

Governing principles on fair trial under Iranian Criminal Procedure Law (2013)

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Abstract

The ultimate goal of any trial is justice execution and fair trial is the most important indicator to measure social and judicial development in any society. An affecting factor on realizing "social justice" is to stabilize and develop "judicial security" in the society. Undoubtedly, "judicial security" cannot be realized otherwise by fair trial principles. Fair trial means general guarantees to respect parties' rights in trial process for kinds of claims in competent, independent and impartial courts through respecting predictable fundamental rights and axioms forecasted in judicial mechanism. Thus, respecting fair trial principles during trial process are the most radical rights of penal trial process actors respected since past by legal authors and lawmakers. Therefore, as the foundation and excerpt of justice, law orientation and discipline and as the executive arm of criminal justice system, criminal Procedure Law ensures the rights and liberties of people in the shadow of fair trial execution. Studying Iranian Criminal Procedure Law (2013) indicates that respecting fair trial principles are paid attention by lawmaker more than ever. Hence, we plan to contemplate on six fair trial principles: acquittance, open trial, the right of using attorney, explaining the accusation for the accused, the right of the accused to keep silent and torture prohibition.

Key words: criminal justice system, fair trial, governing principles on fair trial, Penal Procedure Law

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Introduction

No court is held otherwise a right is taken and returned to its owner and in this way, one should consider the fairness of the court as an obligation. It cannot be realized otherwise by respecting fair trial principles. Therefore, such goal should be respected in all parts of trial process. On this bases, some principles are determined in trials respecting them purveys justice. Penal procedure principles are strong foundations which prevent trial deviation from execution justice route. By resorting to subjective laws and regulation, innocent people can be acquitted and can retribute for prestige. These trial principles include acquaintance, judicial independence and judges' impartiality, open trial, the right of using attorney, explaining the accusation for the accused, the right of the accused to keep silent and torture prohibition principles are all accepted during the history of forming procedure law in human communities. Judicial system regulation, trial and Criminal Procedure Law in Iran are all changed several times with past three decades and the formulation of new Criminal Procedure Law was finally in 2013 upon paramount falls and downs while its execution is postpone for several months since relevant infrastructures are not ready yet and even in 2015, some items were modified. According to many jurists, new Criminal Procedure Law has many advantages and innovations and many previous problems and gaps are removed and it has many positive points on citizenship rights, defense right, defending attorney, trial procedure, guarantees on realizing fair trial and so on which can make Iranian Criminal Procedure Law close to accepted global laws. It involves principles that their execution would ensure the rights of claimants especially the accused. Hence, such transformations encouraged us to contemplate on six principles of fair trial including : acquittance, open trial, the right of using attorney, explaining the accusation for the accused, the right of the accused to keep silent and torture prohibition.

Acquittance principle

Acquittance means to become clear of deficit and insult, to get free from debt, permission, transfer, release, avoidance and cleanness (Moein, 2008) and in laws, acquittance principle means that the people are seen as innocent so that one can determine someone's offence in a legal competent authority by rights and fair trial (Vakil, 2008). Likewise, it means that basis of trial is not crime commission by people otherwise one can determine someone's offence in a legal competent authority by rights and fair trial. It is one of the most fundamental principles on fair procedure in modern penal procedure system. Acquittance presumption is a fundamental principle in criminal trials which supports the rights of citizens against power seeking by public entities. Historic studies indicate that acquittance principle is not accepted at least on some accusations except than some legal systems such as Islamic one so that if the plaintiff was not able to provide necessary documents, the accused was obliged to prove his/her innocence. In Hammurabi Charter in Ancient Iran and many other places, the lack of accepting this principle was yielded to resort to Divine judgment. In European countries, before French Revolution in 1789 and especially in medieval, acquittance principle was no so respected by judges, using duels or judicial fight, using torture to achieve confessions and so one suggest negating acquittance principle in many cases (Rahiminejad, 2008). In modern age, acquittance principle was initially emphasized in US Human Rights Declaration (1789) and then in French Human Rights Declaration (1789) so that "any human is innocent otherwise his/her offence is determined" and then it was extended to European and other nations and reflected in their subjective laws (Ashury, 2004). Therefore, acquittance principle is one of the most fundamental principles

governing fair trial in modern penal law systems. Relying upon this principle, in any situation in which a person has to accept burdensome or his/her freedom is captured, in the case that there doubts, he/she should be acquitted from such burdensome or loss since such burdensome is not justifiable without decisive reason (Jafari Langrudi, 1993). Likewise, acquittance principle which clarifies and ensures good will in social behavior against others and avoiding pessimism and respecting legitimate liberties and citizenship rights is not unique to trial and verdict issuance; rather, it involves police preliminary investigations as well as crime prosecution and exploration in public prosecutor's office. Acquittance principle is a fundamental fair trial principle which plays an important as the most important legal execution guarantee in protecting human physical, spiritual and mental security. Since in penal procedure, prosecutor has special power as public prosecutor (against the accused) and can easily utilize public forces and other necessary guarantees while other party (the accused) lacks such situation, so acquittance principle is adopted as a guarantee to respect the right of arms equality and generating balance and equilibrium among parties. Thus, executing this principle has impacts on protecting social and individual rights as discussed below.

1.1. The impacts of penal acquittance principle

Article 4 of Criminal Procedure Law (2013) reads: "acquittance is the principle. Any action to limit and deprive freedom and entering people's privacy except than by law and respecting regulations supervised by judicial authority is not allowed and such actions should damage human dignity." This article addresses judicial aspect of acquittance principle. It is also a radical principle of penal laws and has impacts and requirements in both lawmaking and judicial aspects (Khaleghi, 2014: 26). Here, we investigate the impact of acquittance in judgment protocols and the accused defense rights.

1.1.1. *The impacts of acquittance principle in hearing formalities*

1. Obligation of plaintiff or public prosecutor to prove accusation and providing evidences;
2. Prohibition of issuing provisional remedies except than by judge's clarification to justify the accusation and remedy;
3. Prohibition of issuing detention remedy except than exceptional cases and the necessity of its judicial justification and its control by superior authorities;
4. The necessity of construing the laws and resort to doubt construe principle in the benefit of the accused (the governance of certain knowledge in criminality);
5. Prohibition of obliging the accused to prove his innocence;
6. The principle of clarity/transparency in trial and exception in inquisitorial judgment;
7. Prohibition of restoring to illegal and custodial methods to achieve evidences;
8. Obliging the court to obtain the accused's final defense;
9. He governance of legal evidences system and judgment formalities and granting the authority of evaluating legal evidences base on judge's consciousness conviction system;
10. Cancellation of trial in the case of restoring to illegal and custodial methods to achieve evidences;
11. Prohibition of publishing designated accusations publicly and in the case of publication, obligation to publish defenses.

1.1.2. *The impacts of acquittance principle in the accused's defensive rights*

1. The right of explaining the charges in the first years of designating the accusation or detention;
2. The right of silence against charges;
3. The right of using attorney in the first hours of trial in all courts;
4. No need to prove innocence by the accused;
5. The right of trial for the accused and kept informed of all collected evidences;
6. The right of enjoying adequate conditions, facilities and opportunities to introduce attorney;
7. The right of enjoying all social and political rights before issuing enforceable decision;
8. The right of objection to remedies and verdicts before their finalization;
9. The right of final defense in the final step of trial;
10. The necessity to separate temporary detention systems from prisons (Sarmast Bonab, 2004).

Open trial principle

It is seen as a fundamental principle on fair trial: "open trial is a situation in which court sessions are hold without any barrier on the attendance of ordinary people of mass media." Saadollah Faghannejad notes: this principle is today considered as an important component of fair trial and a human right in penal claims. Different human right documents including article 14 of Civil Rights International Covenant and article 1 of Human Rights Declaration have emphasized on open trial. Likewise, article 165 of the Constitution Law reads: trials should be open and there is no barrier for people's participation otherwise court determines that open trial is against chastity or public order or in private claims, the parties ask for not open trials. Believe in executing justice is a radical principle for legal systems. People have the right to attend in courts. It is a recognized right for them created by public conception on court as the status of fairness and justice by which verdicts of the court are fostered. However, one should not neglect that open trial is a principle for which lawmaker has mentioned exceptions. The cases in which the dispute is a private right or parties demand for non-open trial or the committed crime is in contrary to public chastity and order are the exceptions which should be considered for open trial principle. Open trial means that people can attend in meetings freely and observe the procedure closely and find judges' impartiality and the existence of real judicial justice (Naji, 2010). Open trial principle is always emphasized in both national and international laws. Article 14 of Civil and Political Covenant has also emphasized this principle. It reads: "all are equal against courts and any one has the right that his/her adjudication can be conducted fairly and openly in a

competent, independent and impartial court by law." Also, article 10 of Human Rights Declaration reads: "any one has equally the right to be judged by an independent, impartial, fair and open court." According to article 165 of Iranian Constitution Law, all courts should be conducted openly and in article 108 of Constitution Law, procedures on political and journalistic offences are open with the attendance of jury. As mentioned before, this principle is also recognized by Criminal Procedure Law (2013) through some exceptions. Thus, executing this principle would case that judge can see himself in the eyes of public, the accused enjoys more calmness and the court will be a glass room in which the judge would be careful in issuing verdicts, wrong acts by judge are prevented and it would finally lead into public trust to judicial system.

The principle of using attorney

Nowadays, the right of using attorney or legal advisor is respected in all judicial processes. The critical importance of this right along with other fair trial items is too high that one condition for fair trial is the right of the accused to use attorney. The role of attorney is important and determinant in all trial steps in terms of criminal justice and it has helped trial authorities in their judicial decision making and in preventing judicial mistakes. The necessity of attorney attendance in different steps of trial means that the accused will be alone against public prosecutor in the case of nonattendance of attorney and by full awareness of legal rules and regulations as well as judicial facilities, public prosecutor will be superior to the accused and under such circumstances, the attorney can freely represent his/her client against public prosecutor who is defending the society. In our country, participation of attorney in crimes such as retaliation, execution, stoning to death and life sentence is compulsory. Furthermore, according to article 35 of Iranian Constitution Law, parties have the right in all courts to select an attorney and if they cannot afford it, facilities to select an attorney should be prepared for them. For those people who cannot afford attorney's salary, lawmaker has predicted the possibility of using appointed attorney. The right of the accused to have attorney in trial steps by new law shows positive points and aspects. Lawmaker's attention to the right of the accused to use attorney is extended so that if the accused cannot introduce an attorney in crimes with punishments such as death and life sentence in the steps of preliminary investigations, it is necessary that interrogator selects an appointed attorney for him. The right of using attorney is fair trial principle which purveys justice. In human right documents and internal laws of countries, the right of attorney is a radical right for a fair trial and a guarantee to keep the accused's rights. The principle of necessity right of using attorney is accepted in all criminal trial steps in our ordinary and radical laws (Ashuri, 2000: 268) and as the most fundamental guarantee for the accused's defensive rights. The participation of attorney in crimes with punishments like stoning, retaliation, execution and life sentence is compulsory. In fact, the right of using attorney for the accused since crime discovery to verdict execution is the most important guarantee for the accused's defensive rights and according to rationality and justice, due to more complexity of legal problems especially in criminal affairs which relate to respect, dignity, life and property of the people, the accused should be able to defend by getting aware of laws and regulations by his attorney since attorney can defend the accused by his legal information and experiences as well as legal basics and principles to removed incorrect accusations (Moazenzadegan, 1994: 182). The attendance of attorney in different trial steps is due to the fact that public prosecutor will be superior to the accused and under such circumstances, the attorney can freely represent his/her client against public prosecutor who is defending the society (Ardabilim 2004: 214). Considering the importance of the issue, we discuss on the right of using attorney in different trial steps in brief. Accused's right to use attorney in crime exploration: the lack of the accused's awareness on legal rules would make it necessary the attendance of a person with legal information and experiences to remove incorrect accusations in a sensitive step like crime exploration in general and investigations in particular since Judiciary officers have wide authorities in this step and the attendance of attorney would not only prevent officers' abuses of their authorities in gathering non principal evidence against an innocent accused who is not aware of laws but also prevents unwise statements by accused concerning the crime (Jafari Langrudi, 1984: 446). The right of the accused to use attorney in preliminary investigations: the attendance of attorney in defending attributed accusation seems necessary in this step. If the accused is deprived of advising with a legal expert, since he is not familiar with the consequences of his statements, he may easily express statements against investigation authority that knows legal rules well and may use them against him in future which would have a remarkable impact on his judicial fate (Taha and Ashrafi, 2007: 176). The right of using attorney in article of new criminal Procedure Law should be explained during investigations as comprehensible for the accused; otherwise, keeping on the investigation is void. Interrogator should not prevent attorney's intervention with excuse of preliminary investigations (Rajabi, 2007: 106). The main part of criminal cases relate to investigation step. In this step, the case is formed, evidences are gathered and the file is supplemented and the judge decides on it. A case which takes years in Public Prosecutor's office for several years will be judged sooner in criminal court and it may be decided in the first trial meeting. Nowadays, preliminary investigations can be conducted by the attendance of attorney. Not only the attorney has the right to demand the case and being aware of the content like plaintiff and submits his opinion to interrogator and even asks his for certain investigations, but also he can show some copies to the accused by the permission of the interrogator (Mohammadi, 2003: 68). Although in many conditions clarified by lawmaker in article 48 of new penal procedure law, the issue may be confidential in preliminary investigation and if the issue is disseminated, it may be impossible for judge to access other evidences and documents. Under such circumstances, the judge decides to pursue the case confidentially temporally and periodically and he decides on nonattendance of attorney. Therefore, the right of sufficient time and facilities to prepare defense is not only limited to trial step (Minaei, 2007: 45) since the necessity of equality of arms principles makes it necessary that the accused enjoys all needed facilities to defend especially in preliminary investigation since the initial steps of penal process (Ashury, 2000: 67). The right of the accused to use attorney in trial step in the court: it is a guarantee to keep the rights of the accused in penal trials (Taha and Ashrafi, 2007:

200). It is seen in article 35 of the Constitution Law: "in all courts, the parties have the right to select an attorney and if they are not able, the facilities of selecting an attorney should be prepared for them." In court, all evidences for or against the accused are discussed by the attendance of parties and no evidence can be effective against the accused without discussion in trial meeting. Executing a fair penal procedure needs that the accused is provided with the possibility of defending assigned accusation (Montazaeri, 1988: 571). Therefore, the attorney has the right to access the case and copies to provide a freely defense by consultancy with the accused and can conduct the final defense based on article 262 of the new Penal Procedure Law. Concerning the positive impacts and outcomes of the right of using attorney, one can point out the support of an accused who may be prosecuted by improper reasons and he needs to use the assistance of someone who is able to curb pressures from the power of investigation or prosecution authority to prove his innocence (Shams Nateri, 2004: 290). Under such circumstances, by his recognition of subjective rules, the attorney will be the only support in prosecution and investigates steps for the accused. The necessity of division and allocation makes it necessary to assign the job to a professional expert (Janshkar, 2008: 98). Undoubtedly, the attendance of attorney in all trial steps would have positive outcomes in defending the rights of the accused and to lead the judge toward reality exploration and defending an innocent accused. Other positive outcomes include: Preventing length of trial: an important factor in length of trial on Judiciary is the weakness of administrative system, weaknesses in lawmaking, most importantly, lack of awareness of parties to laws and their advantages. An attorney could conduct the flow of trial rightly in defending the accused by awareness of laws, weaknesses, deficits, inadequacies, ambiguities and difficulties in judicial system (Taha and Ashrafi, 2007: 193 – 197). Preventing trial deviation: attorney can prevent any deviation in trial by his attendance to monitor the quality of trial steps and his legal know-how. During trial, any error by judges or parties is possible. Therefore, a legal attorney can be seen as a proper guarantee in preventing trial deviation and alongside judicial authority, acts like a tool to control and monitor Judiciary and prevent spoiling the rights of the accused and judicial deviation by realizing judicial justice (Khazani, 1998: 130). Aiding law and justice execution: the attorney can help lawmaker to achieve its goals and judicial system to execute justice by his knowledge know-how since by seeking all legal regulations and attendance in all interrogation and trial steps, he would support the accused and would eliminate his anxiety in answering all accusations. Also, attorney would prevent any torture or pressure against the accused during trial and would help to acquit an innocent accused (Rajabi, 2007: 110). Scientific and practical guides to judge: the attendance of attorney in trial steps would cause velocity and accuracy in trial and good performance of judicial authorities which improves legal knowledge of judicial incumbents. Despite of his job records and legal knowledge, as a human, judges' know-how should be improved (Rajabi, 2007: 101). By studying all laws and using the most judicial data in a scientific and practical interaction with judge, they can play an effective role in defending the accused.

The principle of explaining the accusation

Accusation means to assign an insult while in penal laws; it means to attribute committed crime to someone. This short statement indicates that to accuse someone, there should be two conditions:

Firstly, the attributed act should be a crime namely it should be a behavior for which punishments are considered in penal laws. Secondly, the person should have ability to commit the crime or, in better words, he should have criminal liability. By above conditions, it is clear that accusing individuals relates two important penal law principles namely crime, punishment and clearance law principles and the rules on criminal liability. Ashury (2005: 87) defines accusation explanation as: "official announcement of any criminal act to the accused by judge in a manner comprehensible for any accused." Thus, accusation explanation is to expound and clarify committed crime and its legal consequences to the accused so that he is fully aware of his legal assignments and judicial situation and finds readiness to defend in different trials steps. Some believe that explanation is the start of preliminary investigations: "accusation explanation is aware the accused of accusation by judicial officer before investigations for his awareness and defending his legal right. In other words, explanation means that any accused should be aware of his criminal accusation before investigations in order to prepare proper defense tools" (Montaser Assadi, 1979: 14 – 59). Therefore, it should be noted that explanation principle is a fair trial principle and the right of the accused by judicial authority which should be comprehensible for the accused by considering his conditions and states. Such explanation should be along with mentioning relevant legal article violated by the accused. The right of precise awareness of accusation, its type and its degree should be conducted in most preliminary step of prosecution and investigation so that the accused can be prepared for proper defense. To the same reason, article 32 of the Constitution Law reads: "no one can be arrested otherwise by order determined by law. In the case of detention, the subject of accusation should be explained immediately in written to the accused and the preliminary case should be submitted to competent judicial authority within 24 hours and the preliminaries of trial should be prepared as soon as possible. Anyone who violates this principle will be punished by law." Likewise in different provisions of Penal Procedure Law, this principle is recognized for the accused including article 46, 52, 80, 86, 173, 190, 194, 209, 213, 217, 224, 254, 276, 322, 396, 404 and 501. In some cases, lawmaker has considered the invalid actions as the guarantee of executing this principle.

The right of silence

It is not a right separated from other rights; rather it is a combination of them. When right of silence is mentioned, innocence assumption, the obligation of public prosecutor to prove crime constituting blocks and torture prohibition to obtain confession and information come to mind. These rights can be called as the accused's right of silence guarantees based on free expression and the necessity to respect human dignity. Such right would cause that the accused uses it without any obligation as a tool to provide his citizenship rights and freedoms and keep

silent against questions (Rahmdel, 2006: 185). Since this right is entered into laws, it has been highly discussed and disputed. One critic is Jeremy Bentham who published his famous theory in 1827. According to him, innocent people will never use the advantage of silence right and the right of self – accused prohibition had an inevitable impact on exiting the most valid reason of reality which was accessible only through the accused. According to Bentham, the claim that such right would protect the accused from torture and inquisition is a misleading claim during history. In his age, United Kingdom had less effective and less damaging tools than 1800s to support free expression and opinion. He believes that such advantage had inevitable impact on not exploring the reality by courts and shaped no part of a rational legal system (ibid: 190). Article 197 of the Criminal Procedure Law (2013) reads: “the accused can select to be silent. In this case, his refusal in answering questions or signing his statements should be written in minute.” According to article 11 of respecting legitimate liberties and protecting citizenship rights, “any accused has the right to refuse answering the questions of crime exploration and prosecution authorities that have no relation to crime and prosecution or related to his private and familial issues.” This article has limited the right of silence to illegitimate and irrelevant questions. In international documents especially human rights treaties, this right of the accused is respected so that he/she can freely use his power answer or no to answer the questions. Article 14(3) of the Covenant reads: “anyone who is accused of committing a crime has the right to enjoy minimum ensured rights by full equality: he/she should not be enforced to testify against him/herself and confess that he is criminal.” In the same vein, Juvenile Rights Convention (1989) has asked all member states in his article 40(2) to pay attention this issue in ensuring the rights of defense for children in judicial authorities. The Statute of International Criminal Court is another document in which the accused’s right of silence is elucidated. According to its articles 55 and 67, the accused does not have to testify or confess his/her criminality and can keep silent without such perception that his/her silence is a reason for his/her criminality or innocence. Thus, enforcing the accused to confess or testify for judicial and disciplinary authorities has become a common rule in international laws and all states are obliged to respect it.

Torture prohibition principle

There is no clear definition of torture in Iranian laws; however, it is forbidden and punishable in both Constitution Law and general laws. Article 38 of the Constitution Law clearly reads: any torture for obtaining confession or information is forbidden. Some jurists have defines torture as: rising harm to the accused or non-accused to obtain confession. It is a crime and considering discrete title for it is against letter of law and religion (Jafari Langrudi, ibid: 440). In defining torture, article 1 International Torture Prohibition Convention reads: in the framework of this Convention, torture is any intentional act by which hard pain or damage either physically or mentally is posed against someone in order realize such aims as obtaining information or confession from him/her or a third person. Also, punishing someone for an acted conducted or likely conducted by him/her or a third person or threat and enforces him/her or third person to punishment is seen torture. However, such acts are considered as torture when conducted by governmental authorities or by their stimulation or silence or satisfaction. Likewise the pain of punishment is not considered as torture.

According to this definition, there are three important points in defining torture:

1. Physical harassment
2. Spiritual pain of tortured person
3. Torture usually means to obtain confession and information from tortured person

Thus, torture prohibition is recognized by two international rights and enjoys legal strength: one is international treaties and the other one is international custom from public demeanor.

Article 7 of Political and Civil International Rights Covenant reads: “no one can be tortured or harassed by non-human and rough behaviors.”

Article 99 of Geneva 3rd Contract reads: “no spiritual or physical pressure should be utilized to obtain confession on an accusation against a war prisoner.” Noteworthy, such reasons as domestic security threat, the possibility of foreign attack, terrorism or social expedience can never justify torture or rough behaviors. Accordingly, the accused rights’ include a set of advantages and facilities needed in a fair trial since the outset of accusation to verdict issuance and execution by which the accused can defend against raised claims in contrary to clearance assumption.”

In Iranian legal system, determining torture implications are judge’s task. Lawmaker has provided a general verdict and it is the judge who finds implications for law. Therefore, lawmaker’s task is not principally to determine implications. However, the judge has to refer customs to determine the implication of words used in law. If there are various custom implications which lead into paramount disputes in courts, the lawmaker has to determine clear implications. Torture is an explicit example here and lawmaker has expressed such implication exclusively.

In Torture Prohibition Law (2002), Iranian Parliament (lawmaker) has expressed torture implications as below:

1. Any physical injury or harassment to obtain confession;
2. Keeping prisoner in single or keeping more than one person in single – celling;
3. Using blindfolds for prisoner in the environment of prison or detention place;
4. Interrogation in nights;
5. Preventing prisoners’ sleep;
6. Actions considered as mental pressures against prisoners;
7. Cursing, using bad language insulation or disgracing prisoner during interrogation or other times;
8. Using psychotropic substances or changing the medicines of sick prisoners;
9. Depriving sick prisoners from access to necessary services;
10. Keeping prisoners in places with annoying sounds;

11. Keeping prisoners hungry or thirsty and not respecting health standards and depriving prisoners from using proper health services;
12. Not categorizing prisoners and keeping youth or general prisoners along with dangerous ones;
13. Preventing daily breathing in air;
14. Preventing prisoners' access to allowed domestic books and journals;
15. Preventing weekly meetings or contacting with their families;
16. Mental pressure to prisoners through pressures on their family members
17. Preventing prisoner's meeting with his/her attorney
18. Preventing religious praying

In present law, it is attempted not to limit torture to physical injury and spiritual tortures and effective threats also seen as customary implications of torture.

Therefore, in addition to physical injury as the top level of torture, any action to make mental pressure against prisoner can be seen as an implication of torture like keeping prisoner in single or keeping more than one person in single – celling; using blindfolds for prisoner in the environment of prison or detention place; preventing prisoners' sleep; cursing, using bad language; mental pressure to prisoners through pressures on their family members; preventing prisoner's meeting with his/her attorney and Preventing religious praying that all violate human rights and liberties.

Conclusion

New Criminal Procedure Law is seen as great transformation in domestic penal system and a fundamental step to foster fair trial. By its innovations, the law is seen as a great effort to get close to well – known penal laws global standards and a fair penal system adapted to Human Rights Global Declaration and respecting human and human rights. Despite of innovations and positive aspects of this law, some authors point out some deficiencies and problems. However, most jurists believe that executing this law can be seen as an effective initiative in implementing judicial justice in order to respect and achieve the rights of people in the society.

However, it does not mean that this law is free from any criticism. One criticism is to deprive security offenders from the right of using attorney in preliminary investigations. In article 48 which allocates to this issue, it is approved that like some cases in Military Force Judicial Organization, only certain attorneys can represent the accused. In this regard, such attorney should be confirmed by Judiciary and afterwards, they can represent the accused. It would question the independence of attorneys. Likewise, the lack of a clear definition on torture can be a gap for judges to pose their personal interests so it was merit if lawmaker considered this issue.

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