etc. matters, which indicates a transition from the traditional concept and duties of the prosecutor to new diverse and extensive criminal and extra-criminal jurisdictions.

- The extra-criminal judicial system (specifically the administrative judicial system), which is being researched today, is evolving, and in a way, the theory of the establishment of the administrative prosecutor and, consequently, the administrative prosecutor is also the subject of discussion among legal experts.

Principles of public law governing the duties of the prosecutor:

Although the prosecutor has been established in several institutions, the legal system has identified the prosecutor with criminal matters. Referring to Article 8 of the Criminal Procedure Code, the public lawsuit that the prosecutor is responsible for has the three elements of "public order", "social rights" and "divine regulations". In fact, the roots of these three elements can be found in the thought and works of public law.

In the discussions of fundamental rights and administrative law, public order is one of the fundamental and basic topics of public law. Social rights, which are the sum of individual rights, are mainly studied in public law, and although divine regulations are examined in criminal law discussions, topics such as; Government, the guardianship of jihad, corruption on earth, and war are topics that are matters of government, and

topics such as rulers and political power are important topics of public law and constitute the main structure of public law.

Thus; Some of the criminal law issues governing the prosecution have a thematic connection with various principles and values of public law, so it can be said; There is a deep connection between the principles and goals of public law in criminal procedure and public law, and the criminal prosecutor can be considered in line with the principles and values of public law (and especially fundamental rights).

In this regard, it can be said; By considering how crimes are criminalized in Article 103 of the Islamic Penal Code, it is clear that the principle of the unpardonability of crimes and, consequently, the existence of a public element of the crime is accepted by the legislator, so the role of the prosecutor and the prosecution, who have investigative and investigative duties in public order, is effective in the occurrence of crimes and their trial. That is, they play a role in the process of hearing all criminal cases. Thus, it can be said that public law plays a major role in drawing up the Islamic Penal Code and criminal trial. For example; According to Article 70 of the Criminal Procedure Code, the prosecutor pursues the plaintiff's claims in cases where he is incapacitated, but Article 71 of that law specifies that the content of this article is closer to the prosecutor's duties in the field of public law.

Types of Prosecutors' Offices or Similar to Them in Public Law

One of the important topics in the field of public law is the recognition of the types of prosecutors in the subject of public law. Therefore, in the continuation of the conceptual and basic examination of the prosecutor, we will answer the question of how many types of prosecutors or institutions with similar duties are we faced with in the public law system of the Islamic Republic of Iran?

In a brief answer, we can mention the prosecutor of the Court of Accounts, the prosecutor in the Tax Administration, and the Customs Dispute Resolution Commission, which will be examined below.

A: The Prosecutor of the Court of Accounts

The Prosecutor of the Court of Accounts is responsible for the proper performance of the duties of the Court of Accounts, and only some of his assignable duties can be assigned to the deputies and assistant prosecutors of the court, and he can refer to any of the agencies directly to perform the duties of the prosecutor or delegate this duty to the assistant prosecutors. The prosecutor is responsible for supervising the financial statements based on documents and evidence for transparency. If the monthly or annual accounts, financial statements, and any required documents or evidence are not submitted to the Court of Accounts within the prescribed time limits, the Prosecutor of the Court of Accounts is obliged to prepare a lawsuit against the person or persons responsible for the matter and send it to the head of the Court of Accounts for consideration in the advisory boards. The Prosecutor of the Court of Accounts is responsible for the proper performance of the duties of the Court of Accounts, and only some of his assignable duties can be assigned to the deputies and assistant prosecutors of the Court of Accounts, and he can directly refer to any of the departments in order to perform the duties of the prosecution or delegate this duty to the assistant prosecutors. In general, the objectives of the Prosecutor in the Court of Accounts are as follows:

- a) Taking action to protect the rights of the treasury within the limits of the country's financial laws and regulations;
- B) Reviewing and preparing petitions and submitting them to advisory boards or judicial authorities in the following cases: 1) Cases of deficits in the accounts of officials; 2) Failure to submit financial statements, income and expense accounts of legal books and deficit statements or documents and records on time to the State Audit Office; 3) Provision of excess credit or failure to comply with financial laws and regulations; 4) Failure to timely deposit income and other sources of credit intended for the public budget into the relevant account, as well as failure to deposit funds received as deposits or guarantees or bonds or the like; 5) Failure to timely pay government obligations that cause losses and damages to the treasury; 6) Abuse, negligence and tolerance in maintaining government property, documents and funds, or any expenditure or incorrect decision that causes waste or loss of the treasury; 7) Cases raised in audit reports and certificates of accounts issued by the State Audit Office; 8) Creating unjustifiable obstacles and prohibitions in the area of Relevant officials of the institutions towards auditors or auditors and other

experts of the State Audit Office in order to perform their duties 9) Payments and receipts that are made in violation of existing laws by written order of the responsible authorities 10) Matters raised in the reports of internal and external auditors of relevant companies, institutions and organizations 11) Criminal prosecution of violators for losses and damages caused to the treasury in judicial authorities and reporting to the Chairman of the State Audit Office (Sadeghi Moghadam, 2016).

B: Prosecutor in the Tax Administration

The administration of a country's affairs and the performance of public services and duties by governments require the prediction and provision of public revenues. Today, in many countries of the world, the main and main part of public revenues is provided through taxes. In each country, a specific organization or institution is responsible for determining and collecting taxes and handling disputes arising from this issue. The organization in charge of this in each country plays its role through its employees. At the head of the supervision of tax affairs is the prosecutor. Who supervises all documents and records related to tax collection in order to protect the rights of the public and establish justice. In fact, the prosecutor's office directs a type of tax proceedings by enacting tax laws and regulations.

In fact, the tax enforcement prosecutor is a type of administrative and disciplinary prosecutor in tax affairs that is outside the judiciary and is responsible for investigating and discovering violations and faults of tax officers and representatives of the State Tax Affairs Organization in tax dispute resolution boards and other tax authorities, investigating the moral aspects and actions and behavior of the aforementioned individuals, expressing opinions on their administrative promotions, and filing lawsuits against taxpayers and tax officers in accordance with the law. The tax enforcement prosecutor, as a high-ranking official of the Ministry of Economic Affairs and Finance and the State Tax Affairs Organization, is considered the highest disciplinary authority of this organization in relation to discovering violations and faults of tax officers and taxpayers and prosecuting them (Ansari, 2016). The prosecutor's duties can be divided into two categories: quasi-judicial duties and administrative duties. Quasi-judicial duties: The prosecutor includes investigating and discovering violations and faults of tax officers and representatives of the State Tax Affairs Organization in tax dispute resolution boards, as well as members of the three-member board subject to paragraph 3 of Article 97 of the Direct Taxes Law and other officers who are involved in tax collection according to this law, as well as those who perform the duties of the said officers while maintaining their positions and prosecuting them; filing lawsuits against taxpayers and tax officers. The administrative duties of the tax enforcement prosecutor include: investigating the moral aspects and actions and behavior of the said individuals; expressing an opinion on the promotion of tax officers and representatives of the State Tax Affairs Organization in tax dispute resolution boards. In this way, it can be said that the tax enforcement prosecutor is a kind of specialized tax administrative police in the fight against administrative and tax corruption. On this basis, the legislator has considered the prosecutor to be a high-ranking regulatory supervisor in tax affairs in order to maintain administrative health in tax offices. Investigating reports received or notified to him, whether written or oral, about the occurrence of violations in tax administrations; archiving the files of reports received after their investigation; issuing a restraining order for tax officers and those accused of violations and notifying them to the Supreme Tax Enforcement Board; preparing and issuing indictments against tax officers and representatives of the National Tax Administration; prosecuting notaries public who violate the duties assigned to them by tax laws by issuing and submitting indictments; reporting violations of judges who are members of tax dispute resolution boards to the Judicial Disciplinary Office; reporting violations of representatives subject to paragraph 3 of Article 244 of the Direct Taxes Law and retired judges to the general courts of justice; investigating the votes of dispute resolution boards in cases where the content of the vote includes rejecting the tax assessment sheet or adjusting the tax administration's assessment in a way that this adjustment is contrary to the law, regulations, and issued instructions (Taheri Tari, 2015).

Principles Governing the Prosecutor's Human Rights Obligations in Constitutional Law

The conflict between the rights and freedoms of individuals and the sovereignty of the state (in its general sense) has been a constant concern of all governments from the past to the modern era. These concerns

have become more prominent in the modern era due to the expansion of human rights issues. A conflict that, on the one hand, we are faced with literature and concepts such as; human dignity and personality, ensuring public welfare, justice, security and freedom, refugee rights, respecting the rights of vulnerable individuals (children and women) or accepting environmental protection, and on the other hand; we are faced with the need to protect human rights and create restrictions on the sovereignty of the state in order to implement the above-mentioned principles. Thus, the state, regardless of having different political, economic, cultural and social systems, must protect and promote human rights and freedoms. This is primarily the responsibility of the judiciary and, at the forefront, the prosecutor as the public prosecutor and guarantor of these rights. Therefore; It can be claimed that one of the most capable and competent instruments of power in defending human rights standards and guaranteeing human rights obligations is the prosecutor. This has led us to seek an answer to this "fundamental question"; What principles do the prosecutor's human rights obligations in the field of fundamental rights include? In other words; What principles should the prosecutor always consider as human rights obligations in carrying out his legal duties in the field of fundamental rights?

➤ **Dignity and human personality**

Dignity, which has many meanings in the word such as; value, respect, nobility, honor, humanity, dignity, position, rank, position, status, honor and entitlement to respect and is of great importance, has not been defined in any of the international documents and laws of the Islamic Republic of Iran. However, philosophers and thinkers have tried to explain it.

Immanuel Kant, a German philosopher, proposed the theory of "moral autonomy" and the inherent independence of man, stipulates; Human dignity is the kind of dignity and value that all humans inherently and equally enjoy due to their inherent independence and moral capacity (Kenneth, 1993). However, this definition is not comprehensive because it is related to human self-conscious rationality. Allama Muhammad Taqi Jafari is detailed in defining human dignity and divides it into inherent and acquired dignity: "In Islam, two types of dignity have been proven for humans. 1- Inherent dignity and natural dignity are those that all humans enjoy as long as they do not voluntarily deprive themselves of this noble attribute by committing betrayal and crime against themselves and others. 2- Value dignity; which arises from using the positive talents and forces in a human being and striving towards growth, perfection and goodness. This dignity is acquired and optional, and the ultimate and ultimate value of a human being is this dignity".

➤ **Human rights documents**

Human dignity and personality as one of the principles governing the human rights obligations of the Prosecutor; is important and valuable because this category is recognized as the basis and foundation of many human rights, privileges and duties. In other words; human dignity is not only considered as a right or a set of inalienable and transferable rights, but also as the axis and basis of human rights, and sustainable progress in every society and political system requires respect for the dignity of citizens. Perhaps this is why many of the rights enshrined in the Universal Declaration of Human Rights and further elaborated in other human rights instruments are essentially derived from the recognition of the principle of dignity for all. However, in some international human rights publications, human dignity is not treated equally, and this hesitation is observed in human rights research. Human dignity is a normative matter and is not merely an anthropological description (Rahmani and Mudani, 2016).

➤ **Fundamental Rights of Iran**

It should be emphasized that one of the very important issues emphasized in the Constitution of the Islamic Republic of Iran regarding security, justice, freedom, and observance of the fundamental rights and freedoms of citizens is human dignity. In the Basic Law, human dignity is part of the fundamental beliefs of the Islamic Republic system, and is raised on a par with such beliefs as monotheism, prophecy, and resurrection (Article 2, Clause 6 of the Constitution of Iran), and this indicates its very fundamental and essential importance, and its importance is so great that in the preamble to the Constitution (section on

means of mass communication), freedom and dignity of human beings are considered the main goals of the Constitution.

➤ Justice

Justice, as another principle governing the prosecutor's human rights obligations, is an abstract concept that has a plurality in its understanding and expression (Noqreh Kar, 2012).

Different scholars and writers have presented different theories about justice. Some consider justice to be treating people as equal individuals; justice is treating and considering individuals as equal. Every individual is considered equal to another regardless of gender, blood, race, type of beliefs, and social class, and on this basis, efforts are made to treat them equally and provide access to opportunities, including access to virtue, equally to all of them. If access to virtue is not available to everyone, the distribution of benefits and losses based on virtue is considered unfair (Majundeh, 2015). In other words; justice is a guide to how to distribute benefits and good that arise from following rules and performing specific behaviors (Blakely et al., 2005). Thus; entitlement may be defined based on virtue, blood, race, gender, social class, and having a specific religion. If entitlement is defined in this way, it does not provide a basis for human rights.

Conclusion

The prosecutor's human rights obligations in the legal system of the Islamic Republic of Iran are based on the principles of public law and human rights standards and play a decisive role in ensuring criminal justice and protecting human dignity. The prosecutor, as the public representative of society and overseer of the proper implementation of the law, is not only responsible for prosecuting criminals, but is also required to prevent violations of the fundamental rights and freedoms of individuals in the judicial process.

In light of the Constitution of the Islamic Republic of Iran, especially Articles 20, 22, 32, 34 to 39, as well as international instruments to which Iran has acceded, such as the International Covenant on Civil and Political Rights, it can be said that the prosecutor's obligations have two main dimensions:

Negative obligations; which include refraining from any discriminatory behavior, unlawful arrest or prosecution, and violating the rights of defense of the accused.

2. Positive obligations; This requires active pursuit of victim protection, monitoring of the conduct of judicial officers, and ensuring that the rights of the accused are respected at all stages of the proceedings.

From a public law perspective, the prosecutor must act within the framework of the principles of accountability, transparency, and respect for the public interest. His or her responsibility is no longer limited to criminal prosecution, but also includes the mission of maintaining a balance between the authority of the state to administer criminal justice and the protection of citizens' freedoms.

Consequently, the effectiveness of the prosecution system in achieving justice and respecting human rights depends on the prosecutor's correct understanding of his or her position as a guarantor of the administration of justice and a protector of public rights, not simply as an executor of the state's criminal policy. Strengthening human rights training for prosecutors, clarifying the limits of their authority and responsibilities, and enhancing internal and external oversight of the prosecution system's performance can be effective steps towards better fulfilling these obligations.

References

1. Jafari Langroodi, Mohammad Jafar, General Introduction to Law, Tehran, Ganj Danesh Publishing, 2005, p. 230; Katouzian, Naser, Philosophy of Law, Vol. 1, Tehran, Publishing Joint Stock Company, 2006, pp. 31-33; Daneshpajouh, Mustafa, Introduction to Law, Qom, Hawza and University Research Institute, 2012, pp. 5-6; Noghrekar, Pishish, p. 42.
2. Mesbah Yazdi, Mohammad Taqi, Law and Politics in the Quran, Qom, Imam Khomeini Educational and Research Institute, 2018, pp. 46-45

3. Naji Zavareh, Morteza, *Impartial Trial in Criminal Matters*, Tehram, Ganj Danesh Publishing, 2019, p. 64.
4. Dehkhoda, Ali Akbar, *Dehkhoda Dictionary*, Vol. 6, Tehran, Tehran University Press, 2018, p. 9142; Ibn Manzur, Muhammad ibn Makram, *Lisan al-Arab*, vol. 10, edited by Ahmad Faris Sahib al-Jawaib, Beirut, Dar al-Fikr for Printing, Publishing and Distribution, Dar Sader, 1414 AH, pp. 49-50; Noghrekar, Muhammad Saleh, *Prosecutor in the Balance of Human Rights and Citizenship*, Tehran, Jangal Publishing, 1391, p. 41.
5. Misbah Yazdi, Muhammad Taqi, *Islamic Legal Theory*, vol. 1, Qom, Imam Khomeini Educational and Research Institute Publishing, 1391, pp. 21-22; Khoei, Seyyed Abul-Qassem, *Misbah al-Fiqah*, vol. 2, Muqon Muhammad Ali Tawhidi, Bi-Ta, p. 47; Javadi Amoli, Abdullah, *Philosophy of Law*, Qom, Israa Publishing, 1383, p. 74.
6. Qarsi Seyyed Fatemi, *Analysis of Key Concepts of Contemporary Human Rights: Right, Commitment, Freedom, Equality and Justice*, *Journal of Legal Research*, vol. 33, 1380, p. 211.
7. Noghreh Kar, Pishin, 2012, pp. 45-46.
8. Jafari Langroodi, Mohammad Jafar, *Legal Terminology*, Tehran, Shahr Danesh, 2015, code 5020.
9. Nahrini, Fereydoun, Hadavand, Mehdi, Molabigi, Gholamreza, *Report of the Scientific Meeting, Feasibility Study of Establishing a Prosecutorial Institution in the Court of Administrative Justice*, Tehran, Press and Publication Center of the Judiciary, 2015, p. 18.
10. Abdollah Nejad, Afshin, *The Evolution of the Role of the Prosecutor in Criminal Matters*, Master's Thesis, Faculty of Law and Sciences, CIA Hashemi, Seyyed Mohammad, *Fundamental Rights of the Islamic Republic of Iran*, Vol. 2, Tehran, Shahid Beheshti Publications, 2014, p. 82.C, Allameh Tabatabaei University, 2008, p. 15.
11. Koushki, Gholamhossein, *Investigation of the Powers and Duties of the Prosecutor in the Iranian and French Civil Procedure Codes*, PhD thesis, Shahid Beheshti University, 2008, p. 143.
12. Shamsaf Abdollah, *Civil Procedure Code*, Vol. 1, Tehran, Mizan Publishing House, 2001, p. 120.
13. Sadeghi Moghadam, Hassan and Nader Mirzadeh Kouhshahi, *Procedure for Handling Administrative Violations*, Tehran, Tehran University Press, 2016, p. 176.
14. Ansari, Esmail, *Comparative Study of Prosecution of Government Officials*, Tehran, Legal Assistant to the President, Deputy for Research on Education and Citizen Rights, 2016, p. 78.
15. Taheri Tari, Mir Mohsen, *Tax Procedure Code*, Vol. 1, Tehran, Shahr Danesh Publishing House, 2015, p. 145.
16. Rahmani, Ebrahim; Moezni, Siamak (2016). *The Place of Human Dignity in the Constitution of the Islamic Republic of Iran*, *Development Strategy Quarterly*, Winter, No. 48, p. 24.
17. Noghrekar Mohammad Saleh, *The Prosecutor in the Balance of Human Rights and Citizenship*, Tehran, Jangal Publishing, 2012, p. 13
18. Mojundeh, Mohammad Majid (2015), *Philosophical Foundations of Human Rights*, Translation and Research from Nameh Mofid Quarterly, No. 2, p. 89.
19. Blakely, G.L, Andrews, M.C., and Moorman, R.H. (2005). *The moderating effects of equity sensitivity on the relationship between organizational justice and organizational citizenship behaviors*. *Journal of Business and Psychology*.p25.
20. Kant, Immanuel, *"Groundwork of the Metaphysics of Morals"*, Translated by Ellington, J. Third ed., Hackle Publishing Company, U.S.A. 1993, p96-97.