

The Role of the Accused's Attorney in the Criminal Justice System of Iran, Mashhad 2014

Authors : Mahdi Karimi

Abstract : One of the most basic standards of fair trial is the right to defense, hire an attorney and its presence in the hearing stages. On the one hand, based on the reason and justice, as the legal issues, particularly criminal affairs, become complicated, the accused must benefit from an attorney in the court in order to defend itself which requires legal knowledge. On the other hand, as the judicial system has jurists such as investigation judges at its disposal, the accused must enjoy the same right to defend itself and reject allegations so that the balance is maintained between the litigating parties based on the principle of "equality of arms". The right to adequate time and facilities for defense is cited among the principles and rights relevant to the proceedings in international regulations such as the International Covenant on Civil and Political Rights. The innovations made in the Code of Criminal Procedure in 2013 guaranteed the presence of the accused's attorney in the proceedings. The present study aims at assessing the result of the aforementioned guarantee in practice and made attempts to investigate the effect of the presence of accused's attorney on reducing the punishment by asking the question and addressing the statistical population of this study including 48 judges of lower courts and courts of appeal. It seems that in despite of guarantees provided in the new Code of Criminal Procedure, Iran's penal system, does not tolerate the presence of an attorney in practice.

Keywords : defense attorney, equality of arms, fair trial, reducing the penalty, right to defense

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