

The position of counsel for the accused in the preliminary investigation in criminal law and procedure and Iranian Law

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ABSTRACT: Always follow the rules of law and justice and to human society in comfort and security and discipline in their environment to survive. In this study, the counsel for the accused in the preliminary investigation of the issue that has been much written about it and writing books or articles is not yet and subsequently charged with multiple sources and will not be large. In this paper, the rights of the accused which is the main basis Rules of Criminal Procedure. As well as the procedure or process to form a coherent and lead to criminal proceedings have been discussed. Comparative law counsel for the accused in the preliminary investigation of Iran's position and the basic topics of this writing be located the original position of counsel with respect to Articles 128 and 185 and 186 and its note and the Code of Criminal Procedure is studied. Compared with the Additional Note Article 112 of the Code of Criminal Procedure old as nature has taken place.

Keywords: attorneys, the accused, procedure, criminal law, law.

INTRODUCTION

Since the creation of mankind and association rules created significant changes slowly and is still ongoing. Thinkers and brave man like Baccarat and other scholars and philosophers, including has repeatedly pointed out their rights and the rules of human life have taught.

While the law does everyone knew in these conditions and are aware of their legal and human rights. Certainly all of them have the knowledge and do not know their rights for granted. Today these rights are clear and objectivity in human societies and the regulations and customary place is great. Defendants' rights and the equality of its actions and to facilities and weapons to prove his innocence in place of the absolutes reasons against the rights of the accused. The right to defense and the right to a lawyer and a fluent and knowledgeable in legal matters and legal rights of the accused and offenders are obvious examples. Current laws and rights that communities have the right graph and better than ever observe and apply. Therefore, the provisions and principles of the criminal law of this obviously does not matter as much as possible and respect it has imposed. And they did not benefit from grace awareness.

Code of Criminal Procedure and the rights of the accused

Interests and protect the social interests of the main goals of the Rules of Criminal Procedure. And intimidation of victims and offenders is correct. Defense rights of the accused to a fair trial today as integral to international and regional human rights instruments and national laws and regulations will be discussed and supported. Maintaining order and protecting the rights of communities everywhere limited and balanced with protecting the rights of the accused. The source of all rights and guaranteeing the presumption of innocence of the accused and the criminal procedure is. Temporary detention and special attention to the development of the circle prescribed Mobile from different directions is considered contrary to the rights of the accused. The role of attorney's special emphasis on preserving these rights in the various stages of the criminal justice process. Charge, prohibit the indoctrination and deception, obtaining the last defense to remain silent and right to be silent, and the judge conscientious convincing

evidence Way as examples of binding rights of the accused are discussed in the intellectual system of law to be interpreted in favor of the accused and proposals such as the formation file character recognition adequacy of the evidence of the prosecution delegate to an independent judicial authority and offered compensation for losses inflicted on the innocent prisoners. Declaration of Human Rights and the French citizen in 1789 and the Declaration of Universal Human Rights and the International Covenant on Civil Rights in 1945 and fluid 1966 and the European Convention for Human Rights and Fundamental Freedoms, adopted in 1950, and so all people explicitly and in particular delicacy Aspects as far as criminal law is concerned, the purpose of adopting the measures and actions required to protect the rights of the accused in the criminal procedure. The effective implementation of these standards at the national level is the most effective way of guaranteeing several rights is satisfactory and agreed.

That is why great men and lawyers liberal country that relies on humanity and measures humane principles and standards of modern criminal law tried and tried To aspects of substantive and procedural criminal law domestic considerate rights of the accused and the greatness of the supreme human underpin them. Constitution by accepting the general principles of defense rights of defendants in Articles 32 to 39 and of 165 to 171 highlights the necessity to follow them in the criminal justice had. The role of legal doctrine in these efforts are laudable and worthy of attention

The dark spots and dull

These general principles are clear and defects and gaps and silences them reasonably and fairly with regard to all aspects have pointed out.

Tends to diminish and fade the series and the confidentiality of preliminary investigation and the strengthening of the adversarial today the field of intervention of a lawyer at this stage of the criminal proceedings wider that the review old material in this regard, it is apparent and obvious to be will receive.

The presumption of innocence origin defense rights of the accused and their effects, such as studying the reasons for the exception and prohibit forced the accused to prove innocence or testimony and confessions against himself and the necessity of legislation with the aim of fairness of proceedings need to interpret doubt in favor of the accused and other temporary detention and violation of defense rights of the accused and inconsistent with the presumption of innocence and the impact of detention on the fate of dispute and conflict temporary detention of some penal institutions and all of the rights and the presumption of innocence and the rights of the accused and is of course criminal procedure rules and regulations that the presumption of innocence the gist of it.

Right to defend

One of the major issues and works to prove the innocence presumption of innocence and the person alleged to be guilty at all stages of criminal proceedings he reserved the right to workable. Because of the clear and obvious manifestations of freedom and respect for individual rights and respect for the sanctity of human greatness, great facilities and equitable to defend the oppressed and helpless in the court acquitted a man who was crime attributable to the services.

Therefore, the same beliefs and ideas led to the emergence of countries with huge changes to benefit rules Punishment and trial in competent courts the defense and observance of equality of arms and fitness facilities made available to the defendant to observe the rights of the accused and the presumption of innocence and the right to defense and the reasons adduced to prove the innocence of his most find that it is very happy. At different stages of proceedings from the stage of preliminary investigation to sentencing stage trying to restore individual rights (the parties) and social consideration and in this case the defense of the positions and rights for each of the contenders for the right to appear. Such a defense, however, requires scientific and technical capabilities to handle certain that everyone can do. Fair criminal proceedings when the accused as well as the other parties to the claim obvious reference plaintiff and defense research facilities and provide due process and the presumption of innocence because his innocence is proven Although the audit and filing the original right of defense of the accused disclaims faded but today this system and adherence to the principles of individual freedom and respect in a criminal proceeding against the sanctity of human greatness of the presumption of innocence is.

Meanwhile, justice will not be achieved and fairness also be eliminated. The accused also, especially at the stage of preliminary investigation the equality rights of the defense and alleged reasons for their innocence there. Paragraph 3 of Article 14 of the International Covenant on Civil and Political Rights stipulates that "Everyone charged with a penal offense has the ... (to be) adequate time and facilities to prepare his defense and to communicate with counsel of the person to be ... in the courts now which, personally or through his lawyer to defend itself and if the lawyer is not ... "it is axiomatic that the accused presumed innocent and to prove her innocence needs to be brought because there is alleged by the plaintiff or prosecution is to be guilty and deserves punishment for the accused to prove it in a place where the plaintiff proving grounds its claim as filed and the investigating authorities are also studying the reasons for or against the accused is charged for freedom and nullify the reasons for expression have

the facilities available to other parties enjoy, and with the free and full independence defend these and the situation of equality and justice in the pose. And in addition, the presumption of innocence as well as better and more pose.

The right to counsel at all stages of proceedings

The third component of paragraph 3 of Article 6 of the Convention to accuse the company of lawyers dedicated "Every accused has the right of self in person or by counsel to defend itself and if the financial ability to pay the honorarium does not have in the case of justice appropriate to it be of service physical counsel is entitled with regard to the uttered this part of paragraph 3 becomes clear that the accused is allowed or able to defend the charges and the reference proceedings announce the facilities and equipment needed to defend themselves providing him with the documents and papers it provide her with attendance at the meeting served notice and a hearing in accordance with the principle of equality and fairness held otherwise charged fairly capable to defend itself will not. In any form is often accused of Lawyers for themselves, but certainly to the ignorance and the prevailing lack of legal affairs able to defend themselves would not, however, accused the demand of legal services attorneys to provide the court must also appoint a lawyer free of his relationship with his client in such a confidentiality guarantee, however, should be noted, states are required to appoint lawyers for the accused as well as her demand subject to the fairness and equality are. However, from a historical perspective the need for the intervention of a lawyer at the stage of preliminary investigation and final time feel not and now also in many countries and regulations in relation to the intervention of lawyers on both stage does not exist. Article thirty-fifth the constitution, which stipulates "any court litigants are entitled to your lawyer, and if the ability to choose lawyer should be possible for them to appoint a lawyer provided" as well as a single article, "the lawyer by the parties adopted 07/11/1370 complex Expediency need the intervention of a lawyer and assignments community to ensure that in the event of non-compliance accused only in the courts and in criminal proceedings included is unfortunately associated with the intervention of lawyers in the preliminary investigation to silence stop it. With Alkali the value of the intervention of counsel for the accused in the preliminary investigation on everyone not wearing though the right to counsel by the accused is also in the court in difficulty and later accepted that the root principles of systems audit of the Ages 18 and 19 the result is. Now, thanks to the almost adversarial latest preliminary investigation on the one hand and the inability of the accused innocent to equipment and facilities appropriate defensive in court and lack of fairness and equality by prosecutors and rights obvious human and accused of triggering the consequent Washday the cause prolongation of proceedings and the prolongation dropping the criminal proceedings. Therefore attention and regard the drafters of criminal law consequences of a lawyer in the court a little more than before it. Note the Additional Article 112 of the Code of Criminal Procedure of the former permit counsel during the preliminary investigation on the order of Iran's Penal limited issue raised. However, the mere presence of a lawyer at this stage is a positive step and appropriate. But the lack of appropriate defense and lack of authority in this regard seems to be that the principle of equality of opportunity defense or defense fits very well have been served.

The lack of denial lawyer to defend the accused

As previously subject for the principle of equality in all stages of the proceedings be respected and that each side has weapons and equal opportunity to prove claims or ward off claims of others and more urgent of all the alleged crime or misdemeanor, as plaintiff and reference research has equal opportunity to prove his innocence when the evidence against him have been put forward and deprivation of his freedom of expression of reasons and circumstances, innocence and limited defense without deviating from the principle of equality and fairness and justice will be. Accused the poor the right to defense only with the free and full independence. After hearing the charges and understand the charges and to find the type of reasons, declared the plaintiff's right to proper defense of rights, he will be what the preliminary inquiry and at the time before the court under the judiciary liaisons has the right to defend freely and voluntarily and the free will of its own. And he cannot limit the charges and reasons declared and generally must file contents to inform him reach to defense is provided. Presumption of innocence of the accused and the right to defend its position guarantees proper governmental and judicial national, regional or international, for people who are suspected of committing a crime to be around the criminal proceedings and to make a just decision and free of errors judicial to be. The accused prove his innocence task, and the prosecutor is required to prove the guilt of his education and the need to resort to practices of law and the necessary coordination with ethical principles and regulations governing the necessity of observing human dignity and rights of the accused to obtain and silence his reason will not. The facilities comply with human respect and dignity he creates a safe environment and audition defense and full attention to the character and causes of expression and other devices, all rights of the defense and defendants' rights stemming from the presumption of innocence is derived. Accused as well as the plaintiff's right to use the means of defense and the rights of coordinates itself. The poor who are right or not right prosecuted and prestige, honor, dignity, freedom and even his life to destruction. The defendant must be adequate for freedom and

all facilities are at his disposal to defend himself. European Human rights recognized that they observe the rights of the defense accused in a criminal proceedings is considered essential. In fact, the accused in criminal cases, relying on the presumption of innocence or presumption of innocence requires prosecutors to present new reasons and ways of human-made and otherwise stable in the absence of a duty to prove the innocence of the accused would not be and removing known it also accused of rights is indeed an integral part of a defense of its manifestations is also seen freely.

Freedom attorneys in the preliminary investigation

Of any equipment and facilities necessary guarantees to ensure and protect the rights of defense and there's obviously his lawyer should have defended freedom and independence of the facilities. The accused person without notice and unaware of the technical, legal and judicial affairs. His attorney who is certainly knowledgeable and fluent in these matters should be easily and free will to exonerate the client (the accused) their use. He sought to free themselves from charges of serious efforts and that he is in conflict with the limitation of freedom. Although preliminary inquiry from the proceedings without adversarial and inquisitorial system, and this system has been completely series. Most countries have laws written and created peace officer in place and provide the necessary documents for attorneys and other legal aid him in his with the exclusion of proceedings and the reasons for and against accused (client) all equality balance weapons the lawyer also removed and certainly will defend the liberty of his client. Accession clause to Article 112 of the Code of Criminal Procedure former represents almost adversarial criminal proceedings in court and accept the secrecy and lack of intervention and counsel for the accused in the preliminary investigation by the drafters of legal and practical it is by Prosecutors more the law and should be given were actually included in the penal code that unfortunately it's important to not only located next rules are not.

The criminal process

Each procedure in judicial systems and the legal world, a garlic and the transition that since filing until the full implementation of this route begins and ends in the world of law and justice in this direction with the measures and actions legal and judicial office appropriate and legally at some point in time and indefinite realized the process of a hearing or investigation say. In the processes of Criminal Today, most countries have mixed the two systems, inspection, usage charges and in its legislation as a model example have the system audit the court application and system charges in the process of final (court) apply. In any case, the actions of both systems in a criminal process acceptable to the laws of most countries in the world are qualifying records from the system audit at the final stages of court proceedings and the verdict against the accused of the charges of organizing given. And of course the execution of the sentence, which is often in court enforcement is the third alternative legal process criminal. The first stage of the court and the court proceedings and in the final stage of execution of the sentence is that as the next one is briefly and Mvjz to notice it.

Preliminary investigation and the accused:

Preliminary investigation a set of steps by specific authorities judiciary to discover the crime, collect evidence and to prevent escape or hiding the accused and comment on the very prosecution whether he shall come to the preliminary investigation of the sensitive hearing of punishment. The result of the preliminary investigation the judiciary fate of the accused is determined. Often criminal cases, as in the preliminary investigation completed in steps to address next the same result in removed; if the culpability of an accused in the case established in the trial often based on this conclusion and the amount and punishment has been done and photo may also be issued so the preliminary investigation for an alleged fateful and cannot unimportant dismissed. Since the discovery of the victim until the issuance of final orders by judges of the court process spent the principles of the inquisitorial system is getting. In court the principles governing the preliminary investigation of the inquisitorial system so that most proceedings are series and the court and the plaintiff both sides accused the fall. And usually all the tragedies and problems on the defendant, miserable and oppressed becomes empty. The complainant with the power of great potential legal and customary and other court as a representative of the community against the accused Height Elm them. Hence the need for equality of opportunity and arms between the parties in the preliminary investigation or court seriously be found that the defendant also has the right to use the defenses to prove her innocence where evidence against him filed recover and to Kiefer has not. Collect reasons for and against the defendant, who must quickly and accurately as possible to be on the order prosecutors from the complainant to investigate the accused questioned the expert opinion obtained from witnesses, investigating the examination venue and like running away or hiding the accused and to comment on the case issued the final necessary steps legally preliminary investigation.

Accused and final investigation

Naturally, the need to respect the rights of the accused in the investigation and the court is more and more important. Paragraph fork deliver punishment. With the hope of a safe place of refuge and my salvation from bondage to the Prosecutor's Office and the investigation against him is collected. Therefore, given the adversarial court proceedings must be adequate facilities to prepare his defense the accused. Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and the Islamic Declaration of Human Rights and other international laws and regulations to the defendant's rights and obligations have predicted.

Maintenance by the accused

Defendants in Criminal Justice evidenced by the maintenance enforcement of the judicial proceedings are important steps in the process. Law enforcement and supervision chaired by the prosecutor to investigate crimes and arrest the criminal act is evident from the wide powers. The sentence has not been proven in court when a crime he maintained his rights and freedoms. Therefore, the accused is entitled to. He attributed the charges against Sergeant of Justice to defend himself. Accused to prepare his defense and the presence of a lawyer has the right to be informed of the charges against the accused the right to remain silent questions officers upon arrest your absence to inform the family and those close to the benefit of medical advice. At this stage of our country's legal and regulatory guarantees necessary investigations are not regulated in the Criminal Procedure Act did not anticipate Therefore regulatory reform in order to guarantee the rights of suspects and defendants in this phase of the research is a must. The first cornerstone of the cohesion and strength depends on the rules of criminal procedure and judicial engineering principles laid out at this stage. In general, the monitor suspects, defendants is the most important exception to the principle of the need for authorization, the judicial authorities have been entered, but the most important principle that the freedom of the individual before proving guilt in a court of competent jurisdiction to be in jeopardy is the presumption of innocence. Adhere to the principle that the executive and judicial authorities in all stages should be dignity demands that the suspected or accused can defend itself against these officials defend their right to a fair trial makes sense. Paragraph 1 of Article 11 and paragraph 2 of Article 14 of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights as well as Article 37 of the Iranian constitution, which stipulates that "the presumption of innocence and no one is guilty unless his or her guilt established by a competent court. " Having fun and assistance from his lawyer at this stage of the rights of a person accused of a crime is obviously essential. International Civil and political rights and the Convention on the rights of the child to the right of the accused have explicitly acknowledged the task.in preliminary investigation and it cannot be legally used by the accused though in a limited way to extend your lawyer, although legal matter and its clause a bug-free and not the many delivered. The laws of some countries with the right to a lawyer during police investigation is the first official duties. Faith in Iran questioning at the police investigation stage a fair trial does not comply with the most favorable conditions. Law of 8 December 1898 to protect the rights of suspects in criminal investigations France allowed him from the first moment magistrate summoned the legal advisor (lawyer) is used during interrogations without legal counsel to answer the questions of the prosecutor and now the face of others refrain. Namely in France and other civilized countries of the first stages of the investigation the presence of counsel for the accused is stipulated in the rules.

With the right to counsel, the right to silence and right to counsel and the right to silence of basic rights and essential other countries accused and suspected of being arrested under the law and the other has it. However, Iranian law does not lay down any rules in this respect since the arrest of the suspect or accused of his rights under the Try.

Counsel for the accused in the Code of Criminal Procedure Iran

As previously reached the poetry of the International Bill of Human Rights and the Universal Declaration of Human Rights and Citizen France - the International Covenant on Civil and Political Rights to guarantee the rights of the accused and others, especially in the basic principles of human and civil prosecutors accused Paragraph 3 of Article 6 of the European Convention on Human Rights recognized that they observe the rights of the defense accused in a criminal proceedings is considered essential. Among them is decreed "every accused has the right to defend himself in person or by attorney Mints and if the financial ability to pay the honorarium does not have the appropriate in cases where justice. faded and the law of the countries more and more inquisitorial system would lose his works and courts to charge the accused were granted rights and handling. It is also subject to criminal law in Iran. In today's world the progress that has been made in the criminal justice principles to allow the accused to the preliminary inquiry also benefit from the presence of a lawyer. In many countries, even at the arraignment, counsel to the accused even advised and warned that his lawyer has the right to refuse to answer questions.

Criminal especially at the stage of preliminary investigation organize ourselves. A lawyer at the stage of preliminary investigation in the criminal justice system is an evolution of the changes in Iran. Use assistance and

legal knowledge - technical Lawyers in Criminal Matters was very important that this requirement would feel it incumbent legislators and the note he introduced in the Code of Criminal Procedure. Because surely play a constructive role in the preliminary investigation and the enforcement Justice lawyer involved in judicial matters not covered. In practice, only those who can afford the merits of such person's Firm have been using it for other defendants have the benefit and in the penal system, talk of intervention by counsel at the preliminary inquiry has not been. Does this not constitute a violation of the right to defense? And also having regard to the provisions of criminal procedure in a meeting with his lawyer accused the prosecutor, investigator or prosecutor if this is from the perspective of research are involved in the research. As Syria is not permitted by law. Note the comprehensive and useful other words, all rights of the accused at the meeting was due to take the preliminary investigation. To give an idea or a bill in the form of legal ID cards to the prosecutor and the accused shall not be considered a reflection of the case and will not be as effective. On the other hand, former legislator sanctions to prevent the court from the defendant to have an attorney present at meetings has not been researched. So, despite the limited development of appropriate criminal justice and respect for the rights of the accused with some deficiencies and shortcomings in practice there has not been resolved, and unfortunately, it has also. But in other countries the following steps have been taken more or less effective.

Iranian criminal procedure system and charges

The oldest ways to address the claims of charge. This system historically in the Near East Roman, ancient Greece, and in France especially after the influx wild there in the ninth century and now also with the inevitable changes and developments in several North American countries, Canada, the UK and many Great Britain is the former colonial ruler of criminal.

And the famous rule "has no right to intervene in the absence of the complainant judge" clearly suggests the role of the victim of the crime is in charge of prosecuting criminals. Lack of written and oral proceedings without consideration of the characteristics of the system. Illiterate and lack of sufficient information for the parties to the judicial system has been verbally. And spectators at the trial of the alleged system are other traits. In the Islamic tradition as it has been strongly emphasized by jurists. The adversarial system in charge of the most important features is that the plaintiff against the defendant all the evidence presented in the hearing. Due to the lack of investigation, interrogation, trial, the defendant prior to the meeting, at least in the hearing of all charges and supporting evidence, and the evidence of that notice were discussed freely after the defendants and the completion of investigations by the Court of Justice that is the verdict of impartial judges will consider the arguments of the parties to the sentencing act. And has been the dominant feature.

Remove mixed system of judicial system of Iran in 1373 after five years of debate, despite strong opposition professors, lawyers - judges and lawyers and the military regime and its implementation in 1381 also charge much deliberation and dialogue rather than in the garlic and judicial changes in there for 8 years.

Eighty years of experience as a sudden regime change in Iran's criminal justice system, including prosecutors and audit charges the court system in harvesting and charges (charges of) the rule was incomplete and with enormous disadvantage Alchemy single judge since the case was brought before it and ordered the execution. Criminal Law Procedure Act of 1290 and subsequent amendments based on the five stages of compilation and organization of criminal courts and prosecutors' offices was also on that basis. And slowly so far, despite many flaws and problems, particularly for prosecutors this return is on track to complete the steps.

Iran's complex system and criminal procedure:

Additional amendments to the Criminal Procedure Act reflects the possibility of having equal rights are limited to the defendant that counsel for the accused had no right to interfere with any investigation that the investigator (reference study) appropriate to the end before the end of the research and the lawyer and the reasons for their defense filed and will be reflected in the proceedings of parliament and as was previously subject in detail. Moreover, the adoption of the amendments and additions to the Law on Criminal Procedure adversarial consciousness to a preliminary inquiry opened only briefly removed but not enough, and certainly the equal rights of the accused and his lawyer have not been met. And other laws in this regard during the procedures and practices and modern law and the situation is more confused. And the principles of sovereignty, such as the adversarial system of criminal charges in court and arguments and reasons adduced that the accused and his lawyer had equal rights and freedom of the will and authority in defense fairly well. Since the adoption of the law of criminal procedure in the Iranian justice system has continued and has been open, despite the many changes to be applied. Today, in most countries of the whole system more complex and their use in order to establish justice. Hearing charge ignored the interests of society and the defendant's due process rights and freedoms audit did not provide. And because French scientists have played an important role in creating and waste, and for the first time in the country was carried out, so it is also called

the French justice system. Mixed justice system of rules of criminal procedure model for many European, Asian, African and American respectively. In addition to being after the revolution into the realm of criminal procedure was open legal rules and legal system of criminal procedure has been mixed. Mixed criminal justice system for the first time sent the French law was used in 1808. And the form of his first took place.

Iran's Islamic system and criminal procedure

Despite the slight doubts on the allegations against the Islamic system is independent and has its own characteristics and features. For example, the presence of the jury in charge of the Anglo-Saxon in the crimes of this nature does not exist in Islamic law. For example, choose or judge in Islam has certain conditions and characteristics that exist in other systems. But with all systems go directly to the judge in charge of historical perspective and his lawsuit against the unity of the judge, the public and especially oral and adversarial proceedings being shared. Therefore, since the unity judge to handle Alkhtm feature of this system is considered. There is also the presumption of innocence and acceptance of the terms and basic manifestations of this system, which has always respected the Islamic system is emphasized.

The absence of a jury and without the necessity of a complaint from the victim in the crime as well as the other conditions of the divine right of the Islamic system. The rules of criminal procedure in the Islamic legal system of Islam is what the outside world is different. At the same simple and completeness of the audit procedures and complex litigation charges are not compatible. The other situation where a degree is being dealt with in the revision of the rules.is. The presumption of innocence and absolute sovereignty is permissible despite any hesitation and doubt Umbra' of penalty will be charged. Accused their full rights and with full liberty is the right to self-defense. There is no exception for legal representation in court. And Islam clearly visible. And of course, more convenient and certainly appropriate and favorable to the defendant in order to fulfill the basic rights of its impact is significant.

Counsel for the accused in the statutes

Article 112 of the criminal Procedure Code enacted in 1290 to the 1335 accession Act, which provides that "a person accused of lawyers Justice can have your mobile. His lawyer without interfering with the investigation after the interrogation could be content to clarify the truth and the defense of the accused or implementation and the rules necessary to remind the magistrate. The lawyer's comments will be recorded in the minutes. "Thus the role of the lawyer in the preliminary investigation stage and appeared in Iranian law the legal limit. Until the adoption of this amendment no special provisions, the presence of counsel for the accused in the criminal justice system's preliminary inquiry was authorized. The law was practically silent until the situation Prosecutors and defense attorneys accused accession Note He opposed the involvement and actually observe the rights of the accused have not been the merit and necessity. It is important to ensure that the rights of the accused, obviously contemporary examples in the law have been considered. Therefore, this clause has created hope for a lawyer from the accused. First of all prescribed and approved participation in the company of a lawyer to defend the accused the ill-fated preliminary investigation by the judicial magistrate was suitable and of course Psychology for a calm and reassuring to have also been charged. During the preliminary investigation the accused in court The preliminary inquiry to make about this issue for 52 years before that judicial authorities have decided this way as well. Get into law a person knowledgeable and experienced and comfortable in the preliminary investigation stage have often been secretly.

All crimes are prescribed and approved by appropriate legislation, and this time it's caused prosecutors and judges and law enforcement with the accused and their lawyers welcome in the investigative phase (preliminary) - Dealing them. Truth and justice act. Note that in addition to the presence of counsel for the accused administered in the preliminary investigation of this issue in all the victimization without any exceptions or reservations had been accepted. The counsel for the accused in all crimes or crimes against persons and property and public interests and national security and so on. The right to participate and present. And no stipulation in this respect was not mentioned in the note. After counsel for the accused both security crimes or crimes against persons and so have the right to attend and no exception and is not the duty of the prosecuting authority.

Article 128 of the formation of public and revolutionary courts in criminal matters:

The provisions of legislation in this regard was next. And legislator after the revolution in 1378, inspired by the Article 128 of the Code of Criminal Procedure and the amendments passed, the material provides "a person accused can have his or her lawyer. The defendant's lawyer can be done without interfering with the investigation after the end of the investigation, about what to uncover the truth and the defense of the accused or the judge to declare the law enforcement deems necessary. The lawyer's comments will be reflected in the minutes ... "It is also a step towards adversarial preliminary investigation has taken and intends to respect the rights of the accused. But in the previous case is allowed legal representation at the preliminary investigation stage. Limitations defense lawyer is low. Defense attorney when the investigation will be over, so the effect of the change process and not his client's

innocence Therefore, it seems indicating Asabi the end of the investigation and according is not the defense carry. There is no justification for it. In addition, the end of the investigation is unclear whether issuing the final orders or that any research that takes place at each end of the hearing is to consider the law?

2954 advisory opinion / 7-14 / 4/83 Legal Department judiciary has acknowledged: "... without interfering with the investigation ..." Q..d.k referred to in Article 128 that the preliminary inquiry"6885 theory / 7-14 / 9/1383 the legal Department of the judiciary ruled Q..d.k 1378, which states in Article 1287 of the defendant's lawyer can without interfering with the investigation after the investigation material to explore the truth and the defense of the accused or the judge deems necessary, notify law enforcement. Does not mean that the defendant's lawyer can proceed only after obtaining the express is the last defense. The defendant is permitted. "It was very interesting Judiciary and the Legal Department would consider the rights of the accused as well. Dahl is less. This interpretation was in favor of the accused are consistent with the principles of criminal law. Prosecutors It is also noteworthy and important. Have more rights to the accused.

The same concept as a whole, Article 128 of the Criminal Procedure Code and Criminal Procedure Law Article 112 additional addendum uttered unchanged in terms of content removed and to put the rights of the accused. Incoherence is not much difference between the two as they respect the rights of the accused should not Indicating the end of the investigation and non-interference in the investigation and lack of defense during the investigation that lead to failure to respect the rights of the accused, all restrictions will be fully unfortunately, the old and new regulations as stipulate d's past.

Article 128 of the Act states

But very interesting and important point in the new law and its provisions is Article 128 of Legislative created with special creativity is required. This note has so far been no law and criminal procedure is the first time that a new policy is created. This provision stipulates that in cases where confidential matters or the presence of corruption to judge crimes against national security, as well as the presence of a lawyer during the investigation stage with the permission of the court. Legal matter as it was subject to its own problems, as well as the rights of the accused has not adhered to. This provision did not exist in the old regulations. Note not only the provisions of the law, might just be in the world. Note, however, that the material and time constraints are very limited and limiting the rights of the accused and put in danger. Tuesday indicating damage to the material as if they judge. Defendant does not agree to be represented by a lawyer.

Legal representation in cases where the criminal aspect of the issue:

It has not been established. What matters in terms of the adjudicating authority is confidential and what is not confidential, there is no clear boundary. Confidentiality is stipulated in general terms. The main issue openly distorts the judicial proceedings in general and with the principles of the constitution that contradicts the principle of openness trials. Or at least expand it to a lawyer at the preliminary inquiry is not correct. The legislator has created a pretext for the judge to refrain from legal representation and the rights of the accused to have a lawyer in the Legal and Judicial Affairs confidant and its client's information. Pilots and say that privacy and dignity of all individuals are respected attorney and lawyer would certainly confidant of his client is. All the actions of a lawyer to his client and their relationship is confidential and there are secrets between client and lawyer. Lawyer accused all legislation in the world can be made aware of the provisions of the preliminary research other words, all information is confidential lawyer to his client and must not strangers it will be over. How can we justify writing this constraint is not clear?? !! Secrets and confidential access to appropriate legal jobs (people) who do not want their information to the client to take legal actions and actions with others.

In cases where the presence of the non-aligned cause corruption.

Fraud detection and authentication is handled by a judge. The term corruption in the Note also has limits and it was not clear! Presence even corrupt lawyer in the preliminary investigation of the wonders of the legislative period of time. It is not clear how the presence of a lawyer to defend the accused in the preliminary investigation into the ill-fated corruption??! But lawyers and advocates are corrupt and corruption and the presence of a lawyer is corrupt? However, to distinguish the public as indicating the presence of the judge, attorneys and others included. That is also a lawyer and strangers, if possible corruption Preliminary research Mwah not have the right to attend. It is interesting that nowhere in the world, primarily in the preliminary investigation of any other person other than the accused and his lawyer was not present, and preliminary investigation is secret. Meaning only takes counsel. And in reality detect corruption by a judge to ban non reasonable attorney is allowed. The presence of the defense lawyer and repeated restrictions limiting the rights of the accused obviously see.

In cases where crimes against peace.

The third case that the attorney's absence was considered certain exceptions which are crimes against national security. This case, like the two above no logical and legal rules have been approved by the legislator. Crime and public safety absolutely no reservation is made. It is spoken numerous security offenses. Included in articles 32 and 64 and 83 and put under the pretext that it has provided to its credit accused exacerbate the situation. Not to? Why lawyers are the right to participate in the preliminary investigation is the first chapter of the fifth book of the Penal Code and Allah knows!! Have. It's not fair when the Islam-oriented Justice has repeatedly raised in all human societies and human nature demands that national security crimes and take it a pretext to limit the rights of the defendant are limited. Especially in the countries of the rights of the accused and the criminal justice circuit is more political consideration. Weaken our criminal justice system and the justice away from the circuit. However, that is not in our constitution nor the basic rules of criminal procedure and international criminal provisions such restrictions and fade rights of the accused and his counsel there. "The constitution is observed that the accused has a right to counsel in all courts. And no exceptions to this principle cannot be accused of this right in full and absolute obvious. Defendant entered data will be scrutinized. The absence of counsel for the accused in the crime except for good and logical security is the principle on which our times. No justification and rationale of the legislator's vehicle will not be accepted. Incidentally political convicted and accused persons must have the appropriate rights and more than other offenders. The lawyers are forced to have litter and more in political and security crimes. Today, these practices fit the modern criminal law and justice are not centered.

In cases where crimes against peace.

The plaintiff's lawyer in the preliminary and final investigation warrants not limited to the plaintiff the right to full freedom and his presence at all stages of criminal proceedings. And non-interference in law not mentioned even in the preliminary investigation and the lack of a ban because of the legal license... Plaintiff lawyer without the presence of the complainant (original) can participate in all stages of the investigation and the reasons for his only be educated and performs the appropriate measures. Open reflected the balance of opposite and equal opportunities for the parties and shall not be considered representative of the community. While the accused and his defense attorney general should have more options to deal with a good defense and the presumption of innocence and alleged reasons for seeking justice be done better and more accurate. In addition, Article 35 of the constitution explicitly dispute tarnished and draws to it is ignored.

The defendant's lawyer in the final research

No defense counsel for the accused and the constraints involved other words, he was only at the stage of preliminary investigation and certainly no prohibition in other stages of the Act expressly not listed. However Alfaro is considered. Not forbidden to counsel for the accused and the principle of allowing legislator in this direction. At this point the provisions of Article 35 of the constitution should be respected. Defense Departments. Judge with fairness and respect for the principles of equality and impartiality of the proceedings deals. And it is often unconscious biases guilt in court against the accused and his lawyer will be there even in collisions these issues are visible and acknowledged. The Code of Criminal Procedure guarantee the rights of the accused to examine how the stage action in a court of law and in plants better and more appropriate regulation and no defects preliminary stages. Though the constitution says explicitly permit the display.

The generality of Article 185 of the Code of Criminal Procedure

In general the material to the parties the right to choose and introduce attorneys to handle all the data and has prescribed. In this matter, which decreed that "all criminal cases, both parties can appoint your lawyer or lawyers obstacles ... in the form of a multiplicity of legal counsel a lawyer for each party to the court proceedings is enough" Introduction and to legal counsel for the accused even in the course of criminal proceedings is administered. There is no constraint. Meanwhile, the number of counsel in this Act is administered by the parties. In order to use this legal matter and the presence of defense counsel and the accused also included the effective and interesting by the drafters of the law is consistent with the principles and rules of modern criminal law. The provisions of Article 35 of the constitution is adhered to.

CONCLUSION

Home mandating now a lawyer at all stages of criminal prosecutions in most countries for many years been accepted and action. In some communities without being forced it to declare to comply with the law and without the participation of counsel for the accused will not be tried. In the Islamic Republic of Iran attorneys in crimes involving the death penalty or mandatory life imprisonment and in some cases had been declared optional. In the current

Article 186 of the Code of Criminal Procedure and comments in certain crimes defense attorney has been appointed as mandatory. Death, execution, stoning to death or life imprisonment for crimes that the presence of counsel for the accused at all stages of criminal proceedings in accordance with the provisions of Article 128 and Clause it is required. Therefore, the 1378 death - death. Mercy and life imprisonment offenses that should be presented by the defendant's lawyer otherwise in accordance with Article 186 of the accused and their lawyers to court honorarium will be paid from the budget of Justice. What is required is the crime of the region he represented what the District court is set for him. As a whole, than there are judicial procedures are respected and to have legal force. Effective criminal proceedings in position and replace him in a criminal proceeding is palpable.

Indeed, the in Article 128 and Clause has been made and a problem that certainly can be brought on this matter. If the accused lawyer will not be alone in crimes against chastity and defense attorneys have the right to attend and defense. As if not satisfied with the presence of a lawyer accused of criminal offenses - the death penalty - life imprisonment - stoning - is death and must defend itself. This limits the presence of their lawyer in crime with severe punishment is not correct and this situation certainly cannot be said that criminal justice is ascertainable. Meanwhile, defense lawyer of the accused not only of defense, but he defends the law. The defense of truth and justice spoken of society says so in the presence of a lawyer in criminal proceedings not only the accused but also the first place to benefit the community - and the court will also be beneficial. Was. Therefore, there is no exception in this matter and note it is not correct and not consistent with the principles and rules of criminal law.

In Article 186 and its note to call a lawyer is appointed only for the defendant and the plaintiff has no right to a legal request from the court. And if the plaintiff fails to select a defense attorney and introduce themselves since filing criminal proceedings will take action. The complainants are often ordinary people who do not have any information about criminal legal rules and techniques that act on their own to pursue a complaint against centralized. This is not the correct legal principles and rights puts people at risk tizzy. It was appropriate that the plaintiff was stipulated in Article 186 and its amendments. And depriving the plaintiff of this important legal effect and no logic.

If the counsel for the accused, the investigating authority in criminal cases in his time served or delivered no need to notify and inform the accused. And no information that would be criminal defendant, Workflow and process this rule shall be considered as defects. Because Defendants generally should be aware of all the trends and the criminal process and criminal justice proceedings without his knowledge he cannot very well affect your judgment would emerge. Because the absence of the accused and the lack of information and lack of a criminal reference is necessary for his defense accused. And the verdict against him. So the presence of the accused in all criminal proceedings process is necessary. And subsequently scrapped and time reference should also be notified of criminal charges and be sent to the exception not the case. And communicated to his lawyer was not enough. The Note also in this respect is seriously something wrong that should be corrected respected authorities.

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