



An Analysis of the Dimensions and Components of the Legal Foundations and the Role of the Public Prosecutor's Office in Iran's Criminal Justice Process

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Abstract

The Public Prosecutor's Office is a pivotal institution within the criminal justice system, situated at the intersection of penal policy, crime detection, criminal prosecution, victim support, the safeguarding of defendants' rights, and the enforcement of judicial decisions. In the Iranian legal system, the legal foundations of the Public Prosecutor's Office are derived from the Constitution, the Code of Criminal Procedure, organizational statutes, and regulations governing citizenship and public rights. The central issue of this research concerns the dimensions of these foundations and how the role of the Public Prosecutor's Office is realized across the various stages of the criminal justice process. The study employs a descriptive-analytical method, drawing upon library resources, statutes, regulations, and legal literature. The findings indicate that the role of the Public Prosecutor's Office cannot be limited merely to the prosecution of offenders; rather, the institution performs five distinct functions: detection and prosecution, directing preliminary investigations, supervising law enforcement officers, safeguarding public rights, and ensuring a balance between societal interests and individual rights. However, ambiguities regarding the concept of "public rights," the overlapping of duties, the tension between independence and accountability, weak performance evaluation mechanisms, and challenges associated with electronic judicial proceedings constitute obstacles to the optimal fulfillment of this role. In conclusion, the article proposes enhancing transparency, specialization, judicial oversight, and continuous training, as well as expanding mediation and formulating performance evaluation indicators.

Keywords: Public Prosecutor's Office, Public Prosecutor, Criminal Justice, Criminal Prosecution, Public Rights, Preliminary Investigations, Rights of the Accused.

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1. Introduction

Criminal justice comprises a set of institutions, rules, and processes extending from the moment an offense is reported through crime detection, prosecution, fact-finding, adjudication, the issuance of judgments, and their enforcement. Within this system, the prosecution service occupies an intermediary position among law enforcement agencies, investigative authorities, courts, victims, and society. On the one hand, the prosecutor represents the public interest in the prosecution of crime; on the other hand, the prosecutor must safeguard individuals' rights and prevent hasty action, wrongful prosecution, and violations of the rights of defense. Article 1 of the Code of Criminal Procedure defines criminal proceedings as a body of rules governing crime detection, prosecution of the accused, preliminary investigations, mediation,

reconciliation, adjudication, appeals, enforcement of judgments, and the protection of the rights of the accused, the victim, and society. Accordingly, the role of the prosecution service may be examined throughout all of these stages (Code of Criminal Procedure, 2013).

Under the Constitution, various clauses of Article 156 assign responsibilities to the Judiciary, including the restoration of public rights, promotion of justice and legitimate freedoms, supervision over the proper implementation of laws, crime detection, prosecution and punishment of offenders, and crime prevention. Although this provision does not directly enumerate all of the functions of the prosecution service, it provides the overarching legal foundation for the legitimacy and orientation of this institution. From this perspective, the prosecution service must, within the framework of law, simultaneously pursue the effectiveness of criminal prosecution and the protection of fundamental rights (Constitution of the Islamic Republic of Iran, Article 156).

2. Statement of the Problem and Research Questions

Contemporary developments in criminal law have transformed the prosecution service from an institution primarily concerned with prosecution into a multifaceted institution. The rise of organized and cybercrime, the expansion of collective victimization, the need to protect children and vulnerable persons, the development of restorative mechanisms, and the requirements of electronic proceedings have broadened the scope of prosecutorial responsibilities. In Iran, the 2013 Code of Criminal Procedure likewise established a new framework by recognizing the rights of victims, accused persons, and society and by expressly acknowledging the prosecutor's role in instituting public prosecutions.

The principal research question is: What dimensions and components constitute the legal foundations of the prosecution service in Iran, and what role do these foundations play in the criminal justice process? The subsidiary questions are as follows: First, what are the respective roles of the Constitution and ordinary legislation in defining the powers and jurisdiction of the prosecution service? Second, what are the principal functions of the prosecution service at the various stages of criminal proceedings? Third, what challenges impede the effective realization of the intended role of this institution?

3. Research Methodology and Literature Review

The present study is applied in terms of its objective and descriptive-analytical in terms of its methodology. Data were collected through library-based research involving legislation, regulations, legal treatises, and scholarly articles and were subsequently examined through a legal and institutional analytical approach. The analysis distinguishes among normative foundations, statutory powers, practical functions, and structural challenges.

Within the public-law literature, studies addressing the restoration of public rights have emphasized conceptual ambiguity, weaknesses in enforcement mechanisms, and the need to distinguish oversight from adjudication. Likewise, studies concerning criminal procedure regard the prosecutor as responsible for instituting public prosecutions and supervising compliance with the rights of the parties. The innovation of the present article lies in bringing these two fields together and presenting an integrated conception of the prosecution service as an institution situated at the intersection of the rule of law, criminal policy, and the protection of individual rights.

4. Conceptualization of the Prosecution Service and Criminal Justice

The prosecutor is a judicial officer who, acting on behalf of society, is responsible for prosecuting offenses, safeguarding public rights, and exercising the powers assigned to the office by law at various stages of criminal proceedings. The prosecution service, in turn, refers to the organization and body of judicial officials and staff established to perform these functions. The prosecution service differs from the courts in that it is principally responsible for prosecution and the pursuit of public actions, whereas the court is regarded as an impartial authority responsible for adjudication and the issuance of judgments.

Criminal justice is a concept that extends beyond the punishment of offenders. It encompasses truth-finding, victim protection, observance of the presumption of innocence, safeguarding the right of defense, proportionality in criminal responses, prevention of discrimination, reparation for harm, and the rehabilitation of offenders. Accordingly, the performance of the prosecution service must also be assessed on the basis of a range of indicators, and an increase in the number of indictments or convictions alone cannot constitute a sufficient measure of effectiveness.

5. Constitutional Foundations of the Prosecution Service

The most important constitutional foundation of the prosecution service is Article 156. This provision describes the Judiciary as an independent institution supporting individual and social rights and enumerates responsibilities including the restoration of public rights, the promotion of justice and legitimate freedoms, supervision over the proper implementation of laws, crime detection and prosecution of offenders, and crime prevention. At the operational level, the prosecution service constitutes one of the principal institutional mechanisms for realizing these responsibilities.

Article 34 of the Constitution concerning the right of access to justice, Article 35 concerning the right to select counsel, Article 37 concerning the presumption of innocence, Article 38 concerning the prohibition of torture, and Article 39 concerning the prohibition of violations of the dignity of persons impose limits on the prosecutorial and investigative powers of the prosecution service. These provisions demonstrate that prosecutorial authority is a constrained, legally grounded, and rights-oriented form of authority, and that every prosecutorial measure must be accompanied by respect for human dignity and the rights of defense.

6. Statutory Foundations under the Code of Criminal Procedure

The 2013 Code of Criminal Procedure constitutes the principal source of ordinary legislation governing the legal position of the prosecution service. Article 11 entrusts the institution of public actions and the prosecution of the accused from the public-law perspective to the prosecutor. The provisions governing crime detection, preliminary investigations, supervision of judicial officers, the issuance of precautionary measures, opinions concerning final orders, the preparation of indictments, and the enforcement of judgments collectively establish a broad range of powers for the prosecution service.

Article 2 of the Code emphasizes the legality of criminal proceedings, the protection of the rights of the parties, and the uniform application of procedural rules. Article 6 requires the accused, victim, witness, and other relevant persons to be informed of their rights, while Article 7 makes respect for citizens' rights mandatory throughout all stages of criminal proceedings. These provisions demonstrate that the prosecution service is not merely responsible for prosecuting offenses; it is also required to supervise the legality of the prosecutorial process itself.

7. Components of the Legal Foundations of the Prosecution Service

- The principle of legality in prosecution and the prohibition of arbitrary action;
- The principle of relative impartiality and the duty to ascertain the truth;
- The principle of proportionality in the exercise of criminal powers;
- The principle of accountability and reviewability;
- The principle of victim protection and reparation;
- The principle of respect for the rights of defense and the presumption of innocence;
- The principle of judicial independence accompanied by accountability;
- The principle of regard for the public interest and public rights.

The principle of legality requires that the initiation and continuation of prosecution, the issuance of measures restricting liberty, and the referral of a case to court be based on law and valid evidence. At the same time, the discretion to assess and prioritize cases in certain circumstances confronts the prosecution service with the concept of prosecutorial discretion, or the opportunity principle. Such discretion must be exercised according to clear, reviewable, and non-discriminatory criteria.

8. The Role of the Prosecution Service in Crime Detection and the Initiation of Prosecution

The prosecution service ordinarily becomes aware of a criminal matter through a complaint, reports by judicial officers, reports from supervisory bodies, public information, or direct knowledge of an offense. Its initial responsibilities include assessing whether the matter warrants prosecution, preserving evidence and traces of the offense, preventing flight or collusion, and directing preliminary measures. The acceptance and registration of written and oral complaints constitute important safeguards for access to justice.

At this stage, the prosecutor must strike a balance between the need for a prompt response and the obligation to respect individuals' rights. Any urgent measure must be necessary, proportionate, and legally

grounded. Moreover, the prosecutor should not focus exclusively on the presumption of guilt; rather, evidence both for and against the accused must be considered in a balanced manner.

9. The Role of the Prosecution Service in Preliminary Investigations

Preliminary investigation is the stage at which evidence is collected, the identity of the accused is established, the circumstances of the victim are examined, and decisions concerning the subsequent course of the case are made. Under the Iranian legal structure, the investigating judge is responsible for conducting the investigation, while the prosecutor supervises the overall course of prosecution and the legality of investigative measures. The relationship between the prosecutor and the investigating judge should be founded upon a division of functions, judicial independence in decision-making, and institutional coordination.

The prosecutor may supervise the completion of investigations, compliance with statutory time limits, consideration of scientific evidence, protection of witnesses, and prevention of undue delay. Nevertheless, such supervision should not result in unjustified interference with the judicial assessment of evidence or transform the investigating judge into an administrative subordinate of the prosecutor. The boundary between lawful direction and improper interference is one of the significant structural issues within the prosecutor's office.

10. Supervision over Judicial Officers

Judicial officers operate at the forefront of crime detection, and the quality of their performance directly affects the integrity of the entire criminal process. The prosecutor must supervise their training, compliance with the limits of their authority, documentation of investigative actions, preservation of the chain of custody of evidence, and respect for individuals' rights. A report prepared by a judicial officer is reliable only when its method of collection, evaluability, and compliance with statutory procedures can be adequately assessed.

Effective supervision over judicial officers requires clear instructions, periodic inspections, electronic recording of investigative actions, and accountability for misconduct. A lack of supervision or excessive reliance on officers' reports may increase the risk of unlawful confession-taking, arbitrary arrests, and the impairment of evidentiary integrity.

11. Preparation of the Indictment and Institution of Public Prosecution

The indictment constitutes the link between the investigative stage and judicial adjudication. In preparing an indictment, the prosecutor must state the charge, the supporting evidence, the accused's identifying information, the time and place of the offense, and other legally relevant elements with precision and clarity. An indictment should not be confined to a general or ambiguous description of the charge, since ambiguity may undermine the accused's right of defense and the possibility of a fair hearing.

The institution of public prosecution signifies representation of society; however, society is neither a homogeneous nor an unlimited concept. The public interest must be interpreted through law and by simultaneously taking into account security, liberty, human dignity, and the rights of victims. Accordingly, in instituting public prosecutions, the prosecutor should refrain from instrumentalizing the concept of public order.

12. Protection of Victims

In traditional criminal justice systems, victims were often regarded as peripheral participants in criminal proceedings. Contemporary approaches, however, emphasize the rights to information, participation, psychological and social support, reparation, and protection against secondary victimization. The prosecution service can play a significant role in victim protection by providing information concerning the progress of proceedings, referring victims to support institutions, protecting witnesses, and preventing the unnecessary disclosure of private information.

In cases involving children, women, older persons, persons with disabilities, and victims of violence, protection should be tailored to their particular vulnerability. Expeditious proceedings, confidentiality, prevention of harmful confrontation, and access to specialized experts constitute important components of such protection.

13. Safeguarding the Rights of the Accused and the Right of Defense

The prosecution service is, on the one hand, the prosecuting authority and, on the other, within the criminal justice system, is obliged to respect the presumption of innocence and the procedural rights of the accused.

Notification of the charge, access to counsel, the prohibition of compelled confession, the right to remain silent, the possibility of challenging decisions, and the right to a hearing within a reasonable time are among the principal safeguards.

Respect for the rights of the accused does not weaken the fight against crime; rather, it enhances the reliability of evidence, reduces judicial error, and strengthens the legitimacy of criminal decisions. The prosecutor should refrain from describing an individual as a criminal before the charge has been established, unnecessarily disclosing case-related information, and seeking disproportionate restrictive measures.

14. Precautionary Measures and Restrictions on Liberty

Precautionary measures are designed to ensure the accused's presence, prevent flight, collusion, or destruction of evidence, rather than to impose punishment prior to trial. Accordingly, the prosecutor must assess the necessity of each measure, its proportionality to the charge and the accused's personal circumstances, and the availability of less restrictive alternatives.

Pretrial detention should be exceptional, reasoned, and subject to periodic review. Its extensive use may undermine the presumption of innocence, the psychological and social well-being of the accused, and even the effectiveness of the defense. Monitoring the duration of detention and pursuing its modification or termination when appropriate constitute important responsibilities of the prosecution service.

15. The Role of the Prosecution Service in Protecting Public Rights

Public rights refer to public rights and interests whose holders are often indeterminate or diffuse, and whose violation may manifest itself in the form of harm to the environment, public health, natural resources, cultural heritage, consumer rights, economic security, or administrative order. Paragraph 2 of Article 156 of the Constitution places the restoration and protection of public rights among the duties of the Judiciary.

Ambiguity in defining public rights, overlap with the jurisdiction of executive and supervisory bodies, and the absence of clear criteria for prosecutorial intervention constitute major challenges in this area. To achieve an effective framework, the relevant instances, procedures for receiving reports, methods of prioritization, and the scope of prosecutorial intervention should be clearly defined. Public-law scholarship has likewise emphasized the conceptual ambiguity surrounding public rights and the weakness of the mechanisms for their implementation.

16. Crime Prevention and Criminal Policy

The prosecution service plays both direct and indirect roles in criminal and social crime prevention. These roles include analyzing criminal cases, identifying crime-prone areas, alerting the competent authorities to potential risks, proposing regulatory reforms, and supporting preventive programs. Nevertheless, preventive measures should not result in the expansion of criminal control or the imposition of unnecessary restrictions on individual liberties.

An effective criminal policy should establish coordination among criminal responses, social measures, education, family support, poverty reduction, and the reform of criminogenic environments. The prosecution service may provide the competent institutions with data derived from criminal cases for policymaking purposes, provided that confidentiality and privacy are duly respected.

17. Diversionary Institutions and Restorative Justice

Mediation, suspension of prosecution, temporary archiving of cases, pardon, settlement, and other diversionary or leniency mechanisms are instruments for reducing unnecessary criminal responses and remedying the consequences of crime. In employing these mechanisms, the prosecution service should take into account the victim's informed consent, the offender's acceptance of responsibility, the proportionality of the proposed measure, and the public interest.

Unlike an exclusively punitive approach, restorative justice focuses on dialogue, reparation of harm, social reintegration, and restoration of damaged relationships. Developing this approach may help reduce case backlogs and the size of the prison population; however, it requires appropriate training and oversight, as well as safeguards against imposing settlement or reconciliation upon the victim.

18. Enforcement of Criminal Judgments

The role of the prosecution service does not end with the issuance of a judgment. Supervising the proper enforcement of judgments, following up on the rights of convicted persons, assisting victims in obtaining their legal entitlements, and coordinating with judgment-enforcement units constitute important responsibilities of this institution. A judgment must be enforced strictly within the limits of its terms and the applicable law.

At the enforcement stage, consideration of conditional release, suspension of the execution of punishment, non-custodial alternatives to imprisonment, and rehabilitative programs forms part of a policy aimed at reducing the harmful effects of imprisonment. The prosecution service should maintain a balance between the binding enforcement of judicial decisions and the need to respect human dignity and the rehabilitative objectives of punishment.

19. Independence and Accountability of the Prosecution Service

The independence of the prosecution service is essential to preventing political, administrative, and social pressures. However, independence should not be transformed into immunity from oversight and accountability. Accountability includes reporting on performance, providing avenues for challenging decisions, disciplinary oversight, recording the reasons for significant decisions, and complying with professional ethical standards.

The appropriate model is one in which independence in judicial decision-making is accompanied by organizational transparency. A prosecutor should remain accountable to the law, supervisory authorities, and the rights of individuals, while professional decisions should not be subjected to pressures external to the legally prescribed process.

20. Electronic Proceedings and the Prosecution Service

Electronic proceedings facilitate rapid registration, case tracking, the reduction of administrative errors, and improved access to information. At the same time, data security, confidentiality, authentication, equal access, and the admissibility and evidentiary reliability of digital evidence constitute serious challenges.

An electronic prosecution service requires secure infrastructure, user training, standardized data exchange, and the establishment of backup mechanisms in the event of system disruptions. The use of technology should not eliminate human interaction in sensitive or complex cases or make access to justice more difficult for persons with limited technological capabilities.

21. Structural and Implementation Challenges

- Case backlogs and shortages of specialized personnel;
- Ambiguity concerning the scope of the prosecutor's supervision over investigating judges and judicial officers;
- Absence of comprehensive performance evaluation indicators;
- Inadequate specialized support for victims;
- Variations in practices across judicial jurisdictions;
- Limited access to accurate and analyzable data;
- Challenges concerning public rights and overlapping jurisdictions;
- The risk of undue delays in proceedings and disproportionate use of precautionary measures.

22. Reform Measures

First, the duties and jurisdictional boundaries of the prosecution service concerning public rights and supervision over judicial officers should be clarified through clear and assessable guidelines. Second, specialized training in emerging crimes, digital evidence, victim protection, and restorative justice should be expanded. Third, electronic systems should be further developed while ensuring data security and privacy.

Fourth, performance evaluation of the prosecution service should be based on a set of indicators, including the duration of proceedings, the quality of decisions, the rate at which decisions are overturned or set aside, respect for the rights of the accused, victim satisfaction, and the effectiveness of preventive measures, rather than merely on the number of cases closed or indictments issued. Fifth, external and internal oversight mechanisms should be strengthened.

Conclusion

The prosecution service within Iran's criminal justice process is a multidimensional institution whose foundations are rooted in the Constitution, the Code of Criminal Procedure, principles of citizens' rights, and rules governing public rights. Its role begins with crime detection and the prosecution of suspects and extends to supervision over investigations, protection of victims, safeguarding the right of defense, protection of public rights, utilization of restorative mechanisms, and enforcement of criminal judgments.

The analysis demonstrates that the effectiveness of the prosecution service depends upon achieving a balance between authority and legal restraint, independence and accountability, speed and accuracy, and the protection of society and respect for individual rights. Whenever one side of these dualities prevails excessively over the other, the risks of impunity or unjustified prosecution increase. Accordingly, reform of the prosecution service should be institutional, gradual, data-driven, and grounded in training and effective oversight.

Ultimately, an effective prosecution service should not be regarded merely as an institution for intensifying the criminal response, but rather as an organization responsible for safeguarding the rule of law, discovering the truth, protecting victims, upholding public rights, and reducing the harms arising from crime and punishment.

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