



## Regulating the responsibilities and limitations of publishing proceedings in the media

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### **Abstract**

Today, access to court judgments for reviewing the trial process has become an essential element in establishing judicial transparency and combating injustice. Publication of court judgments is common in many cases. In Iran's legal system, although the openness of trials is common, in some cases such as economic or political crimes, the courts are not open. With regard to the important benefits that society receives, the principle of the openness of trials, freedom of information and freedom of expression, are among the most important foundations of media access to the trials and judicial information. On the contrary, some principles of fair trial, public order and good conduct require that the presence of media in the courts and their access to judicial information must be prevented. It seems that there is still a need for more stringent rules. With regard to the important benefits that society receives, it can be stated that the principle of the openness of trials, freedom of information and freedom of expression, are among the most important foundations of media access to the trials and judicial information.

**Keyword:** Publicity, Trials propagation, Media, Responsibilities, limitations.



### Introduction

The debate is that whether disclosure of details in the courts is not against human rights? When the court judgment is still uncertain, accusations are not proved against a person, is not its public announcement injustice? In the courts of some countries, certain considerations challenge the "principle of open justice." Some of the considerations that impede media access to court information include<sup>1</sup>:

- The principle of premature claim; that is, the documents will not be accessible by the media as long as they are not yet verified;
- The principle of "trial by the media" before the matter can be heard in public trial and public hearings. According to this principle, Television and newspapers are able to inspire people to consider accused people as guilty or innocent before or even after issuing a verdict.
- The possibility of abusing documents which are not yet verified, without the possibility of "repatriation";
- The risk of misleading reporting;
- The need to protect trade secrets. However, is it possible to disable this useful tool to fight corruption only due to some media infringement? People may not complain to him for a variety of reasons, including ignorance of their rights or fear of reprisal by the judge in that case, so that the correct statistics of cases of corruption of judges are not usually reported to the relevant authorities, But legal journals can go to the masses to carry out this mission; the same violations that people do not report to concerned authorities reliably tell reporters and give information; It should not be possible to disable this particular tool simply because some individuals are reporting false intentions and harassment. Nonpartisan publications that reveal the truth by Islamic-human criteria are like a surgical knife that removes dill.

Therefore, judicial proceedings should, if possible, be held openly in a court that in addition to interested parties, media representatives, specialized journals, civil society, and academics could be presented. Public information on matters such as efficiency, health and fairness in the proceedings and outcome of claims are of high importance and should not be restricted under the law or judicial order, on the pretext of "disrupting the trial"<sup>2</sup>, or of disrupting judicial proceedings. Restrictions on media information should be only related to the issues that are undoubtedly justifiable. For example, in order to protect children and those at risk, the media can be allowed to participate in the proceedings and reflect the events and results of the case, provided that they refuse to introduce the names of the persons involved. Commercial secrecy and the possibility of losing competitive advantages can be a barrier to media access. Claimants and defense lawyers should not be associated with judges unless representatives of all parties are present.

### 1. Media constraints

With regard to the useful effects of media access to the proceedings, there is no doubt about the necessity of media access to proceedings. However, unauthorized media access to hearings and their involvement in judicial affairs may lead to negative consequences. Now, given the above mentioned issues, and accepting the limitations of the media in publishing or accessing information, we address to the legitimacy and types of media restrictions.

#### A. The Fundamentals of Limitations and Special Limitations Governing the Media in Judicial Matters

The legitimacy of the constraints governing the media is accepted if they are legally "legitimate"; it means that they must be predicted according to the principles and rules of law. The rules through

<sup>1</sup> -See "Media access to court records and exhibits", Judicial Commission of New South Wales, accessed online: [http://www.judcom.nsw.gov.au/publications/benchbks/civil/media\\_access.html](http://www.judcom.nsw.gov.au/publications/benchbks/civil/media_access.html)

<sup>2</sup> Contempt of court



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which the legitimacy of the limits of freedom of expression is examined are categorized into three categories:

### 1) Rational rules

Rational rules: we must always keep in mind that freedom of speech is the principle and limitations are the exceptions. Therefore, in determining the rulings governing the relationship between them, one has to follow rules governing the relation between the principle and the exception. For example, no restriction can eliminate the freedom of expression, because in that case the relation between the principle and its subjective will be inverse; no exception can exceed its principle. Because the majority of exceptions are abusive and defective, the exception should not be ambiguous, because the ambiguous exception is null and void, the exception should be interpreted narrowly and should be limited to determination its content.

### 2) The rules applied by the legal system

Given that the goal is to resolve the conflict between legal rules (rules that are applied as an exception on the rules governing freedom of expression, and the press and media activities), the limitation of the main rules should be imposed within the framework allowed by the legal system of the country. In other words, the imposition of an exception on the principle of freedom of expression or information must be applied in the context of the legitimate legal system.

For example, if the right to freedom of expression is one of the rights recognized in the constitution, its exceptions must also be envisaged in the constitution or, ultimately, must be foreseen by constitutional law in ordinary laws.

### 3) Rules applied by human rights and international law

Given the fact that the right to freedom of expression and other media freedoms are recognized as human rights (or citizenship or fundamental rights), the restrictions imposed on this right must not be contradicted with the criteria specified for the legitimacy of human rights constraints.

For example, unless there is a "reasonable need", restricting freedom of expression should not be restricted; restrictions on freedom of expression must be consistent with the values of a "democratic society"; If the realization of a goal is possible by using other means and methods that are inadequate in comparison with the restriction of speech freedom, it should not be possible to impose restrictions, and the restriction of freedom of expression can only be used as the last resort, and this restriction should not be accompanied by a violation of other rights<sup>3</sup>.

Now, according to the rules, the types of conditions foreseen in the conventions and important international instruments (such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the American Convention on Human Rights and the Principles of Johannesburg) for the legitimacy of freedom of expression should be studied.

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the United Nations Convention on the Rights of Persons with Human Rights and the European Convention on Human Rights and Freedoms have laid down three criteria for the legitimacy of the limits imposed on freedom of expression. Of course, the countries committed to these treaties must apply these three criteria in their laws and courts. Given that the above-mentioned standards have come to the force in all the important human rights documents, and because all countries have committed themselves to the Universal Declaration of Human Rights, the courts of all countries are committed to apply these three criteria<sup>4</sup>. The first part of this clause states that any limitation should be made only by law. The second part is that the creation of any limitation should be due to one of the legitimate aims explicitly enumerated in the law. The third part is to prove that the restriction is necessary.

The Universal Declaration requires that any restrictions must be established solely for the purpose of identifying and providing resources counted in a democratic society.

<sup>3</sup> See: ARTICLE. 19 Freedom of Expression Handbook: International and Comparative Low, Standards and procedures, 1993, pp. 111-109

<sup>4</sup> Ibid.



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The International Covenant and the American Convention declare that restrictions must be necessary to protect the benefits of the Convention, and the European Convention also incorporates the two concepts of "necessity" and "democratic society" and stipulates that any restrictions must be necessary in a democratic society. Although the American Convention does not specifically refer to the need for the limits of any democratic society, the US Court of Human Rights has stated that any restrictions on freedom of expression should be subject to the conditions laid down by the European Court of Human Rights.

#### B. Types of media restrictions

With the study of international conventions on freedom of expression and the media, as well as the comparative study of the laws and regulations of different countries in the world, seven basic constraints for freedom of expression can be identified.

Some of these restrictions exist in our internal laws, which we will name them briefly.

a. The basic constraints of freedom of expression are:

- Protecting national security
- Protecting public secrets
- Privacy protection
- Protection of Intellectual Property
- Supporting the pride and credibility of individuals
- Supporting the fairness of proceedings
- Supporting audiences against misleading advertising

B. In our country, the important rules and regulations on which freedom of expression are anticipated include:

Constitution. Freedom of expression and its constraints have been addressed in Principles 24 and 175 of the Constitution. Article 24 addressed "non-disturbance to the principles of Islam" and "public rights" under the title of the restrictions on freedom of the press. Article 175 also limits the freedom of expression and the misuse of ideas on radio and television to "respect Islamic standards" and "safeguard the interests of the country".

The press law. The press law passed on 1985 and the 1991 amendment foresees the following limits for press freedom:

- Not insulting Islam and its sanctities
- Not insulting the supreme leader or authorities
- Not committing defamation
- Not publishing the classified information (Article 24 and Clause 6 of Article 6)
- Not publication of photographs and images contrary to public chastity (Article 28 and Article 6, paragraph 2)
- Non-publication of secret deliberations of the Islamic Consultative Assembly (Article 29)
- Not disclosure of secret hearings of the courts of justice or investigations of judicial authorities whose disclosure is not permitted by law (Article 29).
- No publication of investigations of information agencies whose disclosure is not permitted by law (Article 29)
- No imitation of the name or mark of other publications (Article 33)
- Not publication of atheistic materials
- Not proliferation of prostitution
- Lack of theft
- Not publication of the article against the constitution (paragraph 12 of article 6 of the annex)
- Not publishing misleading commercials
- Not promoting articles that harm the Islamic Republic (Article 6, paragraph 1)
- Not making disagreement among the population, in particular through racial and ethnic issues (Article 4, paragraph 6)
- Not encouraging individuals and groups to commit acts against national security, dignity and interests of Iran both internally and externally (Article 5, Article 6)
- Non-disclosure of articles containing disclosure of personal secrets (Article 31)



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- Not dissemination of gossip or misrepresentation of others (paragraph 11 of article 6 of 2000)
- Not promotion of profusion
- Islamic Penal Code, adopted in 1996. In the Islamic Penal Code, for media activities, the following limitations are predicted:
- Lack of promotional activity against the Islamic Republic system in favor of groups or organizations opposing the regime (Article 500)
- Not insulting to the sanctity of Islam or the Great Prophets or Imams Taherin or Hazrat Zahra Salam Allah (Article 513)
- Not insulting Imam Khomeini (RA) or Supreme Leader (Article 514)
- Not insulting individuals (Article 608 and Article 697)
- Not crushing chastity and general ethics (Article 640, paragraph 1, and article 64, paragraph 3)
- Not publication of falsehood for the purpose of harm to non-or disturbing public opinion (Article 698)
- Preventing from nonsense (Article 700).

## 2. The responsibilities of the press and news sites

### Clause 1 - Civil and Criminal Responsibility of Press Companions

Several laws, including the press law, computer crime law, e-commerce law, the Islamic Penal Code, and so on, govern the criminal content of news databases. In this paragraph, we first aim to pay attention to the above rules, and then we will have some suggestions as to how to resolve the conflict with regard to the possible coincidence of those rules.

The review of the press law adopted in 2002 and the subsequent additions to this issue is important, because in accordance with Note 3 and 4 of Article 1 of the Law, in general, all news agencies and newspapers covered by the Press Law passed in March 1364, and subsequent additions. For this reason, it is inevitable to examine the limits of criminal liability in that law.

Note 4 states: "Internal news agencies shall be subject to the provisions of this law and its amendments in terms of rights, duties, legal protections, and penalties and penalties, and the procedure for hearing them.

The Managing Director, the authors, and suppliers of the News Agencies have the same responsibilities as the Director General and the Author of the Press. The agency for monitoring news agencies will be the same supervisory board of the press. "However an opposite view is expressed on the criminal responsibility of the responsive person, which seems to be misunderstanding. Because some people believe in the news agencies, the responsibility of the responsible manager lies with the owner. According to Article 10 "Regulations on the Establishment activities of Non-Governmental Agencies", the agent of the agency, in addition to being responsible for the general policy of the agency, is also responsible for the activities and publications disseminated through the news agency.

If the owner is a legal person, the director (or one of the members of the board of directors), who is introduced to the ministry of Culture and Islamic Guidance, will be responsible for the above tasks<sup>5</sup>.

One of the things that causes electronic media, including news bases, to be under the press laws, are those in Article 6 of the Press Law<sup>6</sup>.

- 1- Publishing atheistic and anti-Islamic clauses and promoting issues that damage the Islamic Republic of Iran.
- 2- Dissemination of prostitution, and the publication of images and photos contrary to public chastity.
3. Promotion of lavish and prodigality
4. To make dissension among the strata of society, especially through racial and ethnic issues
5. To encourage individuals and groups to commit acts against the security, dignity and interests of the Islamic Republic of Iran inside or outside the country.

<sup>5</sup> Ansari, Bagher "Mass Communication Rights", p. 163

<sup>6</sup> Article 6 of the Press Law "News publications are free to break the Islamic public, and private law principles that are specified in this chapter:



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6. Disclosure and publication of secret documents and orders, secrets of the armed forces of the Islamic Republic, plans and military fortifications, the publication of secret proclamations of the Islamic Consultative Assembly and the secret courts of the judiciary and investigations of judicial authorities without legal authority.
7. Insulting the religion of Islam and its sanctities, as well as insulting the authority of the leadership and the authorities.
8. Lies to authorities, institutions, organs, and every individual in the country, and to insult individuals and legal entities who are religiously respected, whether through the publication of photographs or cartoons.
- 9) The theft, as well as the quotes from the press and parties that are devious and opposing Islam (both domestic and foreign) in such a way as to promote them. (The above limitations are determined by the regulation).

Note 1- The plagiarism is the deliberate attribution of all or a significant portion of the works and writings of others in their own right even through translation.

10. Abuse of individuals (including men and women) in images and content, humiliation and insult to women, propaganda, illegitimate and illicit luxuries.

According to the computer crime law, some activities of virtual news databases may be recognized as criminal offenses. In general, Articles 14 to 18 of the aforementioned law refer to crimes committed by electronic media and news agencies, including Article 14:” Anyone who produces, sends, publishes, distributes or deals with pornographic content by means of computer or telecommunication systems or data carriers will be condemned.

Section II - The punishment Law for the people who participate in illegal social and visual affairs.

### **3. Civil and criminal liability arising from radio and television broadcasting**

Regarding the activity and governing rules, some media actions are liable to criminal prosecution and punishment. Obviously, the perpetrator's punishment is one of the methods of mental and emotional well-being of victims, Including criminal penalties or legal remedies applicable to mass media must be examined in accordance with the type of crime and the type of action and the type of media perpetrated separately.

The harmful acts of the media in entering material or moral harm to another is sometimes found in the following ways:

#### **3-1 Privacy violation**

in the legal system of Iran, principles 22, 23 and 25 of the constitution and articles 570, 580, 582, 641 and 669 of the Islamic Penal Code have taken note of some of the privacy issues of individuals because anyone other than the people themselves has no right to enter the personal territory.

Principle 22 of the Constitution: Dignity, life, property, housing rights and occupation of individuals are inviolable, except in cases where the law prescribes.

Principle 23 of the Constitution: Inspection of beliefs is forbidden, and nobody can be blamed or violated due to his or her beliefs.

Principle 25 of the Constitution: Inspecting and not publishing letters. The recording and disclosing of telephone conversations, the disclosure of telegraphic and telex communications, censorship, non-communication, eavesdropping, and any interrogations are prohibited except by law.

Article 570 of the Islamic Penal Code imposed three-to-five-year deprivation of state employment and the imprisonment for six months to three years on government officials to prevent illegal detention and detachment from service.

Article 582 and 641 of the above-mentioned law stated that violations to communications, telecommunications and telephone calls of individuals in an illegal way must be punished. And in all of the above, there is a civil liability law that anyone who deliberately harmed life and property and others freedom, dignity and commercial reputation is obliged to compensate for loss.

#### **3-2. Desecration**

In the realization of desecration, two public disclosure requirements must be fulfilled, one of them is that they must be publicly disseminated and disseminated in the general public, and the other is the victim's identity, whether person or group.



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The increasing scientific and technical progress of the modern world, especially in the field of mass media, has caused private life to be threatened every day. Today, information is a new product that can influence the world. Desecration in the media mainly occurs in the form of defamation (the explicit assignment of criminal acts to others and the inability to prove it), and insult (the explicit assignment of criminal acts to others and the inability to prove it), assignment of any affair and misleading, whether false or right, by any means or methods, or by the combination of the three methods, and the dissemination of it, which penalties are imposed for committing these acts in the Islamic Penal Code. Anyone using any medium (print-line, newspaper, magazine, speech in assemblies or any other means ...) attributes a crime to anyone but cannot prove it, or publishes printed papers with or without signing in order to harm or disturb the public opinion, in addition to restoring dignity and compensating for material and spiritual losses, they would be sentenced to imprisonment (Articles 608, 609, 697 and 698 of the Islamic Penal Code) and (Article 30 of the Press Law of 64) (Article 1 of the Civil Liability Act).

### 3.3. *Unauthorized publication of the courts*

Although the publicity of the courts is one of the principles of the advancement of the constitution of our country (Article 65 of the Constitution), whether public media have the right to publish a public hearing of the court? Article 188 of the Code of Judicial Procedure in Criminal Law considers the publicity of the trial not to impede the presence of individuals in the court, but publishing the court news in the media before announcing the court vote is unlawful. Article 13 of Code of Administrative Justice prohibits the insertion and publication of the infringement prior to the confirmation of the violation. Under Article 225 of the Code of Criminal Procedure, it is stipulated that in publishing the court proceedings through the mass media or filming, photographing and disclosing the identity and characteristics of the accused, they will be condemned to the legal punishment set force in the Article 648 of the Islamic Penal Code. Children have a special status with regard to media law. For example, the press does not have the right to report on the proceedings of individuals under the jurisdiction. In addition, the publication of inconspicuous talks in the Islamic Consultative Assembly is also illegal.

### 3.4 *Misleading through propaganda*

The media is able to falsify the imagination by making propaganda. The presentation of improper propaganda in the financial (commercial), cultural, or political areas (election of the president, parliament, experts, councils of the city and the village) can be resulted in disadvantage. The media should not be excluded from the rules and regulations in either of these areas or seek to destroy the society.

The regulation on the establishment and monitoring of the work and activity of advertising centers approved by the Council of the Islamic Revolutionary Assembly in 1978 clarified the limitations of the advertisements, so that according to the article 12, the media must avoid un-provable and misleading propaganda claims.

Article 12 of the Code of Conduct for the Establishment and Supervision of the Work and Activities of Advertising Centers prohibits the use of images contrary to ethics and religious beliefs and public chastity and insult. Failure to pay attention to any of these regulations can lead to civil and even criminal liability.

In the political arena and in the election, misleading propaganda can take responsibility, although public awareness of the status of volunteers is essential for selection (19). However, the rules and regulations of elections, such as Articles 64, 57, 58, 62, 63 and 65 of the Electoral Law of the Islamic Consultative Assembly or Articles 74 and 74 of the Presidential Election Law, provide rules to prevent misleading propaganda.

### 3-5- *Abuse of trademarks and intellectual works*

The media generally has to use commercial advertisements, introducing works, etc. to provide their financial resources. The trademark of a company is any distinctive sign that identifies goods or services that are provided by individuals or companies of a particular nature, production or service. For example, using the logo of Coca-Cola and the sign of Benz, or Iran Khodro 20, and other scientific, artistic and cinematic, musical works without their permission, are violations of their



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rights. However, Imam Khomeini (eds), in his book, "Tahrir al-Wasilah " Volume 2, believes that the existing laws and regulations do not have a religious aspect and do not recognize the copyright in the monopoly of publishing. And in the future, Dr. Abolqasem Gourdi's news about Imam's disapproval in his opinion during the next years, mentioned some statements of the above-mentioned book.

### 3-6. *Incitement to crimes against security*

The media should take responsibility for their actions if they incite people or groups to take action against security. In this regard, Article 25 of the Press Law introduces penal penalties to the former Penal Code, and the obligations of Articles 512 and 504 of the Islamic Penal Code also decide on this issue. However, based on the legal and general rules of jurisprudence, civil responsibility due to media action is also relevant. The act of provocation against security has numerous and endless indications, including propaganda against the Islamic Republic, provoking armed insurrection and causing ethnic and tribal incitements.

### 3.7 *Publication of Confidential State and Military Documents*

Publication of the confidential and secret governmental documents is illegal and punishable under the Penal Code of the Armed Forces Crimes Act and the Penal Code for the Publishing and Disclosure of Confidential and Public Secrets Acts approved in 1974. Confidential and secret documents, etc., have a special regulation that all the media will be strictly prohibited from publishing such documents without permission, and if, a person, a group or even a state is involved in the commission of this act, it will be obliged to compensate for the damage. In recent years, the publication of the secret document issued by the Ministry of Intelligence in the Salam newspaper caused the closure of the newspaper and a criminal offense with the director.

### 3.8 *Roorback*

Disinformation is considered as the crime in all religions and legal systems. Article 698 of the Islamic Penal Code states that anyone declares lies through distribution of paper with or without signature aiming at harms of others or the anxiety of public opinion or officials or complaints should be sentenced from two month to two years' imprisonment or seventy four lashes. Clause 11 of Article 6 of the Press Law, adopted in year 79, also criminalizes the spread of rumors and misrepresentations or misrepresents the content of others, and in the note of this article, the punishments provided for in Article 698 are considered for the offender, and the insistence on the commission also results in the cancellation of the license. Therefore, according to the general law, those who are suffering from crime will also have the right to claim damages.

### 4. *Results and methods for compensation of the media in the form of law*

The purpose of compensation by the media at a fraudulent conveyance is different, including:

1. Compensation for material damage
- 2- Restoring the status of the past
- 3 - Declaring paid salary
- 4- satisfaction of injured people.
5. Punishment of the perpetrators or offenders.
6. Preventing the unfairness in the offense.

It is clear that the whole purpose of the compensation is to take into account the type of damage, the loser petition and healing of the loser. Sometimes the loss has a financial aspect, and sometimes its moral and sometimes both aspects are included, therefore, the amount of financial compensation to be paid must be commensurate with the loss incurred. Determining the amount of damage by the judges of the court will be possible using experts' opinions and the damage to be determined should in fact include all the losses arising from the harmful act. However, in the case of spiritual loses, only the compensation is not enough. What is considered in the spiritual disadvantages is the healing of psychological disorders, and this is only possible by adopting one of the following ways:

- 1- Obligation to apologize or modify the subject in the public media in which the subject is published.
2. Declaration of the conviction sentence of the culprit media in various media
3. Eliminating harmful effects and preventing its publication and distribution
4. Announcing response of the victim to the crime in the relevant media (the subject of the harmful act)
5. Registering in media file and suspending the activities for a limited time
6. In the case of repeating the harmful act, detention or termination of the offending media.





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All of the above can be applied by compliance with the rules and regulations governing the matter and the suspension of the violation in accordance with existing laws and regulations and based on the legal rules and civil liability law.

#### Conclusion

Generally, in the context of entering press into the criminal trials, two values interact with each other in some way. On the one hand, it is the freedom of information, that is, people can get the necessary information, especially about cases that have become known as national cases in Iran. On the other hand, there is a discussion on the individuals' rights of defendants. However, if the details of the accusation and personal details of a person whose conviction had not yet been finalized and maybe eventually acquitted, the same record would remain in the minds, and the ultimate acquaintance will have no effect on the purge of the negative attitude of the people towards the accused. So it must provide some kind of compromise between them. In the Criminal Procedure Code it is stated that as public should be informed, the trials are open and consequently people can be there and be informed of the status of the case. It is for the preservation of the first value, that is, the discussion of freedom of expression and information, and so on. On the other hand, its publication in the media is limited because publishing in the press raises the issue to a very large extent, and this is to preserve the second value, which is to preserve the rights of someone who is considered innocent they found guilty. Therefore, they should not be treated in such a way that they are guilty. In some countries of the world priority is given to the first principle. For example, in European countries, from the very beginning that a person is accused, and sometimes even before it, the press enters the story and reflects the issue through newspapers and other media. For instance, the trial, the defendant's defenses, the words of the lawyer, all are published, and never wait for a definitive ruling, and the press is free. On the contrary, in Iran, perhaps the latter has been given priority. That is, while people can take part in the trial, publishing the trial by the press depends on the conviction of the defendant definitively, that is, the other principle of innocence cannot be relied upon, since it is at this stage that the person is guilty and convicted. In the New Islamic Penal Code, there are predictions about some economic criminals to announce their names through media, so that people can get the news about them through the media.

Of course, on the one hand, it can even be said that after the definitive conviction, when the press publishes this issue, it is also in some way contrary to that person's rights. Since it is true that they have already been convicted, announcing their name in the press and articles is a double punishment which is not based on the law. For many times, there is no reason to consider a double punishment for a convicted person in the form of the publication of his name in the media. There is also a debate, but in the Iranian law there is no ban for the release of names of convicts. The constitution is explicit in this regard, it says that trials must be opened and all individuals can be presented. But there are some exceptions which are mentioned in the constitution. One exception relates to the security cases, that is, when the publicity of the trial affects the security of the country, and one is that the publicity of the court is against the chastity. Except for such cases, trials should be open and the judge cannot prevent the presence of individuals in the court. Therefore, the principle is that trials must be open to the public, and judges must have admissible evidence for exceptions and, they should not try to repeal the court's openness for a few reasons, and in fact, to abandon the principle. Of course, mechanisms can be considered for this issue. Many times, the reason for not enforcing the constitution is that the law does not set the boundaries of the problem to provide a basis for the implementation of that constitutional principle. Similar to article 168 on the presence of a jury in political crimes in which because political crime is not defined, political criminals have practically been deprived of this right and the jury is not present at trials. The prosecutor and judge are both dependent on the sovereign and the accused who has committed a political offense has somehow been ruled by sovereignty. So this person should not be between two people who are both dependent on the sovereignty. Therefore, it is said that the jury must be present as the impartial representative of the community in order to prove the fault but now, this is not applied in Iran. Some of the other principles of the Constitution, such as Principle 142, referring to the property of the authorities, are now in a state of which it is unclear how these assets



are examined., because the ordinary law has not specified its scope. It is also about our argument, when the constitution says that it must not be chaotic and contrary to national security, it is possible to define in ordinary law what these criteria are, or under which conditions the judge can regard a case as being contrary to security with these criteria, then, at what point should the objection be raised and how this protest should be addressed. However, it can be said that by adopting the rules, it is possible to stop non- open trials without a solid reason, which is, of course, a good thing.

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