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Original Article

Analyzing Performance of Dispute Resolution Council

Seyed Morteza Madani[1*], Seyyedeh Najmeh Hosseini[2]

[1]Department of Law, Science and Research Branch, Islamic Azad University, Zahedan, Iran
[2]Young Researchers and Elite Club, Torbat-e-heydarieh Branch, Islamic Azad University, Torbat-e-heydarieh, Iran

*Corresponding Author E-mail: morteza.madani@yahoo.com

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ABSTRACT

Dispute resolution council is emerging institution in Iran and other countries. This research is inductive. The current study is also correlative since it seeks to investigate the relation between dependent and independent factors. It is a periodic study because it studies a specific period and it can be an applied research. We used a questionnaire included 15 questions and distributed amongst clienteles of dispute resolution council of Torbat-Heydarieh and 450 people respond to the questionnaire during 6 months of 2013. Results of the research indicated that clienteles were not satisfied about behavior of clerks and members of dispute resolution council. Moreover, people were not satisfied about knowledge of employees and members related to of the dispute resolution council in Torbat-Heydarieh, whereas, were satisfied about processing time of solving problems by employees and members related to of the dispute resolution council.

Keywords: Satisfaction, Dispute Resolution Council, Procedural Reform.

Introduction

Human is sociable creature and must survive itself by other human and maintain its security by crating group of people. This relationship and sociable life of human lead to people come together and it leads to progress of human, meanwhile, these relationships lead to conflicts between benefits and rights of people, therefore, it leads of fight and disagreement, and for solving these problems need solution and these solutions have changed based on changes on environments, era, and geography. Today, violence is necessary and conversation is not only way for solving problems among people. Thus, mediator persons are essential for solving violence and these days, have been created law-making institutions and courts for solving problem claims. Consequently, it can be said there is a border between violence and civilization is organizing ruling system and public relationship (Eftekharietal, 2009). Much dispute resolution in world politics is highly institutionalized. Established, enduring rules apply to entire classes of circumstances and cannot easily be ignored or modified when they become inconvenient to one participant or another in a specific case. In this article, we focus

on institutions in which dispute resolution has been delegated to a third-party tribunal charged with applying designated legal rules and principles. An act of delegation means that disputes must be framed as ‘‘cases’’ between two or more parties, at least one of which, the defendant, will be a state or an individual acting on behalf of a state. (Usually, states are the defendants, therefore, we refer to defendants as ‘‘states.’’ However, international tribunals, as in the proposed International Criminal Court and various war crimes tribunals, may also prosecute individuals. The identity of the plaintiff depends on the design of the dispute resolution mechanism. Plaintiffs can be other states or private parties individuals or nongovernmental organizations (NGOs) specially designated to monitor and enforce the obligatory rules of the regime.

We turn now to our three explanatory variables: independence, access, and embeddedness. We do not deny that the patterns of delegation we observe may ultimately have their origins in the power and interests of major states, as certain strands of liberal and realist theory claim. Nevertheless, our analysis here takes these sources of delegation as given and emphasizes how formal legal institutions empower groups and individuals other than national governments.

The Importance of Legitimacy

UDRP contains weaknesses that undermine its claims of legitimacy. Legitimacy, of course, is a value worthy of pursuit in and of itself. In a context such as the UDRP, however, where regulatory and adjudicatory authority largely operate outside existing national political arrangements and derives power in part from the custom and consensus of affected constituencies, legitimacy is essential to achieve even pragmatic, self-interested goals such as viability and efficacy. Absent legitimacy, non-national alternatives likely will arise because of the ease with which competing structures and institutions can emerge without the decelerating constraint of international or national political debate and procedure. The fate of the Internet Ad-Hoc Committee’s Memorandum of Understanding and the rise of New.net speak to such facility. Legitimacy also nurtures and invigorates other forces that may help to sustain the non-national system and abate its inherent vulnerability. Non-national law is largely soft law, at least in theory. But the law produced by a non-national system may be hardened through, and incorporated into, traditional lawmaking and adjudicatory processes. For example, it might be incorporated into instruments such as treaties. The recently released proposal for a Free Trade Area of the Americas Agreement raises the UDRP’s status by making it the required means for resolving certain cybersquatting disputes. Similarly, national courts soon will be forced to consider (in many procedural contexts) what degree of deference to give UDRP rules and UDRP panel decisions. Judicial deference, where appropriate, would both boost the UDRP as the de facto system and harden its soft-law character. A slightly different form of hardening might be achieved by most country code domains adopting the UDRP, thereby consolidating the UDRP’s position. Yet all these developments are unlikely to occur unless the system is perceived as legitimate.

Courts

The courts and tribunals represent a key dimension of legalization. Instead of resolving disputes through institutionalized bargaining, states choose to delegate the task to third-party tribunals charged with applying general

legal principles. Not all of these tribunals are created alike, however. In particular, we distinguish between two ideal types of international dispute resolution: interstate and transnational. Our central argument is that the formal legal differences between interstate and transnational dispute resolution have significant implications for the politics of dispute settlement and therefore for the effects of legalization in world politics.

Interstate dispute resolution is consistent with the view that public international law comprises a set of rules and practices governing interstate relationships. Legal resolution of disputes, in this model, takes place between states conceived of as unitary actors. States are the subjects of international law, which means that they control access to dispute resolution tribunals or courts. They typically designate the adjudicators of such tribunals. States also implement, or fail to implement, the decisions of international tribunals or courts. Thus in interstate dispute resolution, states act as gatekeepers both to the international legal process and from that process back to the domestic level (Laurence and Dinwoodie).

Literature review

These days, using various development methods needs a new pattern of human sustainable development which human security and civilization rights for all people of a country. Therefore, foundation of this idea is when people do not have security in their life, the world cannot achieve to peace. Human security has direct and significant relationship with deprivation and inequality of economy, social and ecology. Thus, social, economic, ecology security must find in human sustainable development. In other words, except of human sustainable development cannot find human security. This pattern is called paradigm of sustainable development (Jomea Pour, 2008).

The criteria for evaluating proposed alternatives to the conventional methods of resolving legal disputes are mostly taken for granted. That is because those making the proposals are practical rather than theoretical men, and most practical men think they can tell at a glance whether something works, and if it does they pronounce it successful.

Criteria for evaluating any procedural reform

1. The procedure must conform to a model of rational litigant behavior. Although emotion and ignorance play a role in litigation, no proposed alternative is likely to work that assumes, implicitly or explicitly, that litigants and their lawyers are irrational. Rationality is the dominant although not the only characteristic of behavior in established institutional frameworks administered by professionals, such as that provided by the rules of federal trial procedure. I won't attempt to defend this premise in its full breadth but will note later some empirical support for the rational model of litigant behavior.

2. The success or failure of the procedure must be verifiable by accepted methods of (social) scientific hypothesis testing. I am unconvinced by anecdotes, glowing testimonials, confident assertions, and appeals to intuition. Lawyers, including judges and law professors, have been lazy about subjecting their hunches-which in honesty we should admit are often little better than prejudices-to systematic empirical testing. Judicial opinions and law review articles alike are full of assertions-about the effects of a comparative negligence standard, jurors' comprehension of instructions, the consequences of keeping religion out of (or

putting it into) the public schools, the knowledge ability of consumers, the legal sophistication of prisoners, the social utility of pretrial discovery, the virtues of adversarial compared to inquisitorial techniques, and hundreds of other matters-that have no demonstrable factual basis. Not that the authors of these articles and opinions must be wrong on any of these assertions; they may be right on all. However, they have only impressions; they have no verified knowledge.

3. Any alternative to the trial must respect relevant legal and institutional constraints, including those derived from the separation of powers in our constitutional system. This may seem a boring truism, but we shall see that there is a possibility that it is being contravened not only by the summary jury trial but by court-annexed arbitration.

4. Any proposed reform must move the legal system in the right direction, where "right" is defined in accordance with broad social policy rather than narrow craft standards of success. A pro-posal that reduced the cost of using the courts might, by increasing that use, disserve fundamental social interests-while serving all too well the legal profession's narrow self-interest.

Methodology

This study is inductive and it makes use of past information and historical financial statements. The current study is also correlative since it seeks to investigate the relation between dependent and independent factors. It is a periodic study because it studies a specific period and it can be an applied research. We used a questionnaire included 15 questions and distributed amongst clienteles of dispute resolution council of Torbat-Heydarieh and 450 people respond to the questionnaire during 6 months of 2013. Excel carried out Independent and dependent variables and primary processing of data. The assumptions of the research tested based on the regression analysis with the aid of SAS and SPSS statistical analysis software. We used library research was selected and the books in the libraries, together with articles found in the internet, in order to gather theoretical information.

Hypotheses

H_1: Clienteles are not satisfied about behavior of dispute resolution counsel's clerks and members

H_2: Clienteles are not satisfied about knowledge of employees and members related to of the dispute resolution council

H_3: Clienteles are not satisfied about processing time of solving problems by employees and members related to of the dispute resolution council

Descriptive statistics

Base on following table 252 people of respondents were men and 198 of them were women:

Table 1. Frequency and percentage of respondents based on gender

Gender	Frequency	Percentage
Male	252	56%
Female	198	44%
Total	450	100%

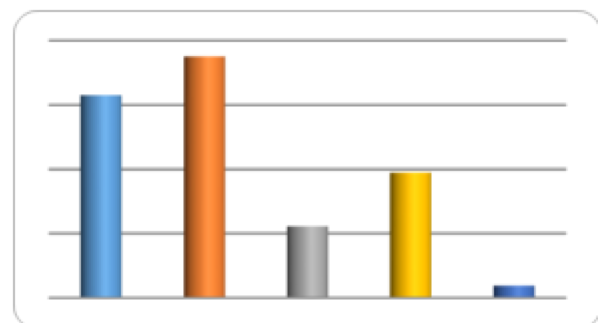

Figure 1. Frequency of respondent based on education

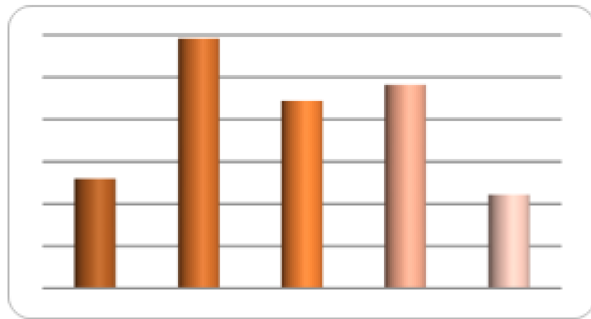

Figure 2. Frequency of respondents based on age

Test Hypotheses

H_0: Clienteles are satisfied about behavior of dispute resolution counsel's clerks and members

H_1: Clienteles are not satisfied about behavior of dispute resolution counsel's clerks and members

Table 2. Binominal test of first hypothesis

Quantity / Variable	Numbers	Percentage	T-test	Sig
Behavior of clerks and members	356 94	0.79 0.21	0.5	0.000
Total	450	0.100		

We used Binominal test in order to test hypotheses and in according to Sig= 0.000 and Sig is less than 0.05, therefore, null hypothesis is rejected and H_1 is approved. Consequently, clienteles are not satisfied about behavior of dispute resolution counsel's clerks and members. Furthermore, it can be said that 79% of respondents were not satisfied about behavior of dispute resolution counsel's clerks and members and only 21% of the respondents were satisfied about behavior of dispute resolution counsel's clerks and members.

H_0: Clienteles are satisfied about knowledge of employees and members related to of the dispute resolution council

H_2: Clienteles are not satisfied about knowledge of employees and members related to of the dispute resolution council.

Sig = 0.00 and less than 0.05 and therefore H_0 is rejected and H_2 is approved. Thus, Clienteles are not satisfied about knowledge of employees and members related to of the dispute resolution council. In other words, 91% of respondents were not satisfied about knowledge of employees and members and 9% were satisfied about knowledge of employees and members.

H_0: Clienteles are satisfied about processing time of solving problems by employees and members related to of the dispute resolution council

H_3: Clienteles are not satisfied about processing time of solving problems by employees and members related to of the dispute resolution council.

Table 3. Binominal test of the second hypothesis

Quantity / Variable	Numbers	Percentage	T-test	Sig
knowledge of employees and members	411 39	0.91 0.09	0.5	0.000
Total	450	0.100		

Table 4. Binominal test of third hypothesis

Quantity Variable	Numbers	Percentage	T-test	Sig
knowledge of employees and members	167 283	0.37 0.63	0.5	0.007
Total	450	0.100		

Base on the table above mentioned, sig= 0.07> 0.05 and therefore H0 is not rejected and H3 is approved. Consequently, Clienteles are satisfied about processing time of solving problems by employees and members related to of the dispute resolution council. It means, 63% of respondents approved that processing time of solving problems by employees and members are good and employees and members did not satisfy 37% of respondents about processing time of solving problems.

Conclusion and Recommendation

In according to issues above mentioned, main aim of this research was investigating satisfaction of people from dispute resolution counsel of Torbat-Heydarieh. In according to first hypothesis 79% of clienteles were not satisfied about behavior of clerks and members of dispute resolution council in Torbat-Heydarieh. Therefore, it is recommended that more pay attention to choose better clerks and members based on their experience and their knowledge.
In according the second hypothesis, it can be concluded that 91% of people in Torbat-Heydarieh were not satisfied about knowledge of employees and members related to of the dispute resolution council. Thus, we should consider competent legal and scientific knowledge as criteria in recruiting staff.
Based on third hypothesis 63% of people in Torbat-Heydarieh were satisfied about processing time of solving problems by employees and members related to of the dispute resolution council and it is better more attention to education of members and clerks.
Based on the research some recommendations as following:

1) Programming:

- Revising in selecting and criteria of recruiting members and clerks of dispute resolution council
- Revising in competence of members and clerks of dispute resolution council

2) Education:

- Increasing knowledge and abilities of members of dispute resolution council
- Education of dispute resolution council for crime prevention training

References

Eftekhari, AR, Pour Taher, M, Markidsaffsri, A. (2009), evaluating role of dispute resolution counsil in judicial security of villagers, human science of Ferdowsi University's magazine: 93-119

Johnson, I. (1997), redefininh the concept of governance, international journal of public administration, Vol.20

HELFER, LAURENCE R, DINWOODIE, GRAEME B, (2001) DESIGNING NON-NATIONAL SYSTEMS: THE CASE OF THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

Kaufman, D, Kraay, A, Mastruzz, M. (2006), governance matters: governance indicators

Styop, W, C (1975), corporation development and problem of social participation in light of recent, University of bolohgatialy, Journal of rural cooperation

UNDESCAP, (2002): what is good governance, present at: www.unescap.org/huset/22/governance

Walter, J, Kiekert, M. (2002): public governance in small continental European states, international journal of public administration. V0l, 25

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