

# Narrow Interpretation of the Rules of Criminal Law

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### **Abstract**

Criminal law to and maintain the balance between individual rights claims of public security, but no doubt it should be said that such a balance without interfering with judicial interpretations of the law will not create or maintain. Apparent role in judicial interpretations and Expansion Act and reduce the scope of adding security and freedom, and emphasizes the need to interpret this. In this research we provide the definition of interpretation, and then the interpretation of the validity of interpreting the expressed have the reference which can be interpreted as legal, judicial interpretation interpret personal touches. And Following is a discussion of the need to interpret and have expressed it, which can be narrow or literal interpretation, the analogy extended interpretation and commentary from noted. It is hoped that this research is helpful for judges and lawyers to be classified and use.

**Keywords:** Rules, narrow interpretation of the law, penal judges.

### **Introduction**

Nothing legislative predict all the circumstances and the offense does not have and from general and comprehensive legislation fails. The general characteristics of being the law human perception on the one hand and on the other, causing confusion and conflict in the law will be outlined. Was not also a recognition of the limits of legislative and regulatory all issues on the silence of the law will result in many cases. For solve this problem, the jurists and the judge to interpret the law to fail, a means finding which to decide any rights issues of the legislator's perspective; Thus the peak sometimes of manifestation to interpret the law and the fair trial rights lawyers and to work hard to realize their prolonged practice the result law. And it is natural to do so, before anything else requires a method to regulate and assign it to personal

tastes and thoughts any judge and lawyers is not deserve something. Therefore, in this Original research we will narrow interpretation of the rule.

### **1-Detailed definitions of words and phrases**

"Interpreting" of the word: means explain and explain and explain and clarify the (Bndrrygy, 1988).

In legal terminology the following: the legal materials description for finding the verdict. "The interpretation of the law means the law is not new, But the same former law that is supposed to be clear and the problem is solved and compatible their understanding of the instances. That is why they say, Interpreting of the past is relevant. "This means that law approved on has been Interprets same way that the beginning of approval to should be implemented" (Madani, 1988). Interpreting law in Persian language translation of the word alien is obtained "(Linterpretationdesloi). And with his alien characters with the present generation, known concept and this concept does not exist in jurisprudence (Jaafarilangroudi, 1997).

### **2-Different types interpreting of the validity of the Interpreting of reference**

**A - Legal Interpreting:** Sometimes brevity and vagueness of law to the extent that action legislature is Interpreting. To such an interpretation, say legal Interpreting. According to the Article 98 of the Iranian constitution Interpreting by the Guardian Council, which is approved by 3/4 members of it is done. But the Interpreting ordinary law according to the Article 73 of the constitution has been put in charge of the legislature. The principle says: "The interpretation of ordinary laws falls within the competence of the legislature." So it can be said that the previous interpretation of the rules itself, this means that same date on which implementation law is interpreted. Vote No. 383 dated 02.27.1939 fifth branch and second branch402 dated 31.02.1939 indicates that this explanation would acknowledged: "Matter of law that the former is Interpreting because the new law is not, in fact, turning to the past." Fifth branch of the Supreme Court voted No. 87 dated 1944 says: "Matter of law that the former is Interpreting because the new law is not, in fact, turning to the past." Single Article Interpreting law the perpetrators of as trafficking, Article 45 of the law and the new law is not Interpreting and applied before the approval will also be included.

Therefore, according to the legislative of Article 57 of the constitution and the principle of separation of powers is a legislative function, even if some laws exceed the Parliament's authority, he regulations as a new law is acceptable; Because of the difference in at least prevent of contrasting tastes, and as for our law and binding. But some of these have been interpreted as criticism (Katouzian, 1989). Legislative intervention is often exploited for political purposes is contaminated and requires a lot of formalities. Procedural fairness and justice, not just from the outside makes it practically is not possible. Experience has shown that under the pretext of the legislature interpretation and commentary, imposes new regulations, which generally is incompatible with the spirit and provisions of former law. And because the rules are

interpreted to the past to warrant special nature spreads may in this during the without any requirement to prove individuals rights are violated.

**B - Judicial interpretation:** the judiciary interpretation the law say that a magistrate's interpretation of his work is about the same extent and effect and penetrating against the parties, but for other judges (even for the same procedure in other cases) is not binding. Only the General Board of Court distinguished (it is about law judicial precedent) because it is the law, is binding on all courts. Such an interpretation of the criminal law should be narrow and limited. Regarding this right judge, principle 73 of the constitution says recent: The Provisions of this Article does not preclude the prosecution's interpretation of the regulations that right of appeal. As Article 5 of law Civil Procedure states: Court any case does with the Law and decree defines it. And the general rule public should not give decree. "Furthermore, Article 597 of the Penal Code, which allows judges to interpretation."

**C - Personal interpretation:** An Interpretation of the scientists on the rights of non-the legislative stage and stage the judicial adjudications are. This interpretation although no formal aspect but in to establish judicial procedure is important (Jaafari Langroudi, 1992) and indirectly affect the work of the judiciary and the legislative.

### **3-The need for judicial interpretation and its types**

Though the aim of legislature is that possible law is clear, yet sometimes law is unclear or does not contain all of its instances, or may be due to the new phenomenon caused science and technology and human progress, law be incomplete.

Obviously, in such cases, the judge has no choice but to interpretation because otherwise many legal cases remain unsolved. For example, Articles 699, 698 and 697 the Islamic Penal Code, to clarify the need for judicial interpretation. Which interpretation the above mentioned materials by scholars and law professors and experts in this field will guide us in this direction. Each of rights of scientists to interpret law according to their own views and opinions, are chosen by a judge. Proponents of the principle of legality of crimes and punishments for individual rights are valued, narrow interpretation of the law would predict. In contrast, those who preferred the society upon the individual and the public interest are more importance than individuals, the analogy applied to interpretation and some are believed to interpret broadly, we now interpretation each of them.

**A-Narrow or literal interpretation:** The desire to interpretation the law (introspection) which results in accordance with equity and the interests of society. As soon emergence of the principle legality of crimes and punishments, this style has become popular interpretation. Proponents believe that this interpretation according to the principle separation of powers and the principle of legality of crimes and punishments in order to protect and support its accused and is anticipated to be carried out, the judge can't substitute their own interpretation law and action as a legislature. This group is called: Judges for the interpretation the law and what the law should be explicitly stated should pay attention. Consequently, it is not clear what Articles

legal, it must be interpreted in favor of the accused and to refrain from condemning him. This theory by scientists such as "Bkarya" and "Montesquieu" and others is located expressed and supported. "Bkarya" thought it was criminal courts judges are not right to broad criminal regulations are interpretation because they are law enforcement, not legislature, so not as interpret broadly of the duty of the legislature to do." Montesquieu" says: "Judges are law loudspeakers". Their language, anything but law should not be removed. Their duty anything but the expression is not a legal verdict (Mohseni, 1979).

But opponents this interpretation the criticism that has been entered into:

A) When can this be true style and sense of logic and did not literally infringe law to confess from any defects or mistake law is empty; While the law is not the true meaning without defects and reason is that the legislator mistakes and shortcomings and realize the error comes after awhile seeks to correct. Look at the list of rules that located amended regularly, is the best the proof. "

B) This type is the interpretation the right to remain in the same shape and primitive, and does not transformation. Meanwhile, a law has an alive and dynamic and must develop with the progress of society has been evolved ... (Mohseni, 1979).

**B - Interpret broadly:** narrow interpretation the opposition, have the desire to outside law (extroversion) and the defense said: "Because is the basic task society maintaining public order and security, therefore principle legality of crimes and punishments should not be cause the community's much of dangerous and criminal acts of a few criminals remain undefended and the judge should be inspired by the spirit and provisions of the law, and criminal acts that have occurred by comparison with the crimes anticipated in the law and its Interpret broadly of the perpetrators prosecuted and punished for them to determine".

Proponents of this type interpretation are being admits: True that the suspect should be interpreted in favor of the accused, But this principle must be considered and interpreted in such a manner that when in doubt, the accused person is noticed or not, in favor of accused to interpret and tell him noticed is not charged. But when the defendant's criminal did, but the Article is not explicit in this regard, we should not be interpretation in favor of accused. But should, with interpret broadly the rule of law to understand; because at this case also will be taken prevent dangerous offenders and other criminals does not evade justice forks with the special knack. (Mohseni, 1979). "School of the realization of the" Criminal Law is a fan this type interpretation.

But opponents say this interpretation:

- 1 - The principle separation of powers, which independent of the legislative judgment is known, will undermine;
- 2 - A judge has exercise extensive powers in the manner and has undergone the rights and freedoms of the individual.

**C - The interpretation of analogy:** analogy in word meaning and measurement, evaluation and comparison between two or more things or issues and means, equality has also come.

In terms include: evaluation and comparison with other subject thematic and extracted sentence similarity and common cause between them is available that the cause of sentence (Amid, 1979).

Judge based on the principle of legality of crimes and punishments for those acts which the law does not punish, but his view has denounced the act with a single similarity action which is defined in the Act for the punishment Should the punishment shall determine. The purpose of criminal law is that they turn to punish her...(Mohseni, 1979). Interpreted comparison through individual interests and individual rights endangers how to interpret this rejection and has no place in Iran's judicial system; because intervention of the executive branch and eventually judiciary in violation of the principle of legality of crimes and punishments are.

## **Discussion**

What is clear is the law need to interpret, because the legislature did not allow the narrow interpretation, the interpretation of the law was not expressly stated. This the interpretation of the law is needed, a natural and unavoidable, because the spread of everyday crime and human beings to access new facility increase as there have even established a new crime, the legislature can 't coordinate with the progress of increasing crime. As noted above narrow the interpretation of the law has been smaller, thus the professional criminals are rescued from the clutches of punishment. This is dangerous criminals which certainly built for the society, with the full knowledge and full knowledge of the law shortcomings of the law to break the law. And their actions they are doing in a manner that is not include none of legal matter, these individuals are usually the leading bands and swindlers; The spread of crime and criminals are a result many people are in the shadows of their illegal acts. Therefore a bunch of lawyers are harmful to society as a narrow interpretation and criticism have been raised in this regard.

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