Methods of Reducing Trial Prorogation in Dispute Resolution Councils to Support Citizen Rights

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A B S T R A C T
Dispute Resolution Council, a semi-judicial non-governmental institution, might first seem successful in decreasing referrals to courts, increasing public participation, resolving local issues and in short, resolution of issues with no judicial nature, in its 10 years of activity. But after considering the regulations and performance of this institution in recent years, its weaknesses and strengths could be distinguished. Handling lawsuits by Dispute Resolution Councils are prone to complications that lead to trial prorogation and consequently citizen's dissatisfaction and as a result, violation of citizen's rights. Hence, these complications could be eliminated by providing research and legal solutions and through principled planning and passing necessary laws. However, some deficiencies are due to legislations and also their enforcement, where the haste in approbation and the experimental nature has sacrificed precision and quality, and the incomplete law has been passed by its inherent deficiencies. Thus, this research is to provide solutions to decrease trial prorogation in this institution using researcher's own experiences and existing resources. Among the most important of these proposed solutions is the establishment of inter-organizational units, such as research unit, judges training unit, research and secretary unit, consulting unit, informatics unit and unit of special summons for legal papers.

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INTRODUCTION
Consultation, in all affairs, revives the public sense of participation in all facets of society and facilitates its evolution. “Those who consult with wise men are benefited from their reason and may enjoy their solutions” Imam Ali PBUH once said. Requesting assistance and insight is considered bliss. Discussions around this subject become more and more important, since the primary objective of Dispute Resolution Council is to make peace and amity among litigants and persuading them to settle. This is achieved by first, promoting the culture of consultation and compromise

among pubic and second, consolidating all aspects of Dispute Resolution Council. Since this institution has such an influence among public and serves to revive people's rights along with the other judicial institutions, we are obligated to provide solutions to make it more efficient. Although reconciliation, compromise and making efforts to mend damaged relationships are all values in our religious culture, resolution council's regulations and execution guidelines are contradictory to Islamic Juridical (Fiqhi) principles and as a result, they do not satisfy the requirements of the Judiciary and fail to protect citizen rights. It is important to note that Judiciary's decision to decrease incoming cases and quick resolution of some disputes by using religious culture of reconsolidation and peace making is admirable, however it must be made sure that the executive mechanisms employed to benefit from this culture are within the frameworks of the luminous Sharia to avoid causing additional complications and putting extra burden on legal system\textsuperscript{1}.

**Trial prorogation in Iranian judicial lawsuits**

Here, prorogation is considered synonym with prolongation, meaning delay in process. In judicial and legal terminology, it is defined as a situation when lawsuit review takes longer than it is logically specified, due to the judicial procedure, execution of legal formalities or legal gaps\textsuperscript{2}. Trial prorogation is caused by a variety of reasons; however some reasons are more important and more tangible than others. This might lead to citizen rights violation and negligence in reviews. Trial prorogation is an undeniable issue in the judicial system.

It must be noted that the serious matters of adjudication and lawsuit review are super-delicate, and at the same time difficult and often complicated subjects, for which facilitation and acceleration must be applied with consideration and justice\textsuperscript{3}.

Prolongation in processing and trial and the feeling of hardship and difficulty has occupied the minds of those who are willing to plead and public dissatisfaction is clear and undeniable. Unfortunately, sometimes trial process takes so long that even if the verdict is in favor of complainant, it has become too late and futile.

The dilemma of trial prorogation in judicial and semi-judicial courts is not specific to a certain time or place. Almost all countries, including ours, have witnessed this phenomenon, so this is a worldwide legal topic.

However, as social relations become more complicated, this subject also becomes more distinguished and highlighted. Lawyers have constantly tried to accelerate trial and fulfillment of justice through introduction of new solutions and consequently, increase individuals’ reliance on justice system\textsuperscript{4}.

Acceleration means to take major steps towards trial without violating any individuals’ basic right, like presumption of innocence and the self-defense right, or disrupting judicial order.

**Principles and importance of Dispute Resolution Council formation**
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The term Dispute Resolution Council includes three words of “council”, “resolution” and “dispute”. Council’s synonym in Persian is “Shoura”, which means deliberation and consultation. It also means to acquire others’ views and feedbacks. Resolution’s synonym in Persian means to open or to untie, and dispute means some kind of quarrel of conflict. In legal terms, Dispute Resolution Council is referred to a group of 3 individuals selected by Judiciary, Governor, Imamjome, or in case of their absence by a trusted local clergyman for a one-year period, and is someone capable of consultation and decision making for issues including consolidation and peace-making in civil and criminal matters, and resolution of discords. Accordingly, the primary purpose of Dispute Resolution Council formation and its essence is to make peace and amity among litigants, resolve people’s issues and provide solutions for litigants in a way that persuades both to cooperate by making compromises, and have peace, safety and pleasance5.

Although the primary purpose of forming Dispute Resolution Council institution was to make peace and amity, legislators of executive regulations for article 189 of third economic, social and cultural development plan law have made this institution, a parallel Judiciary with a more limited inherent and local capacity2.

An institution that was initially supposed to be concerned with making peace and amity and promote related cultures, is now giving penalties to the accused and convicting defendants, which is in total contrast with the philosophy of peace and amity. To change this predicament, solutions must be provided to decrease referrals to these institutions which will result in decreased trial prorogation in Dispute Resolution Council.

The other purpose of Dispute Resolution Council formation is to reduce the lawsuit input into judicial system. That is because of the huge torrent of lawsuits that move towards courts during the year, causing trial prorogation and as a result client dissatisfaction. Dispute Resolution Councils removed a huge burden from courts by entering this territory, and have acted as courts’ powerful arms6. As a result, courts’ lawsuit inputs have decreased and justice fulfillment has been facilitated to a great extent. Although according to laws passed by Islamic Consultative Assembly, Dispute Resolution Councils are only qualified to handle lawsuits up to 50,000,000 Rials, it must be admitted that this semi-judicial institution has been a valuable partner for judicial system in extending justice in society4.

Position of citizen rights in legal procedures

The main subject of Jurisprudence is people, and the way they benefit from citizen rights is a hot topic among all religious and non-religious legal systems. Right now, citizen rights is considered as a significant legal topic even in the international level. Citizen rights are more recent concepts than human rights1. The citizen rights were introduced after the formation of nation-states, where citizens have rights and responsibilities that might not be sought in previous systems. Although citizen rights
are defined under human rights concept, this definition is an emphasis on the notion that citizen rights are a part of individual and collective rights that are specific to human life within a specific country and government with its own characteristics. Human rights are concerned with human dignity. Citizen rights root in humans’ culture. Citizen rights are cross-cultural issues that are not affected by time.

Since people refer to judicial system to resolve their discords and reclaim their rights, there has been a close relationship between human rights and the judicial system.

Judicial system’s most important responsibility is facilitate the establishment of justice in people-state relationships by regulating these relationships.

According to article 156 of the constitution, Judiciary is an independent power that supports people’s individual and social rights, is responsible for the fulfillment of justice and has duties such as investigations and sentence establishment for oppressions, violations and complaints, and also reviving public rights, spreading justice and legitimate freedoms, and providing supervision over law enforcement. If Judiciary is successful in its duties, citizen rights might be sustained.

In 2004, a circular was published by Judiciary, titled sustaining citizen rights act in 15 sections, where rights of suspects were mentioned. According to this Single Article, all public and Revolution courts and law enforcement officials are required to conform to items specified in this law and violation could be prosecuted. Judicial procedures in courts must be aligned with citizen rights. It is obvious that different procedures in judicial system hinder individuals and citizens to reclaim their rights and sometimes these different procedures lead to different verdicts and eventually the violation of citizen rights.

Judicial system is required to design a unique judicial procedure so that citizens may reclaim their rights as well as monitor judicial system’s performance.

Relationship between trial prorogation’s reduction and the promotion of citizen rights:

As we know, during trial process, precision and quality of justice are as important as the speed of its fulfillment, so that sometimes unusual delays in resolution of disputes and verdicts make it worthless and may cause material and spiritual damages. Reducing trial prorogation is directly related to promotion of citizen rights, since reduced trial process enables citizens to reclaim their rights quicker and this is citizen rights promotion.

For example in the case of custody disputes, if it takes years to reach a verdict and a child becomes of legal age, the verdict will be worthless since the subject of dispute has been cancelled.

Reducing trial prorogation has been a concern for lawyers from all over the world who try to promote citizen rights. They try to reach this goal by providing short and long-term solutions.
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Methods of reducing trial prorogation in Dispute Resolution Councils

As it was mentioned earlier, a number of factors have significant roles in trial prorogation, the most important of which are human factors. The following solutions are proposed to eliminate or improve trial prorogation.

1- Establishment of workshop training units

Increasing the knowledge of branch members through retraining courses and teaching judicial regulations including Criminal Code of Procedure for Public and Revolutionary Courts in civil affairs, civil law, Executive Guidelines for Conflict Resolution Councils and Code of Execution could play a significant role in improving trial process. Employee decision making abilities about lawsuits may be increased and facilitated by increasing their information. Most importantly it results in a decreased prorogation in trial process.

2- Establishing legal consultation and guidance Unit

Specific sophisticated regulations that could not be comprehended and used by individuals are another obstacle in elimination of trial prorogation, in these cases individuals should obviously seek consultation and solution from experts. Since referring to Dispute Resolution Councils requires prior guidance and since this unit has a good will and is in compliance with legal and regulatory criteria, it is has a good potential for performing a significant role. Major problems will be caused if a complainant is not familiar with legal and regulatory criteria and does not state his/her claims according to legal principles. These units may help complainants to reach their goals and prevent trial prorogation by correct consultation.

Providing proper consultations and guidance for individuals is a significant method in decreasing trial prorogation.

3- Establishing trial and appellate petition control unit

As we know, according to article 51 of Civil Code of Execution, a petition is required to be in compliance with a series of conditions specified in this code, and it is only then that it could be litigated in a branch. Although it is stated in law that controlling petitions and their attachments is in duties of branch's office managers, since these branches have a very heavy workload and cannot have necessary precision and agility, this unit could offer a great assistance to branches' office managers and also be effective in accelerating the process of serving clients. An informed vigilant person who is aware of legal criteria could eliminate initial deficiencies and so the obstacles during trial process may be avoided. People in this unit are responsible to check the conformity of petitions with legal criteria stated in article 51 of Civil Code of Procedure and give necessary guidance to complainants at the very beginning. If the petitions are defective, deficiencies must be notified to complainants and they should be required to eliminate those deficiencies. After all deficiencies are eliminated and petition is confirmed by unit's director, complainant may be directed to a branch so the remaining process continues in compliance with regulations.
This unit has a significant role in accelerating clients’ requests processing. If a petition is complete and confirmed by unit's director, petitions will be registered immediately after branch's office manager's confirmation and directed to the next step that is setting the appointment for trial. If this unit does not exist, office managers will have to receive defective petitions and according to law announce a notice to eliminate deficiencies that will add another step to trial procedure and will result in trial prorogation.

4- Establishing specialist designation unit

Acting on evidence collection lawsuits is another duty of Dispute Resolution Councils that require designating a specialist. Also, some lawsuits, that are not quite rare, require referring to specialists and this process is completely explained in articles 257 to 269 of Civil Code of procedure. Since there are two categories of specialists in judicial system, expert specialists and formal specialists, council is required to use proper specialists according to law. Because some specialists do not have enough vigilance to give professional opinions, this unit could vigilantly take correct decisions to solve this problem. Those responsible in this unit are required to identify and list specialist with most demanded expertise, so the cases could be referred to them in order of that list. Those who fail in their responsibilities or have delays in submitting their analyses to branches and cause trial prorogation are dismissed after confirming with council’s judge, and will not be referred to in the future. And this is done in order to revive citizen rights.

If specialists do not submit their analyses to related branches within the legal deadline, unit directors are required to investigate the case and give proper notices and receive analyses as soon as possible.

After unit’s follow-ups, specialist will try to precipitate in their future tasks, because they know that if they neglect notices, their help will definitely not be used in the future.

Coordination among this unit and its specialists will be very effective and useful in accelerating the process and avoiding trial prorogation, and a good example of sustaining citizen rights.

5- Establishing special summons unit for legal papers

Another important unit that plays a significant role in trial process is the summons unit for legal papers. If officers in summons unit perform correctly under supreme supervision, they could have a positive effect on trial process, while it could also be true conversely.

Field studies indicate that a large percent of successes and failures in trial process are immediate results of this issue.

After branches' office managers registered the petition and the branches’ members summoned both parties for appointments, a notice would be announced
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and sent by summons unit officers. Here is where the role of summons unit officers becomes important.

If summons unit officers perform their tasks correctly and take actions according to legal criteria and items in Civil Code of Procedure, they can be a great help to branches in their performance and a great barrier in front of trial prorogation. If the summons unit officers are successful in performing their duties, office managers may summon all parties to an appointment as soon as possible, in a way that it takes less than 10 days from petition registration to the first trial appointment.\(^4\)

For this purpose, there should be one summons unit officer for each branch or each two or three branches. By doing this, each branch will have its own specific agents, and office managers will be able to follow up on notices, letters, execution orders, etc. by their own summons officers. Cooperation among branch's office managers and their specific summons officers may decrease trial time to a large extent and lead to clients' satisfaction, which will ultimately result in reducing trial prorogation to a minimum amount.\(^{11}\)

6- Establishing Supervision and Control unit

Since most of Dispute Resolution Council’s employees do not possess necessary expertise to handle these cases, and this has caused dissatisfaction among all parties, this unit will be responsible to investigate these issues, and if such cases are observed, take proper actions as soon as possible, act as a barrier in front of deficiencies and take corrective actions. Employees of this unit must have law degrees and enough work experience in courts. Presence of this unit and the acceleration of petition processing will increase client satisfaction on one hand, and minimize their negative conception about the performance of branches’ employees on the other. Of course, the dynamic nature of this unit will deter opportunisms of any kind from councils' employees.\(^{12}\)

7- Designating judicial clerks for councils’ branches

Shortage of judges is another dilemma faced by Dispute Resolution Councils. Since only a limited number of judges cooperate with councils, and on the other hand, due to the increasing number of branches in a city or town, it might take long before a sentence is established for a lawsuit and judges fail to return lawsuits in a short time, a judicial clerk may fill the gap and be effective in acceleration of sentence establishment through coordination among related judges and councils.\(^{13}\)

Briefly said, since file completion is performed by branch members, when members announce trial's termination and write their reasonable opinion, files will be directed to judicial clerks for review. If the clerk reviewed the file formally and did not observe any deficiencies, he/she would send the file to branch's judge for review, assessment and finally sentence establishment. Field studies indicate that if judicial clerks do not perform initial reviews or even if such individuals do not exist, it takes judges a long time to review the files and establish sentences on their own and in some cases it
takes more than two months for a sentence to be established, giving rise to trial prorogation and client dissatisfaction. Obviously, judicial clerks are required to have requisite law degrees and essential work experience in this field and be informed about legal terms to be effective in accelerating the trial process.\(^\text{14}\)

**CONCLUSION**

As it was elaborated above, if this plan is considered and implemented with all its details, trial delay and inventory files in branches will significantly be decreased; as it is confirmed by actual result obtained from the implementation of this project in Arak's Dispute Resolution Councils. During the years 2012 and 2013, at the beginning of implementing this plan, the total inventory of branches was five thousand five hundred and forty two files that was reduced to six hundred and eighty four in 2013, when this outline was implemented.

Trial delay had been about two months at the beginning of this project, which was reduced to 12 or in some cases 9 days in 2013.

All achieved results are due to complete implementation of this plan, the immediate result of which is the true compliance with civil rights. On the other hand, not only this plan reduces trial delay and branches' inventory files, it will also help council's branches in their primary duties, which are reconciliation and the making of peace and compromise. The ultimate result of implementing this plan was directing trial process in Dispute Resolution Councils towards making peace and compromise and closing cases by these methods.

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