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Review Article

The Unethical Nature of Maneuvers Leading to Delays in Civil Proceedings for the Establishment of Justice

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Abstract

Introduction: Fair and equitable proceedings, as one of the most fundamental ethical demands in the legal system, can have positive consequences in the legal system. In the process of civil proceedings, resorting to various means can prolong the proceedings and even violate the rights of the other party. Deviating the course of proceedings by resorting to delaying maneuvers will unfairly seize time in favor of one party and to the detriment of the other. In this article, an attempt has been made to explain the unethical nature of maneuvers leading to delays in civil proceedings and to identify it as an independent entity that has its own definition and characteristics.

Material and Methods: This article is a descriptive review and the research method is historical, analytical, applied and inductive. Related documents reviewed for the literature and information analyzed.

Conclusion: Various circulars have been issued in the Iranian judicial system to eliminate the delay of proceedings, but as long as the unethical nature of the delay maneuvers is not intended, the removal of the delay in the proceedings is inevitable, even in a biased manner by the litigants. These delay maneuvers, in addition to fraud against legal procedures and measures, are observed from the beginning of the proceedings, even before the case is referred to the judge and during the proceedings until its conclusion. By recognizing this independent nature and distinguishing it from similar titles, such as fraud against the law and abuse of rights, preventing the reliance on these causes of delay by litigants in civil proceedings through legislation with the aim of directly dealing with this phenomenon is intended by the Iranian legislator, benefiting from French doctrine and laws and even in a more advanced manner.

Keywords: *Ethics, Abuse of rights, Fraud against the laws, Delaying maneuvers, Delay of proceedings*

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INTRODUCTION

The relationship between ethics and law is a matter of course and is confirmed and emphasized by philosophers, moral thinkers, and lawyers [1]. One of the topics that can specifically explore and examine the relationship between the two is ethics in the judicial process. Whenever objective criteria can be provided to measure the observance of justice in a trial, a more precise statement can be made about the observance of ethics in the legal system [2]. As a result, fair trial standards should be defined and used to measure the fairness of the standards [1]. What is happening in Iranian courts today clearly shows

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that sometimes the ineffectiveness of formal rules can make substantive rules worthless [3]. In the maze of delayed proceedings that delays the execution of a verdict in a simple lawsuit for months and even years, who will think of searching for the rules on which the verdict is based?

Delayed proceedings, repeated violations of judicial decisions, and an increase in the number of lawsuits entering the courts continue to be challenges facing the Iranian judicial system. To overcome it, one must resort to scientific research and institutionalize research in the organizational sphere [4]. In our country, current laws are not comprehensive and comprehensive enough. In the judicial system, the judge, instead of using his judicial knowledge more, must search for scattered laws [5]. In this context, the relationship between time and the process of the hearing is an issue that occurs in the case of maneuvers that lead to delays in the hearing. Delaying the hearing has harmful effects on the litigants and its direct loss is on them [6]. A maneuver can be defined as the use of any ritual behavior by the litigant that saves time or causes the opposing party to lose it. According to some French legal doctrines, in defining a delaying maneuver, they say: “It is called any skillful but not always illegal behavior that in itself delays the course of justice or the outcome of a process by creating undue events and using all means to save time” [7].

During the trial, each party, based on the principle of correspondence and while presenting evidence or preparing a defense, can benefit from the legal capacities to respond to the evidence presented by the other during the trial. In this regard, the Civil Procedure Code has provided principles and regulations that are used in the hearing by the people involved in the trial, including the judge, arbitrator, litigants, witnesses, experts, and the court office. Delay tactics sometimes become so prominent in the trial that the main purpose of the trial and the violated right are forgotten and the courts are caught in its dilemma that sometimes, without any specific result, the case is faced with a verdict that is in no way consistent with the court's mission to achieve justice and causes frustration for the complainant and abuse by the other party. Having a comprehensive and comprehensive judicial system depends on having comprehensive and coherent laws, eliminating legal loopholes, and having experienced judges, and strengthening these matters is the only way to achieve a desirable and ideal judicial system [8]. Reforming the proceedings in the judicial system of the Islamic Republic of Iran is one of the essential matters to improve and increase the efficiency of this system [9].

It is necessary to try as much as possible to identify and control these delay tactics, which are the cause of increasing the time in the trial. To do this, before understanding the concept of delay tactics correctly, we must identify their main manifestations through an examination of the judicial system in order to limit their abuse. In raising this issue, what is important is whether the abuse of the right to go to court necessarily undermines another right? And whether the actions leading to delay are part of a larger whole or, on the contrary, can they be considered as separate phenomena? And deepening the judicial practice of both countries, the subject of the research, along with studying the elements that constitute the concept, makes it possible to limit the scope of this research to a large extent to the purpose of this article and to succeed in explaining the definition of the concept of "delaying maneuver" within the framework of civil proceedings of the two countries so that its material manifestations can be better understood and, as a result, combatted? Considering this important point, this article attempts to explain the unethical nature of delaying maneuvers in civil proceedings and identify it as an

independent entity that has its own definition and characteristics.

MATERIAL AND METHODS

This article is a descriptive review and the research method is historical, analytical, applied and inductive. Related documents reviewed for the literature and information analyzed.

DISCUSSION

Ethics in legal system

The relativism of law and ethics is one of the most widespread issues in philosophical discussions of law. The history of legal theory in the West bears witness to this claim, in such a way that natural law theories, legal positivism, historical theory of law, critical approaches to law, etc. have each presented a specific position on the separation of unity or interaction of legal rules with moral norms. Law and ethics each present a normative system that monitors human behavior, which, unlike separation and union approaches, interact with each other; legal rules based on the logic of perception of practical validity are validated in order to provide human ends and interests, and since moral interests provide part of human needs and interests, they can be the end of a legal rule or the source of its validity. Of course, this view does not mean that all moral rules and ends must necessarily be transformed into legal rules, but rather that moral ends must inevitably be considered in the validity of legal rules [2]. Without a doubt, one of the most important issues for life in society is the issue of ethics. Attention to ethics and moral values is a transboundary concept and has its roots in human history and civilization. In the meantime, civil ethics is one of the necessities of urban life and activity in civil society. Societies cannot rely solely on the conscience of individuals to ensure the implementation of ethical principles in society. Especially in developing countries, civil ethics has a minimal presence and this principle has not yet been internalized. Therefore, it is necessary to formulate laws and regulations to support civil ethics in order to maintain social and normative order. Therefore, the laws proposed in the civil procedure system can be a way to prevent the boundaries of civil ethics from being broken [10]. There is a kind of a priori relationship between law and ethics based on values; which provides the basis for each to help the other; the judge uses these values in the presence of a legal rule and in the absence of one. Sometimes, law is subject to uncertainty and ambiguity in substantive or formal rules; in such a way that the judge is placed in a situation where it becomes difficult for him to make a decision. In this situation, the judge must choose the most ethical interpretation to eliminate the suspicion of denying the conditions of justice [3].

Distinction between delaying maneuvers and abuse of rights

Given the similarities and differences between these two concepts, as well as the need to introduce delaying maneuvers as an independent concept, it is necessary to compare the main criteria related to abuse of rights and delay tactics, which are close to each other. However, we will see that it is not necessarily useful to associate delaying maneuvers with abuse, and perhaps considering them the same will lead to many cases where there is a motive for delaying proceedings, which cannot be prevented due to the impossibility of recognizing it within the framework of abuse of rights. Certainly, there are common points between delaying maneuvers and abuse of rights maneuvers. The concept of these two types of maneuvers, which undermine the smooth and fair trial, is becoming one. Even today, there is sometimes confusion between delaying maneuvers and abuse of rights [11]. The following two main points are considered as points of distinction between these two concepts:

- ***Deviation of the law from its social functions***

The abuse of the law in its social functions, which is reflected in the case of delaying maneuvers, is also found in the abuse of the right to complain. This is a fundamental common point between these two concepts that can further justify the attachment of the delay tactic to the theory of abuse of rights, while this is not the case; there the delay tactic is an independent concept. However, we should not be mistaken, because these are actually two evils that must be separated. In other words, not every delaying maneuver is necessarily an abuse of rights, and the relationship between the two is a matter of public and private. A French jurist revealed the concept of the relativity of rights; in his opinion, every right has a social purpose, a social mission, and its exercise in a way that is contrary to its purpose and spirit is prohibited. Here, two concepts are mentioned: (1) the concept that restricts the abuse of rights and (2) the so-called "broad" concept that was of interest to Josserand. The weakness of the restrictive concept lies in the fact that it is not capable of prohibiting a large number of acts, as in the delay tactic, when a litigant abuses the legal process, he certainly diverts the legal channels from their destination and in the process seeks to obtain his own personal benefit [12]. If saving time is a personal benefit for those who intend to avoid fulfilling their obligations, this benefit is nevertheless illegitimate, because the right is diverted from its legitimate purpose in its legal sense; whereas in the delay maneuver the right is not denied, but the court is challenged by time to reach a fair verdict [13]. The issue of the desire to postpone the resolution of the dispute by prolonging the discussions, waging a war of attrition, is a topic discussed in delay maneuvers. For example, the lawyer is aware of the inherent lack of jurisdiction of the court and informs this only after months of court proceedings and a preliminary ruling have been issued [14]. The malicious intent often seen in abusers of rights is rarely present when a delaying tactic is employed, because the delaying maneuver is merely a waste of time on the part of the claimant and does not seek to deny the claimant's rights.

- ***Lack of harmful intent***

The tactic of delay is generally not intended to harm the other party, since its purpose is different. In fact, the argument is that of attacking the opponent in unfair ways, only to gain the maximum possible time. The complementary nature of delay compared to abuse allows us to move towards the independence of the concept of "delay maneuver". In fact, in the context of delay, the interest of the litigant is not focused on the malicious intent to harm the other party, but simply on the waste of time. Certainly, the maneuverer who delays the proceedings has a strategy to delay the proceedings. It should be added that the cause of delay can also be the plaintiff or the defendant. It is undeniable that the point of intersection between delay and abuse is the consideration of the psychological element, in other words, the malicious intent and intention to harm of the abuser.

Independence of the concept of delaying maneuvers

Legal doctrine has long recognized the independent nature of the concept of delaying tactics; the specific constituent elements of delay, including the intentional use of the time element to delay the proceedings, reveal the specificity of the concept. The independence of this concept from similar concepts seems inevitable, and therefore delaying tactics cannot be considered the same as abuse of the right to complain or other fraudulent or unfair tactics. Rather, today, by studying the decisions of the judicial procedure and the writings of the doctrine, delaying tactics is undoubtedly a unique concept of its kind, which unfortunately has not been given special attention in the Iranian legal system. In the judicial decisions of France, there are numerous examples available that refer to the

concept of delaying maneuvers and the penalty for delaying the proceedings, and this attention of the decisions is due to the existence of specific legal provisions in the French judicial system regarding the penalty for users of delaying maneuvers; However, in the Iranian judicial system, the issue of filing a lawsuit to delay the implementation of obligations is only addressed in the note to Article 109 of the Civil Procedure Code, under the topic of securing a demand, which cannot be analyzed in light of the legislator's attention to delaying maneuvers. One of the measures that has been considered in recent years in the Iranian judicial system with the aim of reducing the delay of proceedings is the use of electronic systems during the proceedings. The electronicization of proceedings does not change the fundamental rules governing civil proceedings, but is only a tool in the service of the principles and rules of proceedings for better and faster proceedings [15]. In the decisions of the courts of appeal, the person who creates delaying maneuvers creates the right to receive compensation for the other party due to the delay in the proceedings and due to the fault, he has committed. In this regard, the decision issued by the First Civil Chamber of the French Supreme Court directly and explicitly referred to delay, and condemned a person to pay damages to the other party solely because his delaying maneuvers led to an excessive increase in the time and cost of the proceedings. Finally, in the Iranian judicial system, due to the limited consideration of court decisions, there is no case that explicitly referred to delaying maneuvers.

The recognition of the independence of the concept of delaying tactics has also been considered by French doctrine. Researchers distinguish between delaying maneuvers and abusive maneuvers, highlighting the fact that the penalties imposed by the legislator are not the same and stating that we should, if necessary, distinguish between delaying maneuvers and other abusive maneuvers. When the abuse consists solely of delaying maneuvers, the penalty may be without a civil penalty. Therefore, it must be concluded that these two concepts are separable and cannot be confused with each other, and the distinction can be seen as necessarily due to the "specific nature of the delaying maneuver, as an unfair manipulation of time" [16].

Specific Constituent Elements of a Delaying Maneuver

The delay tactic is systematically divided into two distinct intentional and temporal elements that can be found throughout the judicial process. The intentional element is the most essential element in the formation of the delay tactic. This intention is different from the intention to harm, which aims to harm the essence of the right of the other party. In the present study, maneuvers that disrupt the course of the proceedings that are reprehensible are addressed. A false claim, which is often made with prejudice by the claimant of this claim (whether in the main, confrontation, entry or attraction of a third party or in the form of an objection and complaint), is any type of claim at the initial stage or even at the stages and stages of appeal and revision or through the use of extraordinary methods of complaint (retrial, third party objection and appeal), the purpose of which is to harass the other party, delay the process of handling the main claim, delay the execution of the final judgment, gain time for the claimant of this claim and take away the opportunity from the other party [17]. The concept of time is inherent in the concept of "delay tactics" and naturally constitutes its distinctive feature. Researchers [18] believe that time is considered as a factor for innovation and also as a factor of resistance, soothing, but also provocative; it can be creative, but also destructive. In jurisprudence, as in doctrine, the time element has been raised and emphasized as

a constituent element of delay tactics. The presented elements (intentionality-time) allow us to conclude that the delay maneuver is an independent title and to deduce the necessary conclusions with a new definition of it and to provide the possibility of providing ways to improve the framework of delay tactics by taking into account the mentioned features.

The Unethical Nature of Delaying Maneuvers

The delay tactic is a fact, a behavior that aims to waste time in the proceedings. Obviously, this definition suffers from a lack of obstruction and comprehensiveness, to the extent that it only constitutes a general outline. The concept is divided into two cores: "maneuver" and "delay"; but these two elements must be defined separately. In fact, the delay maneuver refers to a process of will that, in the form of a set of coherent movements, brings to the fore the specific malice of the user when it is in the context of a proceeding. The delay tactic is an intentional fact that wastes time. An "intention" yes, but by whom? The delay tactic is precisely an intentional action of the litigant with the aim of illegitimately taking advantage of time. Therefore, the delay maneuver is an intentional action of the litigant that is carried out in order to waste the desired time of a trial. In each of the delay maneuvers, the presence of a delaying intention is undeniable. Therefore, delay tactics are “a deliberate attempt by a litigant to delay the proceedings in court.” However, this definition, in the context of civil and arbitration litigation and therefore in the context of a trial in general, still suffers from inadequacy. The delay tactic that is used necessarily harms the litigant, because it hinders his path to achieving his own rights. Delay maneuvers therefore arise from conduct in the proceedings that has the sole purpose of delaying the proceedings and prolonging the duration of a trial and has no effect on the nature of the right in dispute [19]. Lawyers believe that the purpose of enacting legislation is to ensure public order and peace and to administer justice [20]. Therefore, any reference to abuse should be avoided in the definition of delay tactics. For this reason, presenting delay tactics as “a reprehensible delaying process that has no other purpose than to excessively slow down the course of justice” will not remain. In answer to the question of why a litigant want to prolong the proceedings? What is he really afraid of? Whether in the context of a civil trial, the goal is always the same. When the litigant or his lawyer realizes that the trial is not going as he had hoped or fears that the proceedings will be carried out quickly against him, in this situation, he uses delaying maneuvers to confront the trial with unfounded objections in order to gain a little extra time. When the litigant only wants to use time to his advantage, he raises as many unfounded cases as possible in order to delay the court's decision as possible and sees his salvation in the passage of time of the trial. This is not the case at all in French law, because French courts try to use these judicial procedures and various texts of the Civil Procedure Code with civil fines or compensation to condemn the person who delays the trial. Unfortunately, in the Iranian legal system, there is no mention of delaying tactics in the trial process and strategies for preventing it, and the Iranian judicial system has been facing the problem of delaying the trial for years. However, in the case of natural delays in proceedings resulting from formal laws, it is necessary to design judicial management in such a way that all courts enjoy the three principles of ease of access, speed, and accuracy in judicial proceedings [21].

CONCLUSION

Maneuvers leading to delays in civil proceedings in France have been identified as an independent entity in the Code of Civil Procedure, judicial practice, and doctrine of that country, and the court can impose a civil penalty on the person

who unduly delays the proceedings by citing the use of a maneuver leading to delay. This has caused the litigants to avoid objections that are ineffective in the nature of the lawsuit and are merely intended to delay the issuance and execution of the judgment. The court can also disregard objections based on the use of delaying maneuvers and make a decision by entering into the nature of the lawsuit. However, in the Iranian civil procedure system and even in the doctrine and judicial practice, such a nature has not been independently recognized, and the court, within the framework of Article 84 of the Civil Procedure Code, is obliged to pay attention to the obstacles created in the proceedings and make a decision. The court's inaction in the face of the objections raised by the litigants and especially their lawyers determines that in every lawsuit, before paying attention to its essence, it puts the court in such a predicament of formal objections and unnecessary demands that the essence of the demand demanded from the court is basically marginalized. Therefore, according to the definition that was made of maneuvers that lead to delays in civil proceedings and its elements, it is necessary to independently identify the immoral nature of delaying maneuvers, make amendments to the Iranian Civil Procedure Code, and entrust the judge with the responsibility of examining the objection raised and separating it from the objections that affect the essence of the lawsuit or unnecessary objections, and have the authority to impose a civil penalty on those who improperly invoke the objections, so that they can make maximum use of the legal powers of the judges to manage and organize the proceedings and prevent their delay. Therefore, serious attention by the Iranian legislator to identifying and legislating in the field of delaying maneuvers is an inevitable necessity.

ETHICAL CONSIDERATIONS

Ethical issues (such as plagiarism, conscious satisfaction, misleading, making and or forging data, publishing or sending to two places, redundancy and etc.) have been fully considered by the writers.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interests.

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REFERENCES

1. Ghanavati J, Mandani I. (2018). Ethics and fair trial in light of the predictability of trial rules. Ethical Research, 2018; 8(3): 183-159.
2. Jahani Mijani V, Seraji M, Farrokhi M. Ethics in the legal system: A fair trial in registered quasi-judicial bodies. Ethics in Science and Technology 2022; 17 :16-23
3. Mohseni H, Reazeinejad A. Law & morality; morality & adjudication (some reflection on the credibility of without notice recorded voice as proof). The Judiciarys Law Journal, 2011; 75(73): 5-82. doi: https://doi.org/10.22106/jlj.2011.11091
4. Amoozad Mahdiraji R. Judicial objections to the method of filing legal claims. 7th ed. Iran/Tehran: Dadgostar Publication. (In Persian).
5. Afsharnia T, Mobin H. Delay in proceedings and judicial development. 1st ed. Iran/Tehran: Khorsandi Publication. (In Persian).
6. Dehghani Firouzabadi H, Roshan M. Civil liability of the state in delaying proceedings. Administrative Law, 2014; 1(3): 71-112. (In Persian).
7. Cornu G. Legal vocabulary. 12th ed. France/Paris: Puf Publication. 2018.
8. Ebrahimi Z. Investigating the causes of delay in proceedings in the general courts of the Islamic Republic of Iran. Justice Legal Journal, 2000; 64(32): 168-173.
9. Rafiee Tabatabaei, S. H. Reviewing the actions of the judiciary in order to improve the proceedings and its effect on reducing the length of proceedings. Strategic Studies of Jurisprudence and Law, 2020; 2(1): 30-47. Dor: 20.1001.1.26767163.1399.2.1.3.5
10. Badini H, Tabaei M, Hasankhani D. Analytical, legal and ethical look at harassment litigation. Ethics in Science and Technology, 2023; 17(4): 32-37. Dor: 20.1001.1.22517634.1401.17.4.5.1
11. Ghamami M. Characteristics of civil procedure. Journal of the Faculty of Law and Political Science, University of Tehran, 2006; 74: 265-296.
12. Tajik A, Khoeini G, Khazaei A, Shafiei H. The role of ethics in civil liability focusing on the principles of carrier's civil liability (a philosophical-ethical study). Int. J. Ethics Soc., 2021; 3(2): 16-26. https://doi.org/10.52547/ijethics.3.2.16
13. Matin Daftari A. Civil and commercial procedure code. 1st ed. Iran/Tehran: Majd Publication. 1999. (In Persian).
14. Karkhaneh R, Abu Ata M, Rohani Moghadam M. The role

of the lawyer in preventing procrastination in Iranian law and international documents. International Legal Research, 2020; 13(47): 369-391. https://doi.org/10.30495/alr.2022.1946912.2237
15. Aghayari M, Karimi A, Elsan M. Electronic civil procedure: legal process and technical application. Law Quarterly, 2020; 50(2): 209-224. https://doi.org/10.22059/jlq.2020.269003.1007130
16. Moradi A, Saberian A. Ethics and excuse in contract execution in Iranian civil & commercial law. Int. J. Ethics Soc., 2021; 3 (1): 1-8. https://doi.org/10.52547/ijethics.3.1.1
17. Elsan M, Fathi M. Frivolous claims: concept and strategies to reduce (a comparative study of the case law of Iran and the US law). Journal of Comparative Law, 2022; 6(1): 23-38. https://doi.org/10.22080/lps.2022.23469.1333
18. Garshasbi A, Maleki J, Asgharian M. Ethical conflicts in compulsory arbitration with the right to action and judicial justice. Int. J. Ethics Soc., 2024; 6 (1): 33-42. https://doi.org/10.22034/ijethics.6.1.33
19. Katouzian N. Philosophy of law. 1st ed. Iran/Tehran: Sahami Enteshar Publication. 1998. (In Persian).
20. Katouzian N. Introduction to law science. 49th ed. Iran/Tehran: Sahami Enteshar Publication. 2006. (In ersian).
21. Mohajeri A. The code of civil procedure in the current system. 1st ed. Iran/Tehran: Fekrsazan Publication. 2011. (In Persian).