



Jurisprudential Fundamentals of Interference of Third Parties in Civil Proceedings

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Abstract

The interference of third parties in the proceedings, as one of the important concepts in civil procedure law, has significant effects on the process and results of the proceedings. This research aims to analyze the interference of third parties in the proceedings with descriptive-analytical method jurisprudentially. The jurisprudential fundamentals of the interference of third parties in proceedings go back to the principles and rules of Sharia and jurisprudence, which have a special place in Islamic jurisprudence. These fundamentals emphasize the principle of justice and fairness and introduce the interference of third parties as one of the means of realizing justice.

Keywords: Third parties, legal proceedings, legal systems, jurisprudence, proceedings

1. Introduction

The term "third party" refers to all natural or legal persons who do not have the title of petitioner or defendant in the original lawsuit, with the explanation that according to the regulations related to civil procedure, people are divided into three categories: the first and second groups (petitioners and defendants) constitute litigants. The third group, which is outside the scope of litigants, has the title of "third party" compared to the previous two groups. Therefore, in the regulations related to the civil

procedure, a position is also considered for a third party, except for the main litigants, in such a way that he can interfere in the proceedings with certain conditions (Hassani, 2011: 3).

Article 130 of the Civil Procedure Law stipulates in this case: If a third party independently claims a right in the case of the main litigants, or considers himself to be a beneficiary in the vindication of one of the parties, he can enter into a lawsuit until the end of proceedings have not been announced; Whether the proceedings are at the initial stage or at the appeal stage. In this case, the aforementioned person should submit his petition to the court where the lawsuit is pending and declare his intention clearly.

As it can be seen, the law has not defined the third party, the legal writers and experts of civil proceedings have not defined the third party or they have passed by it as a reference (Mohajeri, 2012: 110). In jurisprudence, although based on the examples that the jurists have given in their book regarding claims, they have accepted third-party lawsuits, but as far as the author has examined, there has been a detailed discussion and regulation regarding third-party lawsuits and can be seen under this title. (Mousavi Al-Ardabili, 180:1423); But in French law, it is said in the definition of a third-party lawsuit: a third-party lawsuit is the act of a person who voluntarily enters into a lawsuit that he did not initiate and was not initiated against him; to either declare that the disputed right belongs to him or to ensure the protection of his rights that may be compromised as a result of the lawsuit. Article 66 of the French Civil Procedure Law also defines a third-party lawsuit as follows: "A third-party lawsuit is a lawsuit in which a third party is involved in the main lawsuit. When the third party initiates a lawsuit, his entry is optional, and when the parties make him a party to the lawsuit, his entry is mandatory (lawsuit involving a third party).

According to the mentioned cases, it can be said that a third party is a person who joins a lawsuit that is being processed between other people and claims that a part of the disputed right or the whole of it belongs to him or that he claims that the right belongs to someone else or some of the main litigants. Therefore, there are two types of third party lawsuits: main third party and secondary third party, because the legislator has stipulated in Article 130 that the third party must clearly state his intention (main or secondary third party) in the petition. Now, if the third party does not clearly state his intention in the petition, it is not clear whether his petition should be registered or an order to correct the defect should be issued. It seems that if the entry case is not determined as a main or secondary third party, the court should issue a notice to correct the defect, therefore, in this research, an attempt has been made to address the jurisprudential fundamentals of interference of third parties in the proceedings.

2. Jurisprudential Fundamentals

2-1 The principle of protecting the rights of individuals in Islamic jurisprudence

In Islamic jurisprudence, the principle of protecting the rights of individuals is recognized as one of the fundamental principles in the judicial system. This principle believes that every person has rights that must be protected by the law and the courts. The interference of third parties in the proceedings can help to realize this principle and prevent the violation of people's rights. The principle of preserving the rights of individuals in Islamic jurisprudence is known as a general rule that governs all judicial processes. This principle emphasizes that no right should be ignored and every person should be able to assert their rights in court. The interference of third parties, as one of the tools of this principle, can help to provide information and documents that the main parties may not provide, in practice, this principle means guaranteeing equal opportunities for all people in the proceedings. In other words, every person who feels that his rights are affected by the outcome of the proceedings should be able to intervene in this process and defend his rights. This intervention can help to prevent the issuing of unfair votes and prevent the violation of people's rights, the principle of protecting people's rights in Islamic jurisprudence also

helps to prevent corruption and discrimination in the judicial system. With the interference of third parties, courts can become aware of all the different aspects of an issue and make more accurate and fair decisions. This helps to achieve justice and fairness in the proceedings and prevents the violation of the rights of individuals (Mohaghegh Damad, 2004: 72).

2-2 The rule of "no harm" in Islamic jurisprudence

The "no harm" rule is one of the most important rules in Islamic jurisprudence, which emphasizes preventing any harm to people. This rule states that no person should harm another and any action that causes harm to others is prohibited. The interference of third parties in the proceedings can be justified based on this rule to prevent harm to people. In practice, the "no harm" rule means that courts must act in such a way that no harm is caused to individuals. This principle can be the basis for the interference of third parties in the proceedings, because their presence and participation can prevent the occurrence of losses to their rights and interests, the "no harm" rule is also used as an important tool to protect the social and economic rights of individuals in the proceedings. This rule emphasizes that any judicial decision that leads to losses to third parties is unfair and should be avoided. Therefore, the interference of third parties in the proceedings can be used as a solution to realize this principle, this rule also emphasizes on preventing the issuance of unfair and rights-denying votes. With the interference of third parties, the court can become aware of all the different aspects of an issue and make more accurate and fair decisions. This helps to achieve justice and fairness in proceedings and prevents the violation of people's rights (Shahidi, 2005: 19).

2-3 The rule of "justice" in Islamic jurisprudence

The rule of "justice" is one of the basic principles of Islamic jurisprudence, which is another basis for the interference of third parties in proceedings. This rule emphasizes the realization of justice and fairness in all matters, including proceedings, and prohibits any injustice and cruelty. The interference of third parties can help to realize this principle and prevent the issuing of unfair votes. The rule of "justice" means that the courts should act in such a way that no injustice or cruelty occurs in the proceedings. This principle emphasizes that all people, regardless of their role and position, should have equal opportunities to defend their rights. The interference of third parties in proceedings can help to realize this principle, this rule also emphasizes the principle of fairness and social justice. In other words, all judicial decisions should be in a way that considers public and social interests and avoids any injustice. The interference of third parties can help to provide information and documents that the main parties may not provide and prevent unfair decisions, the rule of "justice" also helps to prevent corruption and discrimination in the judicial system. With the interference of third parties, courts can become aware of all the different aspects of an issue and make more accurate and fair decisions. This helps to achieve justice and fairness in proceedings and prevents the violation of people's rights (Kalantari, 2006: 77).

2-4 the rule of "enjoining the good and forbidding the evil" in Islamic jurisprudence

The rule of "enjoining the good and forbidding the evil" is one of the fundamental principles of Islamic jurisprudence, which helps to maintain and strengthen morals and social justice. This rule emphasizes that it is the duty of every Muslim to enjoin the good and forbid the evil. The interference of third parties in the proceedings can be one of the practical ways to fulfill this rule. In practice, this rule means the moral and social obligation of each person to participate in judicial processes and defend public rights and interests. The interference of third parties in the proceedings can help to prevent the occurrence of oppression and injustice and prevent the violation of people's rights. This helps to realize moral principles and social justice, the rule of "enjoining the good and forbidding the evil" also helps to prevent corruption

and discrimination in the judicial system. With the interference of third parties, courts can become aware of all the different aspects of an issue and make more accurate and fair decisions. This helps to achieve justice and fairness in proceedings and prevents the violation of people's rights. This rule also emphasizes that all people, regardless of their role and position, should have equal opportunities to defend their rights. The interference of third parties in the proceedings can help to realize this principle and prevent the issuing of unfair votes. This helps to realize the moral principles and social justice (Mazaheri, 2016: 214).

3. Legal bases of interference of third parties in proceedings

The legal bases of the interference of third parties in the proceedings are also based on the legal principles and rules that have been formulated in the laws of different countries. These legal foundations protect the rights of individuals and guarantee justice in judicial processes (Hashemi, 2018: 98). One of the important legal foundations is the principle of equality before the law. This principle guarantees that all people, regardless of their position and role, have equal opportunities to defend their rights, and the involvement of third parties helps to realize this principle (Katouzian, 2009: 22). The legal bases of the interference of third parties also emphasize the principle of transparency in judicial processes. The presence and participation of third parties can help increase transparency in judicial decisions and prevent corruption and discrimination (Shams, 2010: 34).

Human rights are also one of the important legal bases for the interference of third parties in proceedings. These rights include protecting the rights and interests of individuals against their possible violation by courts and judicial institutions (Zaraat, 2011). Another legal basis for the interference of third parties is the principle of public interest protection. This principle emphasizes that judicial decisions should benefit society and public interests, and the interference of third parties can help to realize this principle (Safaei, 2012: 45). In Iranian law, the civil procedure law is considered as one of the legal sources of third party interference in proceedings. This law specifically deals with the conditions and manner of involvement of third parties in proceedings (Qurbani, 2013: 17). Also, in the French legal system, the laws related to civil procedure refer to the legal bases of the involvement of third parties and determine its terms and conditions. These laws try to prevent possible abuses by precisely setting the conditions (Pirlo, 2014: 37).

The legal bases of the interference of third parties in proceedings also include judicial procedures. Jurisprudence shows how courts act and make decisions in the face of requests for the intervention of third parties (Ismaili, 2015: 41). Finally, the legal foundations of the interference of third parties in the proceedings jointly emphasize the preservation of the rights of individuals, the realization of justice and fairness, and the prevention of the issuance of unfair and rights-denying votes. These bases try to make the judicial processes more transparent and fair by guaranteeing the presence and participation of third parties (Yazdani, 2015: 51).

3-1 Laws and regulations related to the interference of third parties in proceedings in Iranian law

In Iranian law, the interference of third parties in the proceedings is accepted as a general principle whose purpose is to ensure justice and protect the rights of all people who may be affected by judicial decisions. These principles are included in various articles of the civil procedure law and emphasize the importance of the participation of all stakeholders in the judicial process (Katouzian, 2013: 67). In order for the third party to be included in the proceedings, he must meet certain conditions. One of these conditions is having a legitimate interest in the lawsuit. That is, the third party must be able to prove that his rights or interests are directly and concretely affected by the court ruling. This condition has been established in order to prevent unnecessary and unnecessary interference in proceedings (Shams, 2011: 86).

The procedures and manner of entering the third party in the proceedings are also detailed in the civil procedure law. According to Article 130 of this law, the third party can submit his petition to the court before the end of the proceedings. This petition must include the necessary evidence and documents that show that his rights or interests are at risk. After the preliminary examination of the petition, the court can issue permission for the third party to enter (Gasemzadeh, 2012: 119). After entering the proceedings, the third party has the same rights and obligations as other parties to the dispute. He can participate in hearings, present his reasons and documents and defend himself. Also, he is obliged to pay the costs of the proceedings and comply with the regulations related to the proceedings (Emami, 2011: 49). The entry of a third party into the proceedings can have different effects on the process and outcome of the proceedings. On the one hand, the entry of a third party can increase the length of the proceedings and its complexity. On the other hand, the presence of a third party can help the court to issue a fairer verdict by examining the issue more comprehensively (Jaafari Langroudi, 2010: 33).

In practice, there are many cases of interference of third parties in proceedings. One common example is the involvement of insurers in claims related to car accidents. In these cases, insurance companies enter the proceedings as a third party to defend their rights and interests and assume the obligations of the insurance policy (Mohajeri, 2012: 45). Although the laws related to the involvement of third parties in Iranian proceedings are generally appropriate and comprehensive, there are also criticisms on them. Some lawyers believe that the process of entering the third party into the proceedings may be complicated and time-consuming in some cases. Also, some cases of defects in the full protection of the rights of third parties have been observed, which require legal reforms (Sadr, 2014: 16).

3-2 Review of jurisprudence and legal doctrine of Iran

Jurisprudence is a set of interpretations and applications of laws by courts. In Iran's legal system, judicial procedure plays a key role in the development and implementation of laws, because through the interpretations of the courts, the laws are applied in a more precise and practical way. The Supreme Court of Iran plays a prominent role in this process by issuing unanimity votes, which are used as valid legal authority in similar cases (Shams, 2011: 95). The unanimous decisions of the Supreme Court are a clear example of explaining and clarifying laws. These rulings, which are issued to resolve conflicting court decisions, are binding on the law and help lower courts interpret the law uniformly. Unanimity votes increase coordination and integration in the judicial system (Katouzian, 2013: 123).

Jurisprudence plays an important role in the development of rights. Considering the complexities in legal issues, courts can help develop legal concepts with their interpretations. These interpretations become more important especially in cases where the legislator has not explicitly addressed a specific issue. In this situation, judicial procedure can play a complementary and leading role (Jaafari-Lengroudi, 2010: 134). Legal doctrine not only helps judges in interpreting and applying laws, but lawyers also benefit from it. Using the analysis and opinions provided by lawyers, lawyers can better manage their cases and present stronger arguments in defense of their clients. This interaction between legal doctrine and judicial practice leads to the improvement of the quality of justice in Iran's legal system (Sadr, 2014: 38).

There are many examples of the influence of legal doctrine and judicial procedure on court decisions in Iran. For example, in cases related to family law, new interpretations of principles and laws by courts, which are influenced by legal doctrine, have caused the development and evolution of this area of law. These changes have not only helped to improve the legal status of people, but have also brought them closer to justice (Mahajeri, 2012: 65). Although judicial procedure and legal doctrine in Iran have played an important role in the development of the legal system, they have also received criticism. Some jurists believe that there is a need for greater coordination among courts in the interpretation of laws, and there

is also a need for constant review and updating of legal doctrine. These reforms can help to improve and make the legal system more efficient (Kashani, 2011: 82). Legal doctrine includes the opinions and analyzes of prominent jurists, which play an important role in shaping Iranian law. Through their in-depth and comprehensive analyses, these doctrines help judges and lawyers to gain a better understanding of legal principles and laws. By presenting their interpretations and criticisms, jurists contribute to the improvement and evolution of the legal system (Emami, 2011: 28).

4. Conclusion

The interference of third parties in the proceedings, as one of the important tools in the realization of judicial justice, plays a significant role in protecting the rights of the parties to the proceedings. This intervention can help to resolve disputes better and prevent unfair rulings. In both the legal systems of Iran and France, the theoretical foundations of the interference of third parties have been formed based on the principles of justice, protecting the rights of individuals and guaranteeing a fair trial. However, the interpretation and implementation of these principles are different in the two legal systems. There are important differences in the laws and regulations related to the involvement of third parties in the two countries. In Iran, jurisprudence and Shariah principles play a prominent role in the formulation of laws, while in France, laws are developed based on secular principles and civil rights. In Iran's legal system, the interference of third parties has certain limitations. These restrictions are mainly due to the Shariah and jurisprudence principles governing the laws that allow the involvement of third parties in certain circumstances. In the French legal system, the interference of third parties is implemented more widely and flexibly. This approach has made it possible for third parties to enter proceedings in more cases and defend their rights.

In the review of Iran's laws, it was found that the regulations related to the involvement of third parties have not been fully developed and need to be amended and updated in order to be in harmony with the new requirements of the society. In the review of French laws, it was observed that this country has a more comprehensive system for the involvement of third parties, whereby more detailed terms and conditions have been determined for this involvement. The interference of third parties can help to be more transparent in the judicial process and prevent unjust verdicts. Also, the presence of third parties can provide the court with more information that is effective in making a correct decision. On the other hand, the interference of third parties can lead to more complexity of the proceedings and prolong the processing time. This may increase the costs of proceedings and create confusion in the judicial process. Courts in both legal systems play an important role in determining the terms and conditions of the involvement of third parties. The correct and fair judgment of judges can have a significant effect on ensuring justice.

Based on the results of this research, it is suggested that the laws related to the interference of third parties in Iran be reviewed and the necessary reforms be made, inspired by the successful experiences of the French legal system. Training judges on the principles and basics of third party involvement and how to properly implement them can help improve the proceedings and ensure judicial justice. Laws should be formulated in such a way that they can adapt to the new conditions and requirements of the society. This requires constant review and updating of the rules. The interference of third parties in the proceedings is an effective tool in achieving justice and protecting the rights of the parties to the proceedings. By amending and improving the laws related to this issue in Iran and using the successful experiences of the French legal system, more judicial justice and better protection of people's rights can be achieved.

Resources

Emami, H. (2011). Code of Civil Procedure, Tehran: Samt Publications.

Ismaili, A. (2014). Judicial procedures in Iran, Tehran: Jangal Publications.

Bayat, M. (2015). Public Law, Tehran: Samt Publications.

Pirlo, J. (2014). Civil procedure in France, translated by: M. Rezavand, Tehran: Negah Masazeh Publications.

Zaraat, Abbas (2005). Civil Procedure Law in Iran's legal system, 4th edition, Tehran: Khate Sevom Publishing.

Zeraat, h. (2011). Human rights and justice. Tehran: Jangal Publications.

Hassani, Alireza (2011), Entry of a third party in Iran's civil proceedings, Judicial Journal, Monthly, Vol. 85, pp. 3-8.

Shams, Abdullah (2005), Code of Civil Procedure, second volume, ninth edition, Tehran: Drak Publications.

Shams, A. (2013). Code of Civil Procedure, Tehran: Samt Publications.

Shahidi, M. (2005). Islamic Jurisprudence and Law, Tehran: Jangal Publications.

Mohajeri, Ali, (2008), expanded on civil procedure, first volume, first edition, Tehran, Fekrsazan Publications.

Hashemi, A. (2008). Law and Justice, Tehran: Samt Publications.

Yazdani, M. (2016). Procedural law and social justice, Tehran: Samt Publications