

A fair hearing for dealing with media coverage-based economic crimes

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ABSTRACT

In the modern world, the media, as the primary means of communication, plays a crucial role in reflecting the image of criminal justice authorities, so the dissemination of information concerning their achievements, especially the police, have always attracted a great deal of media attention. The present study has found that the media construction has been always suffering from distorted account of news which shifts public opinion in favor of particular groups. The society accepts reports, which correspondents provide about criminal offences, and then the public opinion is shaped. On the other hand, the public opinion has a wider significance for the criminal justice authorities. Officials who are selected directly by polling, due to their dependence on people's vote, magnificently respond to the public opinion. On the other hand, officials of the judiciary organization are also strongly influenced by the public opinion because they aim at preventing criminal offences. It will lead officials to render decisions in line with the public opinion. The public opinion, which is considered as the basis of official proceedings, generally fails to support scientific as well as expert measures, so there would be no other recourse than to use common ways such as mistreatment with culprits. As a result, the legislative criminal policy will be established in the form of passive acts, which regarding to lack of expertise, they may be in line with the public opinion in order to impose heavy punishments on perpetrators.

Keywords: Media, Economic crime, Criminology, Reflection, Public opinion

Introduction

In the modern world, people life is strongly influenced by the mass media to such an extent that it is said we are living in the age of communication dominance. Regarding its positive function, the media taken into account as powerful tool for giving useful information, sensitizing the society to different issues as well as extending its influence over social and individual life of people in every aspect. To put it simply, social developments, as well as fundamental changes in the human life and communication, are all resulted from the power of mass media. The news media is considered as one of the foremost ways for enlightenment and assimilate opinions. The mass media is not only effective to shape and control crimes, but also it plays a pivotal role in making necessary legal changes, as well as full restoration of old approaches for maintenance of the public order. The news media, as one of the pillars of the society, has been in direct contact with people.

The relation has been carefully coordinated in line with social developments over the time and it has extended its influence on the society. Diversifying functions in order to meet people's need is considered as one of the most significant effects of the society on the mass media. At first, the media was only responsible to report news, but the significant effects of industrial developments as well as urbanization have been resulted in a new age for the media. On the other hand,

economy plays a crucial role in the human life today. Therefore, fighting against economic corruption take on an added importance in the modern world. Economic crime is a new conception of the modern world that it has caused an increasing concern because of threats made against societies' consistency and security, democratic traditions and values, moral standards and justice, sustainable development as well as governance of law. Moreover, the term "fair hearing" underlies observing rights of the parties during all legal processes, including the public prosecutors' office or the court. The rights are supported by the law.

The regulation controls all steps of criminal proceedings, and regarding its position, it has anticipated special duties for judges, administrative and executive staff working in the justice department, justice officials and all people who are not involved in but connected to the criminal proceeding, especially news media correspondents [1].

So, the term "fair hearing" is defined as judicial hearing and making decision in an authorized, independent, neutralized court based on legal regulation where rights of the parties will be secured. The present paper aimed to study a justice judgment in dealing with media coverage-based economic crimes.

Methodology

The present descriptive-analytical research studied the relevant law using views and opinions of jurisconsults, as well as authentic books and literature. The library method was used for compiling indices by making reference to authenticated scientific websites and articles.

Standards and principles of a fair hearing

The process of jurisdiction over economic crimes resulted from media coverage

Media coverage of crimes develops a situation in line with representations of the mass media. Furthermore, some elements of the criminal hearing are strongly influenced by the situation. Sometimes, it is so egregious that its illegality is disclosed through decisions of judicial authorities. Allowance for making report about covered crimes in the media is a case in point. Although members of the jury as well as witnesses concerning a criminal case are not authorized officials and have less judicial knowledge, they have significant effect on the judgment mainly due to the influence of the mass media on them [2]. While it may lead to passing remarks according to the media's content, so the effect of their opinion on the criminal judgment is obvious.

This chapter is concerned with the effects of media coverage of crimes on the quality of judgment through five parts as follow:

Fair hearing

Dependence of the court to different parties or groups is among concerns of the legislator, which regarding its importance in the execution of law, it is taken into account as a prerequisite of a fair hearing. The Iranian legislator also emphasizes the importance of the foregoing matter, so it has been mentioned in different parts of the legislation such as the hierarchy of criminal hearing. To take an example, in the first article of the chapter 11 of the constitution (Article 156), which is concerning the judiciary, it is stated that the judiciary is an independent power. So, this is what makes the independence of judiciary as well as judicial authorities so important. However, it is worth to mention that the independence of the judiciary system greatly depends on the independence of the trial court and the judge alike.

Despite all legal emphasizes for securing independence of trial courts and judges during criminal hearing, we have currently witnessed several instances of violating such a fundamental principle of criminal judgment.

For example, regarding the hearing procedure of some special crimes, especially political ones, which the society has been also concerned about the influence of pressure on the criminal justice system, it has frequently witnessed a clear breach of the independence of the criminal justice system. The breach of institutional independence for establishing special courts in order to deal with some crimes is a case in point. For the observance of the institutional independence, the case is needed to bring to a court which it has already been anticipated.

Sometimes, a special trial court is hold just after a specific crime is committed. Such courts are those which has already been exist to carry out normal hearing but they are supposed to deal with a special crime afterwards, or the courts will hold just after a special kind of crime is carried out, or these temporary trial courts will be hold to hear special cases for a short time [3].

The effect of media coverage on passing sentence

Determining type of punishment for the media coverage crimes is among issues receiving a great deal of attention. As the result of criminal hearing, it has major significance in the reports as well as the public opinion. Reporters generally make attempt to assess the sentence ordered based on their criteria and understanding. While, news fail to give us a real insight into criminal issues. Nevertheless, the public opinion has shaped according to the reports. As such, regarding media coverage crimes, criminal justice authorities are often in dilemma about being in line with the public opinion and receiving media attention or showing complete disregard for the public opinion or getting blame from the mass media for acting based on their expert opinion.

Therefore, the public opinion has a significant impact on the mode of proceedings concerning cases of this kind. Furthermore, determining type of punishment, as the final stage of criminal hearing, could not entirely exclude the abovementioned principle. Type of sentence for crimes is determined in two steps: first, type and amount of punishment is determined by the judicatory, then judges, using their authority given by the legislator, will select amount of punishment [4].

Regarding the effect of media coverage of crimes on both legislation and judiciary, the criminal policy may be in line with an increase in amount of punishment. So, increasing in sentence, which is called punishment orientation, is either addressed as the outcome of political debate or the judiciary punishment orientation, respectively related to legislation in the field of criminal process or the judicature and judges [5].

The role of mass media to shape the idea of entitled justice

By the term "entitled justice" is meant the increasing tendency of criminal policy during current decades towards recourse to the punishment and restoration of punishment orientation in the normative aspect of sentence. So, the effect of mass media to develop the idea of entitled justice is needed to be considered.

Increasing fear of committing a crime in the society is among the fundamental argument which leads to develop the idea of entitled justice. Some argue that the attitude is resulted from fear of crime, namely a fear that has its roots in a new collective experience of crime and insecurity during the current decades. As mentioned in the first chapter, there is a significant link between the media coverage of crimes in the mass media and amount of fear of crime among people. Broadcasting news concerning crimes by the mass media has a knock-on effect on increasing fear of crime in the society. It is found more effective when news media tries to intensify fear of crime among people by the use of photos, telling story about the event,

accentuate the event etc. The next factor which adversely affects fear of crime is to shape the opinion that the rate of crimes is growing. It could worsen the problem, especially when correspondents make their all attempt to pretend that the society is in the risk of suffering from a crime, so it looks to suggest that crimes, especially those which people are afraid of, are growing fast [6]. On the other hand, the mass media has also had a pivotal role in increasing the actual rate of crimes. There is a direct relationship between a rise in the rate of crimes and developing the idea of entitled justice. By increasing the rate of crimes, the abilities of the social defense ideology, which has had a significant emphasize on education of convicts in order to prevent them from committing crimes, will begin to suspect. By growing the crime rate in western countries, especially in the US during 1920-1970, it turned into a major crisis and the social defense ideology as well as the education policy were failed to control it. The failure of foregoing ideology to decrease the rate of crime was obvious and it finally led to the term "the zero effect of the therapy" at that time [7].

Observance of proportion in determining type of sentences

Judges have restricted power to determine type of punishment for criminals. The legislator follows two procedures to determine sentence for crimes. First, they are allowed to determine amount of the punishment by taking articles 22, 46, 47, 48, and 49 of the civil law into consideration, second they are permitted to render judgment within the fixed sentence, which the two are called judicial and legal punishments, respectively.

Media coverage of crimes will lead to a rise in its effect, so the more awful a crime is, the more sever its punishment will be. As such, there is a direct significant relationship between punishment and severity of crimes [8]. As a result, trial court has to consider knock on effects of a crime to determine the punishment, on the other hand, media coverage could worsen and overrate consequences of a crime in the society which it will persuades judges to determine more severe punishment. Unlike the general consensus about the proportion of the offences committed to the punishment, there is considerable dispute over the details. The punishment is determined according to the type of the offence committed and its importance alike. Regarding the importance of crimes, what is reflected in the mass media is significantly different from what is considered by the judges.

Common proportionality is taken into account for what is reported through the media, for instance, regarding the public opinion the severity of murder or rape is more than rubbery while the negative effect of robbery on the society will be more than insolence.

Since the mass media does not use a technical language, so it fails to analyze and express differences among crimes in terms of weakness and strength. To put it simply, the media uses an attractive language to receive a great deal of attention from the public opinion, so it does not mention to technical and fundamental language as well as legal requirements [8].

As a result, the media coverage fails to provide the public with technical and useful information about the importance and severity of the offences committed. Media reports rarely address the legal minimum, maximum or at least average amount of crimes, while the public does not know how much it would be. According to figures, only 23 out of 761 reports have addressed the maximum punishments, among which only seven percent have referred to the minimum while no report has stated the average amount of punishment [9]. It indicates that the news media fails to provide the public with reports containing the precise analyses of punishment in particular cases, so the public opinion is not able to assess whether determined type of punishment for offences committed is severe or not [10].

Limitations of the media to cover news

Despite limitations to the media on covering criminal news as well as incapacity of the society to assess the reality, the public opinion resulted from the media reflection has a crucial effect on the function of courts for rendering the judgment.

The punishment thought by the public opinion is usually more severe than that judges render. On the other hand, failure in the media coverage of punishment as well as having prejudice against selecting the matter of criminal news will prevent the public from thinking about the underlying cause of the punishments, so when a judge lessens the severity of punishments in order to achieve a specific target, it is considered unreasonable from the public without describing the reality cause for mitigation of the punishment [11]. The mass media insinuate the public that the term punishment simply means receiving severe sentence, so when a punishment has lower severity the media call it mitigation of punishment. It has caused the public fails to properly understand the reason behind measures of judges to render judgments, so they critique judgments that are contradictory to their understanding. The latest public opinion poll showed that people obtain information concerning punishments through news media and programs [12].

As such, the public opinion about severity of punishments is generally shaped by the mass media. So, any measure of the criminal justice authority that is different from expectation of people concerning the sentences determined will receive negative feedback from the media. Therefore, regarding formation of the public opinion according to patterns reflected by the media, the present research will first analyzes the nature of punishments covered by the mass media.

The media coverage of punishment

Regarding the cases covered by the media, the quality of media coverage will lead to high expectations of the public opinion beyond the authority of the judiciary. Therefore, punishments with lower punitive aspect but higher corrective nature are taken into account as over-mitigated sentence by the public opinion, so, when a judge decreases the punitive aspect of a punishment, for realizing corrective or therapeutic goals or even individualizing the sentence, the media and public opinion consider it as mitigation of punishment [13].

Receiving such feedback on judicial measures from the society is usually obvious. Besides, regarding reasons behind the growing rate of crime in the society, a large number of people blame courts, meaning they argue that some judges are so nonchalant or the severity of punishments has decreased recently. Altogether, the public opinion believe that mitigation of punishment by the criminal justice system is to oversimplify the situation [14]. All the factors will persuades judges to render punitive judgments in line with the public opinion and the media coverage of the crimes.

a. Taking a firm decision by the media

The effect of the media decision on the method of executing punishments

Execution of punishment in the legal system of the Islamic republic of Iran under Article 3 is duty of the prosecutor that is executed by the prosecutors' office. The legal and judicial frame necessitates adopting an equal procedure for similar cases, unless expert justification and opinion prescribe execution of exceptional measures. However, the media coverage of a crime seems to exert further pressure on the judicial system for applying different and sometimes unprofessional methods which may simply have demonstrative aspect.

Expediting of a trial under the pressure of public opinion

The media play a direct role in changing criminal titles. The media use language or terms which are usually used by some individuals, except for judges, during speeches for reporting news concerning special media covered crimes, which it facilitates publicity of crimes. The effects of Kashmir's Friday prayer leader remarks concerning corrupting on earth by some specific culprits which received a great deal of media coverage is a point in case.

On the other hand, focus of the public opinion on the offence committed leads to execution of severe punishment in line with the public opinion and the media reflection alike. If the rehabilitation program of the culprits, according to their personality and as the main target of the execution of punishment, is realized before termination of proceedings the trial ends, so execution of the rest sentence is considered null and avoid. In the same way, suspended punishment will be used. The foregoing measures have been also applied for the execution of punishment, so punishments resulting to deprivation of freedom, such as imprisonment, have been superseded by corrective measures [15]. The measures have been anticipated in the law as orders which must be executed in line with conditional discharge or suspended sentence

The effect of media coverage on alternative punishments

Having corrective effect is among features of some alternative punishments. Although punishment of this kind lack the both general and punitive aspects, but it is further seeking to amend mental, emotional, and financial losses of the sacrifice by the criminal. Regarding the importance of the public opinion, enjoying social support to initiate social reforms in order to defend new punishments is of the most significance.

Therefore, we will face some issues, namely validity and results of punishment reforming, among people amending the sentence system is discussed; for which the question arises whether people support punishments resulting to deprivation of freedom, like imprisonment. The mass media usually address crimes of violence that have high punitive aspect. People's tendency for punishment orientation and demanding severe sentences of the criminal justice system is among consequences of media coverage of crimes. So, it will result in insufficient social supports for alternative punishments. On the other hand, convince the public that alternative sentences are highly desirable needs to spend much time as well as technical information, however, the mass media fails to realize them. As a result, not only the mass media provide the necessary background for alternative punishments, but also it is considered as a great impediment to it.

Conclusion and Suggestion

The attitude and ideology governing the mass media has crucial role in the media coverage of crimes. The news media under the control of the left-winged parties usually misuses criminal events in line with its policies. According to these media, committing crime has a lot to do with incompetence of the governing party and its ideologies, it partially focuses on those crimes resulting from governmental power and corruption, so it make attempts to relate faults of perpetrators to their attitudes. Reports of correspondents on criminal activities are analyzed and accepted by the society, so the public opinion is shaped in line with the reports, but on the other hand, the public opinion has considerable importance for authorities of criminal justice system.

Those officials who are selected directly by polling, due to depending on their vote, magnificently respond to the public opinion. On the other hand, officials of the judiciary organization are also directly affected by the public opinion because they are aimed at preventing criminal offences. It will lead officials to render measures in line with the public opinion and paying attention to factors. The public opinion which is considered as the basis of official

proceedings generally fails to support scientific as well as expert measures, so there would be no other recourse than to use common ways such as mistreatment with culprits. As a result, the legislative criminal policy will be established in the form of passive acts which regard to lack of expertise they may be in line with the public opinion in order to impose heavy punishment on perpetrators.

Hearing the covering crimes has become fairly rapid than similar cases. The special hearing aims to do a speedy trial depending on the severity of crimes, so the public is assured of severe punishment for criminals in the form of some vulgarizing, demonstrative and emotional measures. The speedy trial leads to insufficient attention to the culprit and their defense rights, besides, not only there will not enough time to hear all legal defenses but also retaining a council will have a demonstrative aspect.

Judges have tendency towards rendering punitive judgments in covering cases. Public orientation of the judiciary as well as being in line with the public opinion will lead judges to render punitive sentences and increase punishments of crimes of this kinds than similar cases, which it provides a impediment to use of society-oriented and alternative punishments in order to realize objectives of sentences. To sum up, our work suggests the following in order to minimize the knock-on effects of media coverage of crimes on criminal hearing:

1. Consultation between the media and an expert in law on the reflection of criminal issues

It effectively prevents correspondents from using their personal style, which lacks scientific validity, to write reports, so it provides the public with a full account of the event in a very simple language and introduces legal frameworks and technical issues alike.

2. Notifying authorities of criminal justice of consequences of interviewing with the media

Authorities of the criminal policy, especially the judicial system, play a crucial role in shaping public expectations. They need to speak within the scientific and technical framework and avoid moving in line with vulgar content of the media while interviewing with the media, especially events become noted for the mass media. If authorities give the public empty promises contrary to the criminal policy in their early interviews, it may lead to some expectations threatening technical frameworks of the criminal policy.

3. Increasing coordination in different bodies of the criminal justice system

Members of parliament, as one of the pillars of the criminal policy, has been strongly influenced by the public opinion in recent years. They have surrendered themselves to the public and have showed no resistance. While it is recommended that deputies have to support measures of the judicial system within expert frameworks and ask people to put their trust in it, rather than trying to impress the authorities in order to adopt procedures in line with the public opinion.

4. To clarify law of procedures and stipulating the observance of a justice hearing

Establishing a framework of a justice hearing and its criteria is another measure. Despite its importance, the legislator made only a passing reference to the legal documents, which enacted in the international convention of political and civil law in 1975. So, it has been almost forgot over the years.

References

- [1] Fazaeli Moqaddam, Mostafa. Fair judgment: international criminal trials. Shahre Danesh. Second edition. Summer 2010. P. 68.
- [2] Naji Zavare, Mortaza. Neurilization in the criminal judgment concerning international documents and the Iranian law. PhD dissertation. Tehran University. 2008-2009. P.16.
- [3] Www. Jamejamonline.ir - 1390/8/4
- [4] Kamali Ardakani, Ali Akbar. A comparative research on some sociopolitical issues. Collection of papers published in the conference of the mass media and sociopolitical consistency of the Islamic republic of Iran. The research center of strategic studies. First edition. 2002. P.102.
- [5] Mahmoudi Khanaki, Firouz; Moradi Hasan Abadi, Mohsen. The public opinion and punishment orientation. The journal of legal studies. 3 (6). No.22. P. 33.
- [6] Alikhah, Fardin; Najibi, Maryam. Women and fear of committing a crime in the urban areas. The periodical of social welfare. 6 (22). P.118.
- [7] Davoudi Garmaroudi, Homa. The school of modern neoclassic and restoration of the penalizing approach. Pp. 65-88.
- [8] Pritt, j ohn -penal populism –page 119
- [9] V. Roberts ‘Julian – Sentencing public Opinion and the News Media – page119
- [10] V. Roberts ‘Julian – Sentencing public Opinion and the News Media – page 119
- [11] R. Glik ‘Henry - W . Pruet ‘George- Crime‘Public Opinion And Trial Courts- p 323
- [12] Www. Mehrnews.com-- 1390/3/29
- [13] Maskani, Zohre. Studying opinion of scholars concerning the alternative punishment to the imprisonment. The journal of reconciliation and education. 4(44). 2005. P.7.
- [14] San, Gan. Alternatives to depriving of freedom and assessing their executive balance according to the French law. Translated by Ali Hossein Najafi Abrand Abadi. The journal of legal research. No.31-32. Shahid Beheshti University Press. 2000. P. 273.
- [15] DJ Piteield and CMB Naude - Public opinion in crime seriousness and sentencing –South African Journal of Criminal Justice- 1999- page 23