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An examination of the status and function of the concept of good faith in criminal law and its application in criminal cases

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Abstract

The notion of good faith has a privileged and exceptional place in all disciplines of legal science. Today, the legal statutes of several nations openly or tacitly make reference to this fundamental premise. In the realm of criminal law, the notion of good faith is not as often recognized or emphasized as it is in other areas of law, particularly private law. Many writers and academics have overlooked or disregarded its significance in practice. In Iranian criminal law literature, the notion of good faith is examined in comparison to Western and Arab nations. The explanation for the accuracy has not been provided. While the legislator indirectly acknowledged the importance of good faith in certain aspects, such as excuses, the legality of hidden qualities, and the causes of obscenity for the committed behavior, it was not explicitly mentioned. Furthermore, the criteria for determining good faith and the standards for recognizing it have not been clearly defined. Only legal doctrine and some judicial authorities have provided guidance on these matters, particularly when writing verdicts and explaining why the charge title was modified or changed. However, the specific nature and extent of the criminal response to good faith have not been clarified. The offender demonstrates attentiveness. According to the general theory, the concept of good faith in criminal law revolves around the intention of the perpetrator and its impact on criminal liability. By demonstrating the absence of malicious intent, a person's good faith is invoked to justify their actions in exercising or utilizing their rights. The research methodology used in this study is descriptive-analytical and comparative. The collection of materials was done using library resources.

Keywords: Good faith, legal science, criminal law, private law

Introduction

The phrase "good faith is used in the relevant legislation and regulations of several Western and Arab nations; yet, it lacks a precise and universally agreed-upon definition in any of these jurisdictions ^[1]. Only the intention, defined as the will to commit a crime according to the legal definition, is considered in this context ^[2]. Good faith is a moral notion that has been incorporated into the realm of law. Undoubtedly, logicians and philosophers have explored the notion of good faith long before jurists, and their perspective on this matter has significant value. Given the strong association between logic and philosophy, it is widely recognized that the earliest investigations into the concept and significance of good faith can be traced back to ancient Greece. This is in comparison to the present-day understanding of good faith in language. Badi Nazar is seeing a surge in the popularity of Greek language. Initially, the concepts of virtue and moral uprightness are immediately apparent. The notion of goodness and intention has been explored by numerous eminent ancient Greek philosophers, such as Aristotle. For instance, Aristotle contends that the data acquired through the five senses in the eye is accurate upon initial observation. However, upon the realization that the mind misperceives or distorts this information, this truth can be refuted. Subsequently, the word goodwill emerged in the writings of Roman and medieval scholars. The word "opinion" was also used in the listed works in its literal meaning by Badi. Direst's interpretation of this context is noteworthy, as it suggests that when an item belongs to someone else, a person really believes that it is a property resulting from an obligation. Gradually, the concept of kindness or optimism began to be used as a phrase. Good faith has a prominent role in several fields of law, such as international law, contract law, commercial law, and particularly civil law. However, in the literature, The criminal laws of some nations, such as Iran, have not received enough attention. The importance of good faith remains a fundamental legal concept ^[3]. The lack of attention from

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legislators to this fundamental concept in the criminal justice system has resulted in a failure of judicial authorities to adequately uphold this standard throughout criminal proceedings. The concept of unjustified purpose has not been included in the doctrine of criminal law and the general theory of crime, specifically in connection to the three pillars of the crime of good faith. Good faith is a subjective and emotional concept that signifies the sincere belief in the rightness of a kind deed, without any intention or strategy to manipulate or mislead others. The criminal reaction, characterized by malicious intent, refers to an individual's deliberate and irrational decision that goes against the intentions of the legislator. This psychological aspect of crimes, particularly intentional offenses, is a significant factor to consider. Based on the current literature in the subject of criminal law, there is no precise stance on the role of good faith. Upon careful examination, it becomes evident that none of the criminal law books have dedicated a separate and specific section to address the proper treatment of the issue. However, it is important to acknowledge the significance of an individual's positive faith in various aspects, such as justifiable causes of behavior, legal excuses for committing a crime, and mitigating factors. be disregarded when reaching a judgment, whether it is about issuing a decree or delivering a verdict, the judicial authority must operate impartially and in accordance with sincere intentions. Currently, the notion of honest faith has a significant role in judicial procedures and has transitioned from being a moral virtue to a legal requirement. Adhering to the norm of honest faith is crucial when dealing with certain crimes, such as economic and security crimes, that are subject to peculiar and non-legal perspectives. The judicial authority must act in accordance with the concept of good faith to pursue judicial *ijtihad* in this particular situation. The procedural law system regards good faith as a fundamental element. Good faith serves as the foundation for several concepts and standards of procedure, while also functioning as a means to imbue laws with moral value. Many important concepts in procedural law are based on good faith.

The identification of the role of the principle of good faith in criminal proceedings, as well as the application of the presumption of innocence and the adherence of judicial authorities to the principles of fair proceedings, can yield favorable outcomes. These include a decrease in the number of judicial cases, a decrease in the number of individuals convicted and incarcerated, and a decrease in. He highlighted the financial strain within the criminal justice system. When a specialized court establishes unique procedures and deviates from basic norms and regulations, the presiding judge, swayed by stereotypes, might ignore the factual evidence when confronting the defendant. Based only on his stereotypical mindset and convictions, he should be able to identify the activities of the accused as morally wrong and unlawful, and then pass judgment on them. External factors such as public opinion, media campaigns, personal desires, emotional connections, family ties, ethnicity, ideology, and other non-legal considerations must not sway the judge's impartiality. Instead, the judge should form their opinion and make decisions based on legal reasoning and in good faith. Textualism, also known as sufficiency text, is a method of acquiring knowledge that relies on the validity and authenticity of texts and aims to prevent intellectual interpretations. argue that this approach

challenges the path of judicial *ijtihad* by disregarding the principle of goodness. It's arbitrary tyranny when the principle of good faith is ignored in criminal proceedings. It also separates the judicial authority from the ideals of justice and fairness, as well as from judicial and moral virtues like using legal knowledge, showing courage, exercising legal self-restraint, and staying independent, impartial, and compassionate. We can regard this principle as an intellectual virtue and a gauge of a judge's worthiness. A key characteristic of an honorable judge is their unwavering dedication and loyalty to the notion of acting in good faith. The method used and the idea of judging the reasons and deciding if they are good enough have a big impact on how the law is interpreted and the freedom people have to choose their own punishments in the area of legal variation ^[4]. The judicial authority should place an emphasis on conformity to the concept of good faith as an intellectual conviction. People view the importance of a "judge" as equal to the significance of understanding the law. When a virtuous judge has judicial authority, there is a higher likelihood that they will prioritize justice and fairness. The systematic perspective ^[5] of the criminal process, coupled with a strong focus on managerialism, does not allow for the incorporation ^[6] of sentiments such as pity, kindness, and compassion during criminal proceedings. A compassion-oriented judicial approach acknowledges and addresses the emotional impact on both the victim and the criminal. It rejects a strict and repressive perspective and instead emphasizes the importance of empathy and understanding. Implementing such an approach necessitates the genuine intention and active efforts of the judicial authority, as well as the assistance of supportive institutions. Additional strategies are not illegal. The legal and judicial discourse in many countries, particularly in relation to problem-solving courts that focus on restorative justice, commonly adopts a compassion-based approach. This approach entails considering the litigants' thoughts, concerns, and needs in order to promote reform, treatment, or address the individuals' shame. In Iran, the application of the concept of good faith in criminal law is lacking in the current literature on normative legal criminology, both in terms of its structure and content. This deficiency is evident in the absence of a dedicated section or comprehensive discussion on the principle of good faith. The psychological response plays a pivotal role, whether it be in the form of general malice for general crimes or specific malice for purposeful crimes. Private law's foundational notion of good faith is the primary cause of this vulnerability. Goodwill in criminal behavior does not have a corresponding standard in the whole theory of crime. Therefore, it is not feasible to see goodwill as a psychological component of crime, since the offender's purpose is focused on achieving a specific and desired aim. It is evident that goodwill carries a distinct significance and purpose when compared to the notion of good faith. The idea of good faith is distinct from that of motivation. Motivation refers to the intention or final objective of committing a crime, which is the mental state present at the start of the covert process. However, criminal law encyclopedias often overlook the concept of good faith. It signifies benevolence. Indeed, the substitution of the phrase "good faith" for "intention" in some legal rulings suggests the presence of a cognitive terminology issue. Criminal law views the question of whether the concept of good faith serves a specific purpose as a significant one. In

criminal law, the principles of legality and narrow interpretation of texts are applicable. Therefore, we rarely use the rules of interpretation to establish good faith. However, in certain criminal proceedings, attempts are made at the appeal stage to incorporate the concept of good faith into the broader theory of crime and determine its role. 256 Yaşar and Iger (2019) reported their findings on page 255. To comprehend the significance and establish the role of good faith in legal and judicial discussions, it is necessary to first elucidate the conceptual framework of the matter.

The theoretical and conceptual foundation of the study

In Arabic, the term "Hasan" denotes the antithesis of ugliness and its opposite ^[7]. Ihsan is the antonym of asaeḥ, while hasanah is the antonym of sin. Mahasan, the plural form of husan, is also the antonym of masawee (flaws). "Many masawathah" implies a multitude of faults and defects, while "hasan" in this context signifies beauty. When we describe something as "good," it implies that it enhances or improves the object in an optimal manner. The text is unchanged. The word "nit" originates from the root "Nawi Yanwi" and signifies the purposeful and determined act of taking action. This study focuses on how the soul directs its actions. The term "intention" also refers to the underlying motivation behind an action. The concept of proper conduct suffers from contamination. This explains why the Prophet (PBUH) asserted that the acts are accurate. The process relies on individuals' intentions, and individuals form judgments based on their intended actions. In legal terminology, a phrase or definition encompasses the concept of having a genuine and sincere conviction, without any intention to mislead, or adhering to a principle that goes against one's conscience or is considered illegal. It refers to a mental condition that demonstrates a strong sense of devotion and commitment in an individual. Typically, goodwill encompasses more than just a mental state of honesty. To fully realize it, one must engage in active and constructive activity. The House of Lords in England has defined good faith as the practice of treating others openly and fairly, without any attempt to hide or deceive. The notion of good faith originates from Roman law, and, in legal terms, it relates to the sincere conviction and intention to comply with legal rules. Etymologically ^[8], we can trace the concept of good faith back to the Latin term "bona fides" and its history extends beyond the term that has legal significance also carries a theological and ethical connotation. An individual with benevolent motives refrains from violating the law. Good faith, as defined by some jurists, refers to the absence of criminal intent. Criminal intent, on the other hand, is the deliberate intention to defy the law by violating or infringing upon the rights established by the legislator. Consequently, individuals who lack this intention, meaning they do not aim to oppose laws or violate any rights, can be considered to have good intentions and no malicious motives. This principle of good intentions holds significance in criminal law ^[9]. The essential feature of the crime of malice is the absence of purpose, which is the primary factor that exempts one from liability for their conduct, as mandated by the legislature in criminal law. If there is no intention to harm, the crime does not occur. In deliberate offenses, the offender's cognitive engagement ^[10] encompasses several components, all of which are important in every instance; malevolence is one of the factors in assessing the psychological aspect. Legislation prohibits

engaging in critical thought, as stated in Experiment 11-81:1380-10. Malicious intent, a general form of malevolence present in all types of crimes, whether deliberate or accidental, refers to the conscious awareness of engaging in a harmful action. The result's attribution is based on the material element of the crime, known as special malice. However, the absence or disruption of this essential element precludes the establishment of the psychological element of the crime. Article 41 of the French Press Law makes this clear. The first paragraph precludes the possibility of legal action against speeches, reports, and discussions held in the National Assembly or the Senate ^[11]. The second paragraph clearly emphasizes the necessity of submitting reports from the general sessions of the legislative assembly, conducted with sincere intentions, for publication in newspapers ^[12]. This will not lead to any complaints or legal proceedings judicial rulings and advisory theories regarding speech offenses acknowledge criminal purpose, or malevolent intent, as a fundamental psychological factor Criminal law may elucidate and extend the concept of good faith across several domains, including excuses, legal justifications for the activity in question, and factors that may reduce the severity of the sentence. This includes defamation, disseminating false information, and causing public distress. The goal is to promote goodwill and improve the executive structure. Therefore, the legislator, by assuming that the representatives act in good faith and by preventing any restriction on expressing their opinions, excludes the occurrence of these crimes. In other countries, the principle of good faith is sometimes considered by judicial authorities in criminal proceedings against parliamentary accusations. For instance, during the tenth session of the Islamic Council on November 27, 2018, in the branch 1057 of the criminal court of the two judicial complexes of government employees in Tehran, the court concluded that there was no evidence of malicious intent or criminal intent in the accused's statement. Therefore, based on the principle of 37 A.H. 1, the court did not find the accused guilty of publishing lies and insulting a judicial official. The acquittal principle refers to the legal concept outlined in Article 120 B.C. The law of doubtful ownership and Article 4 of the principle of acquittal, which was passed in 1392, say that people can be found not guilty. They also stress how important it is to prove someone's guilt with solid evidence and the accused's right to be innocent during criminal trials. In countries that adhere to the common legal system, this place serves as a barrier for any doubts regarding a person's status as a suspect during the process of establishing the truth. In simpler terms, the judicial authority determines the accused's presumption of guilt by their level of honesty or absence of deceit. Based on the existing texts, the common law courts have broadened the judicial interpretation of good faith and have focused on aligning the verdict with principles of justice and moral conviction. Throughout the proceedings, the main objective has been to establish the subject of the accusation beyond any reasonable doubt. In the common law systems, such as England and America, it is crucial for the trier of fact to have a strong conviction, based on solid evidence, that the accused is guilty. Any court or proceeding that disregards this rule or attempts to violate it poses a significant risk to the integrity of the judgment or appeal process. Prior to delivering a guilty verdict, it is essential that a person be convinced "beyond a reasonable doubt" ^[13]. This premise

suggests that doubt in the jurisprudential term is akin to uncertainty about the interpretation of the word in the western legal system. The Supreme Criminal Court's 1798 ruling affirmed^[14] the requirement to establish guilt beyond a reasonable doubt as a legal and ethical principle in England beginning in the late 18th century. Criminal proceedings subsequently adopted this principle as a standard criterion. Criminal trials interpret doubts in favor of the accused, even if the evidence only tilts towards the likelihood of guilt, in contrast to civil trials that resolve any doubt in favor of the accused. Considering the defendant's culpability or lack thereof, his exoneration is imperative. Conviction in a criminal case requires substantial proof of guilt, rather than conjecture. If there is not enough evidence, the presumption of innocence remains in^[15] effect. Our country's legal system lacks precise provisions about the concept of good faith and the standards for measuring it. We can argue that this claim is based on the principle of good faith, taking into account factors like appearance and authenticity^[16]. Consequently, many legal experts have deemed the claimant's testimony to be credible, and in the absence of the defendant, it is permissible to render a judgment in absentia. The judge can discern an individual's genuine intentions by assessing their psychological condition, the objective characteristics of their moral and social conduct, and their present and ongoing benevolence. To clarify, the criteria for determining the accused's good faith in a trial include applying personal or objective rules. This assessment is crucial and primarily falls under the responsibility of the judge. Indicators of good faith include the absence of intent, attempts to prolong the trial, and a lack of effort. To initiate a legal action against truthfulness and prevent dishonesty, fraud, or any efforts to deceive or mislead, the judge abstains from introducing counterfeit documents or false justifications. Additionally, the judge refrains from threatening or harassing the plaintiff, as well as from attempting to bribe the judicial authority or personnel within the judicial system. Good faith often has three essential components: accuracy, integrity, and loyalty. Adhering to these principles shields those who behave in good faith from blame or criticism. Given the current circumstances, this subject will get greater attention in forthcoming conversations.

Examining the legal characteristics and historical context of the idea of good faith in previous legislative frameworks

The notion of good faith is a significant guiding principle in the field of law. This concept encompasses a broad spectrum of substantive and procedural rights and assumes distinct functions within each domain. The domain does not confine the concept of good faith, as its application varies based on the circumstances and individuals involved. As a result, it holds a position of superiority that extends beyond any particular sector. Within the context of substantive criminal law, there is a significant correlation between the psychological aspect of the crime and the offender's purpose. If the evidence supports his benevolent motive, it eliminates his malevolent motive. The link between the norm of good faith and the legal grounds, shortened attributes, and rationales for obscenity is founded on the notion of inviolable rights use. Within the context of legal rights and legal procedures, the concept of good faith serves as a safeguard to ensure a fair trial and to prevent the

infringement of the accused's rights or the exploitation of opportunistic individuals. In most European legal systems, the concept of good faith in procedural law serves three main purposes. Firstly, it has an interpretive function, influencing various principles and rules of procedure, such as the principle of correspondence between parties' claims, and providing guidance for their application. Secondly, it serves a corrective function by allowing for the modification and adjustment of rigid laws and regulations. Lastly, it serves a supplementary function by enabling an expert and experienced judge to determine right from wrong in cases where there is silence, defect, or ambiguity in the legislator's ruling. In modern legal systems, the notion of good faith is widely acknowledged. Both local and international legislation explicitly outlines it as a fundamental value, integral to their legal system. According to the European Court of Human Rights, a fair trial encompasses all of the trial's proceedings^[17], from the gathering of evidence to the implementation of the verdict and, therefore, adherence to the concept. Good faith encompasses not just the trial phase in court, but also extends to the preceding processes, such as criminal detection and preliminary investigations. Therefore, every governing body with a legal duty and responsibility must adhere to this requirement in its legal actions. Maintaining the assurances of a fair trial is a fundamental need. The concept outlined above is a critical determinant of conduct validity. Sharia only considers activities acceptable if they stem from good intentions. Good faith is seen as a prerequisite for proper conduct, since it serves as a benchmark for human behavior and has greater significance than the actual actions taken. According to this, the Holy Prophet (PBUH) said that the believer's purpose is the basis for good actions. In certain jurisdictions, such as Iraq, the lawmaker has the concept of good faith has been explicitly defined in many provisions of this country's criminal legislation^[18].

However, the level of clarity and transparency in the legislator's rulings varies across different circumstances. Furthermore, the lawmaker has not provided any definition for the aforementioned concept.

The notion of good faith in ancient legal systems has historical origins, with notable evidence including the land between the rivers of Mesopotamia. This territory, often known as the birthplace of human civilization^[19]. Traces its civilizational origins to the Stone Age. It has consistently highlighted the importance and necessity of upholding integrity and honesty in the judicial system through its diverse set of rules, such as the *Or Nemo Law*. The text emphasizes the importance of honest, trust, and good faith in interactions with others, as demonstrated by the insistence on Yazidi Ordali's arbitration and the consideration of reason to prove the accused's innocence^[20]. The judicial authority will hold the individual criminally and legally accountable if they determine otherwise. For instance, the judicial authority will deem an individual to lack good faith if they accuse someone else but fail to provide evidence to support the accusation. Because of their lack of good faith, the accused not only wastes time in court but also files a false lawsuit. He was found guilty. According to Article 17 of the *Lipit Ishtar Law*, if someone accuses another person in a lawsuit and the accused is not aware of this charge, and the accuser is unable to provide evidence against the defendant, then the accuser is responsible for any penalty that may be imposed on the defendant due to this

accusation, since it indicates a lack of good intentions. Article 39 of this legislation stipulates that an individual who accuses an unmarried daughter of a free man of engaging in sexual activity with a man, regardless of the girl's innocence, must pay ten shekels of silver due to their lack of honesty. In Hammurabi's ^[21].

law, specifically in highlights that there is a stricter and more punitive approach compared to the previous law. Hammurabi's ambition to exert greater control over the neighboring territories is responsible for this change. According to this article, if someone defames another person and fails to resolve the matter through legal means, the defamer will be required to immerse themselves in the holy river as a form of punishment. The authorities will seize his home if the water recedes. However, if it remains in a secure state, it could potentially serve as a trap, resulting in fatal harm to the person who throws it. According to Article 3 of this statute, if an individual provides false testimony in a case and the court cannot verify the truthfulness of their statement, particularly if the matter concerns human life, they are considered to be dishonest. The individual will get the death penalty as a result of their actions. The decisions suggest that deliberately inflicting harm on oneself with the intention of punishment is tantamount to the harm one requested.

In the past, in Egypt or the Nile Valley, there was a culture that valued justice and had a sophisticated system of assessing individuals based on the ^[22]. ir intentions rather than their material possessions. In Rome, there was a strong emphasis on adhering to the principles of justice, acting in good faith, and avoiding deceitful intent. Those who acted in poor faith were subject to censure, the heavenly laws, particularly the Mosaic law of Prophet Moses, emphasize the importance of benefiting from good intentions towards others, avoiding feelings of malice and hatred, and expressing love towards them. Similarly, the Shariat of Christ, peace be upon him, also emphasizes the virtue of tolerance and mercy. All matters emphasize the importance of having good intentions, and believers believe that God is aware of their hidden thoughts and motives. According to the insightful interpretation of the Holy Quran, whether you choose to disclose or conceal your innermost thoughts, God will ultimately hold you accountable for them ^[23]. The idea of good faith has gained significant recognition in numerous legal systems, particularly in the realm of criminal law, owing to its strong intellectual and theological backing. This has highlighted the crucial role of good faith.

The present inquiry examines the state of the concept of good faith in punishment and its pivotal role in safeguarding the rights of the city of Vendee

Today, many European legal systems view the concept of good faith as a barrier to the infringement of suspects' or defendants' rights and the exploitation of opportunists in legal proceedings. This is the case in many European legal systems. Good faith in procedural rules serves three main purposes: The initial the function is interpretative and principled, relying on several concepts and procedural procedures, such as the principle of aligning with shadow-related elements and providing them with guidance. The second purpose of correction is to alter and adapt rigid rules and regulations. It serves as an additional role to differentiate between what is right and incorrect by a knowledgeable and experienced judge when there is a lack

of clarity, flaw, or ambiguity in the decision. published their study on pages 122-130. Developmental legal systems inherently incorporate the notion of good faith into their laws ^[24]. The court's ruling asserts that European human rights processes are equitable, including all phases from discovery to execution. Adhering to the concept of good faith encompasses not just the trial stage in court but also extends to maintaining adherence to it inside the court. The primary initial phases in court procedures include the discovery stages and the crime trial. Consequently, it is essential for every judicial authority with a responsibility or function to be present and participate in the proceedings. The organization ensures that it follows processes that promote justice and adheres to the concept of good faith, which is essential for its successful execution. outlines the guidelines for applying the principle of good faith in situations where it is considered more relevant. It is crucial to ensure that crimes, perspectives, or specific factors are addressed with importance and consistency, even beyond the jurisdiction of the judiciary. This approach minimizes the risk of infringing upon the rights of citizens and judicial courts, particularly when dealing with economic disruptors and corrupt individuals. Shadows, humorous criminal politics, or specialized sections are involved in investigating crimes against those who support their country. These investigations sometimes include unusual events and trials that test the principles of justice. Despite trusting the procedures, it is important to recognize that the criminal process is a continuous and intricate cycle. The tenet of good faith ^[25]. If compromised or violated at any point, does not safeguard the other phases from potential damage.

The rationale for legal exemptions based on the concept of good faith

Legal justifications, such as exemption from penalty or reduction of punishment, are not considered excuses unless explicitly designated by the legislature under specific conditions. The legislator's clear directive requires the court to act after carefully evaluating the facts in specific situations. The legislature specifically states that exemptions from penalty refer to specific reasons and justifications that allow the court to pardon a criminal from the prescribed sentence for a crime. However, the court grants an exemption even after acknowledging the offense and meeting the requirements for criminal liability. The legislator justified the exemption mentioned in Al-Baghal's 1982 study based on the social benefits it brings, which are considered more important than the element of punishment. The prevailing belief is that the justification for punishment lies in the social utility it brings. The criminal provides a service to society by aiding in the detection of crimes and the apprehension of accomplices, thereby facilitating the work of law enforcement officers. Therefore, the significance of this service outweighs the harm that the crime causes. We use the exemption from punishment to motivate and convince the offender to cease their illegal activities. The purpose is to safeguard society from the negative consequences of the crime and the offender ^[26]. Previously, this situation was feasible, and now the apprehension and danger associated with it have diminished. It is believed that this kind of exemption is individualistic and does not impact the culpability of the guilty party or parties. It reduces the severity of the crime and decreases the likelihood that the offender, who is subject to a specific

legal penalty ^[27].

will face risks. Based on the judge's decision, the perpetrator has the opportunity to lower the punishment to a level below the minimum required by law. There are two categories of justifications available to lessen the severity of punishment:

1. Comprehensive justifications encompass a variety of offenses incorporate noble intentions, and attribute the perpetrator's heightened level of risk to the victim's unwarranted actions. Within the realm of motivation, the noble objective is to act in a positive manner, notwithstanding the perpetrator's error in choosing the appropriate methods. Therefore, the legislator believes that despite the offense the wrongdoer should receive a reduced penalty. Furthermore, the presence of a noble intention, combined with the occurrence of "provocation" or the manifestation of intense rage inside an individual's psyche due to the victim's risky actions, even if unjustified, could lead to a reduction in the criminal's penalty. The aforementioned circumstance leads to the offender experiencing a loss of autonomy over his psyche, resulting in a diminished strength of his will. Furthermore, the Iraqi legislature also employs the excuse of a deficiency or lack of volition or perception, in addition to the honorable intention and the intense rage resulting from mental agitation. Article 60 of the Penal Code of Iraq serves as the foundation for this practice. It has been explicitly stated.
2. Special reduced excuses are specific excuses established by legislators for limited and specific crimes. These excuses only apply to these crimes, and their effects are not revealed until they are committed. For example, in some countries like Iraq, one such excuse is the ability to testify as a witness under force or by lying, as stated in Article 256 of the Iraqi Penal Code. Article 311 of the Iraqi Penal Code establishes administrative or judicial institutions to address bribery committed by a middleman before the conclusion of criminal proceedings. Unlike excuses, exemptions prevent the conviction of any criminal offense, whether it is the main offense, a secondary offense, or a supplementary offense ^[28].

The rationale for using abridged attributes in light of the concept of good faith

An essential aspect of criminal legislation is the delegation of judicial power by the legislature to the judge to determine the severity of punishment. The law encircles the perpetrator of the offense. However, there are instances where the judge may influence their decision based on a fair and proportionate level of punishment within a flexible range. This allows the judge to consider both societal and individual interests, and to achieve the necessary objectives of the legal system by assigning appropriate measures to the offender. The court uses the existence of certain factors to determine a fair and suitable punishment for the person who committed the crime based on certain factors. However, the legislator believes that imprisonment is inappropriate for the criminal's situation. The court possesses discretionary jurisdiction, also known as diagnostic power, in this specific situation. According to one source, circumstances are the mitigating factors that enable a court to impose a less severe sentence than what the law often prescribes or mandates. At times, the court may introduce discretionary causes for

alleviation under the label of "abbreviated aspects", justifying obligatory decreases through legal exemptions. Factors such as the offender's age and first-time offense, strong familial ties, unique circumstances, susceptibility to deceit or kindness, the absence of a previous criminal record, the victim's voluntary relinquishment of personal rights, the victim's satisfaction with the offender's actions, and the offender's request for leniency from the court can potentially mitigate the severity of punishment. according to the source. When considering mitigating circumstances, one important factor to consider is the connection between the perpetrator's good faith and their actions. This includes factors such as the accused's effective cooperation in identifying accomplices or assistants, obtaining evidence or finding property and objects related to the crime, and the presence of a motive. The defendant, in the course of committing a crime, acknowledges their guilt either during the prosecution or via a voluntary confession during the investigation. Additionally, the defendant may try to minimize the crime's impact or pay for the loss ^[29].

Uncovering the criminal activity and gathering the evidence

Early police investigations establish Al-Qaeda as a criminal organization. The interrogation of suspects and accused individuals is critical for uncovering crimes and gathering evidence to support allegations. This process is significant because it may result in the issuance of a security order, which can curtail fundamental rights and freedoms, particularly the temporary loss of an individual's liberty. Undoubtedly, the imposition of restrictions and deprivation of freedom in certain situations contradicts the principle of good faith. As a result, the judicial authority must diligently examine and investigate all aspects of the case, ensuring the accuracy of the officer's report and its preparation. To prevent the police from engaging in dishonest, hurried, and emotional activities that harm public trust and confidence, it is important to prioritize the concept of good faith throughout the investigative process ^[30].

The examination of the suspect's rights to a legal defense is now being conducted:

We are monitoring the stage at which the subject is in police custody. Several limitations and circumstances, including repeated interrogations by law enforcement officials, have placed the monitored individual in a precarious and vulnerable state. During the observed phase, the bailiff encounters a significant dilemma between two concerns: ensuring the rights of the suspect and upholding public security. Moreover, at this stage, the judicial authority's oversight is limited, and several legal safeguards are not applicable in principle. At this point, we must provide the suspect with the opportunity to exercise their rights of defense and benefit from the presumption of innocence and the principle of acquittal. Conducting an unbiased and fair encounter with the suspect is crucial to ensure their defense is based on good faith. A criminal process can only convict a person beyond a reasonable doubt, considering the presumption of innocence, the principle of good faith, and the presence of substantial evidence of guilt, according to the concept of acquittal.

Ensuring the basic rights and citizenship of the accused are upheld

Citizenship rights are essential components of human

society, and governments strive to adhere to them. Due to the involvement of law enforcement agents in the prosecution and investigation process, as well as the implementation of various precautionary measures during suspect surveillance, there is a deficiency in the understanding and recognition of people's rights. The infringement on the suspect's rights under surveillance may result in significant and perhaps irreversible harm to criminal proceedings. Vervai *et al.* Adherence to religious principles and foundations has always accompanied the inherent worth and importance of individuals, as well as the recognition of their legal rights. One crucial principle is the fair and impartial resolution of disputes, ensuring that all parties involved have an equal opportunity to present their case and strike a balance between the public interest and the rights of the accused. The decrease in injuries indicated his liberation. The idea of good faith, which entails the absence of intention to violate basic rights and individual freedoms, now plays a significant role in the office and in the presence of officers. The criminal proceedings procedure is underway [31].

Ensuring the protection of the suspect and the accused's rights throughout the process of gathering evidence

Each step of procuring evidence from the accused has significant significance, and any breach of this legislation will result in legal responsibility. As a result, the bailiff must behave in a manner that aligns with the likelihood that the suspect or accused is innocent, since suspicious conduct does not equate to illegal conduct. The power to determine the restrictive measures applicable to the accused rests with the judge. The judge possesses the independence to make his own decisions and must guarantee the protection of the accused's rights. This requires avoiding biased preconceptions, acting in good faith, and remaining impartial to external influences [32].

Adherence to the principle of upholding the accused's dignity

According to Islamic law, it is imperative to uphold the dignity, personal, and social standing of both the suspect and the accused. Officers must use caution and mindfulness in their behavior, verbal expression, and even internal reflections across all domains, drawing from paragraph 1 of Article 10 of the International Covenant on Civil-Political Rights, that we should treat individuals who have lost their freedom with dignity and respect, recognizing their personhood. In order to uphold the accused's dignity throughout criminal proceedings and ensure fairness, it is necessary to enforce the guarantees of fair processes, which include the concept of good faith, particularly during the pre-trial stage.

The concept of good faith at the stage of accusation

It is worth noting that the principle of good faith ensures the protection of the defendant's rights and their ability to defend themselves during the accusation phase [33].

Good faith is a fundamental aspect of a fair trial, both in the defendant's mindset and in the perception of legal authorities. The criminal justice system, particularly the prosecution and investigative agencies, may have a crucial impact. One of the defendant's legal protections is the right to a defense, which allows them to demonstrate their innocence or absence of malicious intent. It is evidence of

faith and religion-actions based on trust and rationality, in the absence of malicious intent by the accused-playing a significant role in the outcome of the criminal case. The outcome is dependent on the court authorities' determination throughout the prosecution and investigation phases. Determining the viewpoint and charge under which a person will face prosecution or investigation is a primary consideration at the start of the trial process. Additionally [34].

it is important to consider the appropriate strategy and objective for the prosecution and investigation phases. Making a court judgment entails potential risks. However, throughout the process of investigation and verification, it is essential for all involved to carry out their responsibilities honestly and with the genuine intention of safeguarding public interests. This is very crucial, particularly when it comes to prosecutors and investigators. There are several risks associated with hastily or unjustifiably adopting measures based on judicial power, as outlined in Article 114 of the Criminal Code. These risks may arise from a variety of circumstances. Occasionally, the damage they inflict is irreversible. The investigator has issued an order to halt or restrict certain activities based on preventive security measures. This order emphasizes the investigator's role in protecting public interests. However, the order does not provide a specific guarantee or deny compensation to the affected workshop, factory, or commercial company. The investigator claims that the activity in question is harmful to health, disrupts societal security or public order, and is supported by reasonable and positive evidence. The investigator also suggests that the activity has the potential to lead to criminal acts and poses significant risks. These risks are even greater when there is a lack of good faith on the part of the workshop, factory, or commercial company. Citizens should not conflate the legal power and judicial decision-making of the prosecuting or investigating body with an individual's competency. Therefore, any misuse of this position is an abuse of authority. Good faith, in a broad sense, necessitates that decisions and actions should not be excessive. In simpler terms, exaggeration leads to a breach of good faith. Honesty in pursuing a valid objective, proportionality, and exercising caution are the four fundamental requirements for establishing the good faith of a judicial authority. According to the policy regulation for prosecution in England [35].

which came into effect on March 1, 2018, the prosecutor is required to use their powers in a just, unbiased, and honest manner, according to the highest ethical principles. In the United States of America, the use of power by the prosecuting authorities is characterized as arbitrary justice. In terms of oversight, the prosecutor's decision-making power in the field of law enforcement and criminal justice is often considered unparalleled. Legal scholars have struggled to effectively regulate this authority, as shown by Kinports' research in 2014. The absence of judicial oversight over the prosecutor's authority and unrestricted discretion is a significant obstacle, potentially resulting in the disregard or abandonment of the requirement of good faith in the prosecution process [36].

The concept of good faith throughout the investigative phase

Typically, when discussing the role of the principle of good faith in criminal law, the focus is on the application of legal

and social institutions. This includes examining legal excuses, mitigating factors, and reasons for justifying the behavior of individuals who claim to have acted with good intentions. It is illegal. The aforementioned discourse primarily focuses on the fundamental aspects of criminal investigations^[37]. From an individual perspective. Consider the scenario in which a parliamentarian's intention to express an opinion appears to entail defamation or the dissemination of falsehoods. When considering public opinion, it is clear that the main intention is to promote goodwill and reform the executive structure. Therefore, by assuming that the representatives are acting in good faith and protecting their freedom to express their opinions honestly, the legislator prevents the occurrence of such crimes. Judicial authorities in this country occasionally acknowledge the principle of good faith in the criminal investigation of accusations against parliamentarians, similar to other nations. For instance, this belief is upheld in a document bearing the number, as well as throughout the proceedingshas accused the former representative of Tehran, Ray Shemiranat, of several offenses during the 10th term of the Islamic Council, which took place on at the government workers' judicial complexes department. The court issued a judicial opinion in the Misharaliyyah case, which involved allegations of spreading false information and insulting an official, stating that it did not find sufficient evidence to indicate the accused's intention to commit the alleged crimes. Therefore, the court based its decision on Article 37 Q. 1. The concept of acquittal, as stated in Article 120 of the Constitution of the Islamic Republic of Iran, emphasizes the need to establish a person's innocence and preserve their dignity. In countries that follow the common law system, the principle of presumption of innocence is a fundamental aspect of criminal trials. According to this principle, any doubts about the accused's guilt during the proceedings act as a barrier to establishing their guilt. In simpler terms, the presumption of innocence is based on the idea of acting in good faith or without any intention of deceit by the judicial authority^[38]. However, it is crucial to acknowledge the significance of the norm of good faith in criminal proceedings and its relevance to the judge. Human beings are devoid of negative, prejudiced, or insincere ideas in any circumstance or role. The compulsion of moral duty is not what is essential. It is based on the strict observance of professional ethics and the goal of upholding the concept of good faith, especially in the judicial role. Contemporary criminal procedures repeatedly underscore the significance of good faith as an uncoded but institutional value. Criminal judges demonstrate their adherence to the aforementioned concept through the quality of their judgments, the nature and severity of their convictions, and the purposefulness of their punishments. Judges often formulate their conclusions without explicitly referencing or articulating the norm of good faith, but their substance infers the judgment's character. Indeed, some criminal courts do include the notion of good faith and compassion-based processes in their opinions. On November 30, 2014, Branch 102 of Criminal Court 2 of Farsan City issued a preliminary indictment accusing the defendant doctor of accepting a bribe despite having no prior criminal convictions. The indictment rationalizes this accusation by asserting that it stems from acts of mercy and compassion. One of the outcomes of the ideas of mercy-based justice and compassion-based justice is the extraction of the concept of

good faith. While the criminal code of Iran extensively covers the concept of malice, it does not include any specific regulations on good faith. This is significant given that Islamic principles form the foundation of Iran's criminal system. Judges have a responsibility to issue rulings in a virtuous and ethical manner, which is one aspect of the idea of good faith. Adhering to the concept of good faith leads to a deviation from strict textual interpretation (formalism) and instead involves making judgments based on the fundamental principles that govern legal entities. Formalism is a branch of semiotics that stands in direct opposition to semantics. The writings convey the concepts of justice and fairness, acknowledging their importance and the challenges of achieving them. They also emphasize the need to translate these ideals into real-world action. Consequently, it seems that the field of semantics has more potential than semiotics and formalism in advancing the cause of justice. The judge's consideration of societal circumstances underscored the need to adhere to the norm of good faith. The court ultimately decided to sentence the individual, considering all aspects of friendship. In the document issued by the fourth branch of the General Court of Chahar Bagh District, numbered and dated 09/17/1398, the judge of the case argued that the defendants were charged with "disturbance of public order and comfort" for disrupting public order and peace by creating roadblocks on Qezal Hesar Road on November 25, 2018. The defendants, who were drivers of heavy vehicles, were crossing the road behind a crowd of protestors who had parked their cars in the middle of the street. They halted their movement in defiance of the exorbitant, unjustifiable, and abrupt surge in fuel prices, disregarding their claims that it was impracticable to continue or find another route. We deem the accused culpable for offenses likely to incite outcry and controversy. The court deemed the unconventional actions equivalent to Article 618 of the Civil Code. The government's lack of caution in implementing a non-expert plan, and thus engaging in the behavior specified by the legislator is denied by the defendants. This is because peaceful protest against undesirable governance is considered a fundamental aspect of the freedom boundaries outlined in Principle 27 Q.A. Our nation. Given the circumstances at that time, the defendants' actions were deemed reasonable and in line with civil disobedience, taking into account the absence of any illegal activity, as stipulated by Section 37 Q. 1 and Article 4. The Supreme Court announces an acquittal decision. The text highlights the judge's impartial perspective and the attempt to dismiss the accusation on the grounds of the concept of good faith, which need careful consideration^[39].

Conclusion

Undermining and destabilizing the foundation of criminal law is the act of rejecting or disregarding the rule of good faith, which acts as a key pillar. When it comes to criminal law, the concept of good faith has a particularly important place, despite the fact that it is vital in all other areas of the law as well. Furthermore, the criminal legislators and the official activists of the criminal justice system have failed to address this problem while it has been brought to their attention. The Iranian legal system, in its pre-trial and trial phases, has entirely overlooked the importance of the concept in criminal procedure. Both formal and substantive laws have provisions that address the notion of good faith in

the legal systems of a number of countries, including those in the Western and Arab worlds. These statutes outline the various ways in which the accused can demonstrate their good faith defense, along with the prerequisites for acknowledging such defenses. In addition to this, they give advice on how the authorities may prove the existence of good faith in the thoughts and acts of the accused, as well as indicate the extent to which good faith can have an influence on the offender's conviction. A number of scholars have employed a variety of interpretations to clarify the concept of the judiciary. Furthermore, it's critical to note that several nations, both in theory and in the practical application of the legal system, heavily prioritize the judicial system's dedication to the principle of good faith. Judges, for example, are required to consider the component of good faith during the process of interpreting legal laws. Various methods, most notably the formation of a supervisory body for law enforcement and investigations, can ensure the guarantee of a fair trial. While Iran does not formally recognize good faith as a tenet of criminal law, it does play a significant role in the criminal cases' processes. Criminal procedures will have a significant impact on the outcome of the case. It is under the influence of the idea of good faith that the court decision, whether it is in the form of an order or a verdict, takes on a distinct form. When it comes to modifying or amending the sentence over time in the field of criminal law, the concept of good faith extends beyond the accused or the convicted individual. We are continuously discussing whether this concept applies to the accused, the plaintiff, and the official players within the criminal justice system, including the police, the prosecution, the investigation, and the judge. A crime results in the imposition of a punishment. As a result, legal justifications consider the mitigating circumstances and the reasons behind the crime, taking into account the negative intentions of the person who committed the crime. We should maintain the concept of good faith throughout the entire criminal process, encompassing the police involvement stage, the investigation, and the punishment execution. This is an essential point to keep in mind. Demonstrating their good intentions has the potential to exonerate a significant number of suspects or defendants and spare a significant number of inmates from their sentences. This is a well-established fact. Furthermore, the understanding of how to give meaningful instructions or the reasons to avoid the minimum penalty and the maximum punishment is essentially reliant on the goodwill of the judicial authority in relation to the management of the case. Adhering to the principle of good faith can lead to a variety of outcomes, including a decrease in the number of suspects and defendants, a reduction in the total number of court cases, a decrease in the number of incarcerated and convicted individuals, and an improvement in the overall fairness of trials. Keeping a commitment to the principle of good faith throughout the criminal procedure has a significant impact. A criminal proceeding is imminent. Today, there is serious criticism of both the basic approach to criminal management and the systemic view of the criminal process. In some fields, the use of the adversary's criminal law theory has called into question the presumption of innocence and the idea of good faith. This is especially true in situations involving crimes against national security and commercial crimes. The current significant issues revolve around the impact of mental stereotypes on

authority recognition, the prevalence of judicial populism, the distorted portrayal of crime in the media, and the interference of the judiciary. All of these factors present obstacles to upholding the ideal of good faith throughout the stages of the legal process. The aforementioned considerations clearly indicate that the criminal legislator must prioritize understanding and taking into account the concept of good faith and its relevance. If we fail to clearly define the function of the idea of good faith and implement meaningful measures to rectify its violation or neglect.

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