

Analyzing the Impact of Security on the Financial Independence of the Judiciary

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ABSTRACT

Legal systems are not a set of fixed norms dominating the relation between citizens and the state, but these norms are always dynamic and expanding in a coherent framework. It is obvious that this dynamism is defined based on the operation of legal norms and undoubtedly one of these functions is the stability of legal relations between citizens and the state and it is more significant considering citizens. The principle of legal security is regarded as a dynamic principal in the legal system. In addition to using books, publications and library documents, Internet sites, observation and ... (field study), along with a questionnaire were used to collect information. This study investigates the impact of security on the financial independence of the judiciary system. Cochran Orcat method has been used to determine the statistical sample, which according to the number of statistical population is 100 people. In this study, the collected data were analyzed in Excel software and SPSS using descriptive and inferential statistics. The results of the research propose that there is a significant relationship between the financial independence (budget) of the judiciary system and social security.

KEYWORDS

Security, Financial Independence, Budget, Judiciary system

INTRODUCTION

According to Article 156 of the Constitution of the Islamic Republic of Iran, the judiciary is an independent body whose most important tasks are the administration of justice and the proper enforcement of laws. The administration of this institution was under the supervision of the Ministry of Justice before the victory of the Islamic Revolution, and the Ministry itself was considered a collection of executive agencies. But after conquering the Islamic Revolution, it was considered an independent body. Independence has different dimensions,

one of the most important of which is financial independence, the significance of which is that some scholars have called for financial independence to be an absolute condition of independence. The financial independence of the judiciary is one of the issues that has recently been taken into consideration in some countries. In some countries' fundamental laws, the financial independence of the judiciary has been identified as one of the elements of judicial independence. The institutional autonomy itself has three elements of financial independence, administrative autonomy and independence of the code. The lack of any of these elements can lead to the influence of other forces, especially the executive branch, on the functioning of the judiciary. Thus, the financial independence of the judiciary is considered as one of the main elements of institutional autonomy, which means that it is possible to decide on finance without being affiliated with subordinate entities of the executive branch.

The main issue is, how long has it been practiced after 39 years of drafting the constitution and justifying the independence of the judiciary?

The term financial independence of the judiciary may involve at least two completely different meanings. For some, this term means unlimited right and intrinsic power of the judiciary, which in itself determines how much of the state budget should be spent on each of the judicial purposes. For another, it means that executive control should be at the disposal of the judiciary in preparing budget requests that are specific to the judiciary. Budget autonomy is almost a key element in gaining the independence of the judiciary. The judicial budget is a very important economic factor for ensuring a fair judicial system.

The judiciary needs to be considered more and more importantly as an important place in the impartial implementation of the law and its guarantees and it should not be allowed that the judiciary will suffer financial and budgetary problems, due to lack of facilities and facilities, to relieve the affairs that it is fearful of its dependence.

Increasing the work of the courts and departments providing legal services, inadequate funding, the speed of

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proceedings and information procedures, the cost of judicial services, and the cost of prosecution and so on, jeopardizes the independence of the judiciary in any way. Therefore, the financial independence of the judiciary should be determined by law and not subject to the arbitrary intervention of the other forces in such a way as to affect it.

Undoubtedly, any device will be controlled by the authority that receives its financial resources. For example, if unauthorized officials are dissatisfied with the courts, they try to reduce their budget or to tighten their approval and payment of approved credits.

The judiciary, which does not have enough resources, can not afford the salaries and resources needed to attract and retain qualified judges, and in some cases they may be subject to financial corruption and political and factional support. Taking into account the independent budget for the judiciary, costs and benefits are clearly exposed to the supervision of legal entities.

In general, judiciary members consider the increased budget issue as a precondition, which improves their performance by reducing public criticism.

PROBLEM STATEMENT

Legal systems are not a set of norms that govern the relations between citizens and the state, but these norms, in a coherent framework, are always dynamic and expanding. Obviously, this dynamism is defined according to the operation of legal norms, which undoubtedly is one of these functions, the stability of legal relations between citizens and the state, which, of course, makes it more important for citizens. The principle of legal security is considered as the main dynamic in the legal system. In fact, this principle has two main characteristics: on the one hand, the degree of change and dynamism in the judicial system (as a subset of the legal system) is evident. Due to this characteristic, judicial analysis analyzes its alignment with the common goals set for the judicial system. The guarantee of the rights and freedoms of citizens is at the center of the objectives of the judicial system, and all changes in this system in the form or in the spirit should be in line with this ambitious goal (Vijeh, 2011).

Judicial and economic security of the equipment is considered an efficient legal system. The principle of legal security as a dynamic principle that eliminates the statelessness of the legal system has a long history (Seyfi and Eghdam, 2016). On the other hand, after the victory of the Islamic Revolution of Iran, attention to the rights of citizens has become one of the priorities of the judicial, political and administrative system of the country. However, the expression of citizenship rights has not been explicitly used in the constitution of the Islamic Republic of Iran, but these rights have been the subject of major legislators in the context of other issues, such as the rights of the nation (principles 19 to 40) and other principles of the law. In recent years, special attention has been paid to civil rights, in particular the laws of the fourth and fifth social, economic and cultural development programs. Meanwhile, effective steps have been taken to this end with the adoption of the

Charter of Citizens' Rights in the new government. In fact, the law is the most important source of crime and the implementation of penalties, as well as the rights and duties of citizens and sovereignty. The observance of citizenship rights in a justice-based legal system is subject to the rule of law and the proper judicial organization (Hosseini, 2017).

In the end, it should be stated that a person is naturally altogether reversible and that the possibility of mistakes from the area of each person, regardless of his social and scientific administrative position, is inevitable. The source of the mistake should be sought in several factors such as high intellectual and physical employment, mental and physical stress, financial problems, work environment, environmental factors, etc. It is obvious that a mistake is different from a deliberate error or an offense that it is usually committed deliberately with ill-intentioned or motivated acts of taste and purpose and pursues a particular purpose. The legislator must take appropriate measures to protect the rights of citizens from any mistake or assault that may be caused by a move or action based on breach of law or a violation of judges, and to ensure that a fair trial deserves the judiciary to take reasonable measures to prevent mistakes and misconduct. One of the most important ways to ensure the satisfaction of the judiciary and fair trial is to predict two stages, or how many stages of judicial review is common in addition to Iran in other countries (Alaei Nasab and Enayati, 2016).

BACKGROUND RESEARCH

Popper et al. (2012) present a new criterion on the stability of the exchange rate in examining simultaneously the stability of the exchange rate, financial independence, and the openness of the financial market, and concluded that this criterion was applied to data after the Bretton Woods period. Which is a combination of flexible exchange rate and open economy, is the most unstable. The results also found that middle-income countries are more unstable than rich and poor countries, and that exchange-traded foreign exchange reserves are matched by more sustainable arrangements in low-income countries. But such adaptation does not exist in poorer middle-income countries, and they use the constraints of the simultaneous variables to create a new criterion of monetary governance. They typically choose to combine a significant degree of monetary rule, stable exchange rate and open economy. That is, most countries occupy middle space.

Aisenman et al. (2008), by examining the coherence of exchange rate stability, monetary independence, and openness of the financial market during the years 2006 - 1970, made significant differences between the choices made in industrialized and developing countries. New approaches suggest that among developing countries monetary policy independence, exchange rate stability and openness of the financial market are tending towards the middle. On the other hand, industrialized countries are experiencing a triangular divergence, and they are pushing for a stable exchange rate and the openness of the financial market and monetary independence, a clear example of

which is the countries under the euro system. Also, countries with more monetary independence tend to experience higher inflation rates, and countries with higher exchange rate stability experience less inflation over time. In addition, financial openness helps the country experience lower rates of inflation. These results seem to suggest that globalization, in contrast to monetary independence, will bring more discipline to macroeconomic management of the country.

In the historical analysis, we find the origins of the principle of legal security in Rome. In these rights, two sub-elements can be identified in the formation of the realization of the principle of legal security. First, in confidence, in this sense, it should always be clear what behavior is the subject of law. One must be aware of the legal definition of his or her behavior. From this perspective, the law should not be ambiguous or its logic is to be interpreted in a broad sense. In fact, the law should not be construed to violate the rights of individuals. Second, security, which means objective respect for norms, judicial procedures, and treaties (Soulas de Russell et Raimbault, 2003, p.96).

Thus, the logic of legal security, and in particular the foreseeability of rights, was predicted from the outset in Roman law (Soulas de .Russel et Raimbault, 2003, p.97).

In the theoretical analysis of the foundations of the principle of legal security, it should be noted that the writing of rights is a means by which they can be counted, legal norms are accessible to and accessible to citizens in a language that is understandable to citizens and as a result, citizens get better informed about their rights and duties. Looking for the same argument, we find some kind of relationship between legal security and legal logic. The legal security and its subsidiary principles, by giving legal certainty to the law and the duties assigned to them, explain the logic between legal norms and their actions for citizens. The importance of this issue becomes more apparent when we find that by applying the subsidiary principles of the principle of the principle of legal security, government institutions can not rule out the legal status of individuals without the processes and mechanisms foreseen in the law (Zimmer, 1991, pp.92).

RESEARCH HYPOTHESIS

There is a relationship between the financial independence (budget) of the judiciary and social security.

SOCIETY AND STATISTICAL SAMPLE

Sampling is the process of selecting and selecting a sufficient number of members of the statistical community. So, by studying the sample group and understanding the characteristics or characteristics of the subjects in the sample group, these characteristics can be generalized to the members of the statistical community (Sarmad and Bazargan, 2001).

In this research, due to the high volume of society and the impossibility of examining all cases, a sample group has been studied instead of the entire population. To determine the sample size, Cochran Orcat method has been used, which according to the number of statistical population is

100 people. The sampling method was simple cluster and random sampling. In this way, from among different academic disciplines, a number of disciplines were selected by simple random sampling method and then the selected sample was selected from among selected users.

To increase the similarity of the sample and society and increase the sampling accuracy to estimate the parameters of the society and interfere with the characteristics of the society in the sample, the society is divided into groups, then the number of samples is specified for each group, and then, using simple random sampling method or regular, the number of elements required from each group will be selected. In this research, all judges (including prosecutors, court judges, reviewers, etc.) were elected in Semnan. Therefore, according to the number of samples needed for research, 110 questionnaires were distributed and 100 questionnaires were analyzed to ensure that the net return questionnaire was more than the above.

INFORMATION GATHERING METHOD

In addition to using books, publications and documents in the library from the Internet sites as well as observation and ... (field), a questionnaire was used to collect information.

It should be noted that each subscale of the questionnaire is numbered in the Likert spectrum and in the form of five alternatives from the totally disagreeable to completely agreeable. Also, to determine the validity of the instrument, an exploratory factor analysis technique was used which results in Table 1 below:

Tab.1. Factor Analysis Questionnaire Suitability Indicators

	Indicator	Value
1	Cronbach's alpha	0.829
2	Bartlett	826.903
Significance level		0.0001

According to the results of the analysis of factor analysis, it can be said that the tool has a validity feature. Because the Cronbach's alpha index is higher than 0.7 and also the Bartlett index is significant at the level of 0.0001.

INFORMATION ANALYSIS METHOD

Analysis is the way through which the entire research process is guided from choosing a problem to accessing a result (Sarmad and Bazargan, 2001).

In this research, data collected using descriptive and inferential statistics have been analyzed. In inferential statistics Kolmogorov-Smirnov tests for normalization of data, two-sample t-test, correlation test and linear regression were used in this study. Also, in this research, Excell software and SPSS software have been used for the subject matter.

LINEAR FUNCTION

The estimation of the relationship between the two variables will not be possible unless we first assume that the

relationship between the two variables has a certain form. One of the most common forms of these is the simple linear function. One such function in economics is very important, since working with them is relatively simple and can often be used as an approximation of non-linear functions. The mathematical form of a simple linear function is as follows:

$$Y = a + \beta x$$

In which the values a , and β are constant. The coefficient a , called the width from the origin, shows the value of y for x equal to zero. The coefficient β representing the slope of the line determines the amount of y changes per unit of change in x .

DESCRIPTIVE FINDINGS

Descriptive Findings Related to Specifications:

In the elementary part of the research questionnaire, the specific characteristics of the respondents have been asked. First, we draw tables and tables using the output of the SPSS software. Personality profiles include gender, age, occupation, level of education of respondents.

Table 2 contains the frequency and percentage of cumulative frequency related to the age of the individuals who responded to the questionnaire of this research.

Tab.2. Frequency distribution table in sample by age

Qualitative variable	Level	Abundance	Frequency
Age	20-30	35	35
	31-40	37	37
	41-50	16	16
	Higher than 51	12	12
Total		100	100

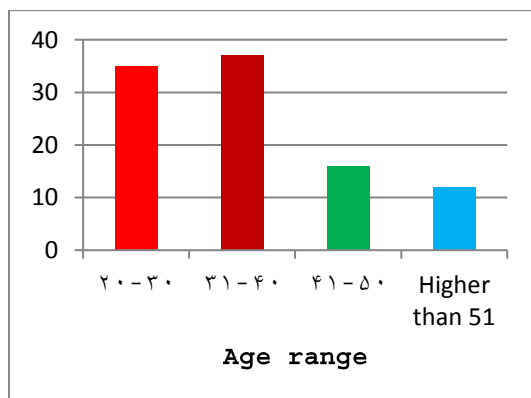


Fig.1. Specimen age specification

Table 3 contains the frequency and percentage of cumulative frequency related to the gender of the respondents who responded to the questionnaire of this research.

Tab.3. Frequency distribution in sample by gender

Qualitative variable	Level	Abundance	Frequency	Percentage of cumulative frequency
gender	Female	42	42	42
	Man	58	52	100
Total		100	100	

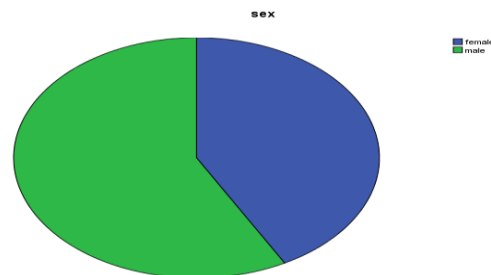


Fig. 2. Specimen Gender Specifications

Table 4 contains the frequency and percentage of cumulative frequency related to the job status of those who responded to the questionnaire of this research.

Tab.4. Frequency and percentage of cumulative frequency related to occupational status

Qualitative variable	Level	Abundance	Frequency
Job	Judges	28	28
	Executive Managers	18	18
	Administrative staff of the judiciary	23	23
	Professors	20	20
	Retirees of the judiciary	11	11
Total	-	100	100

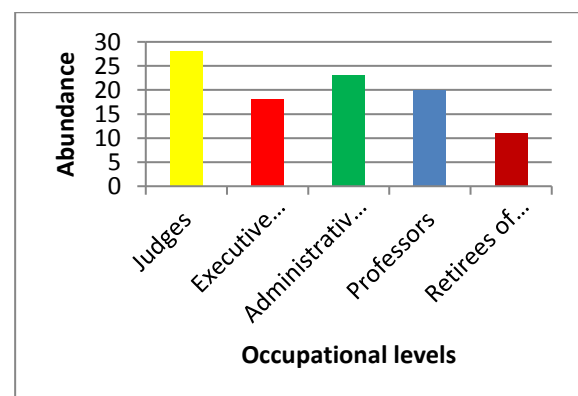


Fig.3. Sample Job Specs

TEST OF RESEARCH HYPOTHESIS

Research hypothesis: There is a relationship between the financial independence (budget) of the judiciary and social security.

As discussed earlier in the dimensions and components of financial independence (budget) of the judiciary and social security system, using 17 questions of the questionnaire, the Justice and Harassment Component has been calculated in the form of a 5-degree Likert spectrum. For the above component, they have been computed for statistical analysis of their mean score.

For this purpose, the tables describing the scores related to the components of financial independence (budget) of the judiciary and social security system were introduced and then the Kolmogorov-Smirnov test was used according to the normal or abnormal data distribution.

Table 5 presents the central indicators and the distribution of financial independence (budget) of the judiciary and social security

Tab.5.Descriptive Indicators of Two Variables: Financial Independence (Budget), Judiciary and Social Security

Variables	Number	Minimum	Maximum	Average	Deviation
Financial independence (budget) of the judiciary	50	1.20	4.53	3.6522	0.49852
Social Security	50	1.36	4.36	3.7945	0.446

In the table above, the average safety margin is 65.3. The average score of financial independence indicates that this number is greater than the average value of the response of the Likert spectrum, namely, 3, which indicates a low or high average of the justice scores.

Then, using the Kolmogorov-Smirnov test table, the normalization of the variable is examined. Table 6 The Kolmogorov-Smirnov test statistic and the fatal level are related to the normalization of the variables of financial independence (budget) of the judiciary and social security.

Tab.6.Kolmogorov-Smirnov test table for financial independence and equity variables

Variables	Kolmogorov-Smirnov test	Error level
Financial independence	1.098	0.179
Justice	1.147	0.109

According to the Kolmogorov-Smirnov test statistics, the variables of financial independence (budget) of the judiciary and social security system are 1.098 and 1.242, respectively. In both variables, their error rates are 0.179 and 0.109, which are larger than 0.05, which confirms the normalization of the variables.

Regarding the normalization of both variables, the financial independence (budget) of the judiciary and social

security system is a parametric statistical method for the correlation test. Table 7 shows the Pearson correlation test (parametric correlation method) and the coefficient of explanation of the relationship between justice (dependent variable) and financial independence (independent variable) and the level of error associated with the correlation test.

Tab.7. Correlation Coefficient Test Table and Regression Determination Related to the Variables of Financial Independence (Budget) of the Judiciary and Social Security

	Pearson	Coefficient of determination of regression	Adjusted coefficient	Probability level
Financial independence (budget) of the judiciary and social security	0.334	0.118	0.115	0.001

According to the Pearson correlation coefficient between two variables, the financial independence (budget) of the judiciary and social security system is 0.334 and the error rate less than 0.05 shows that the relationship between the above two variables is a significant positive relationship. Also, according to the coefficient of determination, 11 percent of changes in the justice variable are related to the decrease or increase of the financial independence score, this is significant due to the number of respondents.

Table 8 shows the table of analysis of variance and regression coefficients of the impact of the financial independence (budget) of the judiciary on social security. The Fisher test statistic, which indicates the correctness of the regression model between two variables, as well as the level of goodness error, fit the linear model in the variance analysis table below.

Tab.8. Analysis of variances and regression coefficients Effectiveness of financial independence (budget) of the judiciary and social security

Regression model	Total	Degrees of freedom	Average	Fisher statistics	Error level
Regression	7.995	1	7.995	45.372	0.0001
Error	59.738	339	0.176		
Total	67.734	340			
	Amount		t test statistic		Error level
Fixed regression coefficient of the model	0.308		6.73		0.0001
	1.979		16.056		0.0001

Therefore, according to the Fisher test statistic, which is 45.372 and its error rate is 0.0001, the validity of the regression model is confirmed between the two variables of the financial independence (budget) of the judiciary and social security. Also, according to the above table, the regression model between two variables is described below.

1.979 + Financial Independence * 0.308 = Security

DISCUSSION AND CONCLUSION

In the discussion of the research hypothesis, Kolmogorov-Smirnov test was first used to measure the normality of the data. Then according to the Kolmogorov-Smirnov statistics for financial independence and security variables, the numbers are 1.098 and 1.147 respectively, as well as the inflated values of 0.179 and 0.109, both of which are greater than 0.05. Therefore, the assumption of the normalization of the variables was confirmed. To do this, Pearson correlation coefficient was used to test the hypothesis.

Because the Pearson correlation coefficient between financial independence and security was 0.334. So, according to the amount of determination coefficient that indicates the effect of financial independence on security and its value is 11%. This means that 11 percent of the change in justice is due to an increase or decrease in the degree of financial independence.

Also, the results of regression analysis of variance related to the effect of financial independence and justice with the test statistic of 67.734 and the level of fatality of 0.0200 show the linear correlation of single-variable regression between the two variables. In this analysis, the Fisher test statistic is equal to 45.372 and the integrity level of 0.001/0, which indicates a number smaller than 0.05, the validity of the linear model between the two variables of financial independence and equity is confirmed.

• Suggestions:

a) Approval of a plan to allocate a certain percentage of the total budget of the country to the judiciary:

One of the solutions that can be made in this regard is the approval of a plan by the deputies to allocate a certain percentage of the budget to the judiciary in order to avoid financial and budgetary fluctuations. India and Paraguay can be mentioned among the countries that implement it. Paraguay accounts for three percent of its country's total budget for the judiciary and is less than acceptable. Of course, there seems to be no readiness to implement this strategy in Iran.

b) Revision of the Constitution

The last option that can be considered is the constitutional change and given the discussions that took place during the constitution as well as the review of the financial independence of the judiciary and the ways of securing this independence, explicit and appropriate solutions to the judiciary would be immune from the effects of other forces, especially the executive branch which would be appropriate for the judiciary in the fundamental rights of Iran and in line with the legal systems of the world in the field of giving more and more financial independence to this field. The solutions to maintaining the independence of the judiciary in many countries of the world can be a pattern of our legal system. By adapting these systems and applying them to the new constitution, many of the problems that the judiciary is struggling with can be eliminated. For example, the government's inability to reduce the budget proposed by the judiciary can be outlined in the constitution, in order to

include the proposal intact in the budget bill unchanged. Also, by providing direct access to the bills of the judiciary to the parliament and the presence of a judiciary in the negotiations on approving the budget of this institution in parliament and hearing its views, it can help to promote financial independence in the judiciary.

c) Providing commentary by the Guardian Council on limiting the scope of the authority of the government to change the budget of the judiciary:

The Guardian Council, as a constitutional and referent body whose interpretations are constitutional, can lead to many structural problems of the judiciary budget, by disregarding past views and presenting new ideas that are appropriate to the current conditions of the legal system and existing problems. With the proper interpretation of article 52 of the constitution, this institution can limit the authority and authority of the executive branch to change the budget of the judiciary and states that the budget of this power should not be changed by the government.

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