Reviewing of One Sided Disposition in View of Iranian Civil Law Codex's Laws and Islamic Legal Principles

Dr. Mohammad Shakibi Nejad
Member Faculty law & Politic/WCau
Official Member of (IBA.UK) # GB1029190
Senior Attorney at Law & Legal adviser #6996

Abstract

Law acts have formed by people's intention to create law nature, either contract or one sided disposition. They divided contracts into different validity that it was divided into conditional contract and absolute contract due to condition in transaction, so contracting parties consider condition during contract, this contract is conditional, there is no difference between jurisprudences and laws in its correctness. Conditional one sided disposition stated in laws works rarely and frequently there is no specific section about it and rules and laws didn't say about it, then researchers' mind have release against this color, then it should find truth itself. In this text, our subject is whether condition with one sided disposition in law position of this judicial act?

Key Words: Iranian Civil law codex's, Islamic Legal Principles, jurisprudences

Some authors of civil laws have correct conditional acquaintance and other proved this theory also, without they say any things about conditional one sided disposition and they say its law position and different speeches of jurisprudences mentioned, too.

It seems that according to this absolute idea, restating of condition in one sided disposition haven't any mistake and also it seems that their argument base wasn't avoided, in the other hand clearly it was possible in view of rule making and also there is no material in one sided disposition law position that it issue its invalidity. [1] This idea is correct firstly, but author believed that condition in one sided disposition caused to invalid and nullity in this law act because, there is no adoption between structure and elements in one sided disposition and, on the other hand, in view of conditional one sided disposition,[2] there is some errors that its justification necessity to derogate law principles and jurisprudences bases in Iran law organization. Of course, our intention is one sided dispositions that their source are contract and other isn't related to this paper. Firstly, we should discuss about one sided dispositions nature and its necessity, nd then we review principal discussions. The possession of and decision to destroy inflammatory items will not involve the authorized recipient. These items will be annotated on a separate AF Form 1122 and turned over to the mortuary officer. [3] The MO will retain the property for a minimum of 45 days in the event the authorized recipient requests information pertaining to these items. Once the 45 days has passed, and the authorized recipient has made no inquiry regarding the property, the MO should then ensure the property in question is; [MO THAT, S MAIN IS"

(("**Destroyed Methods of destruction**"))

The SCO may destroy and dispose of appropriate items by incineration, shredding, or mangling. In determining which method to use, consideration must be given to the possibility of other persons recovering the items designated for destruction.[6] Destruction must be absolute, obliterating all evidence of the prior owner's and other related person's identity, and rendering the item useless and without any value. Modern judicial opinions reflect hundreds of years of history and practice. They usually follow a simple and predictable formula. This section takes you through the basic formula. It starts with the introductory materials at the top of an opinion and then moves on to the body of the opinion.

The first part of the case is the title of the case, known as the "caption."[7]

Examples include Brown v. Board of Education and Miranda v.
Arizona. The caption usually tells you the last names of the person
Who brought the lawsuit and the person who is being sued? These Two sides are often referred to as the "parties" or as the "litigants" in the case.[8]
In criminal law, cases are brought by government prosecutors on Behalf of the government itself. This means that the government is the named party.

1. One sided disposition have contract source, i.e. it create right for one of the parties like rescission (article 449), divorce (article 1133) [9], options relinquishment (article 448), etc. and or it creates right for third party like sale of indivisum and pre-emption right for intercessor (article 808). Note: regardless of some idea, we believed that uphold an invalid condition haven't natural statement, then it isn't one sided disposition but it have notification aspect. Therefore refuse of invalid condition have natural statement and one sided disposition.

2. One sided disposition haven't contract source, such indifferent ownership (article 92), cultivation of waste land (articles 141, 143), quitclaim (article 178), acquaintance (article 289)… this point is necessary that acquaintance or repudiation caused to discontinue debt or obligation falling in certain property such as in contracts.

But it wasn't stated that it have contract source but these one sided dispositions is without contract. It could divide one sided dispositions in the following: [10]

Methodology Discussion

Now let's move on to the opinion itself. The first part of the body of the opinion presents the facts of the case. In other words, what happened? [11]The facts might be that Andy pulled out a gun and shot Bob. Or maybe Fred agreed to give Sally $100 and then changed his mind. Surprisingly, there are no particular rules for what facts a judge must include in the fact section of an opinion. Sometimes the fact sections are long, and sometimes they are short. Sometimes they are clear and accurate, and other times they are vague or incomplete. [12] Most discussions of the facts also cover the "procedural history" of the case. The procedural history explains how the legal dispute worked its way through the legal system to the court that is issuing the opinion. It will include various motions, hearings, and trials that occurred after the case was initially filed. [13] Your civil procedure class is all about that kind of stuff; you should pay very close attention to the procedural history of cases when you read assignments for your civil procedure class.

The procedural history of cases usually will be less important when you read a case for your other classes. [14]
Inn own that you know what's in a legal opinion; it's time to learn some of the common words you'll find inside them. But first a history lesson, for reasons that should be clear in a minute. This means that when you read a legal opinion, you'll come Across a lot of foreign-sounding words to describe the court system. [15] You need to learn all of these words eventually; you should read cases with a legal dictionary nearby and should look up every word you don't know. But this section will give you a head start by introducing you to some of the most common words, many of which (but not all) are French in origin.

In legal disputes, each party ordinarily is represented by a lawyer. [16]
Legal opinions use several different words for lawyers, including "attorney" and "counsel." There are some historical differences among these terms, but for the last century or so they have all meant the same thing.
When a lawyer addresses a judge in court, she will always address the judge as "your honor," just like lawyers do in the movies. In legal opinions, however, judges will usually refer to themselves as "the Court."[17]

Most opinions that you read in law school are appellate opinions, which means that they decide the outcome of appeals. [18] An "appeal" is a legal proceeding that considers whether another court's legal decision was right or wrong. After a court has ruled for one side, the losing side may seek review of that decision by filing an appeal before a higher court. The original court is usually known as the trial court, because that's where the trial occurs if there is one. The higher court is known as the appellate or appeals court, as it is the court that hears the appeal. [19]

A single judge presides over trial court proceedings, but appellate cases are decided by panels of several judges. For example, in the federal court system, run by the United States government, a single trial judge known as a District Court judge oversees the trial stage. Cases can be appealed to the next higher court, the Court of Appeals, where cases are decided by panels of three judges known as Circuit Court judges. [20]

A side that loses before the Circuit Court can seek review of that decision at the United States Supreme Court. Supreme Court cases are decided by all nine judges. Supreme
Court judges are called Justices instead of judges; there is one "Chief Justice" and the other eight are just plain "Justices"
(Technically they are "Associate Justices," but everyone just calls them "Justices"). [21]

During the proceedings before the higher court, the party that
Lost at the original court and is therefore filing the appeal is usually known as the "appellant." The party that won in the lower court and must defend the lower court's decision is known as the "appellate" (accent on the last syllable). Some older opinions may refer to the appellant as the "plaintiff in error" and the appalled as the "defendant in error. [22]

" Finally, some courts label an appeal as a "petition," and require the losing party to petition the higher court for relief. In these cases, the party that lost before the lower court and is filing the petition for review is called the "petitioner." [23]
The party that won before the lower court and is responding to the petition in the higher court is called the "respondent."
Confused yet? You probably are, but don't worry. You'll read so many cases in the next few weeks that you'll get used to all of this very soon The "disposition" of a case is the action the court took. It is often announced at the very end of the opinion. For example, an appeals court might "affirm" a lower court decision, upholding it, or it might "reverse" the decision, ruling for the other side. Alternatively, an appeals court might "vacate" the lower court decision, wiping the lower-court decision off the books, and then "remand" the case, sending it back to the lower court for further proceedings. [24]

For now, you should keep in mind that when a higher court "affirms" it means that the lower court had it right (in result, if not in reasoning). Words like "reverse," "remand," and "vacate" means that the higher court though the lower court had it wrong. [25]
In other settings, courts may justify their decisions on public policy grounds. That is, they may pick the rule that they think is the best rule, and they may explain in the opinion why they think that rule is best. This is particularly likely in common law cases where judges are not bound by a statute or constitutional rule.

Other courts will rely on morality, fairness, or notions of justice to justify their decisions. Many courts will mix and match, relying on several or even all of these justifications.
Finally, you should accept that some opinions are vague. Sometimes a court won't explain its reasoning very well, and that forces us to try to figure out what the opinion means. You'll look for the holding of the case but become frustrated because you can't find one. [26]

It's not your fault; some opinions are written in a narrow way so that there is no clear holding, and others are just poorly reasoned or written. Rather than trying to fill in the ambiguity with false certainty, try embracing the ambiguity instead. One of the skills of topflight lawyers is that they know what they don't know: they know when the law is unclear.
Indeed, this skill of identifying when a problem is easy and when it is hard (in the sense of being unsettled or unresolved by the courts) is one of the keys to doing very well in law school. The best law students are the ones who recognize and identify these unsettled issues without pretending that they are easy.
You probably won't believe me at first, but concurrences and dissents are very important.

You need to read them carefully. To understand why, you need to appreciate that law is man-made, and Anglo-American law has often been judge-made. Learning to "think like a lawyer" often means learning to think like a judge, which means learning how to evaluate which rules and explanations are strong and which are weak. Courts occasionally say things that are silly, wrongheaded, or confused, and you need to think independently about what judges say.

Concurring and dissenting opinions often do this work for you.
Casebook authors edit out any unimportant concurrences and dissents to keep the opinions short. When concurrences and dissents appear in a casebook, it signals that they offer some valuable insights and raise important arguments. Disagreement between the majority opinion and concurring or dissenting opinions often frames the key issue raised by the case; to understand the case, you need to understand the arguments offered in concurring and dissenting opinions.
The legal system that we have inherited from England is largely judge-focused. The judges have made the law what it is through their written opinions. To understand that law, we need to study the actual decisions that the judges have written. Further, we need to learn to look at law the way that judges look at law. In our system of government, judges can only announce the law when deciding real disputes: they can't just have a press conference and announce a set of legal rules.

(This is sometimes referred to as the "case or controversy" requirement; a court has no power to decide an issue unless it is presented by an actual case or controversy before the court.) To look at the law the way that judges do, we need to study actual cases and controversies, just like the judges. In short, we study real cases and disputes because real cases and disputes historically have been the primary source of law.

A second reason professor's use the case method is that it teaches an essential skill for practicing lawyers. Lawyers represent clients, and clients will want to know how laws apply to them. To advise a client, a lawyer needs to understand exactly how an abstract rule of law will apply to the very specific situations a client might encounter.

This is more difficult than you might think, in part because a
Legal rule that sounds definite and clear in the abstract may prove murky in application.
(For example, imagine you go to a public park and see a sign that says "No vehicles in the park."
That plainly forbids an automobile, but what about bicycles, wheelchairs, toy automobiles? What about airplanes? Ambulances? Are these "vehicles" for the purpose of the rule or not?) As a result, good lawyers need a vivid imagination; they need to imagine how rules might apply, where they might be unclear, and where they might lead to unexpected outcomes.

The case method and the frequent use of hypothetical's will help train your brain to think this way.
Learning the law in light of concrete situations will help you deal with particular facts you'll encounter as a practicing lawyer.

Resources

[1]E,Mags;[http:// www.alaviandassociates.com/documents/civilcode.pdf]
[2]E,Mags[http:// www.reunite.org/edit/files/Islamic%20Resource/Iran%20Text.pdf]
[3]E,Mags [http://www.financialexpress.com/news/oil-psus-seeking-legal-opinion-on-iran-sanctions/650308/]
[4] E,Mags [http://ahlalhdeeth.com/vb/attachment.php?attachmentid=5230&d=1087218300]
[5]E,Mags[http:// mopweb4.mop.gov.kw/portal/pls/portal/mop.pdf?no=1189]
[6]E,Mags [http://www.yasoob.com/books/htm1/m001/03/no0396.html]
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[9]E,Mags [http://www.icj- cij.org/docket/index.php?sum=82&code=uki&p1=3&p2=3&case=16&k=ba&p3=5]
[10]E,Mags[http://supreme.justia.com/us/342/429/case.html]
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