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СОДЕРЖАНИЕ

СЕКЦИЯ

ИСТОРИЧЕСКИЕ НАУКИ

HISTORICAL SCIENCE

A HISTORICAL STUDY OF WATER SYSTEM IN IRAN OF QAJAR ERA

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ABSTRACT

One of the most important issues of agriculture in Iranian plateau has been continuously the issue of lack of water. Lack of water caused an extensive part of the central regions of this plateau to turn to dry and baren wilderness otherwise due to the good state of soil, Iran could have become a terrestrial paradise. Thus, water has played a key and effective role in the formation of the civilization in the Iranian plateau. For example, distribution of civilizational and population regions in the Iranian Plateau was one of the outcomes of the scatteredness of water resources and few rivers along which the early civilizations have taken form. Irrigation facilities have also been destroyed during this era due to the negligence of the leaders of the tribes and there is no doubt that in the course of eighteenth and nineteenth centuries, artificial irrigation facilities have been severely declined. Foreign travelers have referred to the destruction of the villages and subterranean canals and other irrigation facilities and their insistence on the destruction of the subterranean water canals which are the basis of the ancient irrigation system of Iran bespeaks of the undesirable state of the irrigation system particularly in the final decades of the Qajar dynasty.

Keywords: Water System; Qajar Era; Agriculture.

Introudction

Iranians have considered water a sacred object since the time immemorial. Water in Iranian culture is among 4 main constitutive elements of this world. Iran is a relatively dry land insofar as if we estimate the annual raining average on the planet to be almost 860 m and we compare it with the average annual raining of Iran which is near 240 m we will find out that the amount of raining in Iran is even lesser than one third of the average raining of the world (Alizadeh, 2015: 13).

Iranian people have made numerous efforts for building dams, canals and subterranean water channels and established administrative bodies for organizing this thing and significant occupations and words have been created in Iranian society for irrigation affairs (Kateb Kharazmi, 1968: 19). Government has always played a vital role in irrigation (Al Haseb Karaji, 1994: 2). Even in some cases in past tax was collected based on water. There is no doubt that without resolving these difficulties and particularly without having a logical system for irrigation taking advantage of agricultural lands were impossible. Having access to water and the type of irrigation methods have been of paramount importance in the formation of cities. Raining is limited and seasonal and has been focused on the margins of the country and this is also the case with the rivers which are permanent. Since the time immemorial the water of rivers, ponds and subterranean canals has been used for irrigation (Lambton, 1993: 34). The current essay aims at historical study of the water system in Iran of Qajar era.

Theoretical Foundations

Under the reign of Mohammad Shah then number of the governmental lands of Isfahan and environs grew. During several years of drought which happened in the early years of his reign many of the villages were wracked and the "court advisors" provided the inhabitants with seeds in order to build these lands and after it included the names of these villages into the list of court lands. Several years later though they returned the lands to their owners these lands were still called "seed governmental lands".

In this era, according to Wiring, one eighth of the lands of the Fars State and Iraq belonged to Shah. Those who worked on these lands paid an amount equivalent to half of the harvest for the rent. Moreover, court officials reduced the amount that had been already paid for the seeds that were given to the farmers. Nevertheless, Shah helped the farmers to provide their required water through allowing them to use the royal cattle and even dug new wells.

Haji Mirza Aqasi was seriously interested in universalization of agriculture and often allocated a major part of his time for administration of the affairs of digging wells and subterranean canals insofar as now several working and dried canals exist across Iran particulary in Tehran that have all been constructed by him (Hedayat, 1965: 431).

Social security and protecting the rights of farmers are two main factors of the development of agriculture. In the era of Amir Kabir following the debacle of old tradition of forcing the farmers to provide the needs of the army the production of agricultural products increased and even new products begun to be grown. The construction of Naseri Dam over Karkheh River, building Shushtar Bridge, promotion of growing sugar cane, construction of new dam in Gorgan, and growing American cotton were among the other services of Amir Kabir (Adamyat, 1969).

In order to prevent from water crisis, the water of Karaj River was conducted into Tehran and in this way people were redempted from calamity (Floor, 1987). After Amir Kabir's death under the reign of Nasir Al Din Shah the situation became relatively better and agriculture flourished. The governmental lands – the revenues of which were a good financial source for the court – started to wrack due to the heavy taxes and inattention to construction of governmental lands insofar as it is said that Nasir Al Din Shah during his trips whenever saw a wracked land he would immediately say that this belongs to the government and when he saw a flourishing land he would say to which landlord does this land belong? (Jaberi Ansari, 1999).

Nasir Al Din Shah started agricultural reforms in two stages. First in 1874 he gave the governmental lands to the princesses like Zil Al Sultan who was the independent governor of Isfahan. Zil Al Sultan the governor of Isfahan sent the tax collectors to the villages that belonged to the government in order to determine the amount of the tax and collect it.

As to the issue of land owning and the conditions of the owner and farmer one must say that the final expiration of the old method of land feudalism is one of the features of Qajar Era and the order of Constitutionalism can be regarded as a sign of the expiration of the old method. However, these transformations happened in gradual way and the change in old conditions and the emergence of new conditions were not over night. Before 1906 the weakness of government had brought about numerous changes in the way of landholding while in the era after 1906 nothing remained from the old method unless part of the medival memories which have either continued or now and then reemerged.

At the end of the regin of Nasir Al Din Shah more governmental lands were sold. Thus, an order was issued for selling all governmental lands but the lands of Tehran environs and within ten years many of these lands were sold (Jaberi Ansari, 1999: 59-60).

In the final years of the Qajar dynasty Iran got plunged in severe clashes over the Constitutionalism Movement, the attack of the foreign forces involved in WWI and finally internal clashes and the general conditions of the country as well as the agriculture and irrigation in particular turned undesirable.

The story of huge immigrations from the villages of Iran in Qajar era particularly at firnal years of Nasir Al Din Shah and on the verge of Constitutionalism which was taking place due to the drought and the oppressions of the local rulers, have been repeatedly discussed in internal and foreign sources (Drouville, 1969).

Land and Water Ownership in Qajar Era

The most important form of land ownership in Iran was coordination (Rasekh, 1963). The coordinated farmers in rural society of Iran every year interchanged their lands in various agricultural units. In every village land coordination had its different makeup. In coordination the places of sowing and the share of water might change every year due to the new arrangements of the water allocation and renting issues. The location of the land could bring about certain changes in the water share. Most of the lands located over the passage of the water naturally had more water share and in some cases the lands that do not have direct access to water should have bought the water share (Isavi, 1983). The only fundamental development that has happened during the ages in the system of coordicnation was in the production division. This issue was under the influence of such important factors as the land type (water or rainy), growing products and the like. As a result fundamental elements of the production found different concept and their importance grew into vast proporitions.

Tax and Water

Fazlullah Ruzbehan as one of the government deputies refers to a tax that was collecte for construction of dams over the huge rivers. Beside land tax, land products tax, water tax was considered also as part of the permanent taxes. This tax was a huge number and Chardin has considered it to be the fifth major financial source because water in Iran was of high value. He has estimated the waters of the environs of Isfahan to be almost 60.000 ECU.

Irrigation Methods in Qajar Era

Generally speaking, four types of artificial irrigation methods have been used in Iran: surface irrigation, irrigation through rivers and fountains, irrigation via subterranean water and irrigation through well. Geographical texts of Iran and the itinerary of the foreign travelers have also spoken of these four types of irrigation in different eras and it is natural that this method to be continued in Qajar Era (an even today).

Reflection on the map of the Iranian plateau shows that this country, due to the lack of permanent rivers, has always been poor and without water. The use of river often took place by "river division" and construction of temporary dams of timber and bush and every year several weeks of the farmers were spent on constructing temporary dams (traditional irrigation methods in Iran, 1984, p. 5).

For farming at Iranian plateau, particularly in those regions where the water of rivers and fountains were sufficiently available, in most times the method of surface irrigation was used. This method was the simplest, and at the same time, most popular method at plains. Anyway, Iranian people being aware of the existence of subterranean waters started to dig deep horizontal and vertical wells. In this way they made use of human and animal forces for free water channeling and took advantage of subterranean canals for farming (Reza et al, 1971).

Conclusion

Iran is suffering from lack of water because high mountains do not allow the rain and snow to fall. The people can only provide their needs through digging subterranean canals, channels and brooks. Thus, in plains despite the fact that often eight months of the year there is no raining the water is available though the farmers are not united in managing the intervention of the men of power.

A huge number of the current small rivers and water passages are more or less absorbed in alluvial fans. This causes some subterranean canals to turn to the stock of water that can be used. It is noteworthy that almost no irrigation is done in this region because there is nothing for irrigation here.

Qajar dynasty that came to power in the early years of the nineteenth century was the heir of a country that had suffered huge damages in past century due to numerous civil wars and foreign battles and encroachment. The lands and water resources were destructred due to the civil wars and this had destroyed the active work forces. As the result of recession, lack of security in roads and the absence of order, internal and foreign commerce was in the minimum.

By providing evidence it has been shown that not only the production techniques in Iranian agriculture in this era was underdeveloped and primeval rather even in the course of nineteenth century no major development occurred. Moreover, irrigation facilities during this era in some cases underwent through numerous destructions due to the negligence of the leaders of tribes.

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A GLANCE AT MANICHAEISTIC ART AND ITS ORIGINS

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ABSTRACT

Mani offered his religion during the third century in Babylon and relied on the written treaties and artistic depictions of them for advertising his religion. Since all the written Manichaeistic works was found in Turkistan, China, it seems as if Manichaeistic painting has been influenced by China's painting style. However, Mani was never in China and his followers migrated to Turkistan during the seventh century after the advent of Islam. In a glance at the history of China's painting, it can be found out that this painting style was transferred from India to China along with Buddhism rites long time ago. In Manichaeism history, as well, it is stated that Mani was largely influenced by Buddhism Rites in one of his journeys to India. Therefore, it is more logical if one claims that Mani borrowed his method of pictorial representation of his religious books and his followers, and also used this method as the pattern of their works, and it was later on continued by the Muslim artists.

Introduction

In the majority of the art historiographical researches, Manichaeistic painting is considered as a type of "Iranian painting". Mani is realized as a painter prophet who has written his own books and illustrated with pictures. After Islam's entry in Iran, Manichaeists' method of decorating books with pictures was taken as a pattern by the Muslims. This method influenced miniature art of all the periods after Islam as well as the various art schools till the infiltration of the western art into Iran. Mani's name kept on persisting as the prominent figure of painting and portraiture in the history and poetry and literature.

Origin and Extent of Mani's Religion

Mani's religion was created in Mesopotamia. "Mani was born on 14th of April, 216, in the north of Babeliyeh that was a part of Asoorestan Province in Parthians Kingdom at that time" (Bovis, 2008, 11). As narrated from Ibn Nadim, Mani saw the revelation angel for the second time on Mishan Plain in Mesopotamia when he was 24 and he began advertising his teachings and his rites since then. In one of his writings, Mani speaks about the connate twin that showed himself to him (Bovis, 2008, 49). Then, Mani "took a sea trip to India, Turan and Makran, i.e. today's Sind and Baluchestan" (Bahar, 2012, 82) and invited the king and a number of royal court's attendants to his creed. This was his first advertising-ritual trip that lasted a year. "This is why streaks of Buddhism can be traced in Mani's mindset, including transmigration that was called "Zadmord" by him" (Esma'eilpour, 2016, 29). After his trip to India, "Mani returned to Pars through sea and went to Khuzestan and Mishan in the downstream side of Tigris on foot" (Bahar, 2012, 82). He also went to Medes and dispatched representatives to Egypt, Rome and northeastern part of Sassanid kingdom and achieved a lot of success. Some historians have writ-

ten that Mani has also taken a trip to China that is doubted by the scientists (Ghadiyani, 2009, 174). However, at the time of Shapour's death at about 273, although Zoroastrianism was realized as the formal religion in Iran, Manichaeism had been completely spread amongst Iranians. But, the situation became worse after Shapour, and the Zoroastrian clergymen, headed by Kurtir, started intense opposition to Manichaeism. During the kingdom of Bahram II, Mani's presence to the court was asked and he died at 61 or a little more after 26 days of imprisonment (Bahar, 2012, 83). Following Mani's death, his followers were severely chased and annoyed and they gradually preferred to seek refuge outside Iran's borders. This, though decreasing Mani's followers in number, still added to the expansion of Mani's religion in a vaster geography. Manichaeism society was also administrated by Mani's successors, and Mani's followers still relied on Mani's books and treatise more than anything else.

Writings and Miniatures by Manichaeists

Mani and his followers were largely attentive to the writing of their own religious books and treaties. "Mani knows having written works in various commonly spoken languages is a superiority of his creed over the other religions" (Bovis, 2008, 47). Mani and his followers wrote down and decorated their works with an unprecedented delicacy and artistic skill. "It has been stated that Mani was himself a distinct calligrapher and a skillful painter; his fame in these has been verified in the discoveries and excavations made in Central Asia. That is because the parts found in these excavations are written in a fine handwriting and are also found decorated by gilding and miniature in a style that has been probably invented by Mani, himself" (Humbey, 2011, 11). Mani had seven books one of which was called Arjang or Ardhang that was completely pictorial and, unfortunately, there is left nothing of it except several copied pages. Mani's other books, were also ornamented with artistic miniatures and, delicate plant-like images can be seen between the lines (Image 1). These plant-like images have been manifested in the later centuries in such a way that Manichaeistic miniature, as well, is objectified in the same method in the post-Islam instructional and literary books. Therefore, "for a long time after Mani's religion had been diminished, Manichaeistic art was still a dynamic and live force in Iranian culture [… and] this same persistent effect granted a special importance to Manichaeistic arts in the history of Iran's art" (Ibid, 35). One reason for Manichaeists' paying attention to writing their works down pertains to Mani's being impressed by Christianism and the four bibles. Mani dispatched missionaries to various lands and they translated Manichaeistic works into the languages of the people there. "The works that have been so far obtained from Manichaeists in various languages like Coptic, Chinese , Turkish , Middle Persian , Parthian , Sogdian, and Balkhi and the list of books and treatise by them that have been mentioned by Ibn Nadim, confirm this same claim" (Tafazzoli, 2000, 333).

Origin of Manichaeistic Art

There are no written works in the form of books before Mani's period in Iran. The things left from Avesta literature in the form of books have been compiled in the middle period. It is only in the era of the Sassanid kingdom and even after Islam that the Zoroastrian clergymen and some kings started thinking about writing the religious texts but the things left for us from these works are also empty of miniature and artistic tastes. Therefore, the only sources for investigating the illustration and miniature methods of the periods before Mani are graffiti, jewelry, kitchenware and occasionally fabrics. The most important written work remaining from Achaemenid period is Bistoon Relief near Kermanshah (Abolghasemi, 2012, 15) in which an artistic relief can be seen. In this method, the bodies are standing motionless and with wavy beard, long noses, heads shown from the side view, rigid folds and breaks of the outfits delineated in straight lines. The most important pattern in graffiti belongs to the powerful Assyrian Empire in Mesopotamia that had been just overthrown by Achaemenids (Images 2&3). This graffiti method was also in-

fluenced by Hellenistic style following the Greek's domination on Iran and it led to the emergence of graffiti type seen in the Sassanid kings' palaces. In this novel method, the intermixing of the western and eastern visual methods can be clearly seen. The bodies enclosed within wall pieces have been inscribed deeper and the bodies have lost their standing posture and motion is induced via natural exhibition of the muscles. The clothes' fabrics, as well, have been demonstrated with wavy and curved lines (image 4).

The method used by Mani to illustrate his books is not even minimally similar to the things seen in the reliefs on the kitchenware and the walls' graffiti and Iranian and Mesopotamian fabrics. An image of the Far East's art style strikes the mind with the shortest glance at the works remained from Manichaeists. The bodies in Manichaeistic painting are not standing and they are occasionally found sitting on lotus. The faces are round and the eyes are stretched and with bow-like eyebrows. The hair and beard are not wavy but curly. The folds of the garments have been displayed with curved lines coordinated with the images of the plant often seen on the margins of the paintings (Image 5). According to the fact that Manichaeistic works have been obtained from Turkistan region in China, it might seem that these works may have appeared in the Far East after Mani's death and his followers' migration to China and under the influence of the their art (Image 6). That is because, although Manichaeists were less annoyed by Zoroastrians with the victory of Islam in Iran, it was following the reinforcement of the Abbasid government's foundations that the Manichaeists' murdering was resumed. The center of Mani's creed was firstly moved to Samarqand then to Eastern Turkistan and China. "In 694 AC, a Manichaeist mission went to China's royal court and it was in 732 that Manichaeists were allowed to hold their religious rites by a command issued by China's ruler. During the mid-8th century at which time China's Turkistan was captured by Uyghurs, Manichaeism became the formal creed of the country and it was continued till the 9th century" (Bahar, Esma'eilpour, 2016, 34). Therefore, it is expectable that Manichaeistic paintings have been influenced by the painting styles practiced in China and Far East. But, considering the history of China's painting, "Buddhism found its way into China during the first century AD. Noel aesthetical principles emerged following the lead of Indian or Central Asian patterns in conjunction with codified Buddhist formalism" (Gardner, 2006, 709). Considering the simultaneity of the first effects of Hindus' art on China's art and the first journey by Mani to India, it can be concluded that Manichaeistic art is originally influenced by India's miniature (image 7). It should also be noted that Manichaeistic works that appeared after several centuries in China's Turkistan were mostly following the very style and method adopted by Mani in writing and illustrating of his works. In other words, the volumes that were decorated with miniature works in China's Turkistan should have been directly copied from personal works by Mani. It is noteworthy that the primary reason for the use of miniature has been explicating the complex system of myths and the story of Manichaeism (Taghizadeh, 1957). Additionally, since Mani's messengers went to lands beyond the geography of Iran and to the territories that were not familiar with their common languages, they have also been relying on visual teaching of the pillars of Manichaeism for advertising his creed. In doing so, it has been inevitable for them to remain loyal to the very method applied by Mani, the apostle, for portraying and expositing his works. Therefore, it is logical that the same method that Mani selected in the 3rd century in India for illustrating his books with miniature works should have persisted in China till 9th century.

Conclusion

Manichaeists' extensive migration to Turpan in China's Turkistan should not make such a mistake that all Manichaeistic works obtained from Turpan had been influenced by China's miniature art while the first Manichaeistic works decorated with miniature had been illustrated four centuries ago by the hands of Mani himself. Although there is not left any of the book volumes illustrated with miniature by Mani himself, the belief in the sacrosanctity of Mani's religious

texts by his followers, and the complexity of Mani's teachings part of which was explained by the aid of the miniatures, left no doubt that all the images and miniatures from the later centuries, as well, have been depicted based on the same method of Mani's miniature and by copying from the original versions. This was the method that Mani had acquired from Hindus' art and subject to Buddhism during the 3rd century in his one-year trip to India. It was in the same century that Buddhism underwent a prevalent expansion in China and carried Hindus' arts along with itself to China. Such simultaneity and discovery of the Manichaeistic handwritten manuscripts in China has caused the historians mistakenly imagine that Manichaeistic miniature has been influenced by China's art whereas Mani's journey to India and his being impressed by Buddhism proves that the miniature art exercised by Mani and his followers has been influenced by Indian miniature more than any other things.

Image (1): a page from a book by Mani from 8th and 9th centuries, Turpan, China

Image (2): Achaemenid relief, 520 BC, Bistoon, Kermanshah

Image (3): Assyrian relief, between 6th to 10th centuries BC, Ninawa

Image (4): Sassanid relief, between 379 and 383, Taq Bostan, Kermanshah

Image (5): a page from a book by Mani, 8th and 9th century, Turpan, China

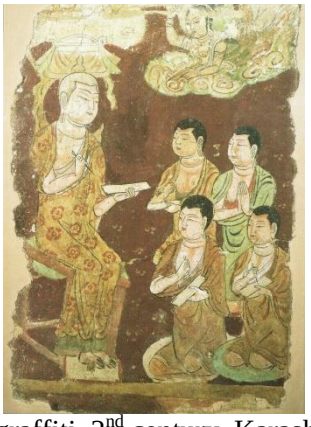

Image (6): graffiti, 2nd century, Karasher Temple, China

Image (7): Buddhism graffiti, 2nd century, Ajanta Temple, India

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INVESTIGATING THE CULTURAL INTERACTIONS BETWEEN ARCHITECTURAL SPACE AND URBAN SPACE

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ABSTRACT

The purpose of this research was to analyze the impact of architecture on urban society culture. Therefore, in this study, the concept of culture, architectural space and urban space was also studied. Different dimensions of urban space have been proposed and the views and opinions on urban space have been mentioned. Then, the relationship between culture and architecture and urban space and architectural space were investigated. The results showed that the design of spaces is in accordance with human dimensions and in order to meet the spiritual needs of a person in such a way that space will feel calm, safe and comfortable. Attention to the elements of form and identity in space design must be paid and the overall effects of space on cultural and social factors should be considered in the design of urban spaces and architecture.

Keywords: Architectural Space; Culture, City.

1. Introduction

Each society has a share of cultural and artistic production, and includes all aspects of penchant and thought. Architecture is a sign of this contribution and thought has turned into action. In fact, architecture that is crystallized in the form of a physical dimension, is a reflection of the cultural and social identity of the nation that created it. Hence the familiarity with the culture, which is the reflection of a nation's identity, is necessary for the form of an architecture that is a ground for its presentation and its depiction.

Space is the only element that is used as the common language between man, architecture and city. Space which is understandable in human's relation with either urban or architectural environment is the only factor that connects these three.

The problem that is now being seen in our urban society is the lack of attention to the role of architecture in improving or weakening cultural and social issues, along with physical effects, which is apparently the presence of worn-out urban texture with a vast area in Iran, which is the source of many physical and social problems in a city. The root of its emergence is the lack of proper architecture in these textures, which has gradually created wider problems than the physical problem in various dimensions. The purpose of this study is to introduce culture and architecture and to investigate the effect of architecture on the culture of urban society. It has been tried to have an appropriate understanding of these concepts by examining theories and case studies.

2. Theoretical Foundations of the Research

2-1. Culture

According to Taylor, culture is a complicated set including knowledge, beliefs, arts, ethics, rules, customs, and any other ability that is acquired by human as a member of a society.

Culture is the theme of each group, organization, gathering, and society. According to the today's so-called term, culture is known as hardware and software of a variety of human gatherings. Culture is the common mode of all these gatherings (Ezbadfteri, 2001, p. 9).

Zevedei Barbu writes in his book titled "Society, Culture and Personality" that more definitions of culture emphasize on two points: first, cultural elements appear as social habits and as a way of life of a society; second, the stimulating and normative effect of these elements on the individual's behavior. In other words, the special function of culture is the creation and maintenance of continuity and solidarity between individuals in a given society (Pahlavan, 1999, p. 14)

2-2. Architectural space

Architecture is recognized and realized in space as a reality. It is located in space and is understood by the continuity and dependency that it has with space. Whenever we look at the architecture as a category in which the meanings and thoughts that are contained within it, affect both space and the direct and indirect findings of space, the recognition of space is more important than the recognition of architecture (Falamaki, 2002, p. 1 and 2).

In addition to the controversy concept of space, the importance of the space issue in architecture, is that, unlike the realm of philosophy and human social sciences, the human action about space is not limited to the perception of its nature, its effect, and its impact. Instead, he/she understands space, thinks about it, and finally, based on his/her thoughts, creates space (Tufan, 2003, p. 25). Therefore, architectural space includes thoughts that behaviors affected by culture of its living context.

2-3. Defining Urban Space

Urban space is one of the elements of the spatial construction of the city, which changes with the history of a nation. This element, which has always undergone various cultural, social, economic, or political activities, has changed the history of the city (Tavassoli, 1993, p. 9).

This space consists of four essential elements that include:

1. Residents or passersby:

The presence of residents and passers in the urban environment gives life and soul to the urban space and creates a living stream in it. Empty urban space of residents or passers is a dead and abandoned space. Residents and passers of the urban environment are classified according to the factors such as gender, age, social status, type of employment, and so on. Such a division would lead to a mutual relationship between residents and passers, the intensity of this relationship and the nature of that desire will be the basis of urban life.

2. Human-made elements:

Human-made elements are composed of two types of physical and activity elements, the physical elements of which are visible and observable in the city, and are classified in two types of fixed and portable. Activity elements are elements that make the action in the city, and these elements can be divided into two fixed and portable categories, which can be categorized according to their nature. In this way, urban space consists of three groups of elements: fixed, semi-fixed and portable elements.

3. Relationships:

Relationships represent a connection that can be established between the elements with each other and/or between individuals with each other and/or between individuals and elements in a fixed or portable place at a specific time.

4. Time:

Urban spaces are the turning point of all citizens, that gathering of people is considered as a place for the exchange of thoughts and social awareness, trade, discussion, the elaboration of points and tastes, and theories and collective decision-making (Habibi and Maghsoudi, 2007, p. 11).

2-4. The viewpoint and opinions on urban space

In the first category, the set of thoughts and theories are divided into three categories: form thoughts, content thoughts, and forms-content thoughts. In the second category, the ideas and theories are divided into five groups: structural, visual, psychological, and social (Jalali Nasab, 2004, p. 38).

1. Content viewpoint

This viewpoint generally focuses on the content of urban spaces. Here, content can include social, historical, functional, and generally human, related to the urban spatial values. In other

words, more imaginary and philosophical issues, along with the economic functions of urban spaces are investigated.

Among the thinkers in this group are Kevin Lynch, Ali Madanipour, Roger Trancik, and Jane Jacobs.

2. Form viewpoint

This viewpoint focuses on the subject of urban spaces more objectively and tangible. That is to say, in this view, the appearance and physical characteristics of urban space are discussed more precisely. The fact that many of the theorists of this field are consisted of the meticulous urban planners such as Rob Krier, Gordon Callen, and Hamid Shirvani, suggests many of the factual features of this view. One of the most prominent features of this viewpoint is the emphasis on quantity versus quality, atomistic versus holism, pragmatism (engineering) versus commentary and form versus function.

3. forms-content viewpoint

In this view, we try to explain, analyze and design urban spaces in both theoretical and practical aspects. In other words, this viewpoint is in the interface of two views of form and content. In fact, this view is a hybrid viewpoint and has generally been developed and recognized in later periods (Jalali Nasab, 2004, p. 39).

4. Forms theories

These ideas, which may be better represented by Rob Krier, specifically address the two dimensional and three-dimensional geometries of urban spaces. These theories are specifically related to engineering design and architecture. In his study, Rob Krier classifies the floor plan of the field spaces in three forms of the triangle, circle, and square (Krier, 1996).

5. Structural theories

In structural theory, urban space is usually studied as part of the overall structure of the city, and urban space is discussed in relation to it and not as an independent and separate part. From this perspective, urban space as an element of urban texture, can be analyzed in terms of its impact and effects on other parts of the city (Alexander, 1994).

6. Visual theories

This view, which specifically seeks to provide visual frameworks for urban spaces, refers to the principles and concepts of urban architecture and design in order to apply the principles and concepts of a desirable and ideal visual image from urban spaces. From a glance, it is a two-fold coin on one side of which is the ideas of form and on the other one is psychological ideas (Caleen, 1998).

7. Psychological theories

In this viewpoint, the positive or negative psychological effects of urban spaces on citizens are studied. Jane Jacobs, as one of the delegates of this group, explains the positive and constructive role of urban spaces in preventing mental disorders and social deviations (Shawa, 1996). Kevin Lynch also examines the psychology of the mechanism of influencing urban spaces in shaping the image of the city in citizens (Lynch, 2006).

8. Social theories

Theoreticians of this viewpoint consider all the visual, form, and structural characteristics of the urban spaces valuable in case of serving the superior role, that is, the social role of these spaces, otherwise, they will not give any authenticity to them. Dr. Ali Madanipour, a professor of urban planning at the Newcastle University of the United Kingdom, as the representative of this view, essentially focuses on the design of urban spaces as a socio-spatial process and emphasizes the social function of urban spaces (Madanipour, 2000).

Each of these viewpoints may include aspects of one or more other viewpoints, but the reliance on a particular aspect in its theorizing has led to its differentiation from other viewpoints (Jalali Nasab, 2004, p. 40).

2-5 Relationship of Culture with Architecture and City

Culture consists of determined group values and the norms that are followed and created a material good (Piran, 2001), and this material objectivity can be a city or architecture building in the life's physical dimension.

Without considering the body, without a factor named culture, the real city lacks identity and content. Whatever that leads to the creation of a city and its spaces, is social and behavioral interactions, which emerges by defining people's needs of urban society and gets a physical and objective format.

The relationship between culture and architecture has been paid attention since the past and these two have never been apart, and are explained in the interaction with each other.

In fact, it can be said that architecture reflects the cultural and social events of each society, and culture primarily affects the architecture that governs the system of value system, and on the other hand, culture is indirectly one of the main bases of the psychic life of the human. Human perception of its surroundings is subject to its culture, but it often does not pay enough attention to this subject (Grötter, 2004, p. 56).

Hence, city and its building and the following urban space and architectural space have not been separated from the behaviors and norms, as human's living ground; also, it have been created under the influence of interaction of the culture of human society and lead to the change.

2-6. The relationship between urban space and architectural space

The concept of space is identifiable in the territorial and environmental frameworks as it lives continuously within them (Falamaki, 2002, 21)

Urban space and architectural space are in common in the reason of creation, which is users, in addition to the commons in the physical dimension. As a social creature, the man lives and interacts between these two spaces with the set of norms and behaviors constituted in culture. On the other hand, the city and its body are not separated. In fact, architecture is considered as a wall and physical elements of a part of an urban space's identity, which leads to the formation of the neighborhood, urban texture, and city along with other elements of a city; hence, it is in the direct interaction with city, and affects the great part of a city's functional tasks, as a small part of a whole. The city is also not a separated whole from its own components and is in the interaction with them that leads to the cultural, social and functional effects and is also affected by its own components.

3. Conclusion

Considering being affected and affecting feature of urban space and architecture space on each other and the quality of cultural life of users, paying attention to the quality of spaces is a necessary and inevitable issue; since the emergence of disturbance in each of these two contexts leads to the emergence of functional disorders, leading to the cultural disorders in the human society and as a result, it will lead to the degradation of quality in the various dimensions of human's life as the users of these two spaces; therefore, paying attention to the improvement and upgrade of the living spaces, whether in urban dimension or architecture dimension, leads to the ascendance of cultural level in the society and in the following, the improvement of living quality in the city and architecture; also, it will be manifested in functional and physical dimension and will result in the city's growth and the increase of the citizens' satisfaction as users of an architecture building of citizens of a city.

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СЕКЦИЯ

ПЕДАГОГИЧЕСКИЕ И ПСИХОЛОГИЧЕСКИЕ НАУКИ

PEDAGOGICAL AND PSYCHOLOGICAL SCIENCES

УДК 378

ENGLISH LANGUAGE AS THE MEANS OF SHAPING THE PEDAGOGICAL CREATIVITY OF FUTURE TEACHERS

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ABSTRACT

This article discusses the integrated study of the foreign language with computer science for the development of the pedagogical creativity of future computer science teachers. The subject of the research is the formation of the pedagogical creativity of future informatics teachers through the study English.

Keywords: pedagogical creativity; computer sciences; future teacher; English language; creative lesson.

Introduction

Current trends of development of the education system requires from future teachers the solution of the professional problems, foreign language skills and ability to adapt quickly to the professional pedagogical environment. Therefore process of training of future teachers is aimed at the development of the comprehensive personality, development of all his\her human qualities and development of modern, innovative and information technologies.

Along with knowledge of English, from the future teachers high professionalism and the developed and created pedagogical creativity is required.

An important reason for the acquisition of global status by the English language is the specificity of the information society. This can be demonstrated by the example of the language of science. Already in the 1960s, the English language was the most widely used language of science: more than half of all scientific production was published in English. By the end of the 90s, up to 90 percent of scientific literature began to be published in English. Many scientific publications in countries where English is not state language have switched to the publication of scientific material in English. English as the basis of the language of world communication is characterized by the ability to increase vocabulary, introduce neologisms and enrich the vocabulary with new terms [1].

The integrated learning of foreign language with other fields of activity helps to form certain professional skills and competences. As a subject of our research is formation of pedagogical creativity of future teachers of informatics by means of studying of English, we consider methods in teaching a foreign language which will serve development and formation of creativity in future teachers of informatics.

Integration of informatics with other subjects not only promotes improvement of quality of educational process and labor productivity of the teacher and pupil, but also solves the most im-

portant problem of school education - formation of information culture of pupils on the basis of cross-disciplinary communications. In particular, the widespread combination «informatics and English» as humanitarian specialty and the subject carried to the sphere of natural-science education is proved by powerful integration communications. Really, language speaks on behalf as means of storage and transfer of generation to generation of information that, in turn, is a basic concept of informatics. Information, data carriers, the code, network communication - here not the full list of the concepts connecting substantial aspects of language and informatics [2].

The main form of the organization of pedagogical process is the lesson, therefore, it has to be fully creative. In this article we will consider effective methods for development of creativity in the course of studying of English or about studying of English developing the creativity.

According to V. Moroz, development of creativity happens in the course of training in a foreign language during creation of the following conditions: language level is not lower basic, existence of creative abilities; friendly atmosphere; creative teacher. Creative process in the university educational environment will be effective under a condition if between the teacher and students purposeful exchange of competences and values is carried out [3].

Classes in a foreign language allow you to create a creative environment characterized by uncertainty and potential versatility. Uncertainty stimulates the search for your own landmarks. Versatility provides the possibility of their finding [4].

The teacher in the course of training has to help students to understand how he is trained, to realize need of application of these or those methods for self-training throughout all life. It is necessary to provide tasks in which it is necessary to reflect. The student has to understand need of high competence of area of information and communication technologies, competent possession of the speech, possession of spatial thinking. It is necessary to conduct researches and to realize own abilities, it is optimum them using. The success of all above-mentioned depends on extent of understanding of students how to study. Cognitive processes have to promote it [5].

A.Maley says that, teachers need to act as role models. It is no good preaching creativity to our students unless we also practise it ourselves. If we want our students to sing, we must sing too. If we want them to act and mime, we must act and mime too. If we want them to write poems or stories, or to draw and paint, then we must engage in the same activities as they do. If we want the bread to rise, we need to provide the yeast. In order to do this, we need to relinquish our excessively ‘teachercontrol’ persona, and become part of the group, not someone who is above it or outside it [6].

The four language skills

Learning English consists of developing four skills: reading, listening, speaking and writing. In the process of teaching English, many teachers begin with Writing and grammar, which slows down the process of students learning the language. To succeed in learning English, you need to pay enough attention to each of the four language skills and develop them evenly. The main problem for English learners is the difficulty in listening to English-language information.

Listening and Reading is getting information, as well as the ability to process it. Without these skills you do not speak the language. Most of the information comes to us visually (through the eyes) and auditory (through the ears). Each person learns his native language through the fact that he hears speech by ear from birth, and only then he begins to speak, read and write. Similarly, when learning a foreign language, the first and most important thing is to learn to understand the language by ear, and then to learn to read, which will make it possible to further vocabulary and develop literacy.

Writing and Speaking is the transfer of information from you to another person. The ability to speak English is what every person who studies it aspires to. For many, it is stressful to start

talking in non-native language. And yet, you need to overcome this barrier, and start talking. Writing is an equally important skill. Since, basic literacy in knowledge of the language and its rules is determined by the ability to write correctly.

According to L.Sadiku, these skills should be addressed in a way that helps students meet the standards you set for them and develop their communicative competence gradually. This encompasses: *Listening and speaking*: these two skills are highly interrelated and work simultaneously in real life situations. So, the integration of the two aims at fostering effective oral communication. This integration will assure real-life and purposeful communication. *Reading and writing*: they form a strong relationship with each other as skills. They are tools for achieving an effective written communication. Students need opportunities to develop their reading and writing skills. Developing students' competencies in reading and writing requires exposing students to gradually challenging reading materials and writing tasks. The aim is making students read and write effectively [7].

Noushad Husain claims, that speaking and writing are called productive skills because while using these skills a learner/user is not only active but also produces sounds in speaking and symbols (letters, etc.) in writing, on the other hand, listening and reading are considered receptive skills because here a learner is generally passive and receives information either through listening or reading [8].

In our research, we consider the formation of pedagogical creativity of future teachers of computer science, therefore we developed creative tasks and texts, for assimilation of each of these four skills separately and these tasks directly connected with informatics, computer technologies and types of the computer equipment.

Listening

Listening is one of the most important skills in the learning of foreign language as it is at the same time the purpose and the tutorial, and exercises of audition help to perceive the foreign speech aurally therefore in studying of language it is simple not to do without audition.

J.Willis identifies the listening enabling skills

- predicting what people are going to talk about
- guessing at unknown words or phrases
- using one's own knowledge of the subject to help one understand
- identifying relevant points; rejecting irrelevant information
- retaining relevant points (by note taking, summarizing)
- recognizing discourse markers, e.g. "Well," "Oh, another thing is," "Now, finally…" etc.
- recognizing cohesive devises, e.g. "such as," "which," including link words, pronouns, references, etc.
- understanding different intonation patterns, and uses of stress, etc. which give clues to meaning and social setting
- understanding inferred information, e.g. speakers' attitude or intentions [9].

F.Yavuz considers that the solution of making listening skills digestible for learners is in two ways: at word level and at sentence level:

1. At word level, in the early stages, the students need practice in hearing and saying the sounds of isolated words as they are ideally pronounced by a native speaker, without the distortions or blurs which commonly occur within the context of natural speech. The exercise types those early level pupils can be given are repetition which they are only expected to repeat what they hear, asking if what they hear is English or not and to decide if they hear the same or different utterances.

2. At sentence level recognizing colloquial and spontaneous speech becomes easier for learners. So the exercise types at this level are again repetition but this time the length of the utterance is either the phrase or sentence they have heard, identifying word divisions which they are to determine the spoken and the written forms of the utterances, identifying the stressed or unstressed words are in a sentence, and dictation which the teacher seeks for students' understanding the sounds and utterances [10].

Considering long-term experience of training, N.N.Balabas draws a conclusion that when carrying out listening it is necessary to follow the following rules:

- consideration of language opportunities of group of students;
- authenticity of the used materials;
- careful selection of material on subject;
- regularity of carrying out (on each lesson);
- optimum time for carrying out (15-20 minutes);
- diversity of exercises;
- complexity of the shown exercises (7-10 exercises, are obligatory including pretext (2), text (2) and posttext tasks (3-6) [11].

As well as in Reading, Listening is divided into three stages:

1. Pre-listening – at this stage before listening by means of heading or tasks to define sense or about what there will be a speech in the text. This stage is preparation for hearing through various tasks which will help to attract interest in hearing and to focus attention.

2. While-listening – here goes process of hearing, at this stage it is necessary to learn to hear the necessary information and to distinguish texts.

3. Post-listening - this stage is needed to discuss, draw conclusions after listening, check how well the content of the audio material is understood, and consolidate knowledge.

Listening task

For creative Listening, we offer the usual task from the book «English for Information Technology» [12], and offer assignments that will help make their implementation creative and thereby help memorize learned material.

1. The first task: Teacher invites students to play «Stand up» and «Sit down». Every time they hear the word «online», they have to get up and sit down when they hear the word «customer». After, teacher need to invite them to count how many times they have rose and how many times they have sat down. This task will help them to focus on the text and at the same time, they will be interested and it will help to raise their spirits.

2. Second task: After playing the text, invite students to split into couples and show gestures and gestures to play the reproduced material. A group can be divided so that several pairs work with one dialogue, and the rest with another. After reviewing and listening to all the «actors», you can vote with the students for the most creative and artistic couples.

[I = Interviewer; D = David]

I: David, tell me, how much of your business is online now?

D: Not much, really. Only about 7%.

I: Why's that, do you think?

D: Well, most of our customers buy our cleaning products in supermarkets when they buy their food. And most people go out to buy their food. They go to the supermarket.

I: Do you think this will change?

D: Probably but slowly. Last year our online buying was about *5%* of our business.

I: So, it is growing a little.

D: Yes, but only a little. And in future our customers will still buy our products from the supermarkets on their websites. I don't think they will buy online from us direct.

Listen to this interview with David Aston. He works for a company that sells home cleaning products. Mark the statements true (T) or false (F).

1 David's company sells mainly online.	T/F
2 70% of their business is online.	T/F
3 People buy their cleaning products when they buy their food.	T/F
4 People buy their cleaning products in supermarkets.	T/F
5 Online sales are growing.	T/F

Reading

Reading is one of the main places of use and importance in learning a foreign language, because it is based on developing the skills to speak and write. Mastering reading skills is possible by mastering three steps:

1. (Pre-reading) – at this stage, before reading by the title or by illustrations, students should try to determine the meaning that will be in the text. This stage is a preparation for reading.

2. (While-reading) – at this stage, there is direct work with the text, starting from reading to translating text and working with grammar or new words.

3. (Post-reading) – this stage is necessary to sum up read, to check fidelity of the definitions made at the stage pre-reading and to use the text for development of skills in an oral and written language.

Reading task

Further the example of possible variants of tasks for different stages of work with the text of «Computers Make the World Smaller and Smarter» is given [16].

Computers Make the World Smaller and Smarter

The ability of tiny computing devices to control complex operations has transformed the way many tasks are performed, ranging from scientific research to producing consumer products. Tiny 'computers on a chip' are used in medical equipment, home appliances, cars and toys. Workers use handheld computing devices to collect data at a customer site, to generate forms, to control inventory, and to serve as desktop organisers.

Not only is computing equipment getting smaller, it is getting more sophisticated. Computers are part of many machines and devices that once required continual human supervision and control. Today, computers in security systems result in safer environments, computers in cars improve energy efficiency, and computers in phones provide features such as call forwarding, call monitoring, and call answering.

These smart machines are designed to take over some of the basic tasks previously performed by people; by so doing, they make life a little easier and a little more pleasant. Smart cards store vital information such as health records, drivers' licenses, bank balances, and so on. Smart phones, cars, and appliances with built in computers can be programmed to better meet individual needs. A smart house has a built-in monitoring system that can turn lights on and off, open and close windows, operate the oven, and more.

With small computing devices available for performing smart tasks like cooking dinner, programming the VCR, and controlling the flow of information in an organization, people are

able to spend more time doing what they often do best - being creative. Computers can help people work more creatively.

Multimedia systems are known for their educational and entertainment value, which we call 'edutainment'. Multimedia combines text with sound, video, animation, and graphics, which greatly enhances the interaction between user and machine and can make information more interesting and appealing to people. Expert systems software enables computers to 'think' like experts. Medical diagnosis expert systems, for example, can help doctors pinpoint a patient's illness, suggest further tests, and prescribe appropriate drugs.

Connectivity enables computers and software that might otherwise be incompatible to communicate and to share resources. Now that computers are proliferating in many areas and networks are available for people to access data and communicate with others, personal computers are becoming interpersonal PCs. They have the potential to significantly improve the way we relate to each other. Many people today telecommute - that is, use their computers to stay in touch with the office while they are working at home. With the proper tools, hospital staff

can get a diagnosis from a medical expert hundreds or thousands of miles away. Similarly, the disabled can communicate more effectively with others using computers.

Distance learning and videoconferencing are concepts made possible with the use of an electronic classroom or boardroom accessible to people in remote locations. Vast databases of information are currently available to users of the Internet, all of whom can send mail messages to each other. The information superhighway is designed to significantly expand this interactive connectivity so that people all over the world will have free access to all these resources.

People power is critical to ensuring that hardware, software, and connectivity are effectively integrated in a socially responsible way. People - computer users and computer professionals - are the ones who will decide which hardware, software, and networks endure and how great an impact they will have on our lives. Ultimately people power must be exercised to ensure that computers are used not only efficiently but in a socially responsible way.

Pre-reading tasks

Answer the questions:

Is it possible to determine by the title what the author says here?

What will this text be about, in your opinion?

Vocabulary:

computing devices –

desktop organizers –

the VCR –

energy efficiency –

health records –

drivers' licenses –

bank balances –

multimedia –

telecommute –

improve –

hardware –

software –

networks –

While-reading tasks:

1. Work in pairs. Find out this information from your partner. Make sure you use the correct tense in your questions. For example: download music from the Internet [what site]

Have you ever downloaded music from the Internet?

What site did you use?

A. send a video email attachment [who to, when]
B. fit an expansion card [which type]
C. replace a hard disk [what model]
D. fix a printer fault [what kind]
E. make your own website [how]

1. Read the text and mark the following statements as True or False
2. Desktop organisers are programs that require desktop computers.
3. Computers are sometimes used to monitor systems that previously needed human supervision.
4. Networking is a way of allowing otherwise incompatible systems to communicate and share resources.
5. The use of computers prevents people from being creative.
6. Computer users do not have much influence over the way that computing develops.

Post-reading tasks:

1. Read the text and answer the questions
2. Name some types of devices that use 'computers on a chip'.
3. What uses of handheld computers are mentioned in the text?
4. What smart devices are mentioned in the text?
5. What are smart cards used for?
6. What are the advantages of multimedia?
7. What can medical expert systems do?
8. How can computers help the disabled?
9. What types of computing systems are made available to people in remote locations using electronic classrooms or boardrooms?
10. What aspects of computing can people power determine?

Writing

Good knowledge of writing skills is one of the important skills in learning foreign languages, especially English. It will take some time and practice to learn to write well in English, because the skill of correct and delivered speech in English is always the result of diligent practice.

Writing task

We offer an example task for Writing, which will allow students to try themselves in the role of scriptwriters and actors. The essence of the task - one or a couple of students need to create a dialogue based on several ready-made phrases, and then play it in front of the group. The mandatory requirement can be made that by drawing up dialogues it will be necessary to do a mention about computers or its components.

Example task

It is possible to divide group so that several couples worked with the first dialogue, and the others – with the second.

1)Aiym: ...	2) Arman:...
Ansar: Really?	Karina:...
Aiym: ...	Arman: How did you know it?
Ansar:...	Karina:...
Aiym: A big red one.	Arman:...
Ansar:	Karina: I was scared.
Aiym:	Arman:
Ansar: Oh! I can`t believe in it!	Karina:
Aiym:	Arman: It is really fantastic!

Speaking

One of the most difficult stages of mastering a foreign language is speaking, since the most common problem among beginners in learning a foreign language is the language barrier. Speaking is the ability to freely express your thoughts on any topic through the English language, without resorting to long-term reflection on grammatical structures.

Speaking is one of the types of speech activity that has such specific features as motivation, activity, purposefulness, connection with activity, connection with the communicative function of thinking, connection with personality, situationality, heuristic, independence and pace [13].

According to SAEL Torky, speaking is one of the four language skills (reading, writing, listening and speaking). It is the means through which learners can communicate with others to achieve certain goals or to express their opinions, intentions, hopes and viewpoints. In addition, people who know a language are referred to as ‘speakers’ of that language. Furthermore, in almost any setting, speaking is the most frequently used language skill [14].

In order to improve our speech in English, we need to develop four skills: Fluency, vocabulary, grammar, pronunciation.

For development of skills of speaking when studying English we also use such forms of work as dialogue, a research conversation, a debate. Similar forms became an effective way of motivation in development of students. They could develop ability to understand, control and keep track of the results, the experience of training through metaknowledge processes. As a result of activity, intellectual processes control of own thinking, memory, knowledge, the purposes and actions is exercised. At students self-control develops [5].

Speaking task

The lesson dedicated to the topics «Social media» and «Computer programs» can be very unpredictable and fun.

Depending on the number of people, students work individually or in pairs.

Each participant or couple selects one card with icons of social networks or programs. Their main task is to revive these icons with people, that is, with images of programmers or computer science teachers, such as they imagine.

Students need to draw and come up with a name (eg Instaman or Snapwoman). Next, students should present their invented hero (by example, Marvel or DC heroes), tell about his interests, what he does, who his enemies are and how he is adapted to survival on our planet.

Before the start of each presentation, give the rest of the students the opportunity to guess the components of each new person. It is necessary to ask questions after each presentation.

Conclusion

A foreign language lesson is a field for creativity, where students try on new social roles, invent characters for themselves, act out dialogues and mentally travel the world. Based on this, the teacher should create such tasks that would contribute to the realization of students' creative abilities, and as a result of their implementation, students learn to use non-standard approaches to solving certain situations, which will allow them to resist the desire to be like others.

The principle of activity in the learning process was and remains one of the main in didactics. In order to educate a creative student, one must constantly take care not to lose curiosity, energy, willingness to take risks and openness to the new. The more creative the lesson is, the more students will learn the material covered. This means, thanks to a creative lesson, students will not only improve their knowledge in mastering the skills of the English language, but at the same time, they will be able to develop their creative potential and creative thinking.

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THE EFFECT OF AWARENESS OF ANALYTICAL AND SYNTHETIC ASPECTS OF WORD FORMATION ON VOCABULARY KNOWLEDGE OF EFL LEARNERS

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ABSTRACT

The main purpose of the present study is to investigate whether awareness of the analytical and synthetic aspects of word formation can have any effect on vocabulary knowledge of English language learners (EFL). Measurements of learner's vocabulary and morphological awareness are obtained and then correlate to assess the degree to which knowledge of English morphological processes and structures can be systematically related to vocabulary learning. Based on the findings, the possible role that morphological awareness can play in second language (L2) vocabulary developments discussed. Implications for vocabulary instruction are also addressed.

The participants were 44 students at Payame Noor university and Pishgaman Institute, Iran. The data collection tools were two morphological awareness tasks. The first consisted of a morpheme Identification task (item disassembling, 13 questions) and the second was morphological structure test (item reassembling, 14 questions). An Oxford proficiency test, Solutions Placement test that elicited the participants' English vocabulary learning in general was also administered. Finally, the participants gave feedback that suggested their interest in applying the morphological knowledge to their vocabulary learning. Thus, the findings have implications as to the importance of facilitating the students' morphological awareness in English through analytical and synthetic aspects of word formation in vocabulary learning of EFL students.

1.1. Introduction

Today's frontier is knowledge. Brain has taken precedence over brawn; our physical struggle for existence has been replaced by intellectual struggle, and knowledge of words has become the most valuable tool for this struggle. Words are the very cornerstone of any language. With a good vocabulary, which indicates scope of knowledge, we can grasp the thoughts of others and be able to communicate our own thoughts to them. As Stahl (1986) argued, discussion of words is discussion of knowledge of the world, and knowledge of the world is knowledge of who we are and where we stand in the world.

Numerous studies have documented the strong and reciprocal relationship between vocabulary knowledge and reading comprehension (Beck, McKeown, & Kucan, 2002; Graves, 2000; Stahl and Fairbanks 1987) as well as general reading ability. Likewise, Saville-Troike, (1984) concluded that vocabulary knowledge is the single best predictor of students' achievement across subject matter domains.

According to Nation (1993), knowledge of around 3000 word families is the threshold needed for tapping other language skills. Without this threshold, learners encounter problems understanding the language they are exposed to (Alderson & Banerjee, 2001).

One way which vocabulary learning can be fostered is through the use of learning strategies. Strategies that have been proposed to help develop vocabulary learning include memory strategies (MEM), Social strategies (SOC), cognitive strategies (COG), metacognitive strategies (MET) and determination strategies (DET) (Schmitt, 2000).

Morphological awareness is defined as the ability to use the knowledge of word formation rules and the pairings between sounds and meanings (Kuo & Anderson, 2006).

With morphological awareness, learners are able to learn morphemes and morphemic boundaries by disassembling complex words into meaningful parts (e.g. childhoods=child+ hood+ -s), learning the meaning of roots, affixes (child =baby, -hood = the state of being, -s= to

indicate plural nouns), and reassembling the meaningful parts into new meanings (motherhood, fatherhood, brotherhood). The practice of this disassembling – reassembling (Analytic and synthetic) method is called morphological analysis. Simply stated, analytic words formation refers to breaking words down into its meaningful components. In contrast, synthetic word formation refers to bringing the smallest pieces (morphemes) together to form words (Arnoff & Fudeman, 2005).

Although morphological analysis is not the only strategy teachable to learners' vocabulary size; however, it is a potential learning strategy that seems particularly useful for the learners when attempting to tackle the meanings of new words saying that it helps to raise learners' word consciousness (Qian, 2002). L1 morphological awareness is developed gradually (Kuo &Anderson, 2006) and is important in understanding derived and inflected words (White, Power, & White, 1989). Furthermore, understanding and manipulating the internal structure of words is correlated with L1 vocabulary growth (Nagy & Scott, 1990). Most of the previous studies deal with L1 morphological awareness and its relationship to vocabulary growth and reading development; to date, little attention has been given to the awareness of analytic and synthetic aspects of word formation and its effect on increasing vocabulary knowledge. Therefore, in order to do this, this study aims to answer the following research question:

Does awareness of analytical and synthetic aspects of word formation have any effect on vocabulary knowledge of EFL learners?

And the research hypothesis is:

Awareness of analytical and synthetic aspects of word formation does not have any effect on vocabulary knowledge of EFL learners.

2. Review of literature

All language have vocabulary, a set of words that is the basis for making and understanding sentences (Miller, 1999). Therefore, “without some knowledge of that vocabulary, neither language production nor language comprehension will be possible” (Anglin, 1993, p.2). Laufer and Nation (1999) stated that vocabulary provides the enabling knowledge, which is required to be successful in other areas of language proficiency.

2.1. Vocabulary learning

There have been many studies about the significance of vocabulary in language learning. For example, Walker, Greenwood, Hart and Carta (1994) stated that early vocabulary knowledge has been shown to be a strong predictor of school progress in the first language (L1). They found that vocabulary knowledge was particularly important in reading achievement. There are variety of ways in which a child learns vocabulary in the L1. These include:

1) Experiential learning (Armbruster, Lehr, & Osborn, 2001). The authors claim that a child learns most vocabulary through reading or listening to words being used in context. In other words, children are able to develop vocabulary through their experiences with the words.

2) Memorizing (Levin, Levin, Glasman & Nordwall, 1992). These authors believe that student learn new words by memorizing. If students are able to connect words to a familiar image or visualization, they are more likely to remember, retrieve, and use the words in sentences.

3) Using words repeatedly, namely, the students are given practice (Long & Rule, 2004). The learners are provided with worksheets to practice words that already been introduced. Some of the viewpoints discussed above are also adopted for vocabulary learning in the L2 teaching context.

2.3 Morphology and morphemes

Morphology refers to the study of forms. Linguistics morphology refers to the study of words, their internal structure and the mental process that are involved in word formation (Arnoff & fudeman, 2005). It is ‘… the study of the hierarchical and relational aspects of words

and operation on lexical items according to word formation rules to produce other lexical items' (Leong & Parkinson, 1995, p. 237).

Traditionally, a word can be divided into the minimal linguistic units that bear meanings or grammatical functions (i.e. morphemes). In line with the traditional definition, Coates (1999) identifies four criteria of what it takes to be morpheme. A morpheme should have a meaning or function, recur in other words with a related meaning (.g. un- in unbelievable and unhappy), and be involved in a pattern of interchange (e.g. _est in longest can be substituted with another morpheme such as, -er). Morphemes can be classified as free or bound. Simply, free morphemes are those that can exist in their own (e.g. book in notebooks), whereas bound morphemes cannot (e.g. _s in notebook) (Coates, 1999). The word reestablishments can be broken into four morphemes: re-, establish, -ment, -s. Establish is called the root. The root is the core of a word to which other morphological units are attached. Establish can also be a stem (i.e. a base morpheme to which other elements are attached). A stem can be simple (establish) or complex (establishment).Re- and _ment and _s are called affixes.

2. 4. Evidence for the effect of morphological structure on lexical access studies

There are three main factors that affect lexical access processes and that provide evidence for the effect of morphological structure in accessing complex words. The first factor is word frequency that refers to how frequently a word occurs in language. Word frequency can be further classified to include root or stem frequency (i.e. the frequency of the root in a word such establish in establishment), and surface frequency (i.e. the frequency of word as a whole inclusive of derivation and inflection) (Rastle & Davis, 2003). Studies reveal that high frequent words are accessed faster than low frequent words. Katz (1991) demonstrates that lexical access of inflected words depends on root frequency of these words. The researchers investigate the effect of root/ stem frequency as opposed to the surface frequency (the total frequency) or word recognition using 100 regular verbs (present tense, past participle and present participle). Thy report that the frequency of the stems, whether in the present or the past forms, predicates word recognition better than the total frequency. As such, the effect of root frequency on word recognition substantiates that morphemic units are independently represented in the lexicon.

3. Methodology

3.1. Participants

Fifty five Iranian learners of English (male and female aged from 18 to 28) from Payame Noor University of Ardabil and Pishgaman English Language Institute in Ardabil participated in this study. Participants' proficiency level was determined to be intermediate based on their scores on Oxford proficiency test (2007). Their mother tongue was Azeri-Turkish. They had received at least 35 hours of vocabulary course. From the total number of participants involved in the study, 5 students were excluded from the study, simply because they did not want to participate. The scores of 6 students were excluded from further consideration because of their low proficiency level or their failure to participate in all measures of the study. From this pool, 44 participants were assigned to two groups-an experimental group (n = 21) and a control group (n = 23) based on their scores obtained from the proficiency test. The scores were submitted to SPSS and an independent-samples t-test was run, which confirmed that there was no significant difference across the two participating groups in terms of their proficiency level, ($t(42) = .196$, $p = .845$). Additionally, in order to measure the homogeneity of the two groups, t-test run on the scores obtained from the morphological awareness test, which used as pretest, showed no statistically significant difference among the two participating groups, $t(42) = .67$, $p = .505$.

3.2. Materials

A widely used test was adapted from McBride-Chang, Wagner, Muse, Chow, &Shu, (2005) (personal communication, July 12, 2011) to the purpose of the study: morphological awareness test including a) analytic and b) synthetic section.

The Morphological awareness test is used to test students' ability to reflect and manipulate morphemic units in English. This test is of interest to the researcher as it encompasses both the analytical and synthetic aspects of word formation rules. The test is divided into two sections: Analysis and Synthesis Tests.

The Analysis Test measures students' ability to analyze and break down complex words into smaller meanings. It is comprised of 13 test items. These items diverge from the items used in original Morpheme Identification Test to better suit the students' age and level.

The synthesis test measures students' morphological productivity, which is the ability it synthesize morphemes to create new meanings. The test consists of 14 items. The items have 9 inflectional affixes, 3 derivational affixes and 23 stems. All items are embedded in a sentence frame so as to examine whether the participants can derive different forms of the base word rapidly and accurately when being primed with that base form in sentences context.

That is to say, this test examines the students' knowledge of lexical structure and the relations among words and within words and their constituents.

The same package of testing instruments used for the pretest was administered as the immediate and delayed posttest. Word formation which was used in the treatment sessions was adapted from study skills. The focus of the chapter was concerned with the use of stems and affixes in increasing participants' knowledge of lexicon.

The other instrument used in this study was an Oxford proficiency test (2007), solutions placement Test. It was also used to assess participants' general knowledge of language. The test includes 50 multiple-choice items which assess students' knowledge of grammar and vocabulary from elementary to intermediate levels. The 50 multiple-choice items is designed to be done together in 45 minutes. Participants whose scores fall on the borderlines of 0-20, 21-30, 30+ should be placed in elementary, pre-intermediate, and intermediate level, respectively.

3.4. Procedures

One week prior to the pretest, participants were required to take a proficiency test. On the first day, the pretest, which included morphological awareness test (analytic and synthetic section), was administered to all participants in the two groups involved. In analytic section they were asked to segment words into meaningful chunks and state the meanings of those chunks either in English or both according to their preference. See the Example:

Childhoods; child: little human being, -hood: the state of being, -s: to indicate plural.

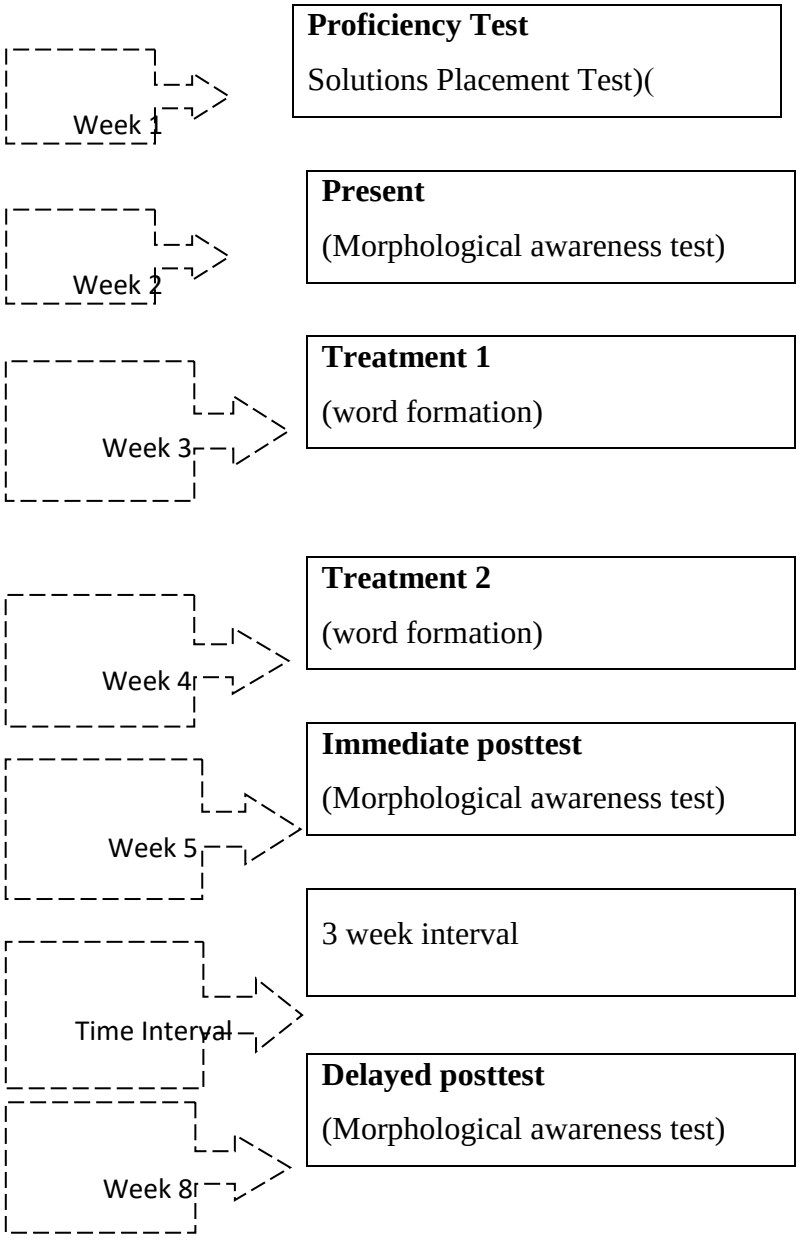
The synthetic section is presented with frame sentences that contains the usage of the target morpheme, and then ask to complete another sentences. It is expected that participants use the frame sentence to complete the next sentence. In other words, participants were asked to use only one word to come up with names for the objects or actions that are described. See the example:

Marry lived longer than Jim. Marry outlived Jim.
James performed better than Juliet in the reading test. James…….Juliet.

Then, the treatment sessions began a week later (week 3 and week 4). In order for participants to be able to analyze the structure of a new word and discover its meaning, an adequate knowledge of a number of most productive affixes and stems was necessary. To provide participants with such knowledge, researcher introduced some of the most productive stems, prefixes, and suffixes. Participants in the experimental group were given a set of complex words out of

context, and were asked to segment them into as many smaller meanings as they can identify in each word. Additionally, they were taught to bring the smallest pieces (morphemes) together to form words or to reassemble the meaningful parts into new meanings (motherhood, fatherhood, brotherhood) based on their word formation knowledge. In week 5, the immediate posttest was administered, containing the testing instrument used as the pretest. The delayed posttest was given after three week; participants received the same testing instruments given in the pretest and immediate posttest.

The control group had a zero-placebo; that is, they had only their own regular classes. They received no treatment. They only received the pretest, the immediate posttest, and the delayed posttest. The design of the study is summarized in figure 3.1 below:



4. Results and data analyses

To make sure that the assumption of normal distribution of the scores established, the Kolmogorov-Smirnov analysis run on the pretest, posttest 1, and posttest 2 (p = .897, p=533, p = 476, respectively). The results legitimized using t-test.

The means and standard deviations for the two participating groups in the posttest 1 are presented in Table 4.1. The scores obtained from the posttest 1 were submitted to an independ-

ent-samples t-test. As shown in Table 4.2, Levene's Test for equality of variances indicates that the equality of variances is not assumed, p = .024. This analysis yielded a significant main effect for the morphological awareness, t (36.08) = 3.92, p < .001, indicating that the experimental group outperformed the control group in the posttest 1. Table 4.2 displays the results of the independent-samples t-test analysis for the posttest 1.

Table 4.1

Descriptive Statistics for the posttest 1.

Group	*N*	*M*	*SD*
Experimental	21	27.04	4.17
Control	23	20.21	7.11

Table 4.2

The Results of Independent Samples t-test for the Posttest1

Posttest 1	Levene's Test for Equality of Variances		t-test for Equality of means		
	F	p	t	df	p(2-tailed)
Equal variances Not assumed	5.52	.02*	3.92	36.08	.001**

Table 4.3 represents the descriptive statistics for the two participating groups in the posttest 2. To statistically determine the effect of morphological awareness on L2 vocabulary learning in the posttest 2, Researcher ran an independent-samples t-test analysis. The equality of variances are not assumed, p = .009 as proved by Levene's Test. The significant difference appeared to hold true between the experimental and the control group in the posttest 2, t (32.69) = 5.68, p < .01, showing that the experimental group performed better than the control group. The result of independent-samples t-test analysis for the posttest 2 is demonstrated in Table 4.4.

Table 4.3

Descriptive Statistics for the Posttest 2

Group	**N**	**M**	**SD**
Experimental	21	28.76	**3.25**
Control	23	19.95	**6.60**

Table 4.4

The results of independent samples t-test for the posttest 2

Posttest 2	Levene's Test for Equality of Variances		t-test for Equality of means		
	F	P	t	df	p(2-tailed)
Equal variances not assumed	7.457	.009**	5.68	32.69	.001**

To pinpoint the statistical difference lay among participants' performance in the long run in the experimental and control group, I conducted a paired-samples t-test on the posttest 1 and posttest 2. The results pertaining to this analysis comparing groups in the posttest 1 and 2, as shown in Table 6, revealed a significant effect for the treatment, t (20) = -2.74, p < .05, suggesting that the experimental group outperformed the control group in the long run. Table 4.5 displays the means and standard deviations for each pair of testing times in the experimental and control group.

Table 4.5

Descriptive Statistics for the Posttest 1 and 2

Group	Pair	N	M	SD
Experimental	Posttest 1	21	27.04	**4.17**
	Posttest 2	21	28.76	**3.25**
Control	Posttest 1	23	20.21	**7.11**
	Posttest 2	23	19.95	**6.60**

Table 4.6

The Results of Paired-Samples t-test for the Posttest 1 and 2

Group	Pair	T	Df	P(2-tailed)
Experimental	Posttest 1 &2	-2.74	20	**.01***
Control	Posttest 2 & 1	1.10	22	**6.60**

5. Discussion

In this study an attempt was made to further our understanding of the role of analytical and synthetic aspects of word formation in increasing vocabulary learning. The findings give emphasis to the potential importance of different aspects of morphological knowledge for vocabulary learning that each of these aspects essential in fostering vocabulary learning and are in line with a number of other studies as well (Chang, Chow, Muse, Shu, & Wagner, 2005). The results obtained from posttests show that experimental group outperformed the control group in the both tests. This illuminates the importance of teaching, and learning common affixes. Also, participants should be taught how to apply the meaning of the affix to a root or base in order to help them to become explicitly aware of the structure of words. Kieffer and Lesaux (2007) believe that there are three types of knowledge of language that students need to know to use morphology effectively: knowledge of prefixes and suffixes, knowledge of how words get transformed, and knowledge of roots. This can aid them understand the internal structure of the new words that they are required to read and write.

The results of the present study also demonstrate that all the students do posses general morphological knowledge. In fact, even the least proficient students managed to answer several questions of Morphological Knowledge test correctly. This finding is in agreement with other studies that all learners including both high and low proficient learners have morphological knowledge and they use morphological cues to decode words (Carlisle & Stone, 2005). Moreover, the findings are also in line with Mc-Bride Chang et al. (2005) who found that knowledge of

morphology is a good predictor of vocabulary knowledge. Four principles for teaching morphology to improve students' vocabulary and reading comprehension involve:

1. Teach morphology in the context of rich, explicit vocabulary instruction
2. Teach students to use morphology as a cognitive strategy with explicit steps
3. Teach the underlying morphological knowledge needed in two ways both explicitly and in context
4. For students with developed knowledge of L2, teach morphology in relation to cognate instruction (Kieffer&Lsaux, 2007, p. 134_144).

6. Conclusions

The present study aimed to research the potential effect of being awareness of synthetic and analytical aspects of word formation on vocabulary knowledge of EFL students. To discover this, Morphological knowledge Test along with its two subsets of Morphological structure Test and Morpheme Identification Test were employed. The results of tests revealed that the morphological knowledge significantly affected vocabulary learning. Consequently, through the data gathered the null hypothesis was rejected and it was found that analyzing and synthesizing words affect vocabulary knowledge of EFL students.

As we have suggested, morphology is just one part of a comprehensive vocabulary for EFL students. However, it is important that we do not ignore such a potentially powerful tool to add to students' toolkits for extracting and constructing meaning from texts. As the findings of Kieffer and Lsaux (2007) reveal, this tool can be essential in our students' path toward becoming successful readers and writers.

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СЕКЦИЯ

ПОЛИТИЧЕСКИЕ НАУКИ

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СТАНОВЛЕНИЕ КИТАЯ КАК МИРОВОГО ЦЕНТРА ВЫСОКИХ ТЕХНОЛОГИЙ

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АННОТАЦИЯ

В статье приведена краткая история формирования сектора высоких технологий Китайской Народной Республики. Факторы, позволяющие Китаю в дальнейшем стать мировым лидером в ряде высокотехнологичных отраслей. Так же дается обзор основных особенностей развития, характерных именно для данной страны.

Ключевые слова: Китай; наука; исследования; технологии; инновации; Интернет; прямые иностранные инвестиции; иностранный инвестор; специальные экономические зоны.

THE RISE OF CHINA AS THE WORLD'S HIGH-TECHNOLOGIES IN THE FRAMEWORK OF THE FOURTH INDUSTRIAL REVOLUTION

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ABSTRACT

The article presents a brief history of the formation of the high technology sector of the People's Republic of China. Factors that allow China to become a world leader in a number of high-tech industries in the future. It also provides an overview of the main features of development distinctive to the country.

Keywords: China; science; research; technology; innovation; Internet; foreign direct investment; foreign investor; special economic zones.

На сегодняшний день Китайская Народная Республика является примером беспрецедентного успеха по части внедрения высоких технологий во все сферы общественной и частной жизни. Пройдя путь от мирового производителя дешевых товаров к лидеру в внедрении высокотехнологичных производств, Китай претендует стать лидером среди инновационных держав. Причиной столь высоких темпов, помимо необходимости не отставать от мирового научно-технического прогресса, является необходимость поддерживать темпы экономического роста. Имеющихся мощностей, которые базировались на дешевой рабочей силе и инвестициях в строительный сектор отныне недостаточно.

Первые шаги по развитию науки и техники в КНР начали осуществлять в период 50-60-х гг. прошлого века в рамках особо крупных проектах в сфере стратегических ядерных вооружений и развития космической программы. Важным событием того времени стала программа “Звездных войн” президента США Рональда Рейгана в марте 1983 года. Уже в 1986 г. Госсоветом был выдвинут «Государственный план по развитию исследований высоких технологий». Он определил спектр приоритетных для государства областей, которые в будущем точно вписались в концепцию четвертой промышленной революции. К ним относились лазерная, космическая сферы, биотехнологии, автоматизация производ-

ства, информатика, энергетика и новые типы материалов. В результате, за 20 лет функционирования программы для ее реализации были направленны колоссальные ресурсы, выпущено 120 тыс. статей и 8 тыс. патентов. Удалось достигнуть конкурентоспособного уровня в производстве суперкомпьютеров, мобильной связи третьего поколения, изготовления промышленных роботов, высококачественного гибридного риса, генной инженерии. На волне успехов была разработана новая программа, ставившая цель в 15 лет достигнуть 60% роста ВВП за счет совершенствования технологического процесса и сокращения до трети зависимости от импортных технологий. Теперь в программе выделялись и такие сферы, как производство чистой энергии, «зелёная» урбанистика (мало загрязняющие природу города). Впервые в стратегию развития вошла борьба с распространением СПИД, гепатит и т.д., внедрение инноваций в фармацевтическую сферу. Не осталась без внимания и оборонная промышленность, требующая в XXI веке обеспечение современными информационными технологиями и современным вооружением. По-прежнему стояли задачи по выходу на первое место в мире в техническом оснащении сельского хозяйства и обеспечении продовольственной безопасности страны [1, с.7].

В дополнение к существующим программам развития весной 2015 года была обнародована программа «Сделано в Китае 2025», призванная внести глобальные изменения в индустриальной политике и обрабатывающей промышленности. «Сделано в Китае 2025» должна преобразовать Китай в мирового лидера высокотехнологичных производств. Ключевыми секторами модернизации стали информационные технологии нового поколения, производство технически более совершенных и “умных” станков ЧПУ и их роботизация, космическая отрасль, изготовление авиационных двигателей и оборудования, биофармацевтическое медицинское оборудование для проведение высокоточных сложных операций [8,с.2]. Изменилось представление о кибербезопасности. Интернет больше не являлся средой общения и распространения информации, но платформой для экономического развития, частью общественного контроля и национальной безопасности [1, с.11]. Небывалой динамики достигло развитие цифроизации китайского общества, повсеместного распространения Интернета вещей и внедрения цифровых сервисов. Такому росту способствовало стремительное развитие цифровых китайских гигантов, как Baidu, Alibaba, iFlytek, Tencent и др. Эти частные игроки стали ведущими разработчиками ПО и искусственного интеллекта. Формирование целых экосистем интернет сервисов Ali Pay и Wechat Pay позволило в массовом порядке перевести городское население на бесконтактные методы оплаты (даже без технологии NFC - near field communication) перенести десятки услуг в онлайн [8, с.5]. Имея более 700 млн. пользователей интернетом, и более 87% населения (более 1 млрд.), владеющего смартфонами, Китай претендует на звание крупнейшей интернет-державы мире [7, с.5]. Помимо этого, 87% мобильных сетей в стране работают мобильных сетях поколения 4G (для сравнения, в России только 38%, Великобритания – 50% и Франция – 56%) [7, с.6-7]. Отдельного внимания заслуживают разработки компании Huawei и ZTE в 5G технологиях. На сегодняшний день в КНР в тестовом режиме тысячи объектов работают в сетях пятого поколения. Китайским фирмам принадлежит 10% мировых интеллектуальных прав в области 5G по трем направлениям: радиодоступ через мультиплексирование, канальное кодирование, модуляции и базовых сетях [9,с.7-8]. Сети нового поколения станут основой четвертой промышленной революции. Автономные автомобили, робототехнические производственные комплексы, онлайн сервисы с внедрением продвинутых моделей таргетированной рекламы, индустрия интернет услуг, искусственный интеллект нового поколения и другие новшества, связанные с новой промышленной революцией, потребуют огромных объемов передаваемой в реальном времени информации, которые возможно получать только через 5G сети [2, с.53].

Отдельно стоит поговорить о фундаментальной науке в Китае. Следуя мировым трендам и собственной необходимостью было выделено четыре основных сектора разви-

тия: исследование белка, физика квантов, нанометрические исследования и репродукция. Исследование белка, его структур и изменений должно помочь не только узнать о зарождении жизни, но и даст толчок к появлению новшеств в сельском хозяйстве, зеленых технологиях и новых сфер науки, как биоэкономика. В тоже время, мировая конкуренция в научных исследованиях квантового мира приведет к появлению новых средств передачи информации и энергии, в сотни раз более эффективными чем в микроэлектронике. Не менее важно для КНР и нанометрические исследования. Прорыв в этой сфере даст начало новой технологической революции и потенциально даст ряд открытий в материаловедении, медицине, биологии и других сферах. Руководство КНР определяет сферы квантов и нанотехнологий как области для потенциального скачкообразного в обозримом будущем [1,с.8-9]. Программы роста и репродукции уже дали уникальный в своем роде результат. Осенью 2018 года китайский ученый Хэ Цзянькуй на саммите по генетике в Гонконге объявил результаты редактирования генома двух младенцев на стадии эмбрионов [3]. Помимо этого, зимой 2018 года был опубликован отчет о клонировании макак через перенос ядра соматических клеток [10]. Согласно статистике научной базы Elsevier Scopus, на китайских авторов пришлось 19% мировых научно-исследовательских публикаций и 400 млрд. долл. инвестиций в науку и технологии. По показателям научных работ они впервые обогнали лидера того времени – США. Среди научных мегапроектов КНР стоит отметить один из крупнейших в мире 500-метровый радиотелескоп (провинция Гуйчжоу), открытая в 2017 г. первая в мире квантовая линия связи длиной 2000 км. (Пекин-Шанхай), строительство 100-километрового электрон-позитронного коллайдера (городской округ Циньхундао) [6].

Все эти стратегии и мега проекты не были возможны без иностранных инвестиций, организации свободных экономических зон и китайских зарубежных инвестиций. С 1993 г. КНР занимает первое место по привлечению прямых иностранных инвестиций (далее – ПИИ), к тому времени ПИИ были практически во всех отраслях китайской экономики. В начале основной поток иностранного капитала шел в трудоемкие отрасли, строительный и сектор недвижимости. Однако позднее, в виду быстрых темпов экономического роста и общего подъёма доходов населения активно начали инвестироваться вторичный и третичный сектора китайской экономики [5,с.189]. Несмотря на обширную географию иностранных инвесторов, лидером по ПИИ является оффшорная зона Гонконг. На ее долю приходится 69% всех инвестиций. Для Гонконга также важно, что местные компании активно используются китайскими компаниями для выхода на Гонконгскую фондовую биржу при помощи листинга. В структуре внешней торговли Гонконг также является вторым импортером продукции (14%) после США [5,с.190]. Азиатские страны ориентируют свой экспорт на вторичный сектор, ранее привлекательный за счет дешевой рабочей силы. Американские и европейские инвесторы вкладывались в капиталоемкие отрасли. Китайские власти регулировали распределение потока ПИИ в пользу отраслей, которые были неспособны развиваться без технологий, оборудования, опыта иностранных инвесторов. В то же время, их деятельность не должна была вредить природному и культурному наследию, национальной безопасности страны. Поэтому полностью запрещалось вмешательство зарубежных компаний в производство препаратов традиционной китайской медицины, обработка слоновой кости, выращивание определенных сортов чая, средства массовой информации, производство оружия, почтовые услуги, воздушное движение. Ограничениям в виду невозможности вести бизнес без совместного предприятия подвергались производство биотоплива, коммерческая недвижимость, переработка драгоценных металлов и др. [5,с.191]. Параллельно государство активно спонсировало и поддерживало специальные экономические зоны (далее – СЭЗ) и промышленные кластеры. Несмотря на авторитарность власти, китайские политики прекрасно оценивали уровень технического прогресса провинций для формирования благоприятной деловой среды. Туда входили нормативная

база, административная система и качественная инфраструктура [4,с.3]. СЭЗ – это особые территории, их расположение привязано к географическим особенностям страны. Это пространства, которые сочетают в себе множество субъектов: предприятия, научно-исследовательские центры, университеты и т.д. Они имеют кластерные преимущества в целях стимулирования отдельных отраслей или их групп [4,с.5]. Центральное правительство сделало максимум для возможности СЭЗ быть более автономными. Им предлагались недорогие земли, налоговые, таможенные и административные льготы. Эти зоны располагались как можно дальше от столицы страны. Также им предложили принимать самостоятельные решения в отношении развития, за исключением почтовых и телекоммуникационных услуг, банковского регулирования, и национальной обороны [4,с.3]. Крупные изменения начались в последние десятилетия, когда иностранные инвесторы увидели в китайском населении потенциально высокую покупательскую способность и перенаправили свои ресурсы в третичный сектор экономики [5,с.190]. Пока весь мир говорил о китайском чуде, одним из его составляющих стали китайские специальные экономические зоны, в 2012 г. на них приходилось до половины прямых иностранных инвестиций (ПИИ), 44 % экспорта, 6,3 % занятости [4,с.2]. Ключевой особенностью китайских СЭЗ стала возможность объединяться с промышленными кластерами. Так, примерами кластеров на базе СЭЗ стали информационные и коммуникационные технологические кластеры в Чжунгуаньцунь (Пекин) и Шэньчжэне, кластеры электроники и биотехнологий в Пудун (Шанхай), кластер программного обеспечения в Даляне и кластер оптоэлектроники в городе Ухань. С другой стороны, СЭЗ, построенные на базе промышленных кластеров - высокотехнологичный парк по производству жидкокристаллических дисплеев в городе Куньшань, парк науки и техники в области ветроэнергетики в городе Уси и промышленный парк по производству фотоэлектрических устройств в провинции Цзянсу [4,с.2-3]. Изменения претерпели и стратегии производства конечного продукта. Производители стали инвестировать в производство товаров с высокой добавленной стоимостью. Это стало возможно благодаря интенсивному внедрению промышленных роботов, продаваемых и производимых на территории страны японскими, американскими и другими компаниями. Доля иностранных рабочих также сильно повлияла на капиталовложения. Так как СЭЗ были открыты для любых квалифицированных рабочих, они привлекли огромное количество мигрантов со всего мира. Это сильно повлияло на инновационную и предпринимательскую культуру. В Шэньчжэне доля мигрантов среди населения составляет 83 % от общей численности, 62 % в возрасте от 17 до 44 лет. Это делает Шэньчжэнь одним из самых динамичных СЭЗ в Китае [4,с.6]. Китайский рынок промышленных роботов в 2016 году занимал 30% мирового спроса, и 36% в 2017. На 2018 год ежегодный оборот составил 165 тыс. промышленных роботов (137 тыс. в 2017) и продолжит расти до 290 тыс. в 2021 году [11,с.14]. Такой скачок был в первую очередь обусловлен спросом автомобильных производителей (мировые закупки до 125 тыс. ед. в 2017 г.), производителей электроники (мировые закупки до 123 тыс. ед. в 2017 г.), а также китайскими производителями фармацевтической продукции, косметической и пищевой индустрии [11,с.16] Большинство ПИИ были сделаны в приморские провинции – Гуандун, Фуцзянь и Цзянсу и на крупнейшие города – Пекин, Таньцзинь и Шанхай, вместе их доля составила 90% от всех инвестиций в КНР [5,с.193]. В свою очередь, до 80% китайских инвестиций приходилось на государства и государственные проекты с устойчивой экономикой [5,с.194]. Китайские ПИИ на 2016 г. были представлены в 177 странах мира. В АТР 83% их приходится на Гонконг, на втором места Латинская Америка (90% капитала сосредоточено в офшорных зонах) [5,с.1995-196].

Таким образом, технологический успех КНР, представляет из себя не только накопление прорывных технологий, но и планомерного развития инвестиционного климата, а также условий для развития и модернизации как отдельных предприятий, так и целых

кластеров. Благодаря наличию дешевой рабочей силы, повлиявшей на инвестиционный спрос и грамотной политике правительства, КНР постепенно преодолевает экономическую усталость прежних инструментов роста и вступает в новую эру индустрии 4.0. Имеющихся экономических, людских, технических, и интеллектуальных ресурсов достаточно, чтобы в ближайшие 10 лет совершить рывок в рамках четвертой промышленной революции и стать ведущей инновационной державой в мире.

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IDENTIFYING THE SOCIAL FACTORS AFFECTING SUICIDE AND WAYS TO PREVENT IT IN KERMANSHAH CITY IN 2017

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ABSTRACT

Suicide can be viewed as a reaction, formed a result of social abnormalities. People of a community are involved with these abnormalities, which can be manifested in all social, economic, cultural, political, and religious and even the personal life of people the community. If they are not considered seriously, it would jeopardize the social cohesion. The objective of this research is to identify the social factors affecting suicide and its prevention in Kermanshah city in 2017. The research method is qualitative, underlying theory type, and the data collection tool was deep and semi-structured interview and the study of different files related to the subject of suicide. The research population consists of people who admitted to the emergency unit of some of the hospitals in Kermanshah city in the year 2017 due to their attempt for suicide. Out of them, 15 subjects were willing to conduct an interview. The result of this study indicated the most important social factors affecting suicide included unsuccessful love experience, forced marriage, addiction, and lack of paying attention to interest of individuals.

Keywords: suicide - underlying research - socio factors; addiction.

Introduction

The phenomenon of "suicide", which is one of the major complications of the industrialized world, is more affected by disorganizations, mental disorders and social inequalities. In his book entitled "division of labor," Durkheim argues that "suicide emerges along with civilization, or at least, what is considered as a form of suicide in lower communities, has special characteristics (Sotudeh, 1999: 236). Suicide and its causes and motives are one of the social problems, existed in all communities from the earliest to the most advanced of them. It attracted the attention of the social sciences, psychologists and the public people. The investigations of human sciences experts during the past centuries indicate that many of them spent time for discovering the causes of suicide and, as far as possible, eliminating the factors affecting it in order to find ways to eliminate or reduce this social harm.

We see the deaths of thousands of people forced to die due to suicide in various ways every year in different communities and thousands have failed to commit suicide and once they have gained an opportunity to continue their lives. Suicide as a form of social harm is a problem that has involved both developed and underdeveloped communities. Each of them has been manifested in accordance with and characteristics of the given community. Suicide is nowadays as one of the major causes of mortality, especially in modern and industrial communities. Suicide is seen everywhere, and in all communities and at all times and periods of history. The suicide attempt is the most private action that may be taken by a person. This action is resulting from a deep social and a severe emotional conflict. Although suicide is solely formed with the aim at the

annihilation of a person, it is an action against other people. It means that while this action is personal, it has a mutual effect on others.

In this regard, Kermanshah province has several problems such as unemployment, addiction, suicide and so on, despite its various potentials. Based on existing statistics, the study of provincial media and public thoughts on suicide statistics has not good status. The issue of suicide is one of the social phenomena that should be taken consideration seriously. Suicide is not a simple social issue that can be ignored easily. If its roots and causes are ignored, it would cause more serious consequences for community. Suicide not only is considered as harm for the person and his or her family, but also major harm for the community. It is also a sign of a non-organized and non-developed personality. It means that personality imbalance might lead to suicide. In addition, suicide might be followed by some more serious consequences, such as encouraging other people to commit suicide.

3-1-Methodology

The research method or plan can be defined as ways or techniques that the researcher has selected it based on the subject and objective of the study has followed the logical and scientific rules and guidelines during the course of his or her studies. Accordingly, in order to achieve the desired goals, each research should select and follow logical criteria and rules (Ayin Moghaddam, 2010: 85). The method of this research is qualitative and type of underlying theory. The underlying theory is the discovery and extraction of the theory of data, which have been systematically acquired in the process of social research. The underlying theory is primarily used to construct basic and data-based theories, but it can also be used for criticizing, expanding, and testing the formal theories (Mohammad Pour, 2013: 314).

3-2- Data collection method

The deep interview method is the most important technique for collecting underlying data. However, collaborative observation and document collection methods have also been used as complementary methods. Thus, in this research, the data were collected using deep interviews and the collection of the documents.

3-3-Data collection tool:

In this research, deep and unstructured interview and studying the various files related to the subject of suicide were used to collect data.

3-4- Data analysis method

In the process of constructing the underlying theory, the researcher designs the research questions in the data collection and analysis processes, and then, identifies the path of collecting the subsequent data the researcher, instead of relying on one or more specific and pre-designed research questions. This process is called theoretical sampling. Theoretical sampling is the process of data collection for generation of theory, through which the analyzer encodes and analyzes the data analyzer and makes decision on the data collected later to develop his or her own theory as it emerges (ibid, 325). In this research, the results of deep interviews were analyzed in a qualitative manner. Qualitative analysis of data has been presented based on components of cultural factors. In this research, the samples were selected purposefully. For this reason, those who committed suicide were necessary for us. For this purpose and given the importance of the subject, we decided to conduct this study with the aim of collecting the necessary data through interview with those who committed suicide and their suicide was unsuccessful. The research population included those who admitted to emergency unit of a number of hospitals of Kermanshah city in 2017 due to attempting to suicide. Among them, 15 people who were willing to be interviewed were selected. After the researcher realized that the respondents provided non-

relevant information, the interview completed and the researcher in fact reached the theoretical saturation.

Research validity and reliability

The reliability of the research is a quantity indicating that when the research tool is used more than once, if it would generate the same results and answers. Thus, the reliability means whether research methods can be replicated by others. However, in the qualitative research, as researcher is the main research tool, the research results can never be replicated exactly to yield the same results. While the research can be replicated by other, its exact replication due to the time frame is almost impossible and it is very unlikely to yield the same initial results, since the researcher's emotions, perceptions and, in general, his or her characteristics affect the research conclusion (Heydar Ali, 2008, quoted by Talebpour).

Validity

To assess the research validity, member validity was used. Mmember validity occurs when the researcher return the filed results to members for their access to judgment on the work. If members view the researcher's description as reflection of their real world, it would be valid (ibid). In this research, the results of the interviews were returned to each interviewee in order to judge on their description of the researcher, which has been identified and the presented results reflect the views of individuals.

5 -year suicide trend in Kermanshah province

Table 1

Number of people attempting suicide

row	year	n
1	1391	3602
2	1392	2657
3	1393	2504
4	1394	2470
5	1395	2223

Source: (Kermanshah Healthcare Network)

In the table above, the trend of committing suicide during the years 2012 to 2016 is seen. As seen, the trend of suicide during this period is almost decreasing, as shown in the following chart.

Table 2

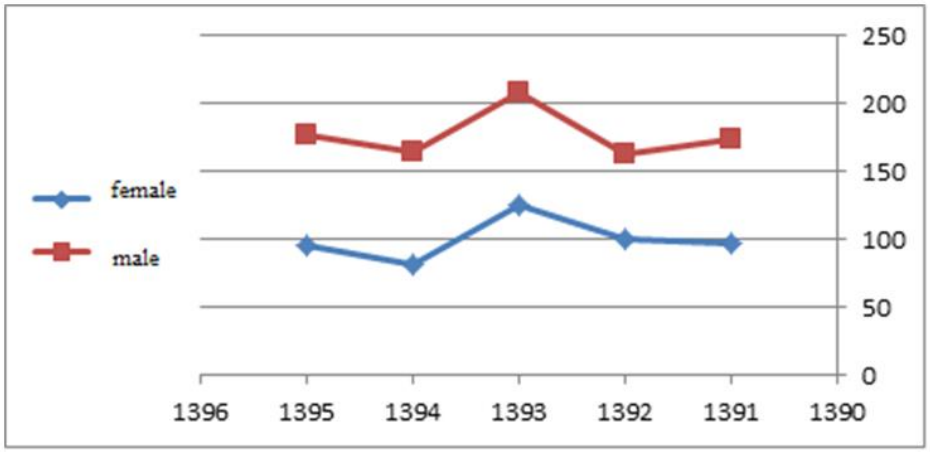
Number of successful suicides

row	year	female	male	Total
1	1391	97	174	271
2	1392	101	163	264
3	1393	126	208	334
4	1394	82	165	247
5	1395	96	177	273

Source: (Forensic Medicine of Kermanshah Province)

In the table above, the trend of successful suicide process during the years 2012 to 2016 based on gender is seen. The following chart shows the rate of successful suicides during these years.

Chart 2- trend of successful suicides based on gender during the years 2012 to 2016 (Chart 2)



The role of social factors in suicide:

Durkheim was the first one rejected the biological, climatic and psychological causes for explaining social behaviors and provided sociological ways to understand social reality. The origin of suicidal trends varies from one community to another community and from one group to group, and from religion to religion, and these causes result from group rather than single individuals (Sotudeh, 1999: 223). Durkheim's basic belief was that social facts should be considered and studied as external realities. Social institutions, such as family and religious groups, as external forces and as sociologists are faced with certain realities should be objective and suicide is one of these facts. Durkheim introduced the concept of anomaly to refer the assumption that in today's communities, traditional norms and criteria are weakened without being replaced by new norms. Anomaly is formed when there are no clear criteria for guiding an individual in the realm of meaning of social life. In these conditions, Durkheim argues that people feel losing sense of direction and thinking, which is among the social factors affecting the tendency to commit suicide (Gidens, 2004: 159)

row	phrase	Concept	n	%
7	Unsuccessful love experience	Unsuccessful love experience	8	52.52
8	The insist of parents to marry with a person desired by them	Forced marriage	6	40
9	Addiction in family	addiction	5	33.33
10	Lack of family attention to interests and desires of person	Lack attention to interests and desires of people	3	33.33

Conclusion

Results revealed that social factors affecting suicide include unsuccessful love experience, forced marriage, addiction, and lack of paying attention to the person interests and desires in the family. Some of the important outcomes of committing suicide included loss of trust of others, including family members. As suicide is an abnormal social action, it is almost impossible to ac-

cept this action by the family. Hence, the person who committed suicide in fact committed an abnormal action, so family members lose their trust in him or her. For this reason, when making collective decisions for home and family issues, they may not to accept his or her views and constantly warns him of his or her mistake, which inevitably leads to distance between him or her and the family. In addition, he or she might be under strong pressure by the family. As the family members do not trust in such person, the family might impose pressure on and care him or her at any time and place so that he or she not think on committing suicide again, so the person would lose the previous personal freedoms. The major social outcome of suicide and its attempts was an increase the abnormalities and deviations in the community. As a rule, when an action occurs several times, its bad aspect is lost and it is considered normal for the public. Suicide is currently considered as an antisocial and deviant action, which with increasing suicide rates, this anti-action action loses its bad aspect, leads to its increase in community. Moreover, the increase in suicide means the loss of human capital and the increase in the number of orphan people (if one of the parents has committed suicide) and the increase in crime in community. In general, the research analyses suggest that committing suicide leads to chronic or hidden suicide and it affects all of his or her world and the family. It should be noted that these outcomes in different individuals, families and communities can vary according to the cultures, beliefs, values and religion of that community.

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FACTORS AFFECTING STUDENTS' SOCIAL COMMITMENT

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ABSTRACT

The present study was aimed to investigate the effective factors in social commitment of female and male students at the Faculty of Humanities (Arak Azad University). The poulation of the study include 397 people from a total 853 research units and it was calculated using the Cochran formula. This was a survey research, and data collection tool was a questionnaire that was used to assess the various dimensions of the effective factors on social commitment including: 1-individual need; 2-social capital; 8-individual values; 4-social satisfaction; and 5-social commitment. SPSS was used to test the research hypotheses and statistical analysis methods of t-test, Pearson correlation, and (simultaneous) multivariate regression analysis were used to analyze the data. The results showed that the variables of social satisfaction, individual values, social capital and the fulfillment of individual needs have a significantly positive correlation with the social commitment and increase the social commitment. Moreover, the variables, sense of security and individuality, have a significantly negative effect on social commitment and decrease the social commitment. Explanatory power of the independent variables showed that the independent variables were able to explain 46% of the variation of the social variable. Moreover, in assessment of demographic variables, gender and age have the most impact on the dependent variable; and there was no correlation between marital status and social commitment.

Keywords: Social commitment; Social satisfaction; Individual values.

Introduction

Social commitment is one of the most fundamental factors in creating social order and stability in societies. As the absence of this factor among people of the society results in social disintegration and subsequently shakes the foundation of the system. For the same reason, this concept is taken into account by different experts in most of the societies, today; and they attempt to use it as one of the bases that create order in the society.

Research Goals and Objectives

General Goal:

Investigation the factors affecting the social commitment of the students at the Faculty of Humanities

Specific Objectives:

Investigation of the relationship between students' individual values and social commitment

Investigation of the relationship between students' individual needs and social commitment

Investigation of the relationship between students' social satisfaction and social commitment

Investigation of the relationship between students' social capital and social commitment

Research Method

In this study, after the validation of content validity, to evaluate the reliability and construct validity, Cronbach's alpha, conformity and exploratory factor analysis, and Pearson correlation coefficient were used, respectively. The software LISREL version 8.8 and SPSS-18 were used for data analysis. In terms of the objectives, this is an applied research and the results can be generalized to organizations, companies and social and cultural institutions. The purpose of

applied research is to test the theoretical concepts in real situations and to solve tangible problems. In terms of the relationship between variables, it is a correlational study. The research population includes male and female students at the Faculty of Humanities (Arak Azad University) and the total number of research units was 397 people that were selected by Cochran method. Among the total 397 individuals from 358 research units, 217 individuals were males and 180 individuals, about 45%, were females. Of these, 327 individuals, about 82%, were single and the remaining 18% were married. The mean age of research units was 21.4 years old with standard deviation of 3.7. All the research units were students studying various fields of humanities.

Research findings

Studying the dimensions of Independent Variables on Students' Social Commitment:

As the results obtained from data show, the research independent variables have relative contributions in explaining the social commitment of students at the Faculty of Humanities. Therefore, the beta coefficients and their significance and explanation are presented in the table below.

Table 1

Regression of Independent Variables Dimensions in Social Commitment

		Commitment to faculty	Commitment to friends	Commitment to society	Total social commitment
Individual needs	B	0.014	0.044	0.032	0.074
	SIG	0.781	0.44	0.505	0.092
Social capital	B	0.04	0.169	0.02	0.091
	SIG	0.449	0.002	0.674	0.043
Sense of security	B	-0.14	0.053	-0.09	-0,08
	SIG	0.003	270	0.026	0.032
Individual values	B	0.135	0.072	0.243	0.216
	SIG	0.005	0.159	0.000	0.000
Individuality	B	-0.14	-0.11	-0.13	-0,16
	SIG	0.002	0.027	0.003	0
Accessibility of facilities at university	B	-0.02	0.069	0.064	0.011
	SIG	0.71	0.178	0.153	0.788
Relative sense of security	B	-0.05	-0.04	0.04	-0.03
	SIG	0.31	0.479	0.391	0.502
Strong friendships	B	0.008	-0.06	0.012	0.078
	SIG	0.886	0.343	0.826	0.121
Cultural factors	B	0.161	0.084	0.243	0.189
	SIG	0.001	0.115	0.000	0.008
Non-cultural factors	B	-0	-0.03	-0.21	-0.11
	SIG	0.937	0.536	0.000	0.008
proper atmosphere of the Faculty	B	0.008	0.074	-0.05	-0.03
	SIG	0.87	0.169	0.264	0.553
Being social	B	0,176	0.178	0.187	0.238
	SIG	0.000	0.001	0.000	0.000
Social satisfaction	B	0.198	0.006	0.052	0.142
	SIG	0.000	0.913	0.29	0.002
R2		0.26	0.17	0.37	0.46

Therefore, the results of the table show that the variables, satisfaction of individual needs, social capital, individual values, and social satisfaction have a significantly positive correlation with social commitment and increase social commitment. Moreover, the variables, sense of security and individuality have a significantly negative effect on social commitment and decrease social commitment. Explanatory power of independent variables shows that independent variables can account for 44% of the variations in the social variable.

The Study of Demographic Variables in Students' Social Commitment:

Given the table below, the following results are obtained about the effect of demographic variables on social commitment:

Table 3

Results Obtained from the Research Hypotheses Testing

Variables	Scale of measure	F	T	Pearson	Significance level
Age	Interval	-	-	0.116	0.021
Gender	Dichotomous nominal	-	3.231	-	0.001
Marital status	Dichotomous nominal	-	1.531	-	0.126

As it is represented, given level of measurement assigned to variables, to calculate the correlation between age and social commitment Pearson correlation coefficient was used. Data obtained from this research confirms the same hypothesis since the significance level was less than 0.05.

The equation (sig=0.021) means there is a correlation between age and social commitment. However, the correlation coefficient obtained (0.116) indicates there is a relatively weak correlation between the two variables.

To calculate the correlation between gender and social commitment, given the level of measurement assigned to variables, independent t-test was used. Both genders responses to social commitment questions indicate that the level of social commitment is significantly different among men and women since the significant level was less than 0.05 (sig=0.001) that means, social commitment is greater among men than women.

Furthermore, to calculate the correlation between marital status and social commitment, given the level of measurement assigned to variables, independent t-test was used. The response of both groups of singles and married ones to social commitment questions indicate that the level of social commitment is not significantly different between the two variables since the significance level obtained from research data was more than 0.05 (sig=0.126).

Table 4

Impact Factors of Social Commitment Explanatory Model

Variable	Unstandardized coefficient	Standardized coefficient	Standardized coefficient	T	sig
	B	Std. Error	Beta		
Constant	24.484	2.235	-	10.954	0.000
Age	0.145	0.468	0.014	0.311	0.756
Gender	-0.018	0.753	-0.060	-1.352	0.177

As it is represented, the gender variable with regression coefficient of (Beta=-0.060) is the strongest predictor of the students' social commitment level and subsequent to it is the age variable. It can be seen that there is no significant correlation between the employment status, marital status and social commitment since the significance level was more than 0.05.

Discussion

In an analysis by Mubaraki, Azimi, and Fateminia performed on the cultural analysis affecting social commitment among students in Hamadan province, the results of regression test showed that the dimensions of worldly values, intrapersonal confidence and social participation, spiritual values and a relative sense of deprivation respectively had the greatest impact on students' level of social commitment; approximately 50% of students had social commitment. In the present study, social satisfaction, individual values, social capital and individual needs have the greatest impact on students' level of social commitment at Arak Faculty of Social Sciences. Approximately 46% of students had social commitment.

Iman and Mardai in a study entitled "the Relationship between Social satisfaction and the National Identity of the Youth with Social Commitment of the Youth in Shiraz" showed that the level of social commitment among young people is low; as 56% of the respondents have a weak, 32.5% have moderate and only 11% have a strong social commitment.

Through comparison of the results between the two studies mentioned and the present study, it seems that school and university respondents had social commitment by approximately 50%, but non-student respondents lack social commitment by approximately 50%. This suggests that the effectiveness of independent variables that affect social commitment decreases gradually through people's withdrawal from educational settings. This issue is considered as a fact that highly affects the loss of social capital and individuals' social satisfaction in the society; in other words, different subcultures that exist within a society influence the attitude and behavior of the individuals after graduation from school or university and exert their attitudes on them. It can be said that the ignorance of individual values, individual needs, social capital, and taking these values for granted in a society as a general system, which in some way results from cultural poverty derived from economic and political problems; and it can influence the level of social commitment among individuals that withdraw from educational setting of a school or university as a sub-system; in other words, sub-system is dominated by the general system of the society.

Yousefi, Farhadzadeh and Lshkari in the research conducted under the title "Pressure of the Norm of Social Commitment in Iran", stated that 46.6% had social commitment; and it shows the pressure of subjective norms or the pressure of internal conscience with respect to this level of commitment; in other words, cultural, social subsystems and personality are intertwined and have influence on each other. In this review, the internal factor of conscience that originates from personality and religion or belief systems of the individuals accounts for approximately 50% of the social commitment.

Given that the results of the present study are consistent with most of the theories on social commitment and with previous research findings and actually support them, it can be said that the present research has a strong theoretical base and the results can be generalized to the entire statistical population. The results of the research in terms of the theoretical relation with the views and theories, suggest a logical relation between the theoretical level of research and its experimental level. The views considered in this study have emphasized this relationship in the form of a social exchange approach; moreover, the research shows some consistency with the previous researches.

Conclusion

As the beta coefficients of the four independent variables discussed show dimensions of social satisfaction with the beta coefficient (0.557), individual values (0.482), social capital

(0.432), and individual needs (0.263), have the most impact on the dependent variable of social commitment among students at the Faculty of Humanities.

The variables of individual values and social satisfaction have a significantly positive correlation with the commitment to Faculty and increase the level of commitment. Moreover, the comparison of beta coefficients showed that social satisfaction variable had the greatest impact on commitment to Faculty. The significance values of the two independent variables are sig=0.005; and the beta coefficients are 0.135 and 0.198, respectively, with sig=0.000.

As it was mentioned, the variables of individual values and social satisfaction have a significantly positive correlation with the level of commitment to Faculty and increase the commitment. The comparison of beta coefficients showed that social satisfaction variable has the most impact on the level of commitment to Faculty. The explanatory power of the variables is 0.26 that indicates they could account for 24% of changes in commitment to Faculty.

The social capital variable has a significantly positive correlation with the commitment to friends and increases the level of commitment. Moreover, the variable of individuality has a significantly negative correlation with the commitment to friends and decreases the level of commitment. The Comparison of Beta coefficients showed that social capital variable has the most impact on the level of commitment to friends. The explanatory power of independent variables is 0.17 that indicates they could account for 37% of society commitment.

Consequently, the results showed that the independent variables of social satisfaction, individual values, social capital, and fulfillment of individual needs have a significantly positive correlation with social commitment and increase the level of commitment.

Furthermore, the variables of sense of security and individuality have a significantly negative correlation with the social commitment and decrease the level of social commitment. The explanatory power of the independent variables showed that they have they could account for 46% of changes in the variable of social commitment. Moreover, in testing the demographic variables, the demographic variable of gender with beta coefficient (-0.060), and then the variable age with beta coefficient (0.014) have the greatest impact on the dependent variable; and there was no correlation between marital status variable and the level of social commitment.

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THE EFFECT OF HOME VISIT PROGRAM ON IMPROVING THE SAFETY OF RURAL HOMES

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ABSTRACT

Background and purpose: Accidents are disasters that occur in the home or in the surrounding area, causing a recognizable injury. Children are vulnerable groups in most of the events due to their specific physical, mental, behavioral, game patterns, and life in an environment that adults make for themselves. Therefore, the present study was conducted to investigate the effect of program on improving the safety of rural communities.

Materials and Methods: This is a pre-and post-semi-experimental study. The research population is mothers with children aged 6 months to 6 years was covered by health centers in Zabol. The research sample consisted of 40 mothers with a child aged 6 months to 6 years who were covered by Akbar Abad Health home in Zabol, who had inclusion criteria. The instruments used were demographic characteristics of the mother and home health check checklist. At first, the data were collected using a household security checklist by observation method at home visits. After assessing the safety of homes with a checklist and recognizing the weaknesses and strengths of the homes, the visit plan was designed and implemented. Then, after 2 months, the home health status was re-evaluated and compared with the results before the intervention. Data analysis was performed using SPSS version 20 and descriptive statistics, mean, standard deviation, frequency and inferential statistics were used for statistical analysis of t-test, independent t-test and ANOVA. P <0.05 was considered significant.

Results: In terms of home safety dimensions, after the intervention, the safety of the home increased significantly, so that the average kitchen safety scores ranged from 8.60 to 12.72 (P <0.001), room safety was 4.5 To 6.17 (P <0/001), safety stairway and ladder from 4.20 to 4.45 (P = 0.11), safety of balcony, yard, parking and roof from 5.10 to 7.27 (P <0/001), bath safety increased from 4.22 to 5.15 (P <0.001) and overall home safety increased from 26.62 to 35.77 (P <0.001).

Conclusion: According to the findings of the study and the role of community health nurse in the home visit plan, as well as the emphasis of the World Health Organization on the role of nurse, it is recommended to improve the safety of homes and prevent home accidents and other diseases in other parts of the country. A home visit program is also used.

Keyword: home safety; children; home events; home visit.

Introduction

In the epidemiological dictionary, the incident is defined as an unexpected event, which is usually harmful to traffic, work, home or recreation facilities (1). The World Health Organization has also not classified an incident as an event or event that could lead to injury and disrupt

the development of an activity or work (2, 3). Wang also considered accidents after cardiovascular disease, the second cause of death in all ages (4). Home accident means a disaster that occurs in the home or in the surrounding area and causes a recognizable damage (5). Annually, about 5 million people die from home-related disasters, which is expected to reach 8.8 million in 2020, according to the World Health Organization (6).

More than half of the incidents occur in children under the age of six (7). Because children are more vulnerable to accidents than adults due to limitations in risk identification (8). In terms of the location of the accident at home, the rooms in Iran (9) and the Balcony in the United States ranked first among the children (10). Children who survive these events may require constant care. Incident disabilities not only affect the health of the child, but also her education and other dimensions of the life of the child and the family (11).

In a research carried out on residential houses in the city of Mashhad in 2009, the results showed that houses in the marginal area of Mashhad had relatively lower safety than central areas (12). In the field of family education, few studies have been done to control these incidents, especially by nurses. One of the suitable methods for preventing diseases and promoting health behaviors is home visit (13). The role of parents is the most important factor involved in childhood illnesses (14). Therefore, the need for education for parents, especially the mother, is felt in relation to the promotion of preventive behaviors of children's home-related events in the home environment. Findings of other studies also indicate that with an increase in the level of education in individuals, the incidence of domestic events has decreased. In a study done in Ghorveh city in 2013, education was directly related to improving the performance of mothers in preventing injuries in children under the age of 5 years and as a result of improving the health and safety of children (15).

Therefore, considering that home events are overwhelming children more than the other members, and on the other hand, in order to control this problem, it is necessary to cooperate with all members of the family, especially the mothers, to design and implement a home visit program to involve all members. The family seems to be necessary. Therefore, the present study was designed and implemented to determine the effect of a program on improving the safety of homes in rural families.

Mehtodology

This study was a quasi-experimental study. The statistical population consisted of all mothers with children aged 6 months to 6 years old who were covered by Akbar Abad Health Center in Zabol. The sample size was determined on the basis of a pilot study on 10 people and using the formula for comparing the means, with a confidence coefficient of 95% and a test power of 80, was determined 40. The criteria for entering the study included the lack of approved physical and mental disabilities in children, and the written consent of the parents of children to visit the home and participate in the meetings. Exit criteria also included the reluctance to continue to collaborate in the study, the absence of more than one focused group discussion, the occurrence of incidents that could not continue to work, the parents' inaccessibility when completing the checklist and the post-test questionnaire and filling out Checklist incomplete.

A multi-stage random sampling method was used for sampling. At first, with a list of all rural health centers in Zabol, randomly a rural center was selected from all selected centers and randomly selected from the selected health center. Accordingly, the village of Akbar Abad, Zabol, as an intervening village, was selected and randomly selected according to the household list in the Hygiene Homes of 40 mothers who had the criteria for entering the study.

Demographic information questionnaire including maternal information and home safety checklist were used to collect information. The checklist for the safety of rural homes is based on

the instructions of the Ministry of Health and Medical Education and the data collection method is observation and interview. In this checklist the house is divided into five parts: 1- Kitchen- 2- Room 3- Walkway and Ladder- 4. Balcony, Yard, Parking, Roof 5-Bathroom. For scoring the final score, the scores for all the items are combined and then the final score is reported as follows: Score 1-14 indicates poor home safety, score 15-29 represents a moderate safety and a score of 30-44 represents the optimal home safety (16).

After conducting pre-test and analyzing the primary information, the home safety checklist and determining the educational needs of mothers and considering the most common problems encountered in the safety of home contents of the home visit program were designed. Educational intervention was carried out during 6 sessions and based on the scheduled program. Then, 2 months after the meetings, the safety of the home was restored through home visits and the results were compared with the results before the intervention. Weekly visits to the home once a week and 45-60 minutes each session.

Findings

The findings showed that the majority of mothers (88.5%) were housewives, had less than 55% diploma degree, over 35 years old (70%) and had 3-4 children (58%). The mean age of mothers in this study was 27.77 years with a standard deviation of 8.58 years.

According to Table 1, the safety of the kitchen after intervention was significantly increased before the intervention and t test also showed a significant difference ($p < 0.001$). Also, in other room safety areas, stairway and ladder safety, balcony safety, courtyard, parking, roofing and bath safety, after intervention, the safety level increased and the t test also showed a significant difference in this area. ($P < 0.05$). Also, the overall home safety after intervention significantly increased compared to before intervention, and the t-test showed a statistically significant difference ($p < 0.001$). (Table 1).

Table 1

Comparing the safety of homes and other dimensions before and after intervention

P-value	statistical test	After the intervention	Before intervention	Variable
		SD±Mean	SD±Mean	
0.001<	t-test	12.72 ±2.21	8.60 ± 3.76	Kitchen Safety
0.001<	t-test	6.17 ± 0.98	4.50 ± 1.93	Room safety
0.01	t-test	4.45 ± 1.03	4.20 ± 1.38	Stairway and ladder safety
0.001<	t-test	7.27 ± 1.26	5.10 ± 1.75	Safety of the balcony, yard, parking, roof
0.001<	t-test	5.15 ± 1.27	4.22 ± 1.62	Bath Safety
0.001<	t-test	35.77 ± 5.04	26.62 ± 8.08	Home safety

Discussion and conclusion

In this research, personal information and socio-economic factors of families were investigated and based on the findings of the analysis and analysis of the data, the following results were obtained: In terms of education, 55% of the graduates had a diploma and 10% had university education, kelerk and His colleagues at Honduras and Okafer and colleagues in Nigeria in

their studies concluded that some of the characteristics of parents such as educational level affect their understanding of the course of the disease, its severity, and the use of health services (17, 18). 87.5% of the mothers were housewives and 12.5% were the employees. In this study, 50% of families had 3-4 children. The goal of measuring the variable of the number of children in each family is to examine the amount of time the mother has to take care of each child. The Gurel study in Turkey in 2000 also found that most families who their children were affected by children, they had 4-5 children (19).

The average score of family performance in home safety after intervention was significant. The safety of households in the family was examined in addition to the interview through observation, because for the purpose of examining the correct perception of caring behaviors, evaluating the performance of the family, especially the mother, in real conditions Life is needed. Therefore, the researcher was required to use a methodology to study the behavior of all members of the family. Among the existing methods for studying the family in the community health nurse, a home visit program aimed at identifying the limitations and abilities Families, the most accurate and comprehensive structure and family environment (20, 21), as well as family health behaviors, are the best and most comprehensive technique (22). The results of Babaee's study showed that implementing a health education program in the home environment could be an effective way to change the behavior of mothers (23). Ramezani also concluded that home-based education is one of the suitable methods for improving the care of mothers (24). Other studies conducted inside and outside the country also indicate that the implementation of the home visit program will have a positive effect on preventing diseases, reducing child mortality and improving the knowledge and performance of parents (25, 26).

According to the findings of Table 1, the highest safety in the home is for the stairway and ladder section and other parts have moderate safety. The results of a study by Saeedi Nejat and colleagues about residential buildings in the margin area of Mashhad showed that the kitchen section had higher safety than other parts (12), which is incompatible with the present study. The high level of room security among different parts of the house could be related to the importance of the families' awareness of the importance of observing the safety principles in the place of living and resting. Because family members spend most of their time in this part of the house throughout the day. Therefore, this section is considered as part of the main part of the home and the safety of this section are more important. This does not match our preliminary review. The reason for the high staircase safety in the present study was the lack of a staircase in most of the homes that investigated the researcher. When scoring all safety criteria in the stairway and ladder section between grades 0 and 1, score one to They are dedicated and naturally on this basis, this section has the most safety. Also, according to Zazouli et al., Which conducted the survey on the safety status of residential houses in rural households in the city of Ramyan, the rooms obtained the highest score (16).

In a study on the safety of homes in urban housing projects, the highest level of household safety was in the kitchen sector (24), which is not consistent with the results of the study. One of the reasons for this difference is the study done in The different sections of the society as well as the higher socioeconomic status of people in different regions.

The results of this study showed that all five household parts of the home after the educational intervention reached the average level to the optimum level of safety. Based on this, it can be said that training in the form of focused group discussion has dramatically improved the safety situation in the five-part home.

Based on the results, it was determined that the higher the level of education in mothers, the higher the safety of the home, which is consistent with the study by Eldosoky and his colleagues (27). In the study by Thien et al., it was found than there was a significant relationship between education and home safety (28).

In the present study, a significant relationship was found between occupation and home safety, while in a study conducted by Hatam Abadi and colleagues, it was found that the job status had no direct relation with major safety measures (29). This difference could be due to reasons such as higher literacy, better economic conditions and more opportunities for life.

Therefore, considering the findings of the study and the role of the community health nurse in the home visit plan, as well as the emphasis of the World Health Organization on the role of nurse, it is recommended to improve the safety of the home and prevent home accidents and other diseases in other parts of the country. Home visit.

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THE IMPACT OF TRAINING MOTHERS VIA FOCUSED GROUP DISCUSSIONS ON PREVENTING HOME ACCIDENTS OF CHILDREN AND IMPROVING THE SAFETY OF HOUSES IN RURAL COMMUNITIES

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ABSTRACT

Household events are disasters that occur in the home or in the surrounding area, causing a recognizable injury. Children are vulnerable groups in most of the events due to their specific physical, psychological and behavioral characteristics and game patterns and living in an environment where adults have made for themselves. Therefore, the present study was conducted to investigate the effect of training prevention of children's home accidents using group discussion focused on mothers to improve the safety of houses in rural community.

Based on this study, the use of mothers' trainingusing group discussion focused on home safety improvement is effective. Therefore, considering the role of home safety in preventing home accidents, educating and informing mothers using a focused group discussion is suggested as a strategy for preventing accidents in children.

Keyword: home safety; children; home accidents; focused group discussion.

Introduction

In the epidemiological dictionary, the incident is defined as an unexpected event, which usually causes injuryin traffic, work, home or recreation facilities (1). The World Health Organization has also classified an accident as an event that could lead to injury and disrupt the development of an activity or work (2, 3). The most vulnerable age groupsto accidents are children and young people (4). Wong also considers the accidents after cardiovascular disease, as the second cause of death in all ages (5). Home (Household) accidents mean disasters that occur in the home or in the surrounding area and cause recognizable injury (6). Household accidents may occur due to poisoning, fire, choking in water, electric shock and collapse (7). Annually, about 5 million people die from home-related disasters which are expected to reach 8.8 million in 2020 (8). In Iran, according to the Ministry of Health's latest announcement, the incidence (accident) rate is 512 people per 100,000 people and the mortality (accident) rate of home (household) accidents is 6% (9).

In Iran, the most common place of incident (accident)occurrence is home with (10). In recent years, contrary to the trend towards reducing household incidents and traffic in many developed industrial countries, this trend has been rising in developing countries and ours (Iran) (11). More than half of the incidents (accidents) occur in children under the age of six in the home (12), Children are vulnerable groups in most accidents because of physical, psychological and

behavioral characteristics, exposure patterns, play patterns and life in an environment that adults make for themselves (13). In terms of the location of the accident at home, the rooms in Iran (14) and the balcony in the United States ranked first among the children (15).

Economically, tens of billions of dollars is the cost and damages of this issue (16). The disabilities caused by incidents (accidents) affect the health of children, and their education beside other dimensions of the life of the child and the family (17).

Generally incidents (accidents) in the poorer classes of the community, unsecured housing and more populous families occur more frequently and in unsecured homes deaths from accidents is 2.5 times more than secured homes (9). In a research executed on residential houses in the city of Mashhad in showed that houses in the marginal area of Mashhad had relatively lower safety than central areas (18). Also, in order to maintain and improve the safety of residential homes, solutions such as increasing public awareness and education, especially for women, are used (19). There are various educational methods, such as face to face education, tutorials during the visit, lectures, education through volunteers, educational videos, focused group discussions, posters and pamphlets. Among these methods, a focused group discussion approach is likely to be effective in improving the safety of homes. This is a way to provide solutions and collect information

Materials and Methods

This is a pre-and post-quasi experimental study. The statistical population consisted of 40 mothers with children aged 6 months to 6 years covered by Akbar Abad health centers in Zabol. The used instruments were mother's demographic characteristics and home security investigation checklist.At first, the data were collected using a household security checklist by observation method at home visits. After assessing the safety of homes with a checklist and identifying the weaknesses and strengths of homes, the training was organized through a focused group discussion in 6 sessions for mothers. Then, after 2 months, the home security status was re-evaluated and compared with the results before the intervention. The data were analyzed using SPSS version 20 and descriptive statistics (mean, standard deviation and frequency) and inferential statistics (t-test, independent t-test and ANOVA) were used for statistical analysis.

Demographic information questionnaire including maternal information (age, education, occupation, number of children) and home safety check list were used to collect information. The other instrument, which is completed according to the Ministry of Health and Medical Education instruction was used. data collection method is observation and interview. In this checklist the house is divided into five parts: 1- kitchen- 2- room 3- stairs and ladder 4- balcony, yard, parking and roof 5-bathroom. In a safe kitchen, a score of 1-4 indicates poor safety, a score of 9-5 indicates moderate safety and a score of 15 -10 indicates optimal safety. In a secure (safe) room, score 1-2 shows poor safety, a score of 3-5 indicates moderate safety and 6-8indicates an optimal safety. On the safety of staircase and ladder, score 1-2 indicates poor safety, score 3 indicates moderate safety and a score of 4 to 5 represents optimal safety. In the safety of balcony, courtyard, parking and roof, score 1-3 indicates poor safety, a score of 4-6 indicates moderate safety and a score of 7-9 represents anoptimal safety. And in a safety of bath, the score of 1-2 indicates poor safety, a score of 3-4 indicates moderate safety and a score of 5-7 indicates optimal safety. For scoring the final score, the scores for all the items are combined and then the final score is reported as follows: Score 1-14 indicates poor home safety, score 15-29 represents a moderate safety and a score of 30-44 represents the optimal home safety (20).

Findings

The findings showed that the majority of mothers (87.5%) were housewives with less than 55% diploma education, over 35 years old (70%) and 3-4 children (58%). The mean age of mothers in this study was 27.77 years with a standard deviation of 8.58 years.

According to table 1, the safety of the kitchen after intervention was significantly increased compared to before the intervention and t test also showed a significant difference (p <0.001). Also, in other parts of room safety, stairs and ladder safety, balcony safety, courtyard, parking, roofing and bath safety, after intervention, the safety level increased and the t test also showed a significant difference in this area (P <0.05). Also, the overall home safety after intervention significantly increased compared to before intervention, and the t-test showed a statistically significant difference (p<0.001) (Table 1).

Table 1

Comparing the safety of homes and its other dimensions before and after intervention

Variable	before intervention	after intervention	Statistical test	P-value
	Standard deviation ± Mean	Standard deviation ± Mean		
Kitchen Safety	8.60±3.76	12.72±2.21	Paired t	<0.001
Room safety	4.50±1.93	6.17±0.98	Paired t	<0.001
Stairs and ladder safety	4.20±1.38	4.45±1.03	Paired t	<0.001
Safety of the balcony, yard, parking and roof	5.10±1.75	7.27±1.26	Paired t	0. 01
Bath safety	4.22±1.62	5.15±1.27	Paired t	<0.001
Total home safety	26.62±8.08	35.77±5.04	Paired t	<0.001

In addition, the findings of this study indicate that there is a significant relationship between the dimensions of home safety and the level of maternal education, so that mothers with university education have better safety than mothers with lower education and ANOVA tests, except for stairsand ladder safety, in other dimensions of home safety between different educational levels of mothers shows a significant difference (P<0.05). Also, there was a significant statistical relationship betweenhome safety dimensions (except for the stairway and ladder section and bathroom safety) and employment status of mothers based on independent t test (P<0.05), with employee mothers compared to housewives had better safety.

Discussion

According to the findings of table 1, the highest safety in the home is for the stairway and ladder section and other parts have moderate safety. The results of a study by SaeediNejat and colleagues about residential buildings in the margin area of Mashhad showed that the kitchen section had higher safety than other parts (3). This does not match our preliminary reviewAlso, according to Zazouli et al. the rooms obtained the highest score (12), which is incompatible with the present study. Therefore, this section is considered as part of the main part of the home and the safety of this section is more important.

In the present study, a significant relationship was found between occupation and home safety, while in a study conducted by HatamAbadi and colleagues, it was found that there was no direct relationship between job status and maternal safety measures (20). This difference could be due to reasons such as higher literacy, better economic status and more opportunities for life.

Conclusion

The results of this study showed that the use of focused group discussion with a comprehensive approach and as an effective nursing intervention can enhance the safety of homes in prevent-

ing children's household incidents (accidents). Considering the results indicating the use of focused group discussion as an educational method in the prevention of children's household incidents (accidents), the beneficial effects of this pattern can be exploited in this critical and important issue. And given the importance of the role of education in promoting preventive behaviors in accidents and injuries, and considering that unsafe homes have widespread effects on children, the need for education in a wider range and with different tools in society is more than ever felt and should be considered as a health priority in the community. Therefore, this approach can be suggested along with other health care as a guide to the development of educational programs, especially for families with children under the age of 6.

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THE EFFECTIVENESS OF BEHAVIORAL PARENT TRAINING IN REDUCTION OF PARENTAL STRESS OF THE MOTHERS WITH DISABLED CHILDREN

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ABSTRACT

The present study is aimed at investigating the effectiveness of Behavioral Parent Training (BPT) in reducing parental stress in the mothers with disabled children. The method was semi-experimental with pre-test, post-test and control group. The population was all the mothers of the students of Yadboud Exceptional School in District 10 of Tehran willing to participate in the study in Tehran, of whom 30 scoring higher than the rest of the subjects were selected using purposive sampling methods and randomly assigned into two groups of 15 patients, as experimental and control. The dependent variable was parental stress and its aspects, evaluated using Parents Stress Questionnaire and its sources. Independent variable was PBT, which was taught to the mothers in the experimental group in 8 sessions of 90 minutes. Analysis of covariance (ANCOVA) was performed using SPSS20 to test the research hypotheses. The results showed that PBT is effective in reducing maternal stress $P<0.05$. Only one variable showed no significant statistical difference, which was physical limitations and disabilities $P>0.05$. The results showed that BPT can reduce the parental stress of the mothers with disabled children, which can be effective in improving family issues, concerns about the child's future, and characteristics. However, it cannot improve their physical limitations and disabilities.

Keywords: PBT; parental stress; mothers; disabled children.

Introduction

The family system forms the child's personality enabling him/her to reconcile and comply with the outside environment. If the parents and other family members have appropriate behavior and moral dignity, the children brought up in their families will surely learn the same moral fea-

tures (Nichols & Schwartz, 2006). The stress of having a disabled child intensifies the family problems and family members select new behavioral patterns to adapt to the new problem (Selie, 1980, quoted by Nichols and Schwartz, 2006).

Many studies have shown the effect of PBT on parental stress variables. Dadsetan et al. (2013) examined the effectiveness of BPT in reducing children's externalized problems. The results showed that the parents in the experimental group showed a significant decrease compared to the control group regarding the externalized problems and aggressive behaviors at the end of the training period, whereas the law breaking behaviors showed no significant difference between the two groups.

Sarabi Jamab et al. (2012) examined the effect of parents' training program and developing skills on the stress of the mothers of children with autism. The results showed that parents' training program and the development of skills reduced maternal stress in the post-test and follow up periods. Singh et al. (2010) studied the effect of parenting education on the behaviors of children with ADHD. The results showed that the provision of awareness training to parents, without focusing on reducing behavioral problems, could enhance the positive interactions between the parents and their children and increase the children's satisfaction with their parents.

Danforth et al. (2006) tested the effect of parents' group training on parenting behaviors of the parents with attention deficit hyperactivity disorder (ADHD) children and aggressive-perverted behavior. As a result of this, children's hyperactivity and aggressive behaviors were reduced, parental behavior was improved and their stress was reduced.

Cerniz et al. (2004) conducted a study entitled “Improving parenting behavior patterns for the families with hyperactive children. The results showed that BPT was effective in reducing children's hyperactivity behavior. Thus, the present research question is whether BPT is effective in reducing parental stress of the mothers or not.

Methodology

The study used a semi-experimental method with pre-test and post-test design with a control group. The experimental and control groups were randomly selected and assigned. Pre-test and post-test were implemented in both groups. Of the 67 mothers enrolled, 30 who had the inclusion criteria and higher scores in parents' stress questionnaire were selected using purposive sampling method randomly assigned to experimental and control groups of 15. Frederick's 52-item questionnaire (1983) was used to measure the stress of the families with disabled children, developed from the modified form of Halorid (1974). Hosseinnejad (2005) obtained the reliability coefficient of this questionnaire as 0.92.

Results

The main hypothesis: PBT in effective in reducing parental stress among the mothers of disabled children.

Table 1

The results of ANCOVA on mean post-test scores

Variables	Test	Value	df	DF	F	sig	Eta squared
Parental stress and its sources	Pillai’s Trace	0.663	4	24	11.813	0.000	0.663
	Hotelling's Trace	0.73	4	24	11.813	0.000	0.663
	Wilks’ Lambda	1.06	4	24	11.813	0.000	0.663
	Roy's Largest Root	1.06	4	24	11.813	0.000	0.663

The results of Table 1 showed a significant difference between the mothers of the experimental and control groups in post-test analysis in terms of one of the dependent variables (parent stress and its sources).

Table 2

The results of ANCOVA on mean post-test scores

Variables	Source of change	Sum squares	df	Mean squares	F	sig	Eta squared
Total parental stress	Pre-test	409.78	1	409.78	3.335	0.000	0.56
	Group	469.38	1	469.38	4.470	0.000	0.60
	Error	31.1453	27	11.59			
	Total	28059	30				

As is seen in Table (2), by controlling the total parental stress pre-test, a significant difference is seen between the mothers of the experimental and control groups (p = 0.000 and F = 40.47). In other words, BPT reduces the overall stress of the parents in the experimental group.

First sub-hypothesis: PBT is effective in reducing family issues and the problems of the mothers of disabled children.

Table 3

The results of ANCOVA on the mean of post-test scores

Variables	Source of change	Sum squares	df	Mean squares	F	sig	Eta squared
Family and parental issues	Pre-test	83.350	1	83.350	17.053	0.000	0.41
	Group	10.7494	1	10.7494	23.944	0.000	0.47
	Error	11.1178	27	4.375			
	Total	5112	30				

By controlling the pre-test of the family and parents issues, a significant difference is seen between the mothers of the experimental and control groups (p = 0.000, F = 23.94). In other words, PBT reduces the family and parental issues of the mothers in the experimental group.

Second sub hypothesis: PBT is effective in reducing the parental concerns and their pessimism about the future of the disabled child.

Table 4

The results of ANCOVA on mean post-test scores

Variables	Source of change	Sum squares	df	Mean squares	F	sig	Eta squared
Concerns and their pessimism about the future of the child	Pre-test	6.9	1	6.9	3.508	0.0720	0.110
	Group	5.6626	1	56.662	2.8118	0.000	0.510
	Error	53.1	27	1.96			
	Total	1155	30				

By controlling the pre-test concerns and their pessimism about the future of the child, a significant difference is seen between the mothers of the experimental and control groups (p = 0.000, F = 28.81). In other words, PBT reduces the concerns and pessimism about the future of the child of the mothers of the experimental group.

Third sub-hypothesis: PBT is effective in reducing the characteristics of children with disabilities.

Table 5

The results of ANCOVA on mean post-test scores

Variables	Source of change	Sum squares	df	Mean squares	F	sig	Eta squared
Child characteristics	Pre-test	53.097	1	53.097	41.232	0.000	0.600
	Group	6.78	1	6.78	5.339	0.0290	0.160
	Error	34.77	27	1.288			
	Total	1882	30				

By controlling the pre-test of the stress of parents about the child characteristics, a significant difference is seen between the mothers of the experimental and control groups (p = 0.029, F = 0.029). In other words, PBT reduces the stress of parents about the disabled child characteristics in the experimental group.

Fourth sub-hypothesis: PBT is effective in reducing physical restrictions of the disabled children.

Table 6

The results of ANCOVA on mean post-test scores

Variables	Source of change	Sum squares	df	Mean squares	F	sig	Eta squared
Physical restrictions	Pre-test	19.73	1	19.37	1.643	0.0010	0.33
	Group	1.93	1	1.93	1.35	0.2540	0.0480
	Error	38.35	27	1.42			
	Total	476	30				

By controlling the pre-test of the stress of physical restrictions, no significant difference is seen between the mothers of the experimental and control groups (p> 0.05, F = 1.35).

Discussion and Conclusion

The main hypothesis

According to the data of Table (1) by controlling the pre-test of total parent stress, a significant difference is seen between the mothers of the experimental and control groups. In other words, PBT reduces the stress of the parent in the experimental group.

The results of this hypothesis are in line with those of Rasulli et al. (2013), Dadsetan et al., (2013), Singh et al., (2010), and Sarabi Jamab et al., (2012). Thus, by learning the principles of behavior and their application in interpersonal relationships, especially by the mothers concerning their children, the control of mothers about the educational conditions and their positive attitudes towards children's characteristics increases and it is natural that after such a state parental stress of the mothers generally decreases.

First sub-hypothesis

According to Table 3 data, by controlling the pre-test of the family and parents issues, a significant difference is seen between the mothers of the experimental and control groups. In other words, PBT reduces the family and parental issues of the mothers in the experimental group. The results of this hypothesis are in line with those of Rasulli et al. (2013), Dadsetan et al., (2013), Singh et al., (2010), Sarabi Jamab et al., (2012), Danforth et al. (2006), and Fabiano et al., (2009). In explaining this hypothesis, one can state that participating in behavioral training sessions for mothers who warm the family atmosphere and their awareness and tranquility can play an important role in solving the family problems.

Second sub-hypothesis

According to the data in Table 4, by controlling the pre-test concerns and their pessimism about the future of the child, a significant difference is seen between the mothers of the experimental and control groups. In other words, PBT reduces the concerns and pessimism about the future of the child of the mothers in the experimental group.

The results of the second hypothesis are in line with those of Kangarlou et al., (2012), Hajebi et al. (2005), Singh et al., (2010) Kazdin and Whitley, (2003), and Feldman and Werner, (2002). In explaining this hypothesis, one can state that the mothers of the disabled children prior to participating in the class consider themselves as the victims of the conditions created and think that there is no way to improve the performance of the disabled child. However, by learning the principles of behavior and observing significant behavioral changes of the child, they conclude that although their children are disabled in some areas, it does not pose a barrier to the further development of their abilities.

Third sub-hypothesis

According to the data of Table 5, by controlling the pre-test of the stress of parents about the child characteristics, a significant difference is seen between the mothers of the experimental and control groups. In other words, PBT reduces the stress of parents about the disabled child characteristics in the experimental group. The results of the third hypothesis are in line with those of Rasouli et al., (2013), Belali and Aghayousefi, (2011), Kangarlou et al., (2012), Hajebi et al. (2005), Singh et al., (2010), and Kazedin and Whitley, (2003). In explaining this hypothesis, one can state that, as is known, the mental and intellectual abilities of children are not grown enough to understand what parents mean by moral and correct behavior. However, after participating in behavioral education sessions, reducing such beliefs and applying behavioral principles in improving the behavior of children, mothers' view of the negative characteristics of children reduces and parents experience less stress in this regard.

Fourth sub-hypothesis

According to the data of Table (6), by controlling the pre-test of the stress of physical restrictions, no significant difference is seen between the mothers of the experimental and control groups. In other words, BPT reduces the physical limitations of the child in the experimental group. The results of the fourth hypothesis are in line with those of Rasouli et al. (2013), Dadsetan et al. (2013), Sarabi Jamab et al. (2012), Kangarlou et al. (2012), Kalantari et al. (2001), Singh et al. (2010), Danforth et al. (2006), and Kazdin and Whitley (2003).

In explaining this hypothesis, one can state that although parents training in applying the principles of behavioral education can be effective in improving some of the behavioral characteristics of disabled children, their physical limitations cannot be improved by using such approaches as they have genetic and physical base. Thus, improving these problems due to being beyond the children's biological capacity is impossible; therefore, no changes was observed between the experimental and control group.

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СЕКЦИЯ

ФИЛОЛОГИЧЕСКИЕ НАУКИ

PHILOLOGICAL SCIENCE

О СПОСОБАХ ВВЕДЕНИЯ ЛЕКСИКИ ПО ТЕМЕ «ОПАСНЫЕ ПОГОДНЫЕ ЯВЛЕНИЯ» НА ЗАНЯТИЯХ ПО АВИАЦИОННОМУ АНГЛИЙСКОМУ ЯЗЫКУ

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АННОТАЦИЯ

В статье рассматриваются способы введения лексики при изучении темы «Опасные погодные явления» на занятиях по авиационному английскому языку в военном вузе. Описываются преимущества переводных и беспереводных способов семантизации.

Ключевые слова: авиационный английский язык; введение лексики; переводные и беспереводные способы семантизации слов.

ON METHODS OF VOCABULARY INTRODUCTION ON THE THEME “DANGEROUS WEATHER PHENOMENA” AT AVIATION ENGLISH CLASSES

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ABSTRACT

The article deals with methods of vocabulary introduction in studying the theme “Dangerous weather phenomena” during Aviation English learning in a military institute. Advantages of translated and untranslated ways of semantization are described.

Keywords: Aviation English; vocabulary introduction; translated and untranslated ways of semantization.

Говоря о приёмах и способах введения лексических единиц на занятиях по авиационному английскому языку на всех этапах обучения, хотелось бы отметить, что зрительное и слуховое восприятие помогает курсантам сознательно усвоить лексический материал.

Как известно, лексика – это совокупность слов языка, его словарный (лексический) состав. Целью обучения лексике является формирование у обучаемых лексических навыков как важнейшего компонента экспрессивных и рецептивных видов речевой деятельности [1].

Работа над новой лексикой состоит из нескольких этапов. Начальным и чрезвычайно важным является сам этап введения лексики. Хотя он обычно не занимает много времени на занятии, это – сложный процесс, состоящий из нескольких подэтапов и включающий работу над формой, значением и употреблением слова с целью создания чётких звукомоторных образов и сохранения данного слова в памяти обучаемых.

К первичному этапу работы над лексикой относится ознакомление с новым материалом, включая семантизацию. Семантизация как процесс раскрытия значения слова осуществляется разными способами. Е. Н. Соловова отмечает, что «их выбор зависит от особенностей самого слова, характерных особенностей группы обучаемых, а также лингвистической и профессиональной компетенции учителя» [4]. При подготовке к проведению практического занятия важно выбрать такой способ введения лексики, который будет нужен, интересен и полезен в конкретной группе на конкретном занятии. При выборе способа семантизации нужно учитывать такие факторы, как: 1. характер слова; 2. уровень подготовки обучающихся; 3. этап обучения; 4. количество времени, допустимого на семантизацию [3].

Раскрытие значения слова (семантизация) при введении новых лексических единиц может осуществляться различными способами, которые принято объединять в две группы: беспереводные и переводные способы семантизации. К первой группе можно отнести визуализацию, дефиницию, контекст, введение с помощью синонимов и антонимов.

Рассмотрим наиболее часто употребляемые беспереводные способы семантизации. Опыт показывает, что при введении таких слов, как *snow – снег, shower – ливень, thunderstorm – гроза, lightning – молния, drizzle – изморось, fog – туман, icing – обледенение, hale – град, sand storm – песчаная буря* преподаватель может использовать иллюстрации погодных явлений, что позволяет визуализировать слово.

Второй способ введения слова – это раскрытие его значения с помощью дефиниции, например: *1. Thunderstorm – weather phenomenon which is characterized by a lightning and a thunder. 2. Icing – a process by which parts of aircraft become covered with ice in flight. 3. Fog – one of the dangerous weather phenomena which reduces visibility during take-off and landing. 4. Turbulence – a weather condition when the aircraft experiences vibrations.* Данный способ семантизации предполагает достаточно хороший уровень владения языком обучающимися. Это сложный, но самый важный для практического владения языком способ семантизации слов, поскольку демонстрирует новое слово в предложении и развивает догадку.

Введение лексических единиц с помощью их дефиниции можно варьировать с беспереводным способом на основе контекстуальной догадки. Многократное повторение слова в контексте различных видов упражнений способствует более интенсивному его запоминанию. К тому времени, как оно встречается в тексте для чтения и преподаватель рекомендует его для обязательного запоминания, требуется гораздо меньше времени для его заучивания. При этом можно использовать небольшие условно-речевые ситуации с использованием новых лексических единиц, например: *1. A fog reduces visibility. 2. Thunderstorms are characterized by thunder. 3. A lightning can reach high temperatures. 4. Icing may affect the flying qualities of an aircraft.* Важно помнить, что контекст употребления слова должен быть однозначным, понятным, легко переводимым.

Можно вводить лексические единицы с помощью синонимов и антонимов. Зная перевод слова *to face* в значении «сталкиваться», обучающиеся могут легко догадаться о значении синонима *to encounter*. При введении слова *severe* в значении «сильный» можно использовать его антоним *light*. Приведём ещё несколько примеров введения лексических единиц с помощью синонимов: *dangerous – hazardous, to change – to replace, concentration – accumulation, to decrease – to reduce, to meet with – to experience.* При использовании данного способа предполагается, что обучающиеся знают первичные слова, на основе которых вводятся синонимы.

Беспереводные методы обладают особой ценностью, так как позволяют использовать и развивать зрительный, артикуляционный, акустический каналы восприятия и осмысления информации [3]. Следует отметить, что беспереводные способы развивают

языковую догадку, увеличивают практику в языке, создают опоры для запоминания, усиливают ассоциативные связи. К недостаткам данных способов относится то, что они не всегда обеспечивают точность понимания и требуют больше времени, чем переводные.

С целью экономии учебного времени можно использовать переводные способы семантизации лексики, такие как перевод самого понятия с иностранного на родной язык или перевод толкования понятия. Эти способы универсальны в применении, но оба имеют одинаковый недостаток – увеличение возможности межъязыковой интерференции: «…взаимодействие языковых систем в условиях двуязычия, складывающегося либо при контактах языков, либо при индивидуальном освоении иностранного языка…» [4]. Большинство исследователей полагают, что к переводному способу семантизации следует прибегать в случае, когда применение других способов невозможно. Но многие авторы высказывали мнение, что обучаемые должны понимать значение лексической единицы посредством родного языка, путём перевода. В.Г. Костомаров и О.Д. Митрофанова констатируют: «Перевод слова, сообщение эквивалента на родном языке, малоэффективен в обучении: он не способствует обычно запоминанию» [2]. Данные способы необходимы в обучении иностранному языку, поскольку важно соблюдать принцип опоры на родной язык.

Работа по введению лексических единиц имеет важное значение не только для работы над лексикой в целом, но и для повышения мотивации и заинтересованности обучающихся в предмете. Различные способы ознакомления с новой лексикой имеют ряд преимуществ и недостатков. Их выбор зависит от самого слова, его формы, значения и употребления.

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ЛЕКСИЧЕСКИЕ ОСОБЕННОСТИ СТИХОТВОРЕНИЙ КАТУЛЛА

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АННОТАЦИЯ

Проанализированы случаи использования сложных слов и диминутивов, а также постпозитивного употребления частиц в стихотворениях Катулла. Делается вывод о том, что в отношении лексического наполнения поэт следует литературной программе неотерического кружка.

Ключевые слова: поэзия; римская литература; Катулл; лексика.

LEXICAL PECULIARITIES OF CATULLUS' POEMS

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ABSTRACT

The usage of compounds, diminutives and postpositive particles in Catullus' poems is analyzed. The author comes to the conclusion that at the level of lexicon the poet follows literary program of neoterics.

Keywords: poetry; Roman literature; Catullus; lexicon.

Гай Валерий Катулл (I в. до н. э.) – самый известный поэт из кружка неотериков и единственный из них, чьи произведения уцелели. Неотерики в своей литературной программе следовали александрийским образцам: «провозгласили превосходство малых литературных жанров <…> и стремление к формальному мастерству в области языка, метрики и композиции» [1].

Изучение особенностей языка катулловских текстов – одно из направлений филологических исследований. Как отмечала Д.М. Поцепня, «исследование авторского словаря позволяет выявить внутренние связи и закономерности, присущие отдельному произведению или всему творчеству писателя в целом. Словарь языка писателя представляет собой важный источник сведений о развитии и обогащении лексико-фразеологических средств литературного языка и материал для суждений о роли художественной литературы в становлении норм словоупотребления» (цит. по: [2]).

Среди характерных черт лексики Катулла необходимо отметить употребление сложных слов и диминутивов. Катулл использует 14 сложных прилагательных 15 раз в полиметрах, 29 прилагательных 35 раз в ученых поэмах и одно непоэтическое прилагательное один раз в эпиграммах. Учитывая историю употребления сложных слов в латинской литературе, можно предположить, что они характерны для трагедии и эпоса. Катулловское использование сложных слов показывает тесную связь между полиметрами и некоторыми из ученых поэм и подчеркивает обособленность эпиграмм.

Тогда как сложные слова являются чертой поэтического языка, диминутивы – черта разговорной латыни: тот факт, что эти две группы лексики, столь различные по происхождению, с одинаковой частотой встречаются в полиметрах и в ученых поэмах, демонстрирует намеренную стилистическую свободу неотериков. Исследователь латинской по-

эзии Бертиль Аксельсон отмечает, что диминутивы нечасто используются элегиками и редко появляются в эпосе, чаще встречаются в сатире. Катулл является единственным поэтом, которого всегда цитируют, чтобы показать роль диминутивов в поэзии. Б. Аксельсон утверждает, что эта любовь к диминутивам частично личная, а частично обязана неотерической программе. Нельзя приписывать столь частое использование диминутивов склонности к разговорной лексике, так как их довольно много не только в полиметрах (45 диминутивов встречаются 65 раз), но и в ученых поэмах (27 диминутивов появляются 36 раз). Однако их почти нет в эпиграммах (7 диминутивов используются 9 раз). Диминутивы придают полиметрам и ученым поэмам утонченность, изысканность; эпиграммы же принадлежат более строгой традиции [3, S. 39].

Другой явной чертой неотерического стиля является постпозитивное употребление частиц, новшество в латинской поэзии, заимствованное из александрийской поэзии. Эта черта стала стандартной особенностью поздней латинской поэзии.

У Катулла постпозитивное употребление частиц встречается 15 раз: 3 раза в полиметрах, 12 в ученых поэмах, ни разу в эпиграммах (nam, 23.7, 37.11, 64.301; namque, 64.384, 66.65; atque, 64.93; nec (neque), 64.173, 210, 379, 68.55, 116; at, 64.43, 58; sed, 51.9, 61.102). Часто энклитики встречаются в греческом контексте. Кроме того, в некоторых стихотворениях Катулл использует энклитики из-за метрического удобства.

Подводя итог, отметим, что в отношении лексического наполнения Катулл следует литературной программе неотерического кружка и создает тексты, соответствующие ей по стилю.

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КУЛЬТУРА СОБОЛЕЗНОВАНИЯ

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АННОТАЦИЯ

Подробно изучена культура соболезнования разных периодов. Изучен эпистолярный жанр, в котором отражена культура соболезнования. Выявлены психологические и исторические причины неумения соболезновать друг другу. Сформулированы правила соболезнования в соответствии с этическими и религиозными требованиями.

Ключевые слова: культура соболезнования; эмпатия; эпистолярный жанр; вербальное соболезнование.

THE CULTURE OF CONDOLENCE

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ABSTRACT

The culture of condolence from different periods has been studied in detail. Studied epistolary genre which reflects the culture of condolence. The psychological and historical reasons for the inability to sympathize with each other are revealed. The rules of condolence are formulated in accordance with ethical and religious requirements.

Keywords: culture of condolence; empathy; epistolary genre; verbal condolence.

Чтобы не попасть в нелепую ситуацию, надо знать правила хорошего тона. В старые времена им крепко учил Петр Великий. В 1709 г. он издал указ, согласно которому подлежал наказанию каждый, кто вел себя "в нарушение этикету".

С детства нас учат тому, как нужно себя вести, воспитывают нас, ругают. И все не просто так. Именно сейчас, когда нам все чаще приходится контактировать с «большим обществом», мы начинаем осознавать, как важно соблюдать культуру поведения и речи в определенный момент времени.

В данной статье дан анализ одной из таких речевых ситуаций – момент соболезнования, представлены примеры правильного выражения своих мыслей и чувств в момент утраты.

Целью работы является анализ правильного использования культуры соболезнования. Соответственно поставленной цели в ходе исследования сформулированы следующие *задачи:* рассмотреть ситуации, в которых необходимо применять правила культуры соболезнования; выяснить, как правильно повести себя, обращаясь к собеседнику в данной ситуации.

Соболезнование – труднейшая форма этикета, особенно в быту, в обычной жизни (в официальной форме этот ритуал достаточно подробно разработан). Соболезнование уместно только как выражение сочувствия по поводу большого несчастья, горя. Как правило, соболезнования стилистически повышены, эмоционально окрашены, употребляются только в официальной обстановке или в письменной форме [1].

В эпистолярной культуре России XVII-XIX веков имели место письма утешения, или утешительные письма. В архивах русских царей, дворянства можно найти образцы утешительных писем, написанных родственникам умерших. В XVII веке ведение переписки было прерогативой царей и царских чиновников. Письма соболезнования, утешительные письма относились к официальным документам, хотя существуют личные послания в ответ на события, связанные со смертью близких людей [2]. Примером может послужить письмо царя Алексея Михайловича Романова.

Автор письма не ограничился подробным рассказом о неожиданной смерти и обильным потоком утешений отцу; окончив письмо, он не утерпел, еще приписал: *«Князь Никита Иванович! Не горюй, а уповай на Бога и на нас будь надежен»* [3].

Среди писем, имеющих отношение к факту смерти, можно различить 3 основных группы:

- письма, извещающие о смерти близкого человека. Их рассылали родственникам и знакомым умершего. В отличие от более поздних писем, послания того времени были скорее эмоциональной оценкой произошедшего события смерти, чем носителем фактической информации, приглашением на похороны.
- собственно утешительные письма. Они зачастую были ответом на письмо-извещение
- письменные ответы на утешительные письма, которые также были неотъемлемой частью письменной коммуникации и траурного этикета [4].

В XVIII веке историки отмечают значительное ослабление в российском обществе интереса к теме смерти. Феномен смерти, связанный прежде всего с религиозными представлениями, отошел в светском обществе на задний план. Тема смерти в какой-то мере перешла в разряд табу. Вместе с этим утратилась и культура соболезнования, сочувствия.

В XVIII-XIX веках в помощь пишущим на нелегкую тему стали издавать так называемые «Письмовники» - руководства по написанию официальных и частных писем, дававшие советы, как написать. «Утешительные письма» - один из разделов письмовников, дававший советы, как поддержать скорбящего, выразить свои чувства в социально-приемлемой форме. Вот пример рекомендации по написанию утешительных писем в одном из письмовников [5,6].

Культура соболезнования имеет множество нюансов. Но если разрешить некоторые вопросы в этой области, то все становится гораздо проще. Прежде всего, не следует обвинять людей в том, что они не сочувствуют кому-либо в постигшем его горе. Зачастую причина такого поведения – страх «заразиться» горем, в это верят, и с этим приходится считаться.

Гораздо чаще причиной несочувствия является то, что человек не умеет выразить соболезнование, хотя таким выражением может быть просто присутствие на похоронах: проводить человека в последний путь.

Для вербального соболезнования, т.е. посредством слова, необходимо искренне понять, как больно человеку, как горько. Достаточно представить чужое горе – и слова сами найдутся, причем, чем проще и естественнее они будут, тем лучше.

***Пример**: Я вам очень сочувствую; Терпите; Живым надо жить; Она была хорошей матерью; Вы были хорошим сыном; Вы сделали все, что могли; Вечная память.*

На самом деле, ритуал соболезнования прост. Он раскрывает значимость простейших слов: именно в простоте речи заложена истинность сострадания.

Есть правила поведения, правила соболезнования, которыми также можно руководствоваться:

Правило 1. «Уважение уникальности умершего человека».

Каждый из нас уникален, о каждом можно сказать что-то хорошее.

Правило 2. «Уважение к тому, что пришлось пережить близким».

Родственникам бывает необходимо выговориться, иногда поводом для этого могут послужить подробности кончины.

Правило 3. «Поворот вектора заботы на родных и близких».

Парадоксально ругать человека, когда у него горе. Однако это заставляет задуматься, является достаточно действенным способом.

Правило 4. «Слова похвалы, восхищение мужеством, заботливостью, терпением близких умершего».

Есть еще один действенный способ соболезнования, пожалуй, он самый деликатный из всех, - поговорить о том, как можно пережить беду. Здесь нельзя сфальшивить, обидеть всезнанием. Да и саму не мешало бы знать эти «лекарства без лекарств» - способы пережить горе:

Лекарство – сон: «Природа, желая облегчить человеку жизнь, дала ему сон и надежду», - писал Вольтер.

Лекарство – пища: Незаметно покормить человека в беде - помочь ему. Ему кажется чуть ли не кощунственным – есть, но если вы убедите его преломить хлеб вместе с вами в память об умершем, то это будет спасением, ибо в пище мы черпаем силы.

Лекарство – работа: Не люди успокаивают, а руки, обезболивающая сила привычных дел. Работа дарит усталость, усталость – сон, сон – и мудрость, и смирение и силы для завтрашней работы.

Лекарство – слезы: Известно, что слезы облегчают горе, недаром у наших предков был целый ритуал плача. После искренних слез достаточно быстро в душе наступает пустота и некий странный покой.

Лекарство животные: В рассказе Чехова «Тоска» потерявший сына старик выговаривает свое горе лошади. Мы делаем акцент на одиночестве старика, но если посмотреть с другой стороны, то это служит некоторым способом свыкнуться со страшной мыслью. Известно, что животные хорошо чувствуют настроение и часто интуитивно стараются помочь, утешить.

Лекарство – растения: Потрогать их, побыть с ними, поговорить, поухаживать за ними. «Обратная связь» здесь еще загадочнее, чем с животными, но эта связь реально существует.

Лекарство – слово: Есть немало слов, которые помогают в горе. Это и простые, идущие от сердца слова, это и совпадающие с вашим состоянием души отголоски или прямые цитаты из художественных произведений. Например, из стихотворения О. Мандельштама [7]:

Сестры – тяжесть и нежность, одинаковы ваши приметы.

Медуницы и осы тяжелую розу сосут;

Человек умирает. Песок остывает согретый,

И вчерашнее солнце на черных носилках несут.

Мы не всегда воспринимаем классическую русскую литературу как литературу этической подсказки.

Например, так вела себя Наташа Ростова в момент получения известия о смерти брата: «Наташа не понимала, как прошел этот день, ночь, следующий день и следующая ночь. Она не стала и не отходила от матери. Любовь Наташи, упорная, терпеливая, не как объяснение, не как утешение, а как призыв к жизни, всякую секунду как будто со всех сторон обнимала графиню»[8].

Культура соболезнования - это важнейший элемент национальной культуры, культуры вчувствования (эмпатии), и этим можно и необходимо научиться владеть, чтобы впоследствии использовать свои умения в тех ситуациях, когда это уместно и необходимо. Приведенные примеры убеждают в том, как самому можно вылечить себя от горя, помочь забыться другим, причем, как оказалось, это достаточно просто и обыденно.

Разве все люди невнимательны? Русская национальная традиция до сих пор сохраняет сильный потенциал сочувствия и соболезнования. «Истинное горе обладает свойством затрагивать даже самые заросшие души», - писал Ю. Нагибин. Именно горе собирает родственников, соседей, коллег. В глубине вопроса спрятан ложный смысл: «люди стали злее, хуже…». Фокус вины за происходящее смещается на других. Не повторяйте то, что легко повторяется. Если есть рядом даже только один хороший человек – еще не все потеряно.

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АКТУАЛЬНЫЕ ОШИБКИ ПРОДВИЖЕНИЯ РЕСТОРАННОГО БИЗНЕСА В СОЦИАЛЬНЫХ СЕТЯХ

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АННОТАЦИЯ

В статье рассматриваются виды вовлечения SMM в продвижении и актуальные ошибки контента в социальных сетях. По результатам исследования выявлены актуальные ошибки и пути их решения.

Ключевые слова: SMM; продвижение в социальных сетях; контент; вовлечение.

ACTUAL ERROR OF PROMOTING RESTAURANT BUSINESS ON SOCIAL NETWORKS

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ABSTRACT

The article discusses the types of SMM involvement in promotion and current content errors in social networks. According to the results of the study, actual errors and ways of their solution are revealed.

Keywords: SMM; social media promotion; content; engagement.

SMM является на данный момент популярным способом продвижения бренда. Только социальная сеть «Вконтакте» ежедневно охватывает 97 миллионов пользователей. Правильное позиционирование и стратегия продвижения продукта или услуги в социальных сетях повышает лояльность аудитории, что в дальнейшем может гарантировать бренду продажи. Однако наличие бренда в социальных сетях и его продвижение в социальных сетях не являются тождественными понятиями [1. С.12-34].

Мы решили выяснить основные ошибки продвижения бренда в социальных сетях.

Для начала мы рассмотрим особенности социальных сетей в общем.

Пользователи социальных сетей находятся в социальной сети ради коммуникации друг с другом, легкого общения. Следующая особенность социальных сетей в том, что пользователей не привлекает баннерная, тизерная реклама или любая другая прямая реклама брендов. Многие исследователи рекомендуют использовать развлекательный познавательный контент с включением нативной или ненавязчивой рекламы.

Отсюда следует, что информационный поток, направленный в сторону пользователей-потенциальных клиентов, должен быть привлекателен, интересен и полезен им.

С одной стороны, принято считать, что продвижение в социальных сетях не обеспечивает быстрые продажи. Процесс, в котором обычный пользователь социальной сети войдет через контент в диалог с брендом, заинтересуется им, купит рекламируемый товар или воспользуется услугой, может занять месяцы и годы.

С другой стороны, продвижение через социальные сети позволяет обнаружить реакцию потенциальных клиентов, которая может быть выявлена через т.н. «лайки», комментарии, просмотры и «репосты». По данным показателям оценивается главный критерий SMM-продвижения – вовлечение. Вовлечение – это создание связи между брендом и клиентами через контент в социальных сетях, на сайте, в рекламе или посредством любой другой коммуникации [2. С 45-78].

Своевременное отслеживание реакции потребителей помогает бренду оставаться в тесном и постоянном контакте с потенциальными клиентами, оперативно искать пути решения возникающих проблем, негативных реакций, спорных моментов и т.п.

Вовлечение может осуществляться по-разному: например, с помощью проведения конкурсов, за участие в которых пользователям предлагается приз. Условиями конкурса являются варианты взаимодействия с брендом: подписка на аккаунт бренда, «лайк», комментарий, отметка одного и более друзей участника, размещение фотографии и пр. Проведение конкурса достаточно эффективный механизм вовлечения, так как у сообщества бренда, который является инициатором конкурса, увеличивается число подписчиков и потенциальных клиентов, повышается узнаваемость бренда путем перемещения конкурсной страницы на страницы других пользователей [3].

Другим видом вовлечения является опрос. Опросы представляют собой обсуждение актуальной темы и выявление палитры мнений о ней. Как правило, пользователи социальных сетей выражают свое мнение не только в личных сообщениях, но и в комментариях. Поэтому опрос позволяет пользователям оставлять отзывы в виде сформулированного мнения.

Существуют множество других способов вовлечения потребителей через социальные сети. Однако следует отметить, что создание группы в социальной сети и желание продвигать свой товар через нее – непростая задача. Бывают ситуации, при которых присутствие в социальных сетях не приносит того результата, на который рассчитывал заказчик.

В предлагаемой статье мы представляем результаты исследования продвижения группы омского ресторана «Сенкевич» в социальной сети «Вконтакте». В ходе исследования были выявлены эффективные и неэффективные стороны продвижения ресторана «Сенкевич» посредством социальной сети. Для решения поставленной задачи были оценены следующие показатели (за февраль 2019 года):

1. количество постов;
2. количество комментариев;
3. наличие механизмов вовлечения за исследуемый период.

Анализ группы ресторана в социальной сети по указанным критериям показал следующее.

1. Количество постов – 30. Среднее количество «лайков» под постом составило 10 отметок.

2. Количество комментариев под постами – 0,06. За 30 дней продвижения пользователи оставили лишь 2 комментария.

3. В течение месяца для вовлечения подписчикам группы был предложен один опрос, на который откликнулось 22 пользователя.

Таким образом, анализ продвижения группы ресторана «Сенкевич» в социальной сети «ВКонтакте» показал, что от общего числа подписчиков (3600 человек), менее 20 процентов из них вовлечены в контент группы, что говорит о недостаточности используемых средств продвижения группы ее создателями. Кроме этого, в группе не налажена обратная связь, о чем свидетельствует необработанный негативный отзыв.

В рамках исследования мы также провели экспертный опрос, в котором участвовали три специалиста в сфере SMM-продвижения (Артем Семенютин, Владимир Лоцманов и Гульнара Джумашева). Эксперты должны были оценить контент и ведение группы ресторана «Сенкевич». Представим мнение каждого из них.

Артем Семенютин, владелец агентства интернет-маркетинга «Ardens.pro»: «Уровень ведения группы средний. Контент уникальный, но показатели охвата говорят о том, что посты не работают должным образом».

Владимир Лоцманов, опыт в сфере SMM более 7 лет, руководитель федерального проекта «До До Пицца»: «В данной группе полностью отсутствует работа с вовлечением, что является главной задачей продвижения…Аудитория «мертвая», которую нужно реанимировать опросами, конкурсами и прочими экспериментами».

Гульнара Джумашева, опыт ведения групп более 10 лет: «Посты не являются продающими. Нечитабельный текст и плохая навигация меню».

Таким образом, все опрошенные эксперты сошлись в том, что работа с участниками группы ведется очень слабо, отсутствует регулярная обратная связь, отслеживание реакции подписчиков, что по сути является важнейшей особенностью и эффективным механизмом продвижения товара или услуги через социальные сети.

В целом, результаты исследования показали, что продвижение через социальную сеть «ВКонтакте» ресторана «Сенкевич» на момент его проведения являлось не эффективным. Низкие показатели комментариев свидетельствуют о том, что общение с клиентами не выстраивается, хотя в первую очередь социальные сети являются площадкой для коммуникации. Ресторан «Сенкевич» присутствует в социальных сетях, но не продвигает ни бренд, ни товары, ни свой имидж.

Научный руководитель: Л.Г. Пушкарева.

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СЕКЦИЯ

ЮРИДИЧЕСКИЕ НАУКИ

LEGAL SCIENCE

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ПРАВОВОЙ СТАТУС АКТОВ ВЕРХОВОГО СУДА РОССИЙСКОЙ ФЕДЕРАЦИИ

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АННОТАЦИЯ

В статье рассматривается вопрос об общеобязательном характере Постановлений Пленума Верховного Суда Российской Федерации. Анализируется действующее законодательство, регламентирующее правовой статус Верховного Суда РФ и принимаемых им актов, а также мнения различных ученых. Отмечается дискуссионный характер изучаемого вопроса. В результате системного анализа нормативных правовых актов и различных научных точек зрения автор делает вывод о том, что Постановления Пленума Верховного Суда РФ имеют общеобязательное значение для субъектов правоприменения.

Ключевые слова: уголовное судопроизводство; судебная практика; Верховный Суд Российской Федерации; Постановления Пленума Верховного Суда Российской Федерации.

LEGAL STATUS OF THE ACTS OF THE SUPREME COURT

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ABSTRACT

The article deals with the question of the binding nature of the Decisions of the Plenum of the Supreme Court of the Russian Federation. The current legislation regulating the legal status of the Supreme Court of the Russian Federation and the acts adopted by it, as well as the opinions of various scientists are analyzed. The debatable character of the studied question is noted. As a result of the system analysis of normative legal acts and various scientific points of view, the author concludes that the Decisions of the Plenum of the Supreme Court of the Russian Federation have binding significance for the subjects of law enforcement.

Keywords: criminal proceedings; judicial practice; Supreme Court of the Russian Federation; Decisions of the Plenum of the Supreme Court of the Russian Federation.

В современных условиях российской правовой действительности институт судебно-

го толкования находится под пристальным вниманием научных деятелей и практических сотрудников. О толковании речь все чаще ведется как о способе преодоления несовершенств в праве, которых с каждым годом не только не становится меньше, но и увеличивается с прогрессией. В связи с этим, вопрос о возможности судебного нормотворчества, о свободе судейского усмотрения и его пределах вновь приобретает свою актуальность [11].

До недавнего времени действовал Закон РСФСР от 08.07.1981 г. «О судоустройстве РСФСР», нормой которого, изложенной в абз. 3 ст. 56 устанавливалось, что «руководящие разъяснения Верховного Суда РФ обязательны для судов, других органов и должностных лиц, применяющих закон, по которому дано разъяснение» [6]. Данный закон утратил силу с момента вступления в законную силу Федерального конституционного закона от 07.02.2011 г. № 1-ФКЗ «О судах общей юрисдикции в РФ» [3]. В настоящее время на нормативном уровне обязанность нижестоящих судов следовать правовым позициям Верховного Суда РФ, сформулированным в принимаемых Пленумом ВС РФ постановлениях, не закреплена, но в то же время постановления высшей судебной инстанции носят руководящий и ориентирующий характер в силу прямого указания ст. 126 Конституции РФ [1]. Вопрос разъяснений даваемых Верховным Судом РФ по вопросам судебной практики уточнен в п. 1 ч. 7 ст. 2 Федерального конституционного закона «О Верховном Суде РФ», согласно которого Верховный Суд РФ в целях обеспечения единообразного применения законодательства РФ дает судам разъяснения по вопросам судебной практики на основе ее изучения и обобщения [2].

Конституция РФ, Федеральный конституционный закон «О Верховном Суде РФ», иные федеральные законы не указывают о юридической силе разъяснений Верховного Суда РФ, то есть можно говорить о том, что юридическая сила судебных постановлений законодательно не определена. В действующем на территории РФ законодательной базе не указано ничего о том, что разъяснения Верховного Суда РФ являются обязательными для правоприменителей и судов РФ. Поскольку в ст. 120 Конституции РФ установлено, что судьи независимы и подчиняются только Конституции РФ и федеральному закону, вопрос об обязательности разъяснений, содержащихся в постановлениях Пленума Верховного Суда РФ, в научном обществе носит дискуссионный характер.

Вопрос об обязательности Постановлений Пленума Верховного Суда РФ не стоит откладывать как решенный на практике, ведь они не только дают разъяснения суду, но и оказывают колоссальное влияние на процесс правоприменительной деятельности, а, следовательно, и на общество в целом. В уголовном судопроизводстве разъяснения Верховного Суда РФ являются, можно сказать, «подробным Уголовным кодексом РФ», положения которого также обязательны, что и федеральное законодательство. Пленум Верховного Суда РФ, вынося постановление о судебной практике рассмотрения каких либо преступлений, дает разъяснения не только судьям, но и оперативным сотрудникам, следователям, дознавателям, прокурорам и другим участникам уголовного судопроизводства, ведь в случае наличия противоречий в уголовном деле с положением какого либо Постановления Пленума Верховного Суда РФ судья будет вынужден возвратить уголовное дело для устранения выявленных недостатков, руководствуясь положениями постановления Пленума. Более того, следователь определяет квалификацию преступления, предмет доказывания по конкретному преступлению, с учетом положений Постановлений Пленума составляет постановление о привлечении в качестве обвиняемого, используя формулировки оттуда, воспринимая его положения как бесспорно обязательные для исполнения и соблюдения.

Многообразие различных позиций, оценок и мнений представляется настолько разнообразным, что не представляется возможным даже выделить несколько существенных

«точек согласия». Общее в них имеется лишь в отношении вопроса о наличии значительной роли в правоприменении актов высших судебных инстанций (в частности, Пленума Верховного Суда РФ). В общем, мнения научных деятелей возможно, без зазрения совести, разделить на два лагеря: одни научные деятели полагают, что Постановления Верховного Суда РФ носят обязательный характер, другие полагают, что Постановления Верховного Суда РФ обязательными не являются, могут носить лишь рекомендательный характер, и суды, применяя нормы права по уголовным делам могут только принимать во внимание рекомендации, но не обременены обязанностью их исполнять.

Т.П. Котлярова полагает, что косвенным подтверждением того, что разъяснения Верховного Суда РФ, носят императивный характер, служит законодательное установление о том, что постановления судов первой, апелляционной и кассационной инстанций подлежат отмене или изменению, если при рассмотрении дела в порядке надзора Президиум Верховного Суда РФ установит, что соответствующее обжалуемое судебное постановление нарушает единообразие в толковании и применении судами норм права. Исходя из изложенного, можно заключить следующее: то обстоятельство, что непринятие во внимание судами при рассмотрении конкретного дела единообразных правовых позиций, закрепленных постановлениями Пленума Верховного Суда РФ, может повлечь отмену принятых судебных актов, свидетельствует об обязательном характере данных постановлений высшего судебного органа для судов различных инстанций [10].

Т.В. Соловьёва, поддерживая точку зрения об обязательности постановлений Пленума, указывает на то, что они «являются актами-документами официального характера, поскольку в них дается официальное разъяснение норм законодательства» [12].

Противоположную точку зрения занимает В.В. Ершов, который отмечает, что постановления Пленума Верховного Суда РФ если и нужны, то «не обязательного, а рекомендательного характера, которые должны иметь не авторитет силы, а силу авторитета, т.е. применяться лишь в связи с их аргументированностью и обоснованностью» [7, 8].

Противоречивые оценки обязательного характера разъяснений Верховного Суда РФ оказывают влияние и на судебную практику. Несмотря на то, что постановления являются важным средством обеспечения единства и стабильности судебной практики, судьи зачастую не указывают, что итоговое решение было принято на основании разъяснений Верховного Суда РФ. Большинство объясняют это тем, что последние не являются источниками права в нашей стране. Специфический характер актов толкования высших судебных органов заключается в том, что они, обладая рядом схожих признаков с разными источниками права, в своей сущности таковыми не являются.

Если рассматривать вопрос об общеобязательном или рекомендательном характере Постановлений Пленума Верховного Суда РФ с точки зрения уголовного права и процесса, то можно указать не следующее. При рассмотрении и разрешении уголовного дела по существу, в любой инстанции суды обязаны руководствоваться нормами Уголовно-процессуального кодекса Российской Федерации [5] (далее – УПК РФ), а при квалификации содеянного – нормами Уголовного кодекса Российской Федерации [4] (далее – УК РФ). В соответствии с императивной нормой, закрепленной в ч. 1 ст. 1 УК РФ «уголовное законодательство Российской Федерации состоит из настоящего Кодекса. Новые законы, предусматривающие уголовную ответственность, подлежат включению в настоящий Кодекс». Можно сделать несложный вывод о том, что вводить новые составы преступлений, устанавливать или изменять меры уголовной ответственности или устанавливать виды и границы санкций Постановления Пленума Верховного Суда РФ не вправе. Вместе с тем, нельзя не обратить внимание на следующий факт. При анализе содержания ст. 389.15 УК РФ одним из оснований отмены или изменения судебного решения в апелляционном по-

рядке является неправильное применение уголовного закона. В то же время в постановлениях Пленума Верховного Суда РФ разъясняются спорные ситуации по разрешению вопросов квалификации тех или иных составов преступлений и порядок правоприменения правовых норм действующего законодательства.

Следует согласиться с мнением А.А. Жинкина и Е.Ю. Жинкиной о том, что «Налицо парадоксальная ситуация, когда по своей правовой природе постановления Пленума Верховного Суда РФ не относятся к числу источников уголовного права, однако содержат рекомендации по его применению и нарушение этих рекомендаций согласно УПК РФ, может влечь пересмотр решения суда. Кроме того, разъяснения по вопросам применения законодательства должны обеспечить единство судебной практики, то есть единообразное понимание и применение уголовного закона на всей территории России, а если читать между строк закона – то понимание закона в том виде, в котором оно излагается в постановлениях Пленума Верховного Суда РФ» [9].

Однако, если рассматривать деятельность по обобщению судебной практики и дачу разъяснений нижестоящим судам по применению норм законодательства как одну из целей деятельности Верховного Суда РФ как высшей судебной инстанции, то лишив Постановления Пленума Верховного Суда РФ общеобязательного характера, можно нивелировать указанную цель деятельности. Другими словами, зачем выпускать разъяснения, если эти разъяснения не будут общеобязательными и нижестоящие суды, обладающие менее богатым опытом и знаниями, могут не руководствоваться ими, а применять законодательство как им угодно? По нашему мнению, в таком случае деятельность Верховного Суда РФ по даче разъяснений превращается в так называемую «работу ради работы».

Из вышесказанного следует сказать о том, что в результате проведенного системного анализа действующего законодательства, а также точек зрений различных ученых, можно смело вывести заключение о том, что разъяснения Пленума Верховного Суда РФ имеют обязательный характер для нижестоящих судов и для правоприменителей в целом. Мнения правоприменителей о обязательном характере Постановлений Пленума Верховного Суда РФ сводится к следующему высказыванию «На практике все давно решено, только в теории и спорят». Следует обратить наше внимание на то, что постановления могут разъяснять только вопросы применения и квалификации действующего законодательства, но не в коем случае не заменять собой само законодательство. Что касается общеобязательного характера Постановлений Пленума Верховного Суда РФ как одного из ключевых направлений его деятельности в результате проведенного системного анализа законодательства следует вывести заключение о том, что решения Верховного Суда РФ все-таки носят обязательный характер для правоприменителей по следующим причинам:

1) Конституцией РФ Верховный Суд РФ наделен функцией разъяснения по вопросам судебной практики;

2) Верховный Суд РФ в силу нормативного закрепления Конституции РФ и принятого в исполнение ее норм федерального законодательства является высшим судебным органом в судебной системе Российской Федерации;

3) Верховный Суд РФ исполняет функции суда апелляционной, кассационной инстанции, в порядке надзора и по вновь открывшимся обстоятельствам.

Не стоит забывать о том, что Постановления Пленума Верховного Суда РФ являются олицетворением обобщенной судебной практики судов РФ, то есть по сути своей являются выражением прецедентного права. Смысл разъяснений Верховного суда РФ должен отражать в единой норме многообразие судебных решений, разъяснения Верховного Суда РФ должны исходить из практики, и ни в коем случае наоборот.

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ОСОБЕННОСТИ УЧАСТИЯ ПРИСЯЖНЫХ ЗАСЕДАТЕЛЕЙ В УГОЛОВНОМ СУДОПРОИЗВОДСТВЕ

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АННОТАЦИЯ

Дана более подробная характеристика участия присяжных заседателей в уголовном судопроизводстве. Определена оценка их правовой деятельности. Рассмотрены факты из истории, предшествующие становлению института присяжных заседателей.

Ключевые слова: присяжные заседатели; становление коллегии присяжных заседателей; правовая оценка их деятельности; статистические данные рассмотрения уголовных дел присяжными заседателями; обвиняемый.

FEATURES OF PARTICIPATION OF JURORS IN CRIMINAL PROCEEDINGS

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ABSTRACT

More detailed characteristic of participation of jurors in criminal proceedings is given. Assessment of their legal activity is defined. The facts from history preceding formation of institute of jurors are considered.

Keywords: jurors; formation of jury of assessors; legal treatment of their activity; statistical these considerations of criminal cases by jurors; defendant.

На современном этапе развития общества, присяжные заседатели играют весьма важную роль в осуществлении правосудия. Люди, носящие статус присяжного заседателя, являются основой состава суда. Вопрос о становлении института присяжных заседателей является актуальным по сей день. На всем протяжении истории, государство стремилось создать справедливую форму осуществления правосудия, ведь состояние правосудия является оценочным показателем развития всего уголовного судопроизводства.

Если окунуться в историю, то становление присяжных заседателей приходится еще на IX в., когда в Русской Правде было указано на то, что лицо, которое совершило преступление, но отрицающее его, должно предстать перед двенадцатью мужиками, решающим вопрос его невиновности. Подобная практика применялась также в Псковской судной грамоте [1]. В последующем, институт присяжных заседателей получил свое призна-

ние при императрице Екатерине II и императоре Александре I. Но из-за крепостничества не удавалось более полно реализовывать эту идею. Соответственно, для полного становления и развития института присяжных заседателей требовалась отмена крепостного права, что и произошло в 1861 г. Свое окончательное закрепление, данный институт получил в конце XX в. Но просуществовал он недолго. После Октябрьской революции 1917 г. институт присяжных заседателей был упразднен.

Так, возрождением института присяжных заседателей считается постановление Верховного Суда РФ от 16.07. 1993 г. № 5451/1-1 «О порядке введения в действие Закона Российской Федерации «О внесении изменений и дополнений в Закон РСФСР «О судоустройстве РСФСР», Уголовно-процессуальный кодекс РСФСР, Уголовный кодекс РСФСР и Кодекс РСФСР об административных правонарушениях». Также, положения, содержащие сведения о присяжных институтах, присутствуют в Конституции РФ, Уголовно-процессуальном кодексе РФ, Федеральном законе РФ «О присяжных заседателях федеральных судов общей юрисдикции в Российской Федерации» и других нормативных правовых актов. С 1 января 2010 года институт суда присяжных начал действовать во всех субъектах Российской Федерации.

Согласно п. 5 ст. 30 УПК РФ, присяжным заседателем является лицо, привлеченное в установленном уголовно-процессуальным законом порядке для участия в судебном разбирательстве и вынесении вердикта [3]. Коллегия из присяжных заседателей состоит из 12 человек, но при этом также имеются и запасные лица в качестве присяжных заседателей, для особого непредусмотренного случая.

Особенностью института присяжных заседателей является то, что в его состав входят обычные граждане нашей страны, которые отбираются случайным образом и участвуют в осуществлении правосудия.

В нашей стране институт присяжных заседателей является наиболее гуманным и демократическим. Ведь в осуществлении правосудия, решения принимают «люди из народа», не являющиеся специалистами в данной области и их решение напрямую является объективным и независимым.

Но, конечно же, даже в такой демократической судебной системе есть свои недостатки. Это касается того, что, во-первых, у многих могут возникнуть вопросы: неужели обычные непрофессиональные люди способны решить, виновен человек в содеянном или нет? Почему неопытный человек должен разбираться в уголовном деле и принимать решения по этому делу в отличие от опытного, профессионального и квалифицированного судьи? Ведь судья, вынося судебный решение, руководствуется, прежде всего, нормативной правовой базой, которая определяет основания виновности или не виновности подсудимого [3]. А присяжные заседатели такой информированностью не обладают, они выносят свои решения исключительно из своих предубеждений и, конечно же, эмоциональной составляющей, что зачастую является неправильным решением.

Таким образом, можно сказать, что принятие решения по уголовному делу является весьма щепетильным и важным, поскольку, прежде чем выносить какое-либо решение, нужно обязательно руководствоваться с нормативными правовыми актами, подтверждающими наличие правильности вынесения данного решения.

Если обратиться к статистике, то за 2017 год, по делам, рассмотренным судом присяжных - 448 человек были осуждены и 51 человек оправданы. При этом в апелляционной инстанции отменены оправдательные приговоры в отношении 18 лиц. Отменены или изменены обвинительные приговоры в отношении 51 лица [5]. Эти показательные данные, позволяют утверждать о том, что довольно большое количество человек понесло обвинительный приговор по решению присяжных заседателей. Также, статистика говорит о том,

присутствует наличие отмены оправдательных приговоров и отмены обвинительных приговоров, что играет весьма отрицательную оценку в деятельности присяжных заседателей.

Процесс рассмотрения уголовного дела с участием коллегии присяжных заседателей начинается с ходатайства обвиняемого о рассмотрении уголовного дела с участием коллегии присяжных заседателей.

Суд присяжных может применяться также в отношении нескольких подсудимых, так сказано в п. 2 ст. 325 УПК РФ. Если один или несколько подсудимых отказываются от суда с участием присяжных заседателей, суд решает вопрос о выделении уголовного дела в отношении этих подсудимых в отдельное производство. При невозможности выделения уголовного дела в отдельное производство уголовное дело в целом рассматривается судом с участием присяжных заседателей. Нельзя не обратить внимания на данное высказывание, ведь, допустим, если подсудимые отказываются от наличия участия в уголовном деле присяжных заседателей, соответственно этому могут быть свои причины. Если суд признает данные причины объективными, то, скорее всего, правильнее было бы принять решение о рассмотрении дела без присяжных заседателей. Здесь возможно самым правильным решением было бы изменения в самом УПК РФ, которые позволили бы гражданам выражать свою собственную волю на проведения слушания судебного заседания. Иначе, здесь можно наблюдать прямое ущемление прав человека.

Таким образом, на основе всего вышеизложенного, можно подвести итог, что наличие института присяжных заседателей позволяет с точностью утверждать о присутствие демократической основы рассмотрения уголовных дел в Российской Федерации. Но, несмотря на всю демократичность и правильность данного судебного института, все же стоит обратить внимание на то, что в этой деятельности есть свои недостатки, которые необходимо устранить и создать более справедливое и гуманное правосудие.

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ОСНОВНЫЕ ПРИНЦИПЫ ДЕМОКРАТИИ И ВЫТЕКАЮЩИЕ ИЗ НИХ ОБЩЕСТВЕННЫЕ ЯВЛЕНИЯ, В ТОМ ЧИСЛЕ ПРОБЛЕМЫ ЕЕ РЕАЛИЗАЦИИ

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АННОТАЦИЯ

В данной статье представлена подробная характеристика основных принципов демократического государственного режима. Определены и рассмотрены основные проблемы реализации демократического режима в условиях современного мира.

Ключевые слова: демократия; политический режим; принципы демократии; классификация; основные проблемы.

THE BASIC PRINCIPLES OF DEMOCRACY AND THE RESULTING SOCIAL PHENOMENA, INCLUDING THE PROBLEMS OF ITS IMPLEMENTATION

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ABSTRACT

This article presents a detailed description of the basic principles of a democratic state regime. The main problems of realization of a democratic regime in the conditions of the modern world are defined and considered.

Keywords: democracy; political regime; principles of democracy; classification; basic problems.

По общепринятому мнению, принципы есть не что иное, как основное, исходное положение какой-нибудь теории, учения, науки и т.п.

Что касается принципов демократии, то они представляют собой основу всего демократического строя, определяют сущность политического режима. А именно данные принципы являют собой абстрактные постулаты, применяемые в любом человеческом сообществе, и конкретно к человеку вообще как к члену политического союза и гражданского общества. Демократические принципы – есть составные части демократии как общечеловеческой ценности.

Но перед тем как рассматривать принципы демократии, стоит обратиться к ее признакам. Признак есть отличительная черта чего-либо, то, что характеризует или определяет какой-либо предмет, позволяет его описать и классифицировать.

Принципы демократии очень созвучны с ее принципами. Можно сказать, что часть признаков воплотилась в более широком варианте в принципах демократии, ее развитых концепциях.

Вот эти признаки:

1.народ-источник власти (суверенитет народа)

2.свободные выборы наличие независимых СМИ

3.идеологическое многообразие и плюрализм мнений

4.многопартийность

5.широкие и гарантированные права и свободы граждан

6.принятие политических решений по воле большинства, но с учетом и гарантией прав меньшинства

Признаки очень точно определяют демократию не только в качестве политического режима, но и как внутренне устройство какого-либо общественного образования.

Что же касается принципов демократии, то они могут применяться во всех цивилизованных, политически открытых обществ. В том смысле, их симбиоз, выражающийся в естественной взаимосвязи, составляет базис самоопределения людей, каждого человека и гражданина, продуктивности его деятельности в социально-политической сфере. Принципы образуют фундамент урегулирования разногласий между интересами и мнениями членов сообщества, соотнесение личных и коллективных интересов с всеобщими интересами.

Принципы, лежащие в основе современных демократий, зародились и сформировались в процессе исторического становления политических сообществ, с увеличением количества форм человеческой организации они обогащались и конкретизировались. Каковы же эти принципы?

В общепринятой классификации приводится 6 принципов демократии, однако необходимо учитывать также разнообразность общественных явлений, темпы мирового политического и социального развития, которые, вне всякого сомнения, способствуют появлению и формируют предпосылки для формирования новых принципов и различных модификаций изначальных [1]. Итак, вот они:

Принцип верховенства большинства при уважении к правам меньшинства

Суть данного принципа заключается в том, что все важные решения принимаются исходя из мнения большинства, которое имеет избирательные права. Этот механизм работает не только при выборах государственного масштаба (например, выборы Президента, выборы в высшие органы государственного управления), но и в случаях, когда необходимо решить вопросы регионального и местного значения (выборы в местные органы управления). По факту круг лиц, представляющих большинство проголосовавших, есть основная масса взрослого населения. Но существуют исключения, например, в РФ помимо недееспособных граждан, не могут реализовать свое избирательное право лица, находящиеся в местах лишения свободы согласно приговору суда (ст.32 Конституции РФ).

Весь ход принятия решения представляет собой процесс выявления точки зрения большинства по тому или иному вопросу, именно на основе этого и выноситься окончательный «вердикт». Чаще всего подразумевается простое (количественное) большинство, определенные исключения из этого правила фиксируются в соответствующих законодательных актах. В частности в разделе 5 ст.1 Конституции США есть оговорка о том, «что каждая палата Конгресса может с согласия двух третей палаты исключать члена палаты из своего состава. А в соответствии со ст.105.4 Конституции РФ федеральный закон получает статус одобренного Советом Федерации, если за него отдали голос более половины от общего числа членов палаты.

Однако важным аспектом является тот факт, что люди, проводящие санкционированную согласием большинства политику, должны учитывать также и интересы меньшинства. Внимание к правам меньшинства предполагает, что граждане и объединения, оказавшиеся после проведения выборных и других политических мероприятий в меньшинстве, имеют право отстаивать свои убеждения при условии осуществления вышеуказанного действия по закону. Этот принцип очень важен, так как большинство не всегда информировано обо всех аспектах вопроса, выдвигаемого на повестку. А меньшинство в свою очередь может быть, как раз таки осведомлено. Другими словами большинство, ограничено правами меньшинства.

Данный принцип нашел отражение в законодательных актах различных стран, например ст.29 Конституции РФ провозглашает свободу мнений и слова и невозможность насильственного принятия решения или изменения мнения. Или ст.82 Конституции РФ также защищает личный статус человека при неиспользовании гражданского статуса и гарантирует невозможность ограничения личный прав и свобод, в том числе свободу слова и выражения.

Однако не все ситуации могут быть решены всенародным голосованием. Есть дела, требующие профессионального политического подхода, и поэтому некоторые властные полномочия народа целесообразней будет делегировать соответствующему человеку или органу. Из данного суждения вытекает второй принцип.

Принцип представительного характера власти

Представительство в демократическом режиме обусловлено неосуществимостью равного участия всех граждан в управлении государственными делами. Неэффективно создавать общенародные органы государственной власти. Данный принцип сочетается с другим принципом – принципом делегирования, и нередко они воспринимаются комплексно, неотрывно друг от друга. Исключается прямое участие большинства граждан в принятии государственных решений. Предполагается передача полномочий выбранному лицу и, следовательно, осуществление власти через представителей. В качестве яркой иллюстрации можно привести Совет Федерации, в который входит, в том числе по два представителя от каждого субъекта российской федерации (один из представительного органа, другой из исполнительного), которые должны работать от имени всех тех, кто избрал их на этот пост. Интересно также, что в Конгрессе США члены палаты представителей выбираются каждые два года жителями штатов в пропорции «один репрезент – не более чем от 30 тысяч жителей». Невозможно отрицать, что принципы представительства и делегирования способствуют возникновению других способов участия населения в политической жизни для удовлетворения различных общественных интересов, например, создание объединений, составляющих структуру современного гражданского общества, цель которого прорабатывание предпочтений и требований граждан.

Из всего вышеописанного следует, что делегирование полномочий должно осуществляться лицу или лицам, которых выбрало большинство. Тогда очевидным становится следующий принцип демократии

Принцип выборности власти

Выражается в законодательном закреплении всеобщего избирательного права, подразумевающего свободные тайные и регулярные выборы, образование партий и объединений. Демократические страны в своем законодательстве устанавливают всеобщее избирательное право, за исключением случаев предусмотренных законом. Электоральный процесс обеспечивается строго установленной своевременностью и периодичностью проведения выборов.

На основании общепринятых положений о демократических выборах, они должны быть равными, всеобщими, прямыми и проходить посредством тайного голосования.

Этот принцип устанавливает, что представители власти неизменно избираются и нередко высшие лица назначают и освобождать от должности своих заместителей лично. Таким образом, гарантируется отсутствие монополизации власти какой-либо политической силой

Как было уже ранее сказано – все принципы демократии действуют «в связке» и логично исходят друг из друга. Такова цепочка: источник власти в демократическом государстве – народ, передающий при необходимости часть своих политических прав определенным лицам или группам лиц, реализующим эти права от его имени. Подобная передача возможна только лицу или лицам, которые были выбраны большинством. В этом и проявляется наглядность сообщающегося действия демократических принципов.

Далее необходимо сказать еще о двух принципах, без которых невозможно полноценное существование

Властные функции передаются в строго определенном порядке, закрепленном Конституцией государства. Следовательно, получаем - принцип конституционализма. Исходя из него, конституция обладает высшей юридической силой в сравнении с остальными правовыми нормами. Все основные принципы государственного управления, важнейшие права и свободы граждан закреплены, как правило, именно в ней. Что касается непосред-

ственной регламентации, то в Конституции любого демократического государства прописан порядок избирательного процесса, полномочия конкретных лиц, определения большинства.

Далее закономерно завершает перечень принципов – политико-правовое равенство граждан, которое заключается в равноправии граждан, когда речь идет о голосовании и оказании влияния на процесс принятия решений, выдвижении своей кандидатуры на различные должности, доступе к ресурсам власти. Этот принцип устанавливает, что все вышеупомянутые права не будут ущемлены, в том числе ограничениями, связанными с какими-либо отличиями, привилегиями. В сущности все это значит введение общегражданских стандартов политической реализации прав человека. Наглядно этот принцип можно наблюдать в законодательствах различных стран:

Ст.7.1 Конституции Австрии: «Все граждане равны перед законом. Преимущества рождения, пола, сословия, класса и вероисповедания не допускаются»

Ст. 18 Конституции РФ: «Все равны перед законом и судом. Государство гарантирует равенство прав и свобод человека и гражданина независимо от пола, расы, национальности, языка, происхождения, должностного и имущественного положения, места жительства, отношения к религии, убеждений, принадлежности к общественным объединениям»

Также вполне закономерно, что принципы демократии тесно связаны с принципами правового государства. Правовое государство – это форма организации политической власти в стране, основанная на господстве закона и соблюдении прав и свобод человека и гражданина. Сама идея такого государства родилась достаточно давно, но непосредственно термин был закреплен в литературе только в первой трети XIX века. Что спровоцировало ее появление? Острая необходимость в ответственности власти перед народом. Среди ярких представителей этой теории можно назвать Дж. Локка и Ш. Монтескье. Их концепции были отражены в Конституциях США и Франции в конце XVIII века.

В качестве основных принципов правового государства выделяют:

1.господство закона во всех сферах общественной жизни, в том числе над органами власти;

2.признание и гарантирование прав и свобод человека;

3.взаимная ответственность государства и гражданина. Они в равной степени несут ответственность за свои действия перед законом;

4.разделение ветвей государственной власти. Этот принцип исключает возможность узурпации политической власти в стране;

5.разграничение полномочий между органами власти различных уровней;

6.широкий контроль над осуществлением законов со стороны прокуратуры, суда, арбитража, налоговых служб, правозащитных организаций, средств массовой информации и других субъектов политики.

Невооруженным глазом можно заметить созвучие этих постулатов с принципами демократии. Это обусловлено тем, что установление правового государства невозможно без стабильного демократического строя внутри страны. Сложно представить правовое государство в условиях, например, тоталитаризма, где полностью отсутствует какая-либо ответственность власти перед гражданами, а правах и свободах вообще принято умалчивать. Демократия служит основой в данном случае, «удобренной почвой», а идеалы правового государства «семенами». По-моему мнению, в симбиозе мы получим идеальный политический строй.

На основании всего вышесказанного мы можем констатировать, что принципы демократии являются внешним формализованным выражением демократических прав и свобод, помогающим выстраивать властные отношения между государством и народом в соответствии с общемировыми демократическими ценностями. Также в соответствии с ними развиваются демократические институты , являющиеся структурной единицей демократии в целом . В следующем параграфе мною будет изучено системное воплощение

демократии, а конкретно в виде политического режима.

В практическом исполнении мы можем наблюдать реальное политическое действие демократии в качестве государственного режима. На сегодняшний момент демократия является самым распространенным политическим режимом в мире и охватывает большую часть Западной Европы, самобытно осуществляется в странах за Атлантикой и в Российской Федерации. Продолжаются исследования по поводу выяснения причин такой популярности демократии и, как следствие, существует значительное количество точек зрения по данному вопросу. Как и любое комплексное понятие, демократия с данной точки зрения обладает рядом характеристик и общей сущностью. В виде политического режима демократия наиболее масштабна, так как только через подобное внедрение она может оказывать влияние и регулировать все стороны общественной жизни.

У демократии есть богатая история, которая кратко была описана в предыдущей главе. Изначально, по некоторым оценкам демократия не являлась в полном смысле властью народа. Она была ограничена властью свободных, состоятельных (богатых) граждан исключительно мужского пола. По мнению Аристотеля, подобная «социально лимитированная» демократия не являлась лучшей формой правления, считая, что в условиях ограниченности вернее было бы установить аристократической власти, так называемому «правлению избранных» [2].

С ходом истории количество граждан, обладающих правом участия в политической жизни, значительно увеличивалось. Такой вывод можно сделать, исходя из наблюдений за эволюцией избирательного права – от ограниченной различными цензами (имущественными, половыми, расовыми и др.) до всеобщей возможности выбирать власть, участвовать в референдумах, утвердившейся в современных демократиях сравнительно недавно – лишь к середине прошлого века.

Бесспорно, что демократия – один из наиболее исследованных политических режимов**.** Современные теории демократии основываются в большинстве своем на видоизменённых либеральных идеях эпохи Возрождения и Нового времени. Толчок для реализации этим идеям дали первые буржуазные революции в странах Западной Европы, а также разработка и создание политической системы США.

Ныне есть очень незначительное в мировом масштабе количество стран и политических образований, не желающих осуществить демократию. В чем же ее секрет успеха?

В первую очередь играет роль внешняя привлекательность для народа самого слова «демократия». В дословном переводе означая «власть народа» или «народовластие», демократия связывается в представлении простых граждан с идеями свободы, гуманности, справедливости и равноправия как ценностями, конфронтирующими с диктатурой тоталитаризма.

Также весомое значение имеет безоговорочные достижения в социально-экономической и других общественных сферах отдельных Западных стран. Часто их определяют, как лидеров в плане усвоения социумом демократии. Фактически это формирует в сознании людей суждение об образцовости их режима. Но все же сложившаяся в XX в. и доказавшая на практике свою эффективность современная западная демократия также не идеальна. Объективно она может быть оценена в сравнении с другими современными демократическими странами.

Активно ведется в современной политологии познание сути демократии в качестве политического режима и оценка основных характеристик ее модификаций. Довольно известной концепцией демократии сегодня является «Полиархия» американского политолога Роберта Даля, которых также написал знаменитую работу «О демократии», тем самым внеся большой вклад в осмысление этого непростого понятия. В своих трудах «Введение в теорию демократии», «Плюралистическая демократия в США», «Полиархия: участия и оппозиция» и др. Американский ученый предложил свою классификацию политических режимов, в числе которых была соревновательная олигархия (демократия для экономиче-

ски господствующих классов) и полиархия (современная модель представительной демократии) [4].

По мнению Р. Даля основными характеристиками полиархии являются: 1. равенство всех граждан перед законом (правовое равенство);

2. всеобщее избирательное право (политическое равенство);

3. свободные и честные выборы, подразумевающие определенность юридических процедур для их проведения, при неопределенности результатов по их окончании;

4. результаты выборов необратимы, сами выборы повторяемы – в установленном законом порядке;

5. наличие государственных или общественных организаций для осуществления контроля над деятельностью исполнительной, законодательной и судебной власти;

6. легитимность власти;

7. демократические свободы

8. свобода слова, реализуемая без угрозы наказания, свобода СМИ наличие в обществе различных альтернативных источников информации,

9. свобода митингов и демонстраций, свобода совести,

10. свобода создания партий, общественных организаций, массовых движений;

11. соблюдение прав человека [5].

Из всего вышеперечисленного можно сделать вывод, что современная модель демократического режима, так называемая полиархия, подразумевает правление многих, но не всех, правление большинства, но уважение к правам меньшинства. Существование подобного режима предусматривает определенные условия. Американский политолог Данкварт Растоу (1925–1996) в качестве основного условия формирования полиархии выделяет государственное единство как совокупность гражданского общества с его суверенитетом и органов власти, то есть сообщающаяся деятельность этих двух политических институтов дает в результате стабильное функционирование полиархии. К экономическим условиям становления полиархии относится [6]:

1. высокий уровень развития промышленности и сельского хозяйства;

2. сбалансированность экспорта и импорта при доминировании экспорта готовой продукции, а не сырья;

3. развитая инфраструктура;

4. устойчивая банковская система и национальная валюта;

5. высокий уровень доходов и благосостояние на селения.

Социальные условия формирования полиархии предполагают:

1. наличие устойчивой социально-классовой структуры при доминировании среднего класса;

2. высокий уровень образования и профессиональной квалификации населения; количество и качество граждан (здоровье и продолжительность – жизни);

3. толерантность к представителям различных этносов, населяющих страну, и их религиозному мировоззрению.

К политическим условиям становления полиархии относят:

1. правовое государство;

2. легитимную представительную власть;

3. наличие оппозиционных партий, организаций, движений;

4. политическое участие и политическая активность граждан;

5. вободная деятельность СМИ.

Для реализации полиархии необходимы также и культурные условия, основным из которых является формирование и распространение норм и ценностей индивидуализма и рационализма, отказ от мифологизированного мировоззрения и коллективизма.

Полиархия представляет собой лишь образец одной из моделей демократического режима, но так как на сегодняшний день она самая распространённая, рассматривая демо-

кратический режим через временную призму с учетом современных политических тенденций, то на практике мы можем говорить комплексно именно о ней, как о демократическом режиме, ведь большинство остальных примеров остаются по сей день лишь теориями.

Таким образом, сформированные в обществе условия позволяют осуществить переход от авторитарного режима к полиархии, который в современной политологии получил название «демократический транзит», проще говоря, переход к демократическому режиму

Надо отметить, что принципы демократии в целом корреспондируют принципам демократического режима, что вполне закономерно и объяснимо, ведь демократический политический режим является по факту производным звеном объемного понятия демократии.

Также важно понимать факт различия демократии идеальной и демократии реальной. Заманчивость идеи демократии заставляет людей закрывать глаза на многие противоречия теории и практики, а неоднозначность самой концепции делает возможным использование этого термина в иных не связанных с демократией целях. Чаще всего, направление мыслей большинства подвержены влиянию довольно узкими индивидуальными или коллективными потребностями. И поэтому есть опасность перевеса политических сил и манипулирования этими самыми общественными интересами, а тогда и в принципе весь демократический режим становится фикцией. «Когда речь идёт о таких понятиях, как «демократия», – писал Дж. Оруэлл, – то обнаруживается не только отсутствие его общепринятого определения, но и любые попытки дать такое определение встречают сопротивление со всех сторон. Сторонники любого политического режима провозглашают его демократией и боятся утратить и пользоваться этим словом в том случае, если за ним будет закреплено какое-то одно значение».

Вопреки продолжающимся дебатам, наличию многочисленные толкований и теоретических учений, современная преимущественно либеральная модель демократии, реализованная в политической жизни западных стран, имеет относительно оформившиеся черты и принимается мировым сообществом за некий «стандарт». По сути, демократический режим в реальности это больше совокупность принципов, норм, институтов и процессов, позволяющих привнести в жизнь идею народовластия.

Наиболее общие принципы (они же – критерии, признаки), характерные для этого политического режима, нашли свое закрепление в международно-правовых документах и в конституционных законах современных демократических государств, включая Россию.

Однако же, несмотря на некоторые подводные камни, демократический режим ныне процветает и развивается, хоть и с погрешностями на политические, социальные и экономические «девятые валы» во время условного затишья. Это абсолютно нормально для прогрессирующего явления

В общем, демократия, как политический режим, очень неоднозначна, так как зачастую из-за множества факторов от нее остается лишь только видимая оболочка, а сущностные качества искажаются под давлением интересов определенной категории людей. Идеальной политической системы не существует, поэтому при оценке действия демократии стоит помнить о естественных противоречиях в вопросах, касающихся общества и политики. Но это скорее можно отнести к проблемам осуществления демократии, которую более подробно будет рассмотрена в следующем параграфе.

Поистине внушительные масштабы распространения демократических идеалов и вместе с ними перемен в политической и общественной жизни по всему земному шару не гарантируют гармоничной эволюции этого явления. По опыту предков, демократия есть очень хрупкая конструкция, и если не поддерживать ее с помощью соответствующий «инструментов», то ее существование будет сомнительно и практически невозможно.

Избирая ту или иную власть, народ ждет немедленного исполнения своих ожиданий, зачастую даже не размышляя над программой собственных действий, направленных на

улучшении качества работы системы, обеспечивающей стабильную и благоприятную общественную обстановку, их участие заканчивается непосредственно выборами. Эта проблема очень широко распространена и характерна, в том числе и для России, если рассматривать ее как государство, сравнительно недавно начавшее свой путь к становлению развитой демократии.

Социальное неравенство граждан, по мнению Р. Даля, является первостепенной и глобальной проблемой, затронувшей все демократические страны. Перспектива развития демократии, с его точки зрения, зависит от степени приближения демоса (народа) к элите, принимающей решения. Развитие правовой и политической культуры граждан, их активное содействие в улучшении жизни общества и государства является обязательным условием развития демократии. И соответственно существует закономерная зависимость уровня политического участия и требований, предъявляемых власти – динамичная деятельность порождает рост спроса. Именно так можно приблизиться к идеальной демократии, но на данный момент, к сожалению, это практически неосуществимо по причине постоянного увеличения пропасти между различными слоями общества.

В свою очередь, Дж. Сартори считает мощной силой противоборствующей демократии желание постоянного достижения более близкой к идеальной и совершенной ее формы [7]. Развитие демократии провоцирует появление мифов, благоприятных для нее, долгосрочных планов, однако, своевременно не реализованные, эти мифы становятся утопией, разрушающей демократию изнутри. Неоправданные ожидания приводят к разочарованию властью и приводят в итоге к апатичности граждан в плане участия в политической жизни.

Вне всякого сомнения, также основополагающим противоречием демократии является тот самый принцип большинства при принятии коллективного решения. С точки зрения американского политолога Данкварта Растоу «демократия – это система правления временного большинства» [8]. Этот принцип признан несостоятельным и несовершенным частью авторитетным исследователей в области политологии, но, к сожалению, альтернативный вариант, пока еще не сформулирован. Вся проблема заключается в том, что хоть и меньшинству и гарантировано право выражения иного взгляда, существенного влияния на политическую жизнь этот процесс не оказывает, результатом чего становится постепенное разложение оппозиции и разрушение политического плюрализма внутри государства.

Опасение несколько иного характера выражает американский политолог Филипп К. Шмиттер. Он видит угрозу демократии в том, что граждане стран с уже сформировавшейся хоть и «ограниченной», но стабильной демократией начинают сомневаться в эффективности такой системы, отрицательно влияя на ее развитие в новых демократических государствах, которые только начинают овладевать подобной практикой. Существенное расхождение обещанного и полученного может привести к разрушительному разочарованию народных масс в демократическом режиме, а благодаря постоянно углубляющейся глобализации этот процесс распространиться на все страны с таким строем.

Как можно заметить из всего вышеперечисленного, существует масса потенциальных и реальных проблем в осуществлении демократии. Отражением этой ситуации являются результаты социологических исследований, по которым видно, что с каждым годом растет уровень неудовлетворенности обществом действием демократического режима и недоверия к функционированию его институтов, механизмов.

Парадоксально, что вместе с ростом демократизации происходит прямо пропорциональный рост недоверия общества к этой системе управления. В результате, на смену еще сравнительно недавно господствовавшему в политологическом сообществе триумфализму, порожденному расширением «демократического ареала», пришел период отрезвлений и тревог относительно перспектив демократической системы правления.

Насущные проблемы демократии в большинстве своем, так или иначе, продиктова-

ны тенденциями глобализации. Эта связь выражается в уменьшении сфер деятельности суверенной власти страны и сужении компетенции демократических институтов.

Так на протяжении всей прежней истории развитие демократии было связано с перемещением власти с местного на общенациональный уровень. Вместе с установлением территориального пространства демократического режима в границах нации-государства произошло конкретное определение понятия «народ», что стало непосредственным толчком для осуществления народовластия исключительно в интересах народа.

Но сегодня мы являемся свидетелями процесса воистину мирового масштаба - власть постепенно перекачивается с национального на наднациональный, мировой уровень. Такие структуры как транснациональные промышленные и финансовые корпорации, международные организации образуют в целостности некую неофициальную систему по факту общемирового правления, которая контролирует различные транзакции, экспорт и импорт услуг, рабочей силы, произведений творческой деятельности, товаров и тем самым существенно урезает правомочность в этих аспектах национальных органов власти в демократических странах.

Глобализация влияет на курс стран не только во внешней, но и во внутренней политике. Тенденции приведения демократии к общему знаменателю ведут к переориентации правящего слоя на общемировые интересы, а, следовательно, запросы народа перестают удовлетворяться в принципе, это вызывает недовольство и волнения в обществе. Другими словами демократический режим должен в большей доле быть национальным, нежели общемировым, если, конечно, государство не хочет потерять свой суверенитет. А в современных условиях, исходя из ситуации это просто вопрос времени.

Характерно проявляющееся усугубление разночтений между реальной политикой и общественными запросами позволяет охарактеризовать одну из проблем современной демократии как «автономизация политики». Происходит постепенное отделение представительной власти от воли народных масс. В результате чего проявляется падение степени доверия граждан к справедливости решений «сверху», кризис парламентаризма, как института демократии, развитие политического абсентеизма и к обращению значительной части масс, в том числе экстремистским организациям.

Своеобразие проблематики современной демократии заключается в форсированном влиянии изнутри экзогенных факторов, к которым можно причислить иммиграцию, терроризм, международная преступность, уничтожение национальной самобытности. Внешнее воздействие чаще всего намного опаснее, чем некоторые внутренние противоречия, так как они не поддаются регулировке и могут серьезно навредить демократическому режиму.

Еще одним компонентом «внешнего воздействия» на общемировую демократию, во многом определяющим не только ее сегодняшнее состояние, но, скорее всего, и тенденции ее развития на длительную перспективу, является международный терроризм. Превращение международного терроризма в один из важнейших факторов современной реальности с особой остротой ставит в повестку дня внутриполитической жизни стран вопрос о необходимости определенного переосмысления проблем функционирования демократии в контексте появления качественно новых угроз ее безопасности. С превращением международного терроризма в один из важнейших факторов современной реальности, традиционная для граждан демократических государств приверженность ценностям либеральной демократии с ее приоритетом прав и свобод личности оказалась потесненной пониманием того, что обеспечение общественной безопасности требует в современном мире известного ограничения индивидуальных свобод, усиления мер полицейского контроля и определенного отступления от принципов личной неприкосновенности [9].

В российской интерпретации демократия буквально сражается с пережитками своего уникального прошлого, обуславливающего специфическое общественное сознание, противостоящее демократическому прогрессу. Но медленно, но верно мы все же движемся к

ее стремительному становлению. В виду весьма конфликтного перехода к демократии и все еще формирующихся систем, обеспечивающих права человека и гражданина, а также неустойчивости институтов представительной власти, механизмов осуществления прямого народовластия, российскому социуму еще предстоит пройти через многие этапы развития демократии.

Подводя итоги этому параграфу, необходимо отметить, что реалии нашего времени вынуждают демократию постоянно видоизменяться, для того чтобы продолжать свое существование. Это уже не просто политический режим, это сложный обособленный механизм, который функционирует не всегда предсказуемо, а значит проблемы, связанные с его реализацией будут возникать стихийно. В связи с этим, изменения, происходящие в демократии под влиянием новых реальностей, приобретают качественно новый характер, сущность которого еще во многом неясна.

На основании всего вышесказанного можно констатировать, что значение принципов демократии сложно переоценить, ведь они являются опорой этого уникального механизма, выработанного столетиями и, вопреки всем испытаниям, продолжающего свое феноменальное развитие. Что касается демократического режима, то его сущность неоднозначна. Существует много теорий, расходящихся с практикой. Но самое главное, что в процессе исследования для меня стало очевидным – есть общие черты, характерные для всех демократических государств, но действует он везде по-разному и приобретает со временем некоторые самобытные национальные черты. Проблемы же, связанные с его реализацией, вполне закономерны – очень тяжело скоординировать работу ради всеобщего блага огромной массы людей, при этом учитывая мнение каждого. Практически невозможно, но человечество не сдается и продолжает идти к самому справедливому, по его мнению, из ныне существующих политическому режиму – демократии.

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К ВОПРОСУ О РАЗУМНОМ СРОКЕ ПРЕДЪЯВЛЕНИЯ ТРЕБОВАНИЯ К СУБСИДИАРНОМУ ДОЛЖНИКУ

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АННОТАЦИЯ

В данной статье рассматривается вопрос о разумном сроке предъявления требования к субсидиарному должнику. Какова продолжительность разумного срока. В какой момент кредитору необходимо предъявлять требование к субсидиарному должнику. На эти вопросы мы постараемся ответить в данной статье.

Ключевые слова: разумный срок; субсидиарная ответственность; субсидиарный должник.

TO THE QUESTION ABOUT REASONABLE TIME OF PRESENTATION SUBSIDIARY SUBSIDIARY REQUIREMENTS

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ABSTRACT

This article addresses the issue of a reasonable time limit for filing a claim against a subsidiary debtor. What is the duration of a reasonable time. At what point the lender must make a claim on the subsidiary debtor. We will try to answer these questions in this article.

Keywords: reasonable time; subsidiary liability; subsidiary debtor.

Прежде чем предъявлять требования лицу, которое в соответствии с законом, другими правовыми актами или условиями обязательства несет ответственность дополнительно к ответственности другого лица, являющегося основным должником, кредитор должен предъявить требование к основному должнику.

Если основной должник отказался удовлетворить требование кредитора или кредитор не получил от него ответа на требование в разумный срок, это требование может быть предъявлено лицу, несущему субсидиарную ответственность[1].

При разрешении споров, связанных с применением субсидиарной ответственности, следует иметь в виду, что порядок предварительного обращения кредитора к основному должнику предусмотренный пунктом 1 статьи 399 Гражданского кодекса РФ (далее по тексту – ГК РФ) может считаться соблюденным, если должник отказался удовлетворить его или кредитор не получил ответа на запрос в разумный срок[2].

Прочитав п. 1 ст. 399 ГК РФ остается неясным, имеет ли кредитор право подать иск субсидиарному должнику, если основной должник признал долг в ответ на требование кредитора, но он не может его удовлетворить. В этом случае должник формально не отказывался удовлетворить требование кредитора, не установлен и факт неполучения ответа в течение разумного срока от должника.

Как пояснили вышестоящие суды, при разрешении споров, связанных с применением субсидиарной ответственности, следует иметь в виду, что предварительное обращение кредитора к основному должнику может считаться соблюденным, если кредитор предъявил требование основному должнику и он получил отказ от основного должника, либо от основного должника не поступил ответ в разумный срок[3].

Однако важно иметь в виду два момента. Во-первых, субсидиарная ответственность согласно части 1 статьи 399 ГК РФ наступает в случаях, когда основной должник либо отказался удовлетворить требование кредитора, либо не ответил на это требование в разумный срок. Что касается субсидиарной ответственности собственников учреждений, то за-

коном установлено дополнительное условие – недостаточность денежных средств, находящихся в их распоряжении. Если это условие подтверждается, учреждение перестает быть ответчиком, потому что действительно невозможно наложить на него имущественную ответственность из-за недостатка имущества, на которое можно обратить взыскание. Таким образом, собственник становится ответчиком. Иск подается к собственнику, а не к учреждению [4].

В случае если поступил отказ от основного должника, кредитор имеет право сразу предъявить требование к субсидиарному должнику. А вот если ответа не поступило. Как в таком случае поступать кредитору, в какой момент он имеет право предъявить требование к субсидиарному должнику?

Для решения данного вопроса мы предлагаем установить продолжительность разумного срока предъявления требования к субсидиарному должнику, которая будет исчисляться с момента отказа основным должником в удовлетворении требований, либо если не последовал ответ от основного должника с момента получения требования основным должником требования от кредитора в течении одного календарного месяца.

Исходя из вышесказанного, автор предлагает заменить в части 1 статьи 399 ГК РФ понятие «разумный срок» на срок в один календарный месяц, с целью устранения проблем предъявления требования к субсидиарному должнику. Считаем, что месячного срока будет достаточно для того, чтобы основному должнику ответить кредитору сможет ли он удовлетворить требования или нет. При этом срок исковой давности остается прежним. Кредитору стоит предъявлять требование к субсидиарному должнику непосредственно после отказа удовлетворения требований основным должником либо непосредственно по истечении одного календарного месяца в случаях, если не поступил ответ от основного должника.

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МЕЖДУНАРОДНО-ПРАВОВОЕ РЕГУЛИРОВАНИЕ ЗАНЯТОСТИ И ТРУДОУСТРОЙСТВА

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АННОТАЦИЯ

Данная работа раскрывает положения основных нормативно-правовых документов международного характера в области регулирования занятости и трудоустройства населения. Автор обращается к вопросу роли Международной Организации Труда для регулирования данного института и тех актов, которые принимаются данной международной организацией. Отдельно автор отмечает роль Организации Объединенных Наций в области регулирования занятости и трудоустройства населения.

Ключевые слова: занятость; трудоустройство; международное регулирование; международное сотрудничество; международные нормативно-правовые акты; Международная Организация Труда; Организация Объединенных Наций.

INTERNATIONAL LEGAL REGULATION OF EMPLOYMENT

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ABSTRACT

This work reveals the provisions of the main legal documents of international character in the field of regulation of employment and employment. The author addresses the issue of the role of the International labour Organization in regulating this institution and the acts adopted by this international organization. Separately, the author notes the role of The United Nations in the regulation of employment and employment.

Keywords: employment; employment; international regulation; international cooperation; international legal acts; international labour Organization; United Nations.

Главными международными нормативно-правовыми актами, которые осуществляют регулирование занятости и трудоустройства, являются соответствующие декларации и конвенции Организации Объединенных Наций. Пункт 1 статьи 23 Всеобщей декларации прав человека закрепляет право каждого человека на свободный труд и самостоятельный выбор работы[1].

В дальнейшем положения данной статьи раскрывают право каждого человека на получение достойной оплаты труда и коллективной защиты своих интересов путем создания профсоюзов. Появление данной статьи было прямым следствием Второй мировой войны, где отдельные страны активно использовали принудительный труд мирного населения, военнопленных и лиц определенной национальности.

А.Элкок в своих работах отмечает, что международное признание для каждого человека возможности самостоятельно определять место работы является одним из крупнейших достижений международной правовой мысли [5, с.111]. Он отмечает, что на протяжении большей части своего существования человечество активно использовало принудительный труд других людей. Во времена античности это было рабство, в средние века на смену пришел феодализм с его «закреплением» каждого крестьянина за конкретным

[1]Всеобщая декларация прав человека от 10 декабря 1948 года. Ст. 23

дворянином, а с развитием нового времени под аналогичные условия попали рабочие на фабриках и заводах, которые были зависимы от владельцев мануфактур.

Под эгидой Организации Объединенных Нацией существует Международная организация труда, которая осуществляет международное регулирование трудовых взаимоотношений, а также предпринимает усилия по гармонизации национального законодательства. В частности, Конвенция об упразднении принудительного труда №105 от 5 июня 1957 года обязывает каждого из ее членов упразднить любые формы принудительного труда в любых его формах и по любым политическим, социальным либо экономическим причинам.

Появление данной конвенции является прямым ответом на существовавший во многих странах принудительный труд политических заключенных, где их отправляли на государственные стройки в качестве меры наказания. Отдельного упоминания заслуживает тот факт, что данная конвенция достаточно жестко регулирует порядок выхода из нее: «Каждый Член Организации, ратифицировавший настоящую Конвенцию, который в годичный срок по истечении упомянутого в предыдущем пункте десятилетнего периода не воспользуется своим правом на денонсацию, предусмотренным в настоящей статье, будет связан на следующий период в десять лет и впоследствии сможет денонсировать настоящую Конвенцию по истечении каждого десятилетнего периода в порядке, установленном в настоящей статье» [2].

Международный пакт Организации Объединенных Нацией 1966 года «Об экономических, социальных и культурных правах» закрепляет намерение каждого государства предпринять все необходимые силы для трудоустройство каждого человека независимо от его нации, пола, политических взглядов и т.д. [3]. Как отмечают современные исследователи, данный документ важен тем, что закрепляет право каждого человека, в том числе представителя другой страны и имеющим, соответственно, другое гражданство, получить равный доступ при трудоустройстве на работу [6].

Большую роль Международная Организация Труда уделяет вопросам оплаты труда. Конвенция об установлении минимальной заработной платыс особым учетом развивающихся стран от 1970 года специально устанавливает наличие обязательного государственного минимума заработной платы. При этом следует отметить, что в каждой стране уровень жизни и зарплат сильно разнится, поэтому МОТ воздержалось от установления конкретных показателей, а ограничилось удовлетворением потребностей работников и экономических соображений [4].

Тем не менее, большое позитивное значение данная конвенция имеет и потому, что она накладывает на государства члены-обязательства по мониторингу и отслеживанию ситуации по заработным платам. Она обязывает каждое государства создать соответствующие трудовые инспекции.

Следует отметить, что много конвенций и рекомендаций МОТ по вопросам охраны труда (техники безопасности и гигиены труда), в частности о запрете использования некоторых вредных веществ (белый фосфор, бензол и др.) в производстве, об охране труда детей и подростков, минимальном возрасте их допуска к отдельным видам труда, о запрете использования труда их и женщин на подземных работах, о медицинском освидетельствовании детей и подростков для выяснения их пригодности к труду в промышленности.

Есть также акты, касающиеся охраны труда моряков, женщин, охраны материнства, ограничения подъема тяжестей и ряд других актов по защите трудящихся на производстве, технике безопасности и гигиене труда, защите от профессиональных заболеваний.

Некоторые современные ученые обращают внимание на тот факт, что с началом XXI века процесс глобализации настолько повлиял на современные общественные отношения,

что международное законодательство стало приобретать все большее значение, чем национальное [7]. Современный мир стремительно локализируется и интегрируются, а старые государственные границы начинают становиться неактуальными. Примеры Европейского Союза и Евразийского экономического союза подтверждают, по мнению правоведов, что существовавшие ранее способы правового регулирования становятся неактуальными.

Особенно архаичными выглядят попытки некоторых государств искусственно создать конкуренцию среди локальных кадров путем введения жестких протекционистских мер. Свободный переход трудовых ресурсов, «переток» знаний и специалистов является непременным атрибутом любого современного развитого государства. Вместо создания искусственных барьеров, все больше стран наоборот активно способствуют привлечению квалицированных иностранных специалистов путем либерализации местного трудового и миграционного законодательства.

В итоге, международно-правовое регулирование в сфере занятости населения и трудоустройства осуществляется с помощью Конвенций ООН и подотчетных ей организаций.

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АННОТАЦИЯ

В статье рассматривается проблема затрагивающая специализированные прокуратуры , которые не урегулированы законодательством, в частности деятельность транспортной прокуратуры на метрополитене. Также в статье описываются военные и природоохранительные прокуратуры и их роль в государстве.

Ключевые слова: структура органов прокуратуры; факторы препятствующие развитию; полномочия транспортных прокуратур; метрополитен.

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ABSTRACT

The article deals with the problem affecting specialized Prosecutor's offices , which are not regulated by the legislation, in particular the activities of the transport Prosecutor's office on the subway. The article also describes the military and environmental prosecutors and their role in the state.

Keywords: structure of Prosecutor's offices; factors impeding development; powers of transport Prosecutor's offices; metro.

Прокуратура РФ представляет собой систему органов и учреждений, расположенных в иерархическом порядке и выполняющих установленный законом спектр полномочий и задач [1].

Структура органов прокуратуры достаточно обширна. В структуру прокуратуры так же входят специализированные прокуратуры. Организация и деятельность специализированных прокуратур в современных условиях обусловливается объективной необходимостью обеспечения законности в специфических сферах, имеющих особую важность для функционирования общества и государства [2].

Специализированные прокуратуры являются неотъемлемым элементом прокурорской системы.

Специализированные прокуратуры, в отличие от территориальных, не привязаны к административно-территориальному делению страны. Выделяют следующие виды специализированных прокуратур: транспортные, военные, природоохранные, прокуратуры закрытых административно-территориальных образований и прокуратуры по надзору за со-

блюдением законов в исправительных учреждениях. Эти прокуратуры условно можно разделить на две группы.

К первой группе относятся военные прокуратуры, прокуратуры в закрытых административно-территориальных образованиях. Эта группа специализированных прокуратур выполняет все прокурорские полномочия в полном объеме в определенных сферах. Ко второй группе относятся транспортные, прокуратуры по надзору за исполнением законов в исправительных учреждениях, а также природоохранные. Указанный тип прокуратур осуществляет те же полномочия и задачи, что и территориальные прокуратуры, но значительно их дополняет [4].

Так, военная прокуратура РФ призвана осуществлять надзор за исполнением законов в Вооруженных силах, воинских формированиях и иных органах. Руководит Военной прокуратурой Главный военный прокурор, который назначается на должность Советом Федерации по представлению Президента РФ и является заместителем Генерального прокурора РФ. Система органов Военной прокуратуры представляет собой слияние подсистем (уровней): Главной военной прокуратуры, военных прокуратур военных флотов, округов и других военных прокуратур, приравненных к прокуратурам субъектов, и военные прокуратуры соединений, гарнизонов, объединений и иных военных прокуратур, приравненных к прокуратурам городов и районов.

Природоохранные прокуратуры появились в 80-х годах прошлого столетия, когда стало очевидным, что территориальные прокуратуры не имеют возможности осуществлять в полной мере надзор за соблюдением законов в сфере охраны окружающей среды, поскольку совершение преступлений в сфере экологии не связано с административно-территориальным делением, а приурочено к географическим особенностям той или иной местности. В данный момент в нашей стране функционирует 74 природоохранные прокуратуры. Названный вид прокуратур создаются на правах районных прокуратур на территории соответствующего субъекта или на правах прокуратур субъектов РФ В качестве факторов, препятствующих развитию и функционированию природоохранной прокуратуры выступают, в частности:

1. невысокий уровень экологической грамотности населения;

2. высокая общественная опасность современных экологических правонарушении и преступлении;

3. недостаточная методологическая обеспеченность деятельность прокуратуры;

4. несовершенство экологического законодательства.

Совершенствование деятельности природоохранной прокуратуры возможно только путем решения следующих проблем:

1) расширение пределов компетенции прокураторы в целом;

2) совершенствование средств прокурорского надзора, в том числе природоохранной прокуратуры;

3) совершенствования направлении деятельности природоохранной прокуратуры.

Именно взаимодействие различных органов превращает природоохранную деятельность в единую скоординированную деятельность, где каждый конкретный орган представляет собой определенное звено единого организационного механизма охраны окружающей природной среды и обеспечения экологической безопасности.

Транспортные прокуратуры призваны осуществлять надзор за исполнением законов о безопасности дорожного движения на всех видах транспорта (морском, железнодорожном, воздушном). Они действуют на правах прокуратур субъектов и правах прокуратур районов. Необходимость создания транспортных прокуратур обусловлена тем, что преступления в названных сферах совершаются внетерриториально. Эффективная работа транспортных прокуратур в условиях реального времени очень важна, поскольку практически все хозяйствующие субъекты, действующие на водном железнодорожном и особен-

но воздушном транспорте, по причине больших затрат не осуществляют своевременный ремонт транспортных средств, не закупают новый транспорт взамен уже устаревшего, что влечет за собой постоянную гибель огромного количества людей.

Транспортная прокуратура – это государственный правоохранительный орган, осуществляющий надзор за соблюдением законодательства и расследование преступлений, совершенных на железнодорожном, водном, воздушном транспорте. Она является специализированной прокуратурой Российской Федерации [5].

К основным полномочиям транспортных прокуратур, приравненных к прокуратурам субъектов РФ относятся:

1) Надзор за исполнением Конституции РФ, проверка соответствия деятельности закону со стороны органов транспортного управления.

2) Одним из основных направлений деятельности является уголовное преследование, которое производится по трем категориям дел, а именно: преступления, относящиеся к транспортным организациям и относящимся непосредственно к транспорту; преступления, которые совершены из-за халатности либо неисполнения своих должностных обязанностей работником транспортной организации; преступления, которые связаны с нарушением правил движения на транспорте.

3) Также транспортный прокурор участвует в разбирательстве гражданских и арбитражных дел. Транспортный прокурор участвует в разбирательстве административных дел и дел, относящихся к таможенной сфере.

4) Транспортному прокурору необходимо обмениваться информацией с прокурорами субъектов Федерации, взаимодействовать с ними и совместно координировать деятельность по борьбе с правонарушениями.

5) Рассматривать обращения от граждан в сфере транспорта при нарушении закона.

На современном этапе одним из видов транспорта является метрополитен. Однако, за развитием нового вида транспорта не поспевает законодательство, которое не устанавливает каких-либо четких правил прокурорского реагирования на преступления и правонарушения, совершаемые в метро. Кроме того законодательство не определяет и само понятие «метрополитен». Данный пробел не только негативно влияет на развитие транспорта, но и не позволяет должным образом обеспечить защиту прав пассажиров.

В настоящее время деятельность метрополитена регулируется только внутренними, техническими подзаконными актами, не являющимися нормативными. В недрах профильного министерства ни так давно был предложен проект Федерального закона «О метрополитенах», который до настоящего времени не только не был рассмотрен законодательным органом, но и не получил оценку в самом министерстве транспорта.

Социальная значимость метрополитена как вида наземного транспорта, значима и требует законодательного регулирования. Так, организация прокурорского надзора позволит как обеспечить контроль за деятельностью специализированных предприятии, так и уделить повышенное внимание защите пассажиров как основных участников правоотношении.

Таким образом, несмотря на то, что органы прокуратуры имеют достаточно сложную систему и структуру, они все работают как слаженный единый механизм с четким подчинением нижестоящих органов прокуратуры вышестоящим, а также Генеральной прокуратуре.

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ФУНКЦИОНАЛЬНЫЙ ИММУНИТЕТ ГОСУДАРСТВА

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АННОТАЦИЯ

Дана подробная характеристика понятия «иммунитет государства». Рассмотрены концепции иммунитета государства: функциональная (ограниченная) и абсолютная. Проанализирована судебная практика РФ. Затронута Конвенция ООН о юрисдикционных иммунитетах государств. Отражены некоторые противоречия российского законодательства по данной теме.

Ключевые слова: иммунитет государства; функциональный иммунитет государства; абсолютный иммунитет государства; виды иммунитета государства; юрисдикционный иммунитет государства.

FUNCTIONAL IMMUNITY OF THE STATE

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ABSTRACT

Detailed characteristic of the concept "immunity of the state" is given. Concepts of immunity of the state are considered: functional (limited) and absolute. Judicial practice of the Russian Federation is analysed. The Convention of the UN on jurisdictional immunities of the states is mentioned. Some contradictions of the Russian legislation on this subject are reflected.

Keywords: immunity of the state; functional immunity of the state; absolute immunity of the state; types of immunity of the state; jurisdictional immunity of the state.

Иммунитетом государства выступает его право на освобождение от юрисдикции другого государства путем неприменения к нему принудительных мер со стороны органов власти другого государства. В настоящее время не существует единой общемировой практики урегулирования вопросов, связанных с применением концепции иммунитета государства. Отчасти это бремя ложится на национальные законодательства. В доктрине международного частного права существует две концепции иммунитета государства: абсолютного и функционального иммунитета.

Концепция функционального (ограниченного) иммунитета, используемая в основном в странах СНГ и Китае, подразумевает, что иностранное государство может использовать иммунитет лишь в тех случаях, когда государство выполняет суверенные функции, выступает в качестве частного лица, так называемые действия jure imperii, в отличии от концепции абсолютного иммунитета, применяемой в США и Западной Европе, основанной на принципе равенства государств «Par in parem non nabet imperium», означающем, что равный не имеет власти над равным.

Функциональный иммунитет – данный вид иммунитета основан на принципиальном разграничении функций государства на публично-правовую и частно-правовую. Это означает, что если государство действует как суверен, то есть совершает акт властвования, выступает в качестве носителя суверенной власти, то оно всегда пользуется иммунитетом, в том числе и в частноправовой сфере, а если же государство выступает в роли частного лица, занимающегося коммерческой деятельностью, то тогда оно не будет обладать иммунитетом.

Проанализировав судебную практику в Российской Федерации до принятия Федерального закона об иммунитете от 2016 года можно сделать вывод, что несмотря на то, что юридически закреплена концепция абсолютного иммунитета по ряду вопросов Россия фактически придерживалась теории функционального иммунитета. Концепция абсолютного иммунитета, которой следовал СССР, стала противоречить внешнеэкономической и контрактной деятельности Российской Федерации, и в связи с этим участилось использование концепции ограниченного иммунитета. Данная тенденция позволяет понять, что в наше время любое государство не должно придерживаться концепции абсолютного иммунитета, ввиду того, что использование данной концепции противоречит мировой практике участия государства в международных частных отношениях.

Конвенция ООН о юрисдикционных иммунитетах государств и их собственности, принятая Генеральной Ассамблеей в 2004 году, основывается на принципах не абсолютного иммунитета, а функционального. В ней указываются конкретные виды деятельности, при осуществлении которых государство не вправе использовать иммунитет. Российская Федерация ратифицировала её в 2006 году, согласно её условиям, данная конвенция должна вступить в силу после ратифицирования тридцатью государствами, а на данный момент - приняли лишь двадцать восемь государств.

На мой взгляд в международном частном праве закон какого-либо государства может ограничивать исключительно свой собственный иммунитет, но никак не должен воздействовать на иммунитет иностранного государства.

В настоящее время российское законодательство основывается на концепции абсолютного иммунитета, однако существует явное противоречие между статьями 401 ГПК РФ и 251 АПК РФ. В Гражданском процессуальном кодексе речь идёт о применении иммунитета судебного, исполнительного и в отношении мер по обеспечению иска, только с согласия органов государства. Совершенно противоположная позиция высказывается в Арбитражном процессуальном кодексе, согласно которому при осуществлении коммерческой деятельности государством право на использование иммунитета использоваться не может в связи с выполнением не публичных функций носителя государственной власти. Из этого можно сделать вывод, что законодательство Российской Федерации не пришло к единому мнению касательно вопроса применения иммунитета государства, в тех случаях, когда государство выступает в качестве частного лица.

STUDYING THE LEGAL RULES AFFECTING THE PRIVACY

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ABSTRACT

Privacy is the realm of every person's personal life that should not be entered without consent and permission. Imamiyah jurisprudence and Islamic law have emphasized on the need to respect the privacy rights of individuals. Some examples of privacy have been mentioned in the Constitution of the Islamic Republic, too. We recognize the dignity and the prohibition of privacy violations by reviewing the jurisprudential justification and legal articles, but in the event of a conflict between the personal interests with social benefits and with the governor recognition (magistrate) and legal authority, entering to the privacy by following the criteria is possible. This paper identifies the right to privacy, the expression of its types and its implications, the definition of the responsibility for the privacy violation and it investigates the Entry Permit rules to the privacy from the perspective of Imamiyah jurisprudence and Iranian law, finally. Obviously, the explanation of this issue is vital for Intelligence agencies that have access to the privacy of individuals.

Keywords: privacy rights; jurisprudential justification; criminal responsibility; civil liability.

Introduction

Privacy is the realm of every individual's life that he expects to not violate without his consent or prior notification with others, or in accordance with a law or judicial authority. The teachings of the Imamiyah jurisprudence and Islamic law have a special focus on the need to respect and protect the individual's privacy. Imamiyah jurisprudents, in accordance with different subjects, have made it necessary to respect the privacy and they ordered that "entry into the individual's privacy is forbidden, except in special cases". For example, we can refer to Ayatollah Khamenei (Supreme Leader of the Islamic Revolution)'s direct order. He says: It's not permissible to enter into the privacy of individuals without permission, although not as an exploration (search) and in other hand, taking movie and photo is forbidden in secretly and its release is second forbidden, according to religious law. Identifying and protecting the privacy rights in the Iranian legal system is not sufficiently coherent, especially after many years, we have no a valid privacy protection bill and we have no comprehensive law in this regard, too.

1- Identify the privacy right

In order to identify the right to privacy, we first begin with its conceptualization and then we will examine the jurisprudential justification for identifying the right.

1-1. the concept of the privacy right

The right to remain alone, the limited access of others to humans and the ability to prevent the unwanted access to human beings, the confidentiality and concealment of certain matters from others, control over personal information, the personality and dignity protection, the right to the intimacy and dignity of humans (Press Law, 1985)

2- Privacy jurisprudential justification

The jurisprudential evidences are divided into two parts, Traditional and rational, which are learned from four sources of jurisprudence: Quran, traditions, wisdom and consensus. In order to identify the necessity of respecting privacy as well as respect for ignoring it, we will examine the evidences and justifications:

2-1. the Quranic Reason

In Quranic verses, respect for the privacy of individuals has been emphasized and the violation of the privacy of individuals has been considered a sin and it has been considered as the hereafter punishment. Prohibition of search, prohibition of absenteeism, prohibition of suspicion and prohibition of the promoting prostitution are other examples.

The term meaning of "explore" refers to research and investigation of hidden affairs, whether for your information or for other purposes, whether for the benevolence or for the evil purposes, either good or bad affairs. Allameh Tabatabai in the no-explicit explanation says: Do not search for the imperfections of the people and do not look for the things that individuals are comfortable and consent with hiding them. (Ansari, 2007,101)

2-2. Tradition arguments (Narratives)

One of the narratives proves the need to observe the privacy and preventing the search and privacy of the people's residence place. The house or place where a person lives is a privacy that expects others to never enter and report it without permission.

Also, Prophet Muhammad (PBUH) said in the field of eavesdropping: Everyone who listens to the others conversations while they are not agree, molten lead is poured into his ear in the Doomsday. (Ansari, 1411.5 / 294). Imam Ali (AS) insists in his letter to Malek Ashtar about the neglecting peoples defects.

2-3. rational evidence

Intellect is one of four jurisprudence resources. The rational reason is the reason that its minor and major parts are rational and has a religious result which is the so-called "independence of reason and wisdom". In reasoning based on the rational evidences it can be said that according to intellect, individual's privacy violates and disclose their information and defects is cruelty and obscene. Now, if we accept this minority and add to the principle of the law, we derive the religious order from the prohibition of violating the privacy of individuals and disclosing information and their defects; therefore, since the reason for observing the privacy of individuals is good, divine Laws confirm its goodness and consider its legitimate, and because of the privacy violation is obscene based on the rational evidences, so the holy Laws acknowledges its obscene and forbids it. (Bojnurdi, 1998,2 / 357).

4-2. Consensus

Consensus means meeting and gathering with another in the word, and in the term, it means consensus of the Islamic jurists on a religious order. The source of consensus for jurisprudence is that the jurisprudent can document the consensus of the jurisprudents as his document, and be able to order according to it. Of course, in Imamiyah jurisprudence, consensus is not an independent reason, but only if the discoverer is innocent about quote or narration, it is valid. "Backbite" is one of the examples of privacy violates examples. Imam Khomeini (peace be upon him) considered the sanctity of backbite as a consensus. (Ansari, 1411.3 / 356). By inducing the jurisprudents opinions regarding the respect for the houses, the disclosure of secrets and defects can be recognized by their consensus on the need to adhere to certain aspects of privacy. (Langarody, 1991,186).

3 types of privacy

3.1 Information

Information is referred to any type of data, including audio, image, movie, writing, sign, map, numeric or combination of those contained in documents, or stored in software or recorded by any other means and advices. Information about identity, personal status, opinions and beliefs, e-mail, photos and videos, and audio and movies, and behavioral and individual behaviors such as name, place and date of birth, marriage, divorce, spouse profile, parent and child characteristics, family relationship, physical and mental discomfort, bank account number and password, workplace and residence, as well as personal information related to doing business, em-

ployment, education, financial, educational, administrative, medical and legal personal information are private information and data. (Article 1, Implementing Rules of the Law Publishing and Free Access to Information). The rules governing processing, data, and information about individuals are called privacy information. (Sadeghi, 2009,1 / 264).

The Electronic Commerce Act of 1384 (2005), although not defines the privacy in an explicitly form, but expressing the rules for the protection of data in various materials, such as supporting sensitive data (Article 58), storage, processing and distribution of data with a person's consent (Article 59) , Supporting the data on medical and health records (Article 60), tries to protect privacy by enumerating its implications. The observance of the individuals' privacy information and the lack of access to them and dissemination of their secrets are strongly emphasized and some jurisprudents have considered the believer's secrets disclosure as the collapse of justice. (Electronic Commerce Law).

3-2. Communication

Article 25 of the Islamic Republic Constitution of Iran states that the privacy of individuals in telephone e-mails and letters is specified. Based on this principle, inspecting and failure about sending the letters, the recording and disclosing of telephone conversations, the disclosure of telegraphic and telex communications, censorship, non-communication, eavesdropping, and any investigation is prohibited except by law. (Article 25 of the Constitution)

3-3.Physical

This privacy is about protecting the physical integrity against any aggression, as well as against genetic, pharmaceutical, and other tests. The physical integrity of each person is the first and foremost part for him, and the rape of it in all legal systems of the world is lead to the most severe criminal punishment, and for this reason, the most complete protection for the person is physical integrity. The violation of the physical integrity of individuals in the Qur'anic teachings is prohibited and unconscious acts such as adultery and sodomy have been forbidden (Naghibi, 2007, 15).

Unfortunately, today some defenders of human rights seek to uphold these illegitimate relationships by resorting to the privacy right, so that in some Western countries, and recently in the United States, homosexual relations have been regulated. It should be noted that the freedom of sexual relations in the community is not only a legitimate right to man but also in conflict with the rights of the community as well as contrary to divine law. (Yazdanian, 2007, 347).

3-4. place

Spatial privacy actually enforces rules that guarantee a person's comfort and security in one place of his own, in such a way as to ensure that no one is watching him at that location/place. In other words, people have a common expectation from the society that they have full freedom to use their property (house), and on the one hand, nobody distorts the property (house) and, on the other hand, no one access the property or search it. (nouri, 2004,143). The Holy Quran in verses 27 and 28 of Surah Nour says: "O believers, never enter a house other than your own home, unless in the agreement of homeowner (If they allowed you can enter) and say "hello" to the homeowner and his relatives and it is better for you to say it, and if you do not find someone in the house, do not enter the house until to be allowed to you, and if they say go back, you must go back, and this is better for your purity, and God knows everything that you do. It is understood that these verses lead believers to respect the privacy of individuals in their homes (Qur'an Karim, verse 27.28).

3-5. personality

Human personality is one of the most important examples of privacy. Although breaches of any type of privacy violate the privacy of individuals, in some cases the personality of the human is directly threatened. The Holy Quran has introduced wives as a cover to each other and expects they maintain moral disadvantages and personality secrets of each other. (Naghibi, 2010,1 / 364)

Also, numerous narratives about the necessity of maintaining secrets and dignity imply the importance of respecting the privacy of individuals. The Holy Prophet (pbuh) says: "The honor and dignity of the believer are well -respected." (Nahj al-Balaghah).

4. Criminal liability

Criminal liability is for those who commit the described crimes in the law (Article 2 of the Islamic Penal Code). It is the responsibility when a person is a reasonable, adult, and voluntary in committing to the crime act. (Article 140 of the Islamic Penal Code) Criminal liability is not limited to individuals, although the principle is based on the individual's responsibility, the legal person has the criminal responsibility if the legal representative of a legal person commit to a criminal act to name or in regard of the interests (Article 143 of the Islamic Penal Code).

According to Article 4 of the Islamic Penal Code the entry into the privacy of individuals, except in the law and regulations, and under the supervision of the judicial authority, is not permitted and, in any case, judicial proceedings should not be applied in such a way as to damage the dignity of the individual. For example, entering a home privacy, checking and inspecting it by a competent judicial authority is allowed if there are reasons for strong suspicion of the presence of the accused or the discovery of the tools and reasons for the crime. (Article 137 of the Criminal Procedure Code).

The legislator in the Islamic Penal Code has expressed criminal responsibility for violating individuals' privacy by prohibiting the dissemination of lies or libel or disclosure of the secret. According to Article 648 of the Islamic Penal Code, " Doctors, surgeons, midwives, drug dealers and all those who are confident the secrets because of their job, whenever they disclose the secrets of the people, except for legal cases, are sentenced to imprisonment for three months and one day to one year or are convicted to one million and five hundred Thousands to six million Rials. (Article 648 of the Islamic Penal Code).

5. Civil liability

In accordance with Article 1 of the Civil Liability Act, "anyone with no legitimate authorization that damages to the life or health or property or liberty or dignity or reputation of the business or to any other right which is created by law for individuals and causes material harm is responsible for the compensation the damage that caused by his own action", intentionally or as a result of recklessness. Also, according to Articles 8 and 9 of this law, someone who is harmed by his or her personal or family, can ask the person who has suffered to compensate for his material and spiritual losses. (Civil liability law).

Conclusion

Although "the privacy right" term is not common in jurisprudential literatures, this right is one of the accepted rights of individuals in the societies and the Imamiyah jurisprudence and Iranian laws. Also, respect for the right to privacy and non-violating by the individuals and the government is expected by the Islamic legislator; in other words, if the individuals privacy, such as communication, information, physical, place, and personality are violated without a legal authorization, it leads to criminal liability.

In the jurisprudential jurisprudence, the ruler can instruct such a person. Although financial compensation is difficult to enforce, but from a legal point of view, the violation of privacy is faced with civil liability in addition to criminal liability, therefore, financial compensation of the violation in the event of civil liability is an accepted issue in Iranian law.

Comprehensive legislation in regard of protecting privacy Considering the Islamic law system is an activate approach of Imamiyah jurisprudents in dealing with the privacy issue (iden-

tification of instances, violation responsibility of privacy, permission to enter into privacy), and the efforts of enforcers and judicial authorities in respecting the privacy of individuals is one of the suggestions that are based on this research.

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TRANSPARENCY IN MERIDA CONVENTION (UNCAC) AND COMPARISON WITH IRANIAN LAW WITH RESPECT TO ACT OF IMPROVEMENT OF HEALTH OF ADMINISTRATIVE SYSTEM AND FIGHTING AGAINST CORRUPTION

Ayyoub Talebzadeh

ABSTRACT

The presence of financial transparency within different dimensions is the necessary condition for healthiness of an economic system, especially transparency in governmental operation. Transparency is deemed as an important tool for identifying and prevention from perpetration of criminal behaviors within domain of economic activities as well as restriction of detrimental effects of such crimes. Article 9 Merida Convention (UNCAC) invites the governments to take the needed measures to create appropriate methods in governmental purchases based on transparency, competition and objective criteria in making decision for efficient prevention from financial corruption and emphasizes in public publishing of information relating to purchase formalities and contracts including relevant information to public tenders and relevant information and or relating to granting contracts. Alternately, Act of improvement of health in administrative system and fighting against corruption is the most important legal document in domestic field of country. In fact, approval of Act of improvement of health in administrative system and fighting against corruption has been referred to noticeable rising rate of financial- economic crimes in governmental and public institutions and organizations. In other words, approval of this law and its title signifies that legislator has found serious threat of administrative- financial corruption against legal survival of sociopolitical system and public peace. What reviewed as an important innovation in this law is prevention from administrative- financial delinquencies. This paper deals with comparative analysis on Merida Convention and Act of improvement of health in administrative system that suggests influence of aforesaid convention in this act at different dimensions. Using descriptive-analytical method in this study, we will try to analyze transparency (disambiguation) in Merida Convention and compare this convention with Iranian law with respect to Act of improvement of health in administrative system and fighting against corruption.

Keywords: Merida; Corruption; Health improvement; Convention; Prevention.

Introduction

The United Nations Convention Against Corruption (UNCAC) or Merida convention is a comprehensive group of predicted regulations, guidelines and mechanisms in different dimension to enable the governments to fight inclusively against corruption at the world level, including method of policymaking and organizing anti-corruption institutions, preventive measures concerning corruption such as determination of criteria for behaviors of authorities, the governing rules over public systems and transparency, creating social participation, assuming corruption cases as crimes, and international cooperation especially regarding extradition of criminals and mutual judicial assistances, recovery of properties and international supervisions etc. (Ghasemi & Jalali, 2015: 382). This convention is one of the first international legal binding documents against corruption that not only covers governments, governmental and public authorities and interstate organizations, but also the enterprises and private legal entities and civil society are included within this framework. It should be mentioned that whereas financial corruption has various economic, social, political, legal, administrative and cultural dimensions thus fighting against this factor should be also all-inclusive and this indicates technical sensitivity and complexity of treating with financial corruption (Mirmohammad Sadeghi, 2017: 231).

One chapter with a few articles has been devoted to prevention and fighting against financial corruption and efficient strategies in this regard in Merida Convention. The preventive measures have been listed in details in chapter II from Article 5 to 14 and under title of preventive measures in Merida convention under the following titles:

Table 1

Preventive measures in Merida Convention (Bagheri Komar Ulya et al., 2016: 112)

Article 5	Corruption preventive policies and measures	Article 10	Reporting
Article 6	The responsible authorities for prevention from corruption	Article 11	The measures taken by the Judiciary and prosecutor's office units
Article 7	Public sector	Article 12	Private sector
Article 8	Relevant criteria for behavior of governmental authorities	Article 13	Social participation
Article 9	Provision and management of governmental financial sources	Article 14	Money-laundering preventive measures

In articles of Chapter II, prevention is totally based on well-known legal principles such as rule of law, public participation, transparency and responsibility. Articles 9 and 10 of this convention aim to prevention from corruption by managing governmental financial resources and transparency. This article refers to procurement of goods and services as general, rise of saving and efficiency and also establishment of suitable criteria to keep transparency and responsibility and thereby to prevent from misuse (Dadkhodaei, 2011: 25). This convention was signed by government of Islamic Republic of Iran (IRI) on 10/12/2003 and the bill for joining IRI government to the given convention was proposed to Islamic Parliament and finally with respect to critiques of Guardian Council it was approved by Expediency Council on 23/10/2008 and Iran joined to aforesaid convention and was pledged to execute its terms. Of course, concerning Clause 2 of Article 66 that deals with proceeding through arbitration and International Court of Justice, Iran has exercised conditional right. Whereas corruption is one of the existing problems and creator of poverty and social injustice and serves as main barrier against national development and fighting against this factor has been emphasized by the relevant officials and requested by the public therefore it is important to conduct original scientific studies on this subject. It is necessary to note this point that it has been tried in Act of improvement of health in administrative system and fighting against corruption (approved in 2011) issued by Expediency Council to fight against administrative corruption in Iran by means of non- criminal tools and preventive measures. Paying attention to transparency of administrative process, enhancement public awareness level and benefiting from IT and computerized software are some issues that have been noticed in this law.

To analysis on transparency in Merida Convention and comparing it with Iranian law in this study and with respect to Act of improvement of health in administrative system and fighting against corruption, the current research has been conducted using descriptive- analytical method and data were collected by means of librarian technique. As a result, this study was initially conducted by data collection from searching in internet websites and portals and information and documentation banks e.g. Iranian research center for IT and sciences, SID, Noor Humanities Center (NOORMAG), Tebyan, Magiran and website of Islamic Parliament Researches Center, Research Center for Humanities and Cultural Studies and then by referring to digital libraries. We will primarily discuss about the existing crimes in the convention to become familiar with Merida Convention in this paper and these crimes were analyzed in two groups i.e. intrinsically financial and economic crimes and crimes as financial objects. Then we will discuss about importance of transparency in this regard in order to study on prevention from the crimes related to administrative corruption in Merida Convention and Act of improvement of health in administrative system and fighting against corruption and finally the strategies will be presented to fight against corruption in this convention and law.

1- Transparency

The presence of financial transparency in different dimensions is the necessary conditions foe healthiness of an economic system, especially transparency in governmental operation where at first place it requires for presentation of reliable information about governmental financial policy goals at macro level and distribution of detailed information regarding governmental operation out of these examples one can refer to situational preventive measures for efficient control of crime that is followed by detention of individuals due to law-breaking and prevention from economic crimes and presence of transparency in governmental activities and contracts (Shaftoe, 2004: 99).

From economic perspective, transparency means real and all-inclusive information on the scene of economic activity and clear nature of governing mechanisms over economic relations namely way of wealth production and distribution in society. In addition to giving information via mass media and press, economic transparency includes communication caused by appropriate performance of economic mechanisms such ad mechanism of prices in the systems of competitive market which puts proper and accurate information about status of rare sources at disposal of producers and consumers and lead them to making rational decisions and optimal resource allocation (Economic Providence Research Center, 2002: 16). The transparency approach is so important that today international organizations have been established as responsible for fighting against corruption under title of 'Transparency International Organization' and they have focused all their activities in fighting against corruption based on transparency principle whether as its general concept which is realized by social preventive measures as well or as the special concept it is fulfilled by stipulated preventive measures since lack of transparency and weakness in creation is the foremost current factor that produces corruption (Hamdami Khotbehsara, 2004: 146).

Lack of transparency causes the possibility is provided for abuse by governmental authorities whose interests are in conflict with public interests and others and due to absence of any specific mechanism that is led to discovery of crime or prosecution, the aforesaid authority is not afraid of perpetration of criminal behaviors because s/he basically assumes impossible discovery of the committed offence and for this reason, lack of transparency may be considered as the most distinct reason for creating financial corruption. Compared to ordinary crimes, economic crimes are committed in environments over which ambiguity and lack of transparency governs (Rausch, 2017: 360) and thus as transparency approach is more noticed in various different fields involved in subject of corruption, the corruption is also reduced identically at the same time.

Transparency (as special concept) means that all activities and measurers are done by those who are exposed to corruption away from any ambiguity and their measures should be always quickly and easily supervised, addressed and controlled by competent references. Nevertheless, unlike those who act secretly, the systems in which their performance is always transparent may be less subject to corruption.

Transparency is assumed as an important tool for recognition and prevention from perpetration of criminal behaviors within the realm of economic activities as well as restriction of destructive consequences of such crimes (Nestor, 2004: 350). It should be mentioned that Article 9 of Merida Convention has invited government to take necessary measures for creating suitable methods in governmental purchases based on transparency, competition and objective criteria in making decision for efficient prevention from financial corruption and it has emphasizes on public publishing of information regarding purchase formalities and contracts such as information relating to governmental tenders and related information and or concerning granting contracts. It should be added that creation and enhancement of transparency can prepare the ground for healthy activity and competition as a factor and prevent from abuse of individuals in the existing non-transparent climate to acquire illegal interests and it has been addressed in criminal policy of our country and the studied UN documents (McCrew, 2008: 36).

Transparency is a general concept and it may appear in different dimensions and strategies here it is referred to three prominent examples of transparency measure:

1-1- Removal of conflict of interests

The conflict of interests is assumed as one of the factor for emerging corruption and it includes illegal practice used by an individual from influence or position s/he has in public sector to acquire favorable benefit or exercise a discriminant behavior in favor of the other and it is usually followed by paying bribe by the given individual (Sampfored, 2007: 13) if ignored and there are no appropriate sanctions this practice can be led to committing corruption because if the personal interests of an individual are in conflict with occupational and official interests, s/he (government officer) may tend to preserve personal interests and prefer them to governmental interests. Certainly this trend namely perpetration of corruption may directly threat stability in society and cause social and political instability in government and lead to governmental dissatisfaction in serious cases since it allows the community for such activities (Reuvid, 1995: 5).

In Article 12 of UN Convention Against (financial) Corruption (UNCAC), it has been assumed necessary to enact behavioral regulations and procedures to prevent from conflict of interests to fulfill fighting against financial corruption. Similarly, this convention encourages the countries[1] to approve and improve mechanisms for further transparency and prevention from conflict of interests (Clause 4 of Art. 7). In addition, Clause 5 of Article of this discussed convention holds: 'The member states shall take measures to require governmental authorities to declare investment, miscellaneous activities and assets which may be in friction with fulfillment of their governmental positions.'

1-2- Reporting

Prediction for possible reporting from committing criminal activity (inchoation to committing criminal action and or within some steps) by the informant officers to legal authorities and officials, in turn, causes creation of sense of risk for committing and discovery by potential or actual perpetrators and rising cost of perpetration so it can be considered as a deterrent factor from crime perpetration, especially of economic crimes. Many financial and economic corruptions are committed within closed and official environments. These crimes have basically complex nature and they can be concealed widely. Sometime crimes are disclosed when it is no longer possible to arrest culprit or culprits and return the interests lost by corruption. Thus, in light of full and legal support from them the cooperation of witnesses with anti-corruption references will be highly important because firstly it causes disclosure of crime at the minimum possible period of time and secondly it can threaten security for committing such crimes. With respect to importance of this preventive strategy, several regulations have been codified and approved to require for reporting of the committed actions assumed suspiciously as economic crime and supporting from the reporters. The reporters of corruption cases should be able to report those cases at least to two competent reference ranks for litigation. The first rank should include intraorganizational references. Guarding office or the head offices are some of intraorganizational references in organizations. Due to closeness to source of occurrence of corruption and ease of access to them these references can be efficient well. The second rank should comprise extraorganizational references. One can take the anti-corruption expert institutions as an example for this type of references which are responsible for fighting against corruption in all fields of activity in public sector. If by reporting to the first reference informant agent does not achieve necessary and suitable results duly this permission should be reserved for him to refer to the second rank references. This measure has been anticipated in UNCAC (Merida) Convention. By virtue of Clause

[1] - According to an interpretive theory, term of external country used in this convention not only includes all countries, but also any organized external zone such as an independent region or a region with separate custom house (Wedd, 2005: 48). Likewise, based on theory of interpretation committee of this convention, an external country may be any other country; namely, this country may not be necessarily one of member states in convention (Bahrehmand, 2008: 102).

Iv of Article 8 of this convention, it holds 'Any member state, in accordance with basic principles of domestic law, will take measures and investigate the systems to facilitate for reporting corruption to the relevant authorities by the governmental officials when exposing to such actions in doing of one's tasks.' Article 14 of this convention has also emphasized on the one hand in supervision over activity of banks and related non-banking financial institutes, controlling activities and reporting suspicious transactions and on the other in reporting transference of major amounts of money and securities (appointed by member governments). (Tavasolizadeh, 2013: 174)

1-3- Declaration of assets

Requiring authorities, especially those with high-ranking positions to declare their assets whether to the public or to governmental anti-corruption institutions may prevent from corruption in two main ways.

Declaration of assets and benefits contributes both to the given agent and the government in determination of the existing conflict between interests and it may requires for deprival from personal interests by reallocation of public interests to another agent without conflict of interests. More generally, requiring agent to declare his/ her assets and specific property fully at different processes of their operation provides the basis and tool to compare and identify assets acquired by corruption.

It can be conveniently asked from the given agent to explain whence s/he has acquired the major asset during the career of his/ he position (Longest, 2008: 366). Resorting to such a method to prevent from occurrence of corruption may require the governments to prosecute and punish their public authorities whose assets have been unreasonably increased and also there was no reason for such an increase with respect to their legal earnings and revenues (W. Paati Ofoso, 2005: 24).

United Nations Convention Against (financial) Corruption is focused on declaration of assets belonging to governmental officials as an important factor to prevent from financial corruption and it is held in Clause 5 of Article 8 that: 'If duly and according to basic principles of domestic law, any member state will try to take the necessary measures and systems for governmental officials to prepare declarations for the relevant references in relation to its external activities, employment, investment, financial reserves and enormous bonuses or benefits by which the conflict of interests may occur concerning their tasks as governmental authorities.'

2- Comparative analysis on situational prevention from corruption (via transparency[1])

Transparency of contracts and exhibition of them to public opinion has been one of the successful methods for fighting against financial corruption. The other successful methods included codification of clear rules for concluding contract, regulatory systems and establishing balance between important and key units; on the one hand, and supervisory terms or assessment, on the other hand (Salimi, 2012: 231).

Whereas committing the crimes relating to administrative is mainly due to the situations pending to moment of perpetration of crime including absence of the real victim and invisibility of the closed environments and in particular the lack of transparency thus changing and managing of such situations may prevent from possible perpetration of the crime by prediction of some plans for: 1) reduction of pre-criminal situation, 2) Rise of risk for perpetration for delinquent and or thereby to decrease its intensity (Ibrahimi & and Safaei Atashgah, 2015: 14).

[1] - Transparency: The transparency and disambiguation possesses bifacial nature: On the one hand, it is assumed as one of the foremost tools in measurement of degree of proper performance of government; and on the other hand, it is considered as a solution for prevention from the administrative corruption existing in a certain government. Various measures are visible in the first dimension at international level. For example, transparency international organization declares the ranking of various countries in terms of corruption every year through cooperation with Gottingen University in Germany.

Transparency and related effect are so important in pre-criminal situations that UNCAC Convention has assumed it as the necessary condition for any preventive measure from the corruptive case and it has emphasized on it in several circumstances e.g. Clause I of Article 5, Clause A and T of Article 7, and Clause I of Article 9 etc. The Article 5 of this convention has asked the countries to regulate preventive policies for fighting against corruption based on rule of law, proper administration of public and governmental properties, accountability, responsibility, participation of civil society and the public groups of people and transparency. Some of countries, e.g. France, have devoted transparency as an independent law in this regard under title of 'Law Nos. 93-122 dated 29 January 1993 relating to prevention from corruption with transparency in economic trend by public procedures[1]' since 1993. Sometime the abuse possibility caused by transparency as pending situation to moment of committing perpetration is due to possible conflict of interests of employees who are responsible for public mission to executive-administrative position and often with respect to rules, regulations, contracts, agreements, working processes and timetable for their execution, especially in governmental economic system (Sadeghnezhad Naeini, 2014: 86).

2-1- Transparency of activities of employees in jobs

Transparency is deemed as an exception in non-democratic systems of criminal policy and corruption in agents may seem as ordinary. It is tried in democratic systems to prepare the ground for fighting against corruption manifestations by improving pubic presence in trend of decision making, ensuring from efficient public access to information, prediction of public educational curricula including as syllabi of schools and universities and also supporting from freedom for receiving and publishing information regarding financial corruptions. Hence, transparency may increase risk of recognition and arrestment of delinquents and disrupt process for passing from thinking to the practice (Sarikhani & Akrami Sarab, 2013: 99).

Merida Convention, in turn, has held under Chapter II and especially in Article seven (preventive measure in public sector) that the countries should take measures based on legal principles of their domestic law to improve transparency in financing of candidates for public positions and to reduce conflict among personal and governmental interests. Although regarding transparency of financing of agents and officials, Article 142 of IRI Constitution requires the head of the Judiciary to address assets of leader, president, his deputies, ministers and their spouses and children before and after their servicing career so that not to increase illegally, since such transparency in Article 142 has been only restricted to some of political figures thus process of approving enforcement law of this principle has been followed by a lot of vicissitudes.[2] In fact, whereas emerging the situation led to conflict among personal and public interests may endanger independence and neutrality of authorities in practice so that legislators try to declare assets and benefits and liabilities of them before and after incumbency in jobs by assuming preventive crimes as real crimes and require them for financing and refusal from doing such an action to be followed by criminal execution. This measure will reduce from risk of conflict between public and personal interests in decision making and taking measures on the one hand and it will be a tool to reconstruct social trust in authorities on the other hand.[3]

[1] - Loi n°93-122 du 29 janvier 1993 relative á la prévention de la corruption et á la transparence de la voie économique et des procédures publiques

[2] - It is noteworthy before Islamic Revolution; the Act was ratified concerning proceeding of properties of ministers and governmental personnel including administrative, military, municipalities and their affiliated institutions on 10/03/1959.

[3] - Preventive crime is the modern title of barring crime. Resorting to preventive crime growingly spreads as a technique for quitting a certain behavior and manner through criminal measures especially in economic and organized crimes.

2-2- Prevention through transparency in processes and rules and regulations

Generally, preventive measures in both social and situational approaches is concerned with either individuals or their situations and it is omitted in relation to the measures regarding individual or is prioritized by restriction of crime-producing factors and concerning measures for situation it is emphasized on managing physical factors to reduce situations susceptible to passing from thinking to practice. The efficiency of measures of the second group requires for identifying facilitator pre-criminal situations after determination and definition of the given crime with the characteristics of this group of crimes in which transparency is one of the most important pre-criminal situations including perpetration of crime especially in a closed environment, lack of real victim, perpetration because of occupational position.

2-2-1- Prevention passing from transparency of processes

Those measures are various which enforced through directing transparency to reduce committing administrative corruption. Some measures are never scientifically led to the given result while some other may reduce opportunity for perpetration of this crime if executed suitably by rising cost and reducing interests for perpetrator. Approving regulations by aiming at preparation for direct public referring, to the relevant information to organizing trend, doing tasks and making decision for public organizations, omission of official formalities to facilitate public access to decision-maker authorities and giving information to people by publication of periodic reports includes some measures in the latter group on which it has been emphasized in Article 10 of Merida Convention (See also, Sharivar, 2013: 52, Bagheri, 2012: 38). In this regard, third chapter of Act of publication and free access to information titled ‘developing transparency’ has required either of public institutions to publish annually following issues in parallel to public interests and citizenship rights and to deliver them to citizens if requested:

1. Objectives, tasks, policies, policy and structures;
2. Processes of giving the related services to member of society;
3. Types of documents and information stored in that institute with procedure to access them;
4. The publishing the mechanisms of public participation as well as mechanisms of complaint by citizens

Here transparency is not deemed as objective, but a tool. In fact, rather than providing permission of control and supervision for citizens, transparency also leads to reconstruction of their trust in health of agents and the administrative processes relating to citizenship rights as well. This is why legislator has intended in Act of health improvement with focusing on necessity for public communication about missions and procedures (Art. 3), information coverage for major economic activities of governmental and public sectors (Art. 4), preparation of database of contracts and formulation of strategies for transparency of information and activities of executive systems (Art. 8), supervision over economic activities of natural persons and legal entities (Art. 9), implementation of public training programs and communication for this law (Art. 32) etc. through requiring public bodies and professional private institutes which are responsible for transparency of policymaking- decision-making processes to induce this criminological message to the potential offenders that they are subject to inspection and prosecution and detention and thereby to prevent from perpetration crimes listed in Article 1 of this law such as bribery, embezzlement, conspiracy, abuse of position or situation and illegal payments and to ensure perpetrators from disclosure and punishment if they committed. However it has restricted domain of inclusion of transparency as contradicting to this request.

2-2-2- Transparency in light of ease of access to the rules and regulations

Some of expediencies for *Nulla crimes sine lege* and *Nulla poena sine lege* principles (there is no crime or punishment except in accordance with law) include this point that the individuals can predict consequences and costs of their criminal behaviors. Thus crime-assuming laws should be codified obviously and precisely. Accordingly, it necessitates for the text of law

to be perceivable. In other words, the law talks itself. Regardless it has been incorporated in criminal or administrative laws and addressing reference, today necessity for transparency of regulation has been extended to all law-breaking cases that include sanctions with surpassing essence (Mahdavi, 2014L 24). Therefore, the aforesaid principles which are gradually replaced with principle of qualitative nature of criminal laws in criminal law may require the law to be explicit and definite and its effects to be predictable for the relevant subjects and accessible for the subjects and the message and body of law should be perceivable for individuals (Najafi Abrandabadi, 2013:13).

The chapter II of Health Improvement Act and in particular Article 4, the beginning of Article 8 and also Articles 10, 11 and 5 are concerned with prevention from corruption so that it can be implied that prevention from administrative- financial corruption has been normalized in Iran. As a result, normalization of prevention from delinquency which has started since about a half century with five-year UN congresses through approval of declaration, strategic principles, guideline, plan of action and generally recommendation- guiding documents and was converted into a guidance for governments in prevention today has been become more consolidated at internal level and especially in relation with economic crimes. Of course, this law has failed in terms of complexity and method of regulation and resorting to remission in conveying its message and discourse to great extent so that the addressing organizations or ministries and law executives do not well know their tasks and consequently it is difficult for the subjects to perceive this message and related content and this defect is more noticeable regarding ambiguity whether in determination of radius of circle of included subjects or compliance of contents with the given titles.

2-2-2-1- Lack of assertion to included persons in law

Article 1 of Act regarding Heath of Administrative System and fighting against corruption should define referent and general terms in determination of law precise domain while it has added to this ambiguity by resorting to criterion of 'partial doing of governmental tasks' in definition and determination of responsible professional private institutes in public mission and caused the subjects to be doubtful in inclusion or exclusion of this law. Instead of implying the included persons and determination of the list and granting training function to them, Clause A of Article 2 has also referred subjects of this law to Articles 1-5 of Act of State Services Management (approved in 2007) and if this law is cancelled, it is not clear what task should be done by the included subjects. In addition, in Clause IV of this article, the question and ambiguity has been replied with another ambiguity and it has employed this phrase (all non-public natural persons and legal entities listed in this law) instead of definition of the persons listed in this law and still left the audience confused especially with respect to density of regulations and massive legislation.

2-2-2-2- Content incompliant to title

The second chapter of this law titled 'tasks of bodies in prevention from administrative corruptions' with criminological orientation mainly of technical- technological situational type has required the law-included bodies making pre-criminal situations into difficult and risky restrictions by transparency and giving information about rules and regulations and processes. The climate in which legislator has entered under this title is the preventive criminological or active space, but without any introduction former background and non-observance of logical order in Article 5 i.e. necessity for implication of forbidden behavior that might led to deprivation and subsequently determination of reaction, it has suddenly given reactive responses such as type of deprivation from concluding contract by the law- included bodies (Subject of Art. 2) and it has typically dealt with assuming them as violations and answering to them. In other words, legislator has forgotten that Act of Improving Administrative health addressed mainly the included subject in Clauses I, B, C and D of Article 2 not account parties for their contracts. Meanwhile, the deprivation- included subjects in Article 5 are not compliant to title of chapter II i.e. that com-

prised mainly commercial enterprises. As a result, while legislator has not well determined domain of law inclusion and addressed subjects how one could expect from the related subjects to receive preventive message of this law without difficulty. In addition, Article 6 has mentioned establishing a branch composed of three judges and potential for issuance of final order that is deemed as a novel measure in judicial structure and organization and of course as comprehensible in terms of compliance to just proceeding principles.

In fact, in the course of differential criminal policy the legislator has probably looked for including proceeding of administrative- financial corruptions in the criminal model or crime control model instead of just proceeding model (Najafi Abrandabadi, 2014: 16) and he has judicially acted with demanding by acceleration in trial and enforcement of punishment in this regard even at the cost of mitigation of some rights of culprits thereby to achieve his given goal namely making criminals disabled. However the procedure for method of execution of this article was approved with delay and at the third year of life of this law and namely year of expiry.

3- Participation and cooperation in fighting activity

Due to the features of fighting against economic crimes they need to internal cooperation and in particular external one. Types of efficient participations and cooperation are implied in this section.

3-1-Cooperation between international institutions

The economic crimes possess complex structure and perpetrators spend a lot of time for plotting and hiding their actions in order to commit the crime perfectly with no defect (Nazarinezhad & Esfandiarifar, 2016: 200).

In addition, perpetrators of such crimes adapt complex techniques to achieve their goals so that the majority of these individuals have multiple identities, several fake enterprises, and complex accounting systems and they make money-laundering for their revenues through legal enterprises. The crimes such as embezzlement, bribery, and abuse of confidence and the like are the close crimes that may not be easily discovered, but collection of documents and evidences for ascertainment of these crimes is not also an easy task and even in many cases the victim is not personally aware of and does not perceive his/ her injury and loss. Thus, fighting against economic crimes needs for cooperation among governmental institutions in addition to international cooperation as well. Either of governmental institutions possesses special expertise and for example a medical team should cooperate with each other in treatment of disease. Therefore, in Article 48 of Merida Convention that implies the cooperation concerning law enforcement in which Clause 1 of this article holds:

‘1. The member states will closely cooperate with each other in accordance with their relevant domestic administrative and legal systems to improve efficiency of measures relating to enforcement of Act for fighting against the crimes included in this convention. The member states will particularly take efficient measures in the following cases:’

a) Improvement and establishment of communicative canals among competent references, offices and institutions to facilitate reliable and quick exchange of information relating to all dimensions of included crimes in this convention if necessary such in the event the member states discern duly regarding relationship with other criminal activities etc.’

The Article 39 of this convention has also emphasized in necessity for cooperation between public organizations and private sector.[1]

It has been held in Act of Improvement of Health in Administrative System and in Clause V of Article 9 that it should conclude contracts of tax, custom and bourse information exchange through taxation administration, IRI Custom Administration an Security and Exchange Organi-

[1] - Article 39: (Cooperation between national references and private sector): 1) Any member state will take some measure, probably as possible, in accordance with the domestic law to encourage for cooperation among national investigation and prosecution references and units of private sector, especially the financial institutions relating to the issues involves in perpetration of ascertained crimes based on this convention.

zation with the corresponding organization in other countries not later than three years since approval of this law and take the needed measures for approval of in Islamic Parliament. Alternately, it has been mentioned about codification of execution procedure prepared through cooperation with Presidency Deputy of Planning and Strategic Supervision with Deputy of Human Capital Management and Development and Ministries of Intelligence, Justice, and Economic Affairs and Finance and ratified by Board of Ministers (Art. 33) but no execution procedure has been codified and approved in this regard.

2-3- Improvement of international cooperation

Nowadays, societies are exposed to serious economic and political crises and this has led to emerging and growth of often complex and organized crimes. For this reason, the criminal policy may be effective if it takes new methods in treating with the given crimes (Rodriguez, 2003: 182). Therefore, it has been warn about treating with given crimes caused by corruption in the preamble of this convention for stability and security of communities and increasing relationship among corruption and other forms of crimes and it has been emphasized in this point that all the governments are responsible for prevention and fighting against corruption and they should try for doing this task by cooperation with non-governmental individuals and groups including organization and institutions of civil society.

The necessity for international cooperation is the evident and proved issue as one of the foremost supportive policies. Before 1990s, most of western experts imagined the bribery and financial corruption was only specific to less-developed countries with newly political institutions. However the financial calamities and scandals in many Western European countries indicate that the systematic presence of this phenomenon was inevitable in countries with advanced democracies (quoted from Salimi, 2012: 109; Levi & Nelken, 1996:1).

With respect to world phenomenon of the extensive communication and international trade, crime is no longer limited to a specific environment. As someone committed a creation corruption in the past s/he immediately fled and this was no special consequence but at present if any corruption occurs in any country the consequence is visible in other country.[1] Therefore, fighting against crime is not possible without international cooperation and a single country is not able for this fighting. The improvement of international cooperation has been mentioned in international conventions including concluding of bilateral or multilateral agreements and technical aids e.g. returning assets. As a result, several subject have been assumed as objectives on International Convention Against Convention (UNCAC) including improvement, facilitation and supporting from international cooperation and technical aids for prevention and fighting against financial cooperation such ones regarding returning the given properties and assets. Accordingly, Chapter IV of the convention has been devoted to international cooperation. In Clause 1 of Article 48 of the aforesaid convention, member states have been encouraged to cooperate closely according to their own domestic administrative and legal systems for improving efficiency of the given measures concerning enforcement of Act of fighting against the included crimes in this convention. This cooperation includes facilitation in reliable and quick exchange of information, replying to inquiry from references about convention included crimes, efficient coordination between competent references, arranging for exchange of personnel and experts, information exchange, and coordination for administrative measures etc. It is intended to realize such cooperation through conclusion of bilateral or multilateral agreements and to address and recognize crimes and criminals as soon as possible. Following to this issue in Clause 1 of Article 43, Merida Convention asks member states to cooperate with each other based on all articles in Chapter

[1] - The enormous benefits result from perpetration of crime for the organized criminal groups and they become seemingly purified in the world markets that threaten financial and economic system in the world. The bribery and other organized criminal activities may hinder foreign investments. The corruption, especially in bribery form, serves as a basic barrier in trading activity and investment at international trade. See also (Salimi, 2012: 83-84) for more reading.

IV of convention i.e. extradition, mutual judicial assistance, transference of criminal proceeding and law enforcement such as joint investigations and investigating techniques concerning criminal matters and in accordance with their domestic legal system and through giving help to each other in investigations and trends of proceeding consider the issues relating civil and administrative subjects about corruption.

It has been also implied in Article 59 of convention that 'The member states will consider the bilateral or multilateral arrangements or agreements to improve efficiency of the pledged international cooperation by virtue of this chapter of the convention. It seems Merida Convention has emphasized on improving international cooperation because the globalization process and ease of displacement from one country to another enables criminals to pass easily through the borders by termination of their activities and removing the investigation tracks and in looking for a secure place for their own and preserving benefits of crime physically or virtually. Thus no one could accomplish in investigation, prosecution, punishment, extradition and returning illegal benefits without international cooperation (Mahdavipour, 2011: 57). As it implied in preamble of the convention, today financial corruption is not a local problem but it is an overseas phenomenon which overshadows all communities and economies and requires for extensive international cooperation to prevent and control it.

In Article 11 of Act of improvement of health in administrative system has referred improving international cooperation pursuant to Merida Convention. According to this article, the Judiciary shall prepare the judicial assistance bills with preference of important countries as account parties with Islamic Republic of Iran not later than three years and send them to this government for taking duly measure. The bilateral contracts shall cover, at least one of the following cases as requires: 1) Extradition of culprits and criminals of financial corruptions, 2) Extradition of illegal properties and assets and resulted from criminal efforts, 3) Exchange of information about the proved cases or under proceeding about financial corruptions. It is noteworthy to imply this point in the events there are no bilateral or multilateral international treaties or bilateral and multilateral treaties include silent and ambiguous or defective items, the countermeasure including judicial, political or legislative is deemed as the solution for doing international judicial cooperation possession of domestic rules and regulations is the best way for countermeasure as well that specifies limit of international judicial cooperation and the conditions and arrangements for execution and powers and tasks of the relevant institutions.

It has not been mentioned about constant cooperation among Iran and the related international organizations about fighting against corruption in Article 11 while cooperation with international organization can play important role in improving anti-corruption activities based on the given information by them. It seems as international organizations e.g. Transparency International Organization[1] and International Association of Anti-Corruption Authorities[2] present information about corruption status in Iran, it causes as follows:

1. Iranian government identifies its weak points on the one hand, and observes the rate of progress in this trend, on the other hand.

2. Iranian government has to make double efforts for improving international reputation and attracting trust for international investments.

[1] - Transparency International is a non-governmental organization that was established in 1993 and its head office is located in Berlin, Germany. With over several agencies in 100 countries, this organization aims to try fighting against corruption and rising awareness about it. This organization annually publishes perceived corruption index. The corruption is measured by using some indices e.g. corruption, embezzlement, bribery, purchase and sale of governmental positions, bribery potential of judicial system, financial corruption among statesmen ad governmental authorities and inadequate fighting or inefficiency in fighting against drug abuse. http://fa.wikipedia.org

[2] - International Association of Anti-Corruption Authorities: This international association was formed in a conference held with the presence of high-ranking officials for signing UNCAC Convention in Mexico in December 2003. For more information see also: http://www.IAACA.org

3-3- Improvement of public participation

Improvement of public participation is one of the deterrent policies in fighting against corruption because the people are the best observers for execution of these activities properly. All members of community or a certain organization shall supervise over performance of other members and practice of directors and official according to their religious duty. In addition, due to lack of efficient measures in fighting against corruption by the government within 20 recent years, the role of private sector has been noticeably increased.[1] Based on Act of improvement of health in administrative system, organizations and ministries shall also take duly measures in the course of execution of public training programs and giving information about this law (Article 31). This may essentially contribute to improvement of public participation.

It has been referred to improvement of public participation in both documents. In Clause 1 of Article 5 in UNCAC Convention this issue has been implied and mentioned: 'Any member state will improve efficient and coordinated anti-corruption policies in accordance with basic principles of its legal system and reflect principle of rule of law, appropriate management of public affairs and governmental properties, integration, transparency and responsibility and will develop and execute and or continue them.' And it has referred to participation of members of society and institutions of civil society and more importantly Non-Governmental Organizations (NGOs) in Article 13. In fact, such a high expectation is perceivable from NGOs in world anti-corruption efforts since they have well shown their achievements in key subjects e.g. environment, healthcare and human rights by means of different strategies e.g. public organizations and strong support and active lobbies (Carr, 2011: 3).

In contrast, in Article 10 of Act of improvement of health in administrative system, it has required Ministry of Interiors to improve NGOs in prevention and fighting against corruption but this point should noticed such organizations are not noticeably powerful in Iran so that they may not take position of plaintiff and they can only play role of reporters. Moreover with respect to media constraints and lack of strong civil institutions and alternately influence of 'White-collar Criminals[2]' who are connected to powerhouses, it seems the public participation may not be improve until by strengthening civil institutions and with the presence of media freedoms (Nazarinezhad & Esfandiarifar, 2016: 204).

Conclusion

1- The approval of Merida Convention by member states and codification of this convention by UN has been done for coordination of conduct by governments to fight against financial and economic corruption. This convention denotes a criminal policy to fight against corruption. Criminal presumptions and some strategies have been predicted in this document and the member states have been required for implementation and whereas this convention is a binding document, it assigns some tasks to them by joining of governments. These tasks regarding enforcement of legislative, judicial and executive strategies are listed in the convention which not only coordinates different conducts of member states to fight against corruption, but also improves cooperation between governments in this regard.

2- It can be seen it by comparative analysis among UNCAC and Act of improvement of health in administrative system that many issues implied in Merida Convention is based on pre-

[1] - The Corporate Private Sector's Role in Combating Corruption, p.1, Available at:
http://web.worldbank.org/WBSITE/EXTERNAL/WBI/WBIPROGRAMS/CGCSRLP/0,contentMDK:22141827~pagePK:64156158~piPK:64152884~theSitePK:460861,00.html

[2] - The white-collar criminals are ones who have position for making decision, consultation, participation or negotiation and they commit criminal actions in doing their businesses in order to acquire benefits in favor of their own enterprise or specific profit or loss to others or other enterprises (Gussen, 2013: 132).

vention and subjects e.g. social participation and prevention from corruption in private sector etc. are some cases which have been listed in both documents despite these similar subjects, it can be concluded that the Act of improvement of health in administrative system has been codified and approved according to Merida Convention and under its influence and reason for such an impact may be traced in this point on the one hand that Iran is a member of this convention and the members are required for execution of these terms and on the other hand in order to benefit from facilities and attraction of international prestige, this country should embed the addressed subjects in it. In addition, our country need to such rules by which this country to be able to fight against corruption taking preventive approach and at lower cost.

3- In defining crimes e.g. bribery that is only financial and it can be found only in public sector and mainly concerning natural persons, the attachment of Iranian legislator is not compliant with definition given by the convention which assumed as the latest and newest overseas legal source in this regard and it is yielded from various developments in communities and according to everyday requirements because; firstly, today only financial and monetary values do not instigate individuals to abuse the position locating there and sometimes non-financial values are more tempter with more financial consequences. Secondly, this day it is not only the speculative spirit in public sector that causes disruption in social order and security and infirmity of acceptance bases of a system, but overlooking of presumption of international crimes such as bribery is not justifiable in this sector by acceleration in privatization trend in Iran and many public services are given in this sector. In fact, today there are the same factors which have convinced legislator to crime presumption in the public sector also exist in the private sector. Thirdly, this day legal entities are deemed as objective realities in communities and the effect of their presence is tangible in social and economic activities and if negative feedback of disruption is not further found in their practice at different level of community than natural person it is not lesser and for this reason it necessitates for paying more attention in the country. Of course this defect has been slightly compensated in Islamic Punishment Act (2013) (Articles 20-22 and 143 of this law). Thus, with respect to classic and traditional nature of some domestic criteria that have preserved economic values and traditional criteria at their time and since they are not aligned to the recent social and economic developments in Iran and or with respect to sectional and partial reforms after victory of Islamic Revolution in some parts of these laws they are not adequate as they require and especially the judicial precedent of national courts has shown discovery and prosecution of more governmental and financial cases of corruptions, particularly in state banking system. Revision and modification in penal rules that govern over economic corruptions and also establishment if independent national institutions for fighting against corruption should be assumed as the first objective. However it should be noticed that despite absence of performance assessment system in domestic sector and deficiency and lack of transparency in performance of administrative system and in some cases the ambiguity and defective nature of some these laws have created some concerns in this regard. There are also some strong points and fields if become more specialized and developed thereby anti-corruption plans can be extended. As a comprehensive and independent document, Merida Convention may serve as a very suitable means in the course of fighting against problem of corruption in coordination with international community. Similarly, acceptance of world criteria in that convention may remarkably affect international trade activities. Nevertheless, political corruption in which destructive consequences are not less than economic corruption is not placed within framework of regulations of convention and alternately proper and efficient execution of above-said standards in light of international cooperation is followed by collective will of governments and way of approach taken by members toward domestic legal systems.

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CIVIL LIABILITY IN CYBERSPACE

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ABSTRACT

The Internet, as a worldwide phenomenon, has posed various legal issues in different countries all around the world, including our country. Much efforts have been made by the lawyers and legislators in some countries to solve this problem but the "Internet laws" are not sufficiently sophisticated yet and are still being formed. Considering the article 1 of Civil Liability, there is the possibility of harms befalling the life, prosperity or honor of a person or persons in cyberspace that makes them suffer. The Civil Liability does not consider a specific type of harm, and its purpose is to provide or reciprocate all of the imposed harms, including those imposed to the body, honor or prosperity. The current paper studies one of the most important and most common legal issues of the Internet, i.e. the civil liability of the Internet providers , and its subset in the field of transportation (for example: Snapp app, Tapsi, etc.). Transportation has always been important, and now it has found even more importance because of the Internet system that have been introduced, and even though uncertainties and gaps exist in the laws related to this field, the necessity to explain this matter is undeniable.

Keywords: civil liability; cyberspace; transportation; Internet systems; transportation apps; private law.

Introduction

The civil liability of Internet providers can be defined in general terms in two ways: outside the contract liability and contract liability, with this explanation that sometimes the Internet providers themselves harm others, and it seems that the meaning of this type of provider's liability is clear. As every person is responsible for his/her own actions, the Internet providers are also liable for the harms that they have imposed by themselves.

Currently, most of the social services in most countries are provided virtually and in the cyberspace, and it is possible in this regard that harm befalls the private persons as a result of error and deficiency of transportation providers, and if the harm is objectionable, the civilization liability will be performed. Can the non-liabilities brought in self-written contracts of cyberspace transportation companies be referred to the established laws of the country? Can traditional space be imposed on the cyberspace?

Civil liability basics in cyberspace

Although civil liability based on deficiency has a deep root in legal system of Iran, in a way that some great lawyers consider deficiency to be the most important base in imputation of civil liability.[1] This base is also supported by the rational principal that every person is only responsible for his/her own wrong action, but specifically since the last decade, this approach has been growing that depending on deficiency as the necessary base in civil liability is not always enough.[2] Even so, also in jurisprudence except special cases (including responsibility of the wall and animal owner or fire-lighter, or generally in the case of turning depository responsibility of the depositor to guaranteeing responsibility) one cannot find a clear trace of natural guarantee

[1] Katouzian, Naser. Out-of-Contract Commitments, 2003, page 334
[2] Katouzian, Naser. Out-of-Contract Commitments, 2003, page 194

based on deficiency which is persuasive to the deficiency theory as the one and only base in civil liability imputation.

Article 307 of civil law has exclusively mentioned the resources and cause of liability imputation. Thus, acting on the civil liability will usually be the manifestation of one of the items mentioned in this article. Except in the case of usurpation which is different with civil liability basically and territorially in the case of laws. The question is that are these resources compatible with the cyberspace and is are the actions done in the cyberspace explainable in the form of resources mentioned in the article?

Intermediary responsibility basis

The Internet mediums have two types of harmful action, either they are responsible for the harm or their services have caused harm to a third party through giving control to the "users". Some believe that in the cyberspace, generally the deficiency basis should govern as in the real world in the case of Internet providers ' liability such mediums. Because their role is only the medium, and in our legal system, the mediums such as brokers and mercenaries and transportation and providers who are the medium of doing something, are knows as depositors and are downright liable in cases of deficiency.1 Even so, in this interpretation, more than being the result of comparison of medium roles with real world mediums such as broker and mercenary, it is because of side role and alternative motivations that a share is pre-determined for the mediums in the harmful action. It means that because the mediums cause harm but are not responsible for it, and according to the popular theory in causation, what causes the liability to impute is the existence of deficiency base, thus their liability is generally based on deficiency theory. In addition, article 78 of electronic commerce law approved in 2003 appoints: "whenever during the electronic trades, a harm befalls people because of deficiency on weakness of system in private and governmental foundations, except as a result of physical disconnection of electronic connection, the afore mentioned foundations are responsible for the harms, unless the harm is done because of the personal actions of the individual which in this case, the reciprocation is the very person's responsibility". It is induced from the appearance and first part of this article that the necessary element for liability of Internet mediums which in themselves are one of the type of electronic mediums (foundations), is deficiency which is different depending to the type of activity of the medium. For example, a way of proving deficiency may be the defect and weakness in safety system of an ISP which leads to leaking of the private information of the users or infiltration of a third party into that. Also in the common law, especially after approval of Digital Millennium Law, the dominant scheme is the exemption of Internet mediums about the harms done to the users by third parties. Disregarding the results of this approach, but from the two sides, either the function comparison of Internet mediums and the mediators with the functions of broker and mercenaries, or reduction of role of mediators in mere causation, are both the cases of pondering.

Comparison of mediator's function with real world mediums such as broker and mercenary, is subject to criticism from this viewpoint that the broker and mercenary are the representative and employee of the employer and are taking orders from another person and are required to act according to the order of the service or goods owner, with citation to the articles following article 335 of commerce law, meanwhile, as was said before in explaining the roles of the mediators, they are committed to the results and their duty is to create the ability to create Internet access. Not only they do not always act in accordance to the users' order, but also they have the ability to control and supervise their users' activities in some cases. On the other hand, the role of mediators in harms done in the cyberspace cannot be considered as only a "cause", because cause is manifested when it has indirect role in the harms done, meaning that it exists besides the main intendant as an indirect cause. But in the case of mediator's role in causing harms in cyberspace,

[1] Sadeqi, Hossein. Civil liabilities of the mediums and electronic connections service providers, magazine of political science and law department of Tehran, 2010, 40th period, 2nd issue, p 201

it can be said that not only they do not cause the harm, but also in most cases, they are constrained to do the harm, and from the jurisprudence viewpoint, the role of mediators can be explained as the constrained and not the cause1; this means that the mediators are the preliminary and gate of others' entrance to the cyberspace, and the cyberspace with all its characteristics and requirements, is accessible when the mediators provide the accessibility for the users. On one hand, mediators are the only ways to enter the cyberspace. Thus, the role and nature of mediators' function in this case cannot be compared to the concept of "cause" in the legal field. Presumably, if the role of mediators in cyberspace is analyzed as the cause, it cannot be said that it is the same as the considered meaning for cause in the real world. In real world's law, the cause is something that if it does not exist, the effect would be non-existent, but from its existent, the existent of the effect becomes probable2. While the nature of mediators' function which is service provision to access the Internet, neither banishes nor makes probable the harm or in better words imputation of civil liability, but it only prepares the ground for entrance of others to a space which is full of different transactions, and this is the meaning of constrained which in itself does not have any role in causation of prevention of the crime.

All in all, the civil liability of Internet providers can be defined in general terms in two ways: outside the contract liability and contract liability, with this explanation that sometimes the Internet providers themselves harm others, and it seem that the meaning of this type of provider's liability is clear. As every person is responsible for his/her own actions, the Internet providers are also liable for the harms that they have done by themselves. It is aforementioned that the Internet service provider may create and spread content in the network, or in other words, be content provider or content creator. Section 230 of USA's connection health laws has defined "information content provider" like this: "Any person or company which is responsible for creating or spreading the information in the Internet or any other computer service, is called an information content provider". Based on this, each violation or harm which is caused by provision of that content, be it desecration or spreading computer virus, illegal access, wreckage and usurpation, the provider will be liable for them (out of contract liability of Internet service providers for their harmful actions). Besides this kind of liability, one can speak about another type of liability with this preface; we know that each harmful action has one (or several) agent (s) and one (or several) sufferer (s) and it makes no difference if the harm is done in the Internet our outside of it. But in the Internet, formation of an Internet connection is not possible until a third party other than the starter and receiver of connection, which is the very Internet service provider. Hence, doing a harmful action in the Internet cannot be done without the intervention of Internet service provider who make the connection possible, should it be done with the awareness of that service provider on without it. Hence, it should be considered that in contrast to the viewpoint of many legal writers3 , most harms done in the Internet, is not done by the Internet service providers, but by the users through the services provided by them. Based on this, studying the liability of Internet service providers in this case (doing harmful actions by the users), appears to be very important because the role of Internet service providers in contrast to the aforementioned type which includes content creation and provision, the service providers in this type are mostly counted as a channel for the users' information (liability of Internet service provider for others' harmful action).

Even so, it is possible that the service provider is content provider in some cases and be only a channel for passage of users' information is some others. Another type of liability which can be spoken of about Internet service, is their contract liability. At first, it should be considered that the territory of this liability is limited compared to the contract liability, because this liability

[1] Allameh Helli, Qavaed-ol-Ahkam, Volume II, 2000, foundation of research and emission of education publication "constrained is something that is underlying the incident but is not involved in the causality but is the cause of something that is involved in the causality, even though its involvement is indirect".
[2] Katouzian, Naser. Out-of-Contract Commitments, third edition, 2003, page 448
[3] Ansari/ 2007 :253

forms because of contract content violation for service provision between the service provider and subscriber. However, proving the existence of contract to protect the bases of contract liability in cyberspace will not be easy in any cases.

Conclusion

In the cyberspace, the most important gap is the lack of laws and regulations in this field. The civil liability is a rich field theoretically with existence of civil law, jurisprudence history and the works done in comparison of its rules with the foreign law. But we need to have a law for cyberspace corresponding to its needs and requirements. The legislator should enter this field and in addition to considering the requirements, dividedly determine that who are present in the cyberspace and what pillar, rules and theories will their civil liabilities be based on, depending to their functions.

Suggestion: there is large gap for cyberspace laws in the developing societies; so, it is time to codify some new laws for the Internet, this newfound phenomenon which is growing day-by-day.

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THE ROLE OF NON-GOVERNMENT ORGANIZATIONS (NGOS) IN THE CRIMINAL PROTECTION OF HUMAN RIGHTS IN IRANIAN LAW

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ABSTRACT

Nowadays, non-governmental organizations (NGOs) are considered as the human rights mechanisms that have a striking role in the international system of human rights for the formation of civil society and also in the states' democratization process. The realization of citizenship rights through taking advantage of the NGOs mechanism requires the independence of these organizations. The manner of establishment, surveillance, and the position of these civil society organization reflects the degree of their independence. One of the innovations of the Iran's new code of criminal procedure is the issue of NGOs, that the legislator, by the recognition of these civil society organizations in article 66, has understood the role and significance of these institutions in the development and protection of human rights.

Keywords: NGO's; Civil Society; Human rights; Iran's Code of Criminal Procedure.

Introduction

The increasing development of criminal phenomenon in contemporary period, along with the advent of new and varied forms of crime and delinquency, caused the failure of the system of formal criminal justice through the use of the guarantee of criminal enforcements in the field of crime prevention and fight against delinquency and the rehabilitation of delinquents which has persuaded domestic crime policymakers to enhance and increase criminal policy programs based on active and even more participation of civil society in the criminal process.

Generally, it is possible to distinguish two patterns of participation and, consequently, two traditional and civil society organizations. The first pattern of participation is a traditional pattern based on tradition, habit and religion which is found among individuals spontaneously and in an institutional way. This participation is the product of laps of many years that has been transferred from generation to generation in reaction to the needs of historical developments. In this pattern, the government has no role to play in organizing and doing things for the people and it has been the responsibility of the people to deal with the affairs. The second model of participation is the participation of NGOs. NGOs, populations, spontaneous groups and community-based institutions that work with non-profit and voluntary activities to address social dilemmas and public service, and has codified their top privilege in independence from the state.

The various functions of the NGOs have made it difficult for government actors in the national and international arena to simply ignore their presence. Following the codification of the code of criminal procedure of 2013, the Iranian legislator adopted Article 66 to protect vulnerable groups or in crimes that do not have a particular victim, and emphasized the presence of NGOs in the criminal process, which first identified the presence of NGOs in the form of a declaration of a crime, participation in proceedings and objection to votes.

Unfortunately, in the changes made in 2015, the right to protest to the judiciary was denied by the authorities. The removal of such a right from this article, along with the posteriori monitoring of the head of the Iranian judiciary, had a direct impact on the presence and actions of the NGOs in the criminal process. Fortunately, with the passage of the Permanent Resolutions of the National Development Plans, in 2016, the above-mentioned supervision was amended. However, the issue of the right of the NGOs was not revived to protest the votes contained in Article 66.

Developing the participation of NGOs in the criminal process requires the provision of activity, monitoring and evaluation activities to eliminate the barriers and disadvantages caused by their involvement in the criminal process.

NGOs; Definition, Background and Objectives

Non-governmental organizations, populations, groups, and human institutions are spontaneous and emerging from the community that work with non-profit and voluntary activities to address social dilemmas and public service, and develop their top privilege in independence from the state. NGOs, including civil organizations, are newly established and started activities through voluntary participation of incentive citizens, as a coherent structure and organization, for group activities, with the goal of serving for the development and social welfare and empowerment of people without any dependence on the state.

NGOs work to achieve various goals and are usually moving forward in advancing the political or social goals of the members. For example, I would like to point out the improvement of the situation of the environment, the encouragement of groups and people to respect human rights, to raise the level of welfare of deprived and vulnerable groups, or to introduce a collective and joint program. The number of such organizations is enormous and their goals include a wide range of political and philosophical situations. NGOs in Iran have a long history, since the social life of humans was formed in villages and then in cities, the need for assistance and participation was raised and the assistance of the capable to the disabled was formed and institutionalized in individual and collective forms. The first NGO in Iran was the Ashkzar Village of Yazd, which began its activity in the early part of the 1970s with the goal of stabilizing Sands and desert greening. This trend, with the striking growth of 22 organizations by 1996 and 156 organizations by 1999, and 550 NGOs active in the field of environment until 2003, shows the people's interest in participating in the activities of this field (Gholmohammadi, Yousefi, 2009, p. 11).

The cooperative approach in ancient culture of Iranians has been considered whether before Islam, from ancient times or in Islamic teachings. In international documents and treaties, in particular at the 6th, 7th and 9th congresses of the United Nations on crime prevention and reform of criminals, the participation of citizens and civil society organizations in crime prevention and enforcement has been emphasized. In the crime policy of developed countries, with the benefit of comparative studies dating back to the sixties on, we see the development of community-based reforms in various areas of criminal justice, including community-based prevention, rehabilitation of criminals in the community, compliance with the rule of pursuit for the social- and justice-oriented development. In contemporary Iran, a collaborative approach can also be found at the beginning and before the revolution in the guilds and judiciary Councils and after the Islamic Revolution in the anti-narcotics headquarters program to prevent addiction. Nevertheless, the issue is the formulation of a national program for preventing community-oriented crime, participation of people in criminal proceedings, the establishment of dispute resolution councils, criminal mediation in the preliminary research phase, and the activities of NGOs in support of vulnerable groups, such as street children and women who are victims of domestic violence , associations for the protection of prisoners and their families, and the atonement headquarters and institutions providing free advisory and legal services to people and detainees (Jamshidi, 2011 p. 28.).

Although NGOs have been active in the country since many years ago, unfortunately, the government and state institutions of Iran have not taken the participation of NGOs in the criminal process seriously so have not played an effective role in this section. These organizations are named with other substitutes, such as association, population, group, home, and so on, and maybe it is possible to say that their new form, was implemented at the same time as the adoption of the rules of establishment and activity of NGOs in 2005 and on the basis of Article 138 of Iran Constitution. These organizations are formed by emphasizing three principles of being voluntary, non-profit and non-political, and their funding comes from popular contributions, membership fees, or financial contributions from international NGOs and sometimes governmental agencies. Perhaps, one of the reasons for the weak presence of these organizations was the lack of support

from other government agencies and the lack of participation in community issues over the past years. The activities of the NGOs can be divided into two parts: the activities that are carried out after the violation of a "right" or in fact in reaction to that. These activities are "reactive". The second part is activities that are done through pre-programmed planning and also relied on activities, but they do not start from "breach" but begin with the existential necessity of a "right". This kind of activity is said to be "overactive". These activities are preventative and will create mechanisms that will contribute to the better and more comprehensive realization of the rights of individuals (Nouri Neshat, 2006, p.68). Obviously, NGOs, Article 66 of the Criminal Procedure Code, can participate in the investigation process in responding to crimes committed in the areas mentioned.

NGOs and Human Rights

One of the most important mechanisms that plays an effective and inclusive role in the formation of civil society is NGOs. Non-governmental organizations, as their name implies, are organized by people and privately formed alongside governments in societies. These organizations operate in a non-profit way in the field of human rights such as women's rights, citizenship rights, environmental rights, and so forth. the role of NGOs are impressive in the evolution of institutions and norms of human rights that have been going on in recent decades. Also, these institutions are among the first mechanisms that have widely promoted the principles and rights of the Universal Declaration of Human Rights, and have somehow informed the public about possible developments and positive achievements and obstacles ahead (Saeedi, Mohammad Reza, P. 165).

These organizations have a major contribution to the development and promotion of universal human rights as a means of attracting and directing popular participation and as a channel for institutionalization of these participations. However, after the Second World War, governments considered these organizations as their rivals and did not have a positive attitude. But gradually it was dominated by the fact that NGOs can play a role in political, economic, social and cultural development in the domestic and international arenas as an integral element, and they play an effective role in promoting human rights and the formation of civil society.

Since the formation of NGOs in the legal system of Iran, these organizations have always faced many obstacles and limitations. The lack of culture of political participation, the existence of restrictive laws and regulations, the lack of rules for identifying these institutions, as well as the negative attitudes of officials and executive authorities, judiciary and legislation towards these organizations, are among the barriers and problems of NGOs in the legal system of Iran.

The status of NGOs in internal laws and regulations

Article 26 of the Iranian Constitution stipulates that parties, populations, political and trade associations and Islamic associations or recognized religious minorities shall be free, provided that they do not violate the principles of independence, liberty, national unity, Islamic norms and the basis of the Islamic Republic. Article 27 also emphasizes freedom of assemblies and marches without weapons, provided that they do not violate the principles of Islam. Regarding the interpretation of the above-mentioned principles, two views must be taken into account.

In accordance with the constitution , the population and associations, (the inclusion of the principle of non-governmental organizations will also be taken into account) are free in the exercise of their activities, subject to certain freedoms, monitoring the observance of these principles and ensuring the required conditions is a kind of post-monitoring supervision which is exercised after the establishment and creation Non-governmental organizations and the constitution is not preceded by prior monitoring, therefore, the establishment and operation of such organizations

does not require licensing, and the government only monitors that NGOs do not violate the requirements of Articles 26 and 27. Although the law does not have affirmation to the prior monitoring, but the condition of observance of the principles requires Qualification of NGOs and associations, so it is necessary to start licensing before establishment and activity. Regarding the legal personality of NGOs, given the fact that these organizations are considered to be NGOs, referring to provisions 586-584 of Iran's Law of Commerce when registered in the special office, they are qualified as legal personality on the date of registration. However, with regard to the monitoring of their activities, the law of registration of companies lacking the necessary mechanism and the revocation of the license is not possible by the registration of companies, but the law of revocation of the license has been subjected to the judicial decision.

In 1999, the Supreme Administrative Council considered the Licensing and Supervision of the Activities of NGOs as the relevant authority for the NGO's activity, which was revoked by the Administrative Justice Court. In 2002, another code was set up that the Ministry of the Interior designated the licensing authority to organize such associations and has been amended several times since the date of drafting these regulations. The process for applying for licensing is that Commission for Investigation of Applications for Licensing, which is formed under the commission of article 2 at the national, province and city level, will proceed with the issuance of a license. The secretariat of this commission is formed at the national, provincial and city level in the Ministry of Interior, provincial government and government, respectively. Licensing activities will be licensed by the National Commission for Article 2 for trans-provincial, national or international organizations. Each of the commissions of Article 2 shall be forming Supervisory Committee for the purpose of reviewing and monitoring the good run of the Code of Conduct and the function of preliminary investigations concerning organizations operating within their mission.

NGOs' Participation ways in the Criminal Process

Article 66, which was adopted in 2013, before the amendment of 24/03/2015 was as follows: NGOs whose Article of Association is to support children and adolescents, women, ill , mentally or physically disabled people, the environment, natural resources cultural heritage, public health and the protection of citizens' rights can impeach against the committed crimes in the above fields and to protest in all stages of the proceedings in order to lead proof against the opinions of the judicial authorities. Following the amendment dated 24/03/2015, this article was amended as follows: NGOs whose Article of Association is for protecting children and adolescents, sick and mentally disabled people, the environment, natural resources, cultural heritage, public health and citizenship rights can impeach against the committed crimes in the abovementioned areas and participate at all stages of the trial or proceedings.

Right to impeach a crime

After the amendment, the right to lead proof and protest against the judiciary's decisions were removed from the text of the article, and now NGOs can only impeach a crime in relation to committed crimes in the context of their activities. Therefore, NGOs does not even have the right to complain to the judiciary about committed crimes related to their subject. although, many people may suffer losses, but only the direct victim, that is, someone who has been harmed by the crime, and the legislator intends to protect him by criminalizing a permissible conduct, or is considered as the deputy of such a person, can apply for prosecution in the criminal process as a plaintiff, and indirect victim does not have such an authority. Such a person is considered to be a crime announcer and has the authority (Khaleghi, 2014, p. 29). This aspect concerns private dignity with regard to violating the rights of an individual or certain people.

From another aspect, according to the definition of Article 8 of the new Code of Criminal Procedure, a crime can have a public image for violating divine norms or violating the rights of society and disrupting public order. Obviously, some crimes such as crimes against the environment cultural heritage, natural resources or public health are considered to be public in accordance with the criminal laws of the country, and as their beneficiary is society, any person, whether real or corporate, can declare a crime. Therefore, Article 66 has not invested them new authority by conferring them the right to bring a crime on the part of the NGOs. In the assumption of non- adoption of this law, in accordance with the principles and legal provisions, non-state legal entities could not only declare a crime, and the judicial process had also accepted this issue, because in the science of jurisprudence, in principle, one speaks about a person, his rights and duties, and whoever is, whether real and corporal person.

Right to participate at all stages of proceedings

Having the belief that justice must be current, is one of fundamental feature for legal systems. Article 150 of the Iranian Constitution provides that trials shall be conducted publicly and the presence of persons shall not be prohibited unless it is determined by the court that its publicity is contrary to public chastity or public order or in private cases of the parties to the dispute request the trial not to be public.

NGOs may participate in hearings in accordance with Article 66. In this regard, Note 4 of Article 66 of the law on the implementation of this Article considered it possible in compliance with Article 160 of the Constitution, and it has been stipulated that, in crimes which are contrary to public chastity, in accordance with Article 102 of the Code of Criminal Procedure, and its clauses, can only declare a crime and submit their reasons to judicial authorities and do not have the right to attend meetings. But the interesting point is that, contrary to the headline of the article, conferring the right to submit reasons for crimes is against NGOs that are foreseen by relinquishing a right and granting another one. Therefore, it can be said that Article 66 of the Code of Criminal Procedure does not confer them a new right or privilege by specifying the right of NGOs to attend the hearings.

The conditions of the NGOs to declare a crime and participate in the proceedings:

In Article 66 of the Code of the Criminal Procedure conditions have been provided for the participation of NGOs in the criminal process, including:

The field of NGOs activity

In the Articles of the Association of NGOs with the structure of the Board of Trustees or with the structure of the General Assembly of the members, terms and conditions have been determined and approved that Article 2 of the Article of Association is about the type of activity of NGOs. Therefore, in addition to the fact that the activities of NGOs intervening in the criminal process should be subject to the provisions of Article 66 of the Criminal Procedure Code, their activities should be non-political and non-profit and non-governmental.

The areas of activity of NGOs are as described in Article 66 of the Constitution and include the NGOs whose Articles of the Association provides support for children and adolescents, women, ill and mentally or physically disabled persons, the environment, natural resources, cultural heritage, public health and support of civil rights and (does not include other non-governmental organizations) such as active in support of prisoners, victims of labor accidents, poor victims, and so forth.). This causes dissatisfaction and protest among those NGOs whose areas of activity do not relate to the cases stipulated in the legal act.

Having the conditions specified in Note 3 of Article 66:

In note 3 of Article 66 of the Criminal Procedure Code: The names of the NGOs that can enforce this article will be prepared by the Minister of Justice in cooperation with the Minister of the Interior in the first quarter of each year and will be approved by the head of the judiciary.

In line with this limitation, the legislator has both renounced the right to recognize active organizations in the area from the judicial authorities, and their names are limited to a list provided by the executive and judiciary authorities. A group of critics, regardless of the rule set forth in Note 3 Article 66 believes that if an organization is non-governmental, the approval of its Articles of Association under the supervision of the government will eliminate the independence of that NGO. Another group believes that if an organization whose articles of association form one of the preceding paragraphs of Article 66 and are accepted by the Commission under Article 01 of the Parties' Law or are registered as Non-Commercial, Non-profit or a charity Institution in the Company's Registry, but its name is not included in the subject matter of Note 3, cannot be excluded from the declaration of the crime and entry into the proceedings in the statement specified in Article 66, since after the legal identification of the corporate body, cannot be detained from what it was created for due to procedural law (Khaleghi, 2014, p. 72).

A non-governmental organization that basically does not need to obtain permission under the sixth principle of the constitution, even if it has also obtained the authorization of the establishment from the Ministry of the Interior, in accordance with the law of the parties or the executive code of the non-governmental organizations may have legal entity, should not be included in the list provided by the Ministry of Interior; or if it is included in the Ministry of Interior's proposed list, its name and existence may not be approved by the judiciary, and in this way it is also deprived of the right to declare a crime. It seems that the meaning of Note 3 of Article 66 is not a preferential choice from among NGOs, but according to this note, those group of associations are allowed to work in this article, which is approved by the Ministry of the Interior and the judiciary. This verification means having a legal license to operate and not having a judicial precedence or a lawsuit in the courts and certifying the competence of the organizations. According to the Code of procedure for the Establishment and Activities of Non-governmental Organizations, adopted on November 5, 2005, also the Council of Ministers, the criterion, and the only legal document for the activities of NGOs is the Ministry of the Interior's license. In accordance with Article 2 of this Regulation, the organization shall have corporate body after obtaining a license and registration in accordance with the provisions of this Code and other current regulations. However, the mere registration of the organization cannot be authorized to enter the judicial authorities for a declaration of crime or a complaint against a person or entity, but the organization itself should not have the criminal and judicial precedence that the Ministry of the Interior, in cooperation with the Minister of Justice prepare a list of approved organizations and put it at the disposal of the head of the judiciary. And this does not mean a preferential choice, but it is a choice based on merit. This verification actually means having a legal license to operate and not having a precedence of a violation or a lawsuit in the courts and the approval of the said organizations (Azimi, 2015, p. 2).

Seeking the consent of the victim as the condition of the intervention of the NGOs

As in the forgivable crimes, the plaintiff's will and intention is necessary for a criminal litigation, and on the other hand, some people because of their disabilities are always and in every community under the aegis of the legislature. Note 1 of Article 66 stipulates: If the crime occurred has a particular victim, it is necessary to obtain his consent to act in accordance with this article. If the victim is a child, insane or a stupid in financial crimes, the consent of the protector or legal guardian is obtained. If the protector or legal guardian has committed a crime, the said

organizations will take the necessary measures by obtaining the consent of the guardian ad litem or the approval of the prosecutor.

Conclusion

Article 66 of the code of Criminal Procedure has been written in chapter three about the tasks and authorities of the public prosecutor. The codification of this article in the Code of Criminal Procedure is accounted as one of the innovations of the legislator. This article has created high hopes with regard to the presence and active role of NGOs in the criminal process. Through identifying the right of declaring crime, participation at all stages of the proceedings, for justifying and protesting the decisions of the judicial authorities for the NGOs, suddenly made a fundamental change regarding their presence in the criminal process. The enforcement of the Criminal Procedure Code was prevented from implementing the law by propounding the issue of executive barriers of the criminal procedure Code, and changes were made, which the Article 66 was also subject to these changes. With the changes made in 2015, the right of NGOs to protest was relinquished by the judicial authorities referred to in Article 66, and in a short time hopes turned into disappointment. The identification of the right to declare a crime, participation at all stages of the proceedings for leading proof and protesting the decisions of the judicial authorities about NGOs are accounted as one of the missing links in our legal system during the criminal process. The mainstay of the NGOs presence in the process was to have the right to lead proof and to protest the judiciary's decisions ,through the changes which were made in 2015, the stance of NGOs practically reduced from the plaintiff to a mere indicator. But despite the relinquishment of the right of NGO to lead proof and protest the decisions of judiciary, it should be admitted that there is still a ray of hope to be hopeful about the fact that NGOs will be present in the criminal process. It is not acceptable that the legislator does work in vain wishing to codify an Article in the Code of Criminal Procedure just to refer to declaration of crime by NGOs. Something that is inherent in every person who witnesses the crime which can inform the competent authorities of the crime occurrence. The person who announces a crime can be the victim of the crime or someone else.

Another drawback of the article 66 was related to its note 3. This note included the posteriori supervision by the Minister of Justice, the Minister of the Interior and the head of the judiciary, which could significantly be affective in the presence of the NGOs in the criminal process, which, thankfully, was improved by the adoption of clause C of article 38 of the standing judicial sentences of the countries' development programs.

The purpose of the forecasting the possibility of litigation by the NGOs has had supportive aspect for these institutions be able to defend vulnerable groups such as children and adolescents, women, sick people and those with physical and mental disabilities, as well as from silent victims such as the environment, natural resources and cultural heritage. Since the fact that NGOs ' establishment was to accomplish the designated occupations in their Article of Association, and usually such occupations or engagements are not subject to a specified time, there should be made many efforts to avoid creating any obstacle to these associations in order to establish the goals determined in the founding document.

Improvement of NGOs' attendance in the criminal process requires, first and foremost, requires the modification of the given rules regarding their establishment. Supporting the presence of NGOs is considered as one of the effective tools to achieve good dominance. Identification of NGO as a plaintiff is recommended in accordance with the rights set forth in Article 66 before applying the changes in 2015. The return and resettlement of this right is of great significance to the NGOs, since the right to pursue the community and the assignment of the sovereignty to pur-

suit requires a particular attention to the presence of the NGO in the criminal process, thereby filling the possible shortcomings related to the assignment of the sovereignty to pursuit.

Another suggestion is that, if possible, a friend institution or affiliate of the court should be strengthened in the Iranian legal system. There are appropriate grounds in the ultra-legislative, legislative and sub-legislative provisions that provide the presence of the NGOs in judicial courts. Applying the existing capacities in these regulations can not only introduce the semen as a good friend to the courts, but it can also be effective in restoring public rights and developing justice and legitimate freedoms inserted in the constitution. Different measures were taken to implement Article 66 of the Criminal Procedure Code Prior to the adoption of Article 38 related to the Law on Permanent Sentences of the Country Development Plans. As mentioned before, in the implementation of Article 66, the names of those who are able to participate in the criminal process is specified by the head of the judiciary. For this purpose, the Director General for Public Procurement and Civil Society Participation in the Judiciary has announced the establishment of a joint secretariat between the office and the NGOs. Creating such secretariats was considered in the direction of reflection and interacting with the members of the NGOs. The constructive and mutual interaction between the NGOs and the Judiciary is a prime opportunity through which the two main functions of the judiciary, namely, the public adjudication and the development of justice, as well as the appropriate action to prevent the occurrence of crime to be realized.

By amending the provisions of Note 3 of Article 66 of the Criminal Procedure Code, through the Permanent sentence law, the National Development Plans adopted in 2016, practically determination of the names of the NGOs are set aside by the Head of the Judiciary and the subsequent measures for the implementation of this Note. Of course, different measure, at the level of the judiciary, have been, will be taken to engage more and more with NGOs that can be helpful. Joint NGO meetings with the social deputy and crime prevention are considered as one of the most prominent examples of these actions, through which the capacities of crime prevention might be identified. Since crime prevention is not a problem that the judiciary might cope with alone, but there must be found how to overcome it out of the judiciary. The crime prevention capacities are very diverse through which, there can be created appropriate bedding to interact in this area. The adoption of the crime prevention law and the identification of ways to attract popular participation and supporting NGOs in preventing crime will increase the importance of the presence of these institutions in the criminal process. In the end, it should be noted that, despite the shortcomings and deficiencies in the framework of Article 66 of the Criminal Procedure Code regarding the presence of semen in the criminal process, the prediction of such a provision in this law should be taken optimistic that these organizations might be able to defend the rights of real and hypothetic victims as a prosecutor or private prosecutor like other countries. It is clear that the participation of the NGOs in the criminal process can not only eliminate the shortcomings of the existing criminal justice system, but it can also be accounted as an indicator accepting the approach of the plurality in the social control of crime, and ultimately, might be taken as a step towards the realization of a participatory criminal policy.

Finally, it should be mentioned that the adoption of the new Code of Criminal Procedure, and in particular article 66 of this law, is one of the strong points that the legislator has identified with the awareness of the role and place of NGOs in a civil society that it is in itself a major step in the promotion of human rights. Nowadays, the improvement of efficiency in human rights mechanisms depends on the participation of nongovernmental organizations, because the absence of initiatives or direct and indirect actions of these organizations is often accounted as human rights abuses on the agenda of international institutions. Fortunately, with the adoption of the new criminal procedure Code and the inclusion of the issue of NGOs in article 66 of this law,

an incomplete but long step has been taken to develop civil society and protect the people's legal demands.

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ФУНДАМЕНТАЛЬНЫЕ И ПРИКЛАДНЫЕ ИССЛЕДОВАНИЯ В СОВРЕМЕННОМ МИРЕ

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