A comparative study of right of defense of the accused in the statute of International Criminal Court

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ABSTRACT: Nowadays, right of defense of the accused is regarded as one of the main principles in a fair trial in international and regional documents as well as national laws and regulations. This right has been emphasized in the statute of International Criminal Court; it has also entitled some rights such as: the presumption of innocence, right to silence, right to counsel, ban on forced confession, etc for the accused in a fair trial. In other words, the right to a fair hearing ensures that people are not punished unfairly and illegally and their rights are observed. The legal system in Iran has also acknowledged all these rights in a broader sense than the statute itself.

Key words: the accused, right of defense of the accused, fair trial, International Criminal Court, Iran law

INTRODUCTION

Since enforcement of the universal declaration of human rights, the right to a fair trial is acknowledged by governments as an acceptable global principle and is therefore made indispensable for the countries as an international convention in international law. The right to a fair trial involves a set of principles which determine the way to behave toward a person in the court in various stages. Therefore, it can make a great contribution in assessing how people’s rights are observed in the judicial system. The right of defense of the accused, that is expressed as an essential part of a fair trial in local and international documents of human rights and is supported by the countries’ internal laws and regulations, briefly refers to a set of privileges and facilities that the accused is required to have in a fair trial in order to defend him/herself against a claim that is put against the presumption of innocence in a free and humane manner (Omidi, 2004, 225). Historically, some theoretical considerations and record of these privileges can be investigated. Besides, evidence to their existence in the Roman legal system can be found. However, public support for the formal acceptance of these privileges can be seen locally from the second half of the eighteenth century and the declaration of French human rights and citizenship in 1789, and also internationally since the charter of the United Nations in 1945 was enforced. From the second half of the eighteenth century until the last years of the second half of the twentieth century, some of the declarations and internal laws of countries such as American Declaration of the Rights and Duties of Man (1774), and its Constitution (1776), the declaration of the human rights and citizens in France in 1789, its Constitution (1795) and Criminal Procedure Code (1808) had acknowledged parts of the rights of the accused and criteria for a fair trial and had emphasized their observance (Zelman, 2000, 15). A fundamental transformation in the area of right of defense of the accused occurred when the global community inherited massive violation of individual’s human rights during World War the second and they were invoked to discuss these rights as a reaction to what happened during the war. Bringing the individual to the realm of international law and making it the focus of global attention, the charter of the United Nations paved the way for several national, local and international documents and declarations. In 1948, the human rights commission of the United Nations was required through a resolution to prepare a draft of a statute to hold an international criminal court and fifty years later, in 1998, of 160 countries taking part in the diplomatic Rome conference, 120 countries signed the statute of International Criminal Court at the headquarters of the UN Food and Agriculture Organization in Rome. This statute comprises 13 parts and 128 articles (Mousavifard, 2009, 17).

Part one: the rights of the accused before trial in the statute of International Criminal Court

Right to compensation in illegal detention

The judicial system detains many of the accused, i.e., the person whose crime is not certain yet, despite the presumption of innocence and in order to preserve social order and practice criminal justice. Whenever these
accused of concern are convicted to a duration equal to or more than what they spent in temporary arrest in the court, it might seem acceptable that these arrests are justifiable. Nonetheless, the problem arises when a person spends weeks, months and even years in jail and he/she is sentenced to fine or to a period less than what they spent in arrest or even they may be acquitted.

However, when we consider such arrests from the perspective of observing the accused rights, the question arises that what the society has to do for the accused who are acquitted after spending some time in the prison. Should the years spent in prison be regarded something typical, or a fair and logical solution should be found for such people?

Despite what was said, the issue of compensating the innocent did not receive any attention in most countries during the nineteenth and the first half of the twentieth century and. The reason is that in the opponents' view, compensating the accused who is acquitted or the decree for suspension of prosecution is issued is on the one hand against some legal principles, and on the other linked to the responsibility of the government (Ashuri, 1997, 31-33).

Any individual who is a victim of illegal arrest or detainment has an indispensible right of compensation including paying damage. Paragraph one of article 58 of the statute of International Criminal Court holds that: “At any time after the initiation of an investigation, the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest of a person if, having examined the application and the evidence or other information submitted by the Prosecutor”.

The right of compensation is indispensible for people whose arrest or detainment violates internal law or international standards. In other words, the formalities of hearing for enforcing this right is not clear and is enforced by people who bring illegal arrests to the court and against the government or the person in charge. Moreover, where justice is not practiced due to violation of human rights, the amnesty international believes that the victim has the right to enjoy other forms of compensation such as guarantee not to repeat, rehabilitation, consent and assurances to returning to the initial state (Taha & Ashraafi, 2007, 83-84).

**Right of trial in a reasonable time or freedom from arrest**

Every person accused of a punitive crime and is arrested, has the right to be trialed in an appropriate time; and in case he/she is not brought to the court at the appropriate time, he/she has the right to be free until the beginning of the trial. This is because the individual has rights before trial including: his case should be prioritized and also be pursued with urgency in order not to suffer from Prorogation of Jurisdiction and the evidences are not eliminated or reduced. It should be noted that being free before trial does not mean that the individual is clear from the accusations; whereas, she is free until the time the trial begins. In other words, investigating the reasonable time of keeping an individual in custody before trial depends on the complexity of the case, the nature of the crime and number of criminals. Paragraph four of article 60 of the statute of International Criminal Court requires that: “The Pre-Trial Chamber shall ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor. If such delay occurs, the Court shall consider releasing the person, with or without conditions. “(Taha & Ashraafi, 2007, 84).

**Right of facilities and enough time for preparing a reply**

What seems essential in a fair trial is that every person accused of criminal offense is to enjoy right of facilities and enough time for defense to ensure a purposeful right of defense; this right is a crucial aspect of the principle of “equality of facilities”. Prosecution and defense should be done in such a way that ensures both parties’ right for having equal chance for preparation and filing a complaint during the trial process.

The right of facilities and enough time for preparation of a reply is indispensible for the accused and the attorneys during all stages of trial including in the court and revision stages. According to this right, the accused, especially those who are kept in the lockups should be allowed to secretly communicate with his/her attorney. Enough time for preparing a reply depends on the nature of trials and the status of the case. These factors include: possibility for the accused to have access to evidences and documents, his/her attorney, and legal time restrictions; besides, the right to being tried in a reasonable time should be in line with the right to have enough time for preparing a reply. In this regard, part (b) of paragraph one of article 67 of the statute of International Criminal Court states that: “To have adequate time and facilities for the preparation of the defense and to communicate freely with counsel of the accused's choosing in confidence”(Taha, 2007, 91-94). Thus, in order to prepare a reply as well as right of facilities, the accused has to have access to the following things:
Right to have access to information

Right to be informed is one of fundamental rights in today’s world. The right to be informed is the essential prerequisite for any defense. In other words, presenting information takes place with the purpose of protesting against illegality of individual’s arrest. Hence, before the beginning of investigation, the accused has the right to know why and of what crime he is accused. In order to defend a charge made against an individual or defend the complaint as a complainant, there is need to awareness of the accusation or the complaint made in the punitive case and to other information (Rajabi, 100, 2007). Paragraph 2 of the article 67 of the statute of International Criminal Court states that: “In addition to any other disclosure provided for in this Statute, the Prosecutor shall, as soon as practicable, disclose to the defense evidence in the Prosecutor's possession or control which he or she believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence. In case of doubt as to the application of this paragraph, the Court shall decide”.

Right of being aware of the accusations

Any person who is detained shall be informed of the reasons for his/her restriction of freedom. The main purpose behind this is to enable the detained person to legally protest against detention. Thus, the presented reasons should clearly explain the legal base of detention or arrest. In other words, the right of the accused to be informed of the charges and their causes is considered respecting his/her right of defense and striking a balance between he/she and the claimant, since ignorance about the charge and the causes leads to wastage of his/her right to defense and personal freedoms (Rajabi,2007, 101). Part (a) of paragraph one of article 67 of the statute of International Criminal Court states: “To be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks”.

The Iran laws also entitle the detainee to be informed of his/her charges and the causes of arrest immediately. The lawmaker’s intention is inferred in legislation regarding presenting a summons while arresting, immediate appearance of the person before the judicial authority and immediate explanation of the charge.

Right to have an interpreter

Any person accused of a criminal offense who does not understand or speak the language of the court is entitled to have the assistance of a competent and free of any costs interpreter, and also has the right for his/her documents to be translated. If the accused has problems understanding, speaking, or reading the language of the court, the right to interpretation is crucial to ensure a fair trial. These are essential to ensure the right of facilities to provide a reply, the principle of equality of facilities and tools and the right to a fair trial. Without any assistance the accused might not understand the trial and provide an effective reply. Therefore, the right to have an interpreter and understanding and speaking the language of the court is the main prerequisite to right of a fair trial and defending the rights of the accused. According to part (a) and paragraph one of article 67 of the statute of International Criminal Court in cases where the trial or the presented evidence are in a language other than one that the accused fully understands or speaks, he/she can have the assistance of a competent interpreter as well as translations required in a fair trial.

The right to have a free from any costs interpreter is enforced during all stages of hearing, regardless of the result of trial, including the police interrogations and initial investigations. Part (a) of paragraph one of article 67 of the statute of International Criminal Court requires that: “To be informed promptly and in detail of the nature, cause and content of the charge, in a language which the accused fully understands and speaks”. The right to have an interpreter is the main part of right of personal defense and the right to have enough time and facilities to provide a reply. However, if the accused speaks or understands the language of the court appropriately but prefers to speak another language, the authorities are not required to provide a free interpreter for him/her (Taha, Ashrafi, 2007, 203-205).

The rights while being questioned

The importance of interrogation necessitates that the accused applies prudence in responding the questions of judicial authorities so that he/she would not put him/herself into trouble by giving inappropriate remarks. The awareness of the accused of this point is crucial in his/her judicial destiny. However, the people, especially while appearing for the first time as the accused before the judicial authorities, are so mentally concerned that they are not able to understand the status of interrogation and its following effects, and should the necessary cautions are not advised before the interrogation they most likely might cause a damage to their reputation, freedom, property and even their lives by giving inappropriate remarks. Therefore, not complying with the legal formalities in declaring prudence in the accused remarks can violate the appropriate defense right of the
accused (Rajabi, 106, 2007). Those accused of criminal offenses, especially the ones kept by law enforcement officials for the purposes of interrogation, are vulnerable people who are exposed to instances of violation of human rights including torture and other cruel acts during criminal investigations and interrogation. There are various rights to ensure the security of the accused during interrogation. These include:

**Right of silence**

Right of silence is among defense rights of the accused and means that the accused refrains from answering the judicial authorities’ and executives’ questions about the accusations against him. Not declaring the right of silence to the accused by the executives might make the accused who is not aware of legal formalities to give remarks against herself. Not observing such right not only increases the authority of the executives in shriving the accused through illegal methods, but also exposes the rights of the accused to violation by the judicial executives (Rajabi, 110, 2007).

It should be noted that most criminal prosecution systems have acknowledged that the accused has the right to apply his power to respond or refrain from responding. In other words, the laws of countries have either predicted clear regulations in this regard, or the judicial procedure has gradually affirmed such right for the accused (Ardabili, 214, 2004).

There is much said about the philosophical and ethical bases of the right of silence of the accused. Do the ethical codes allow the accused who is being interrogated to remain silent or to tell lies in response to the questions of authorities seeking the truth? Isn’t it that the accused has committed a fault in this case? The answer is yes in the writings of Christian canonists and scholars based on which are the beliefs of the church. Saint Thomas Aquinas and his followers believed that the accused is obliged to tell the truth even though that might take his life (Ardabili, 216, 2004). However, although the moralizers today acknowledge that the accused is able to refrain from answering the questions in order to escape justice or answer them in a way that he is not gotten into trouble, none of them allows for telling lies and consider it as inherently bad (Bekaria, 15, 2001). The reality is that the accused being under the condition of interrogation poses a great threat for him and endangers his reputation and dignity and freedom. The sheer making of the accusation causes the sense insecurity and detention of the accused to obtain more information deteriorated these conditions. Hence, the belief that the prosecutor’s office and the accused do not have equal authority before the judicial system is right. The prosecutor’s office enjoys public support while the accused does not (Khazani, 130, 1998). With regard to observing the right of silence that is among the defense rights of the accused, part (b) of paragraph two of article 55 of the statute of International Criminal Court states that: “Where there are grounds to... that person is about to be questioned either by the Prosecutor... he or she shall be informed prior to being questioned... to remain silent, without such silence being a consideration in the determination of guilt or innocence”. Moreover, part (g) of paragraph one of article 67 of the statute has taken this point into account. The right of silence during the interrogation of a detained person accused of criminal offenses is vulnerable since the law enforcement officials try their bests to obtain remarks from the detainee that signify his/her guilt and enforcing the right of silence neutralizes such efforts. Right of silence is included in many internal legal systems, although it is not clearly declared in international human rights treaties (Taha & Ashrafi, 101-103, 2007).

**Ban on compelled confessions**

It should be mentioned that the aim of interrogation is to discover the truth and not imposing one’s will on the accused. Thus, the interrogator or the judge has to discover the truth by posing useful and clear questions and refrain from resorting to illegal methods in this regard. In Shiite jurisprudence, of the requirements for the confessor is that he/she shall be sane, mindful and free. Hence, the confession of an insane or a forced person is against the Sharia law (Shahid Thani, 33). However, some general Faqihs has allowed torture to obtain confession by the ruler of Islamic community but they have banned it for Sharia judges; whereas, the twelver faqihs have banned torture absolutely whether it be spiritual or physical and regard it against Sharia (Montazeri, 571, 1988).

Article 38 of the Constitution of the Islamic Republic of Iran holds that: “Any kind of torture used to extract an admission of guilt or to obtain information is forbidden. Compelling people to give evidence, or confess or take an oath is not allowed. Such evidence or confession or oath is null and void”. Besides, methods such as prolonging the interrogation and frustrating the accused without letting him/her to take a rest is considered a mental torture and the results obtained this way have no judicial and legal value (Rajabi, 117, 136).

According to different views, even implementing intense punishments did not mean banning torture, and hence it is no wonder that torture is reproached by punitive pioneers and attempts were made to differentiate between punishment and torture (Nourbaha, Reza, www.jhavenin.ir).

No one accused of a criminal offense shall be compelled to confess or give a testimony against himself or herself and this right to ban on compelled confession is observable in both before and after the trial. Part (a) of
paragraph one of article 55 of the statute of International Criminal Court holds that: “the accused shall not be compelled to incriminate himself or herself or to confess guilt”.

Furthermore, the human rights committee holds that “compelling to provide information, to confess, obtaining confession by torture and other brutal acts are all banned”. Therefore, deceiving the accused while interrogating him/her is banned and the obtained confession is worthless. Part (g) of paragraph one of article 67 of the statute of the international criminal court which holds: “the accused shall not be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence” emphasizes this fact.

**Part two: right of defense for the accused while hearing in the statute of International Criminal Court.**

A fundamental principle and a prerequisite to a fair trial is that the court issuing a verdict on a case should be held by the law and be impartial and qualified. The first basic assurance of a fair trial is that the decisions shall not be taken by political organizations; rather, they must be taken by an impartial and independent court. The right of people’s hearing in the court along with assurances that exist for the accused during criminal investigations are the most basic principle of legal procedures. Below are the points included in right of defense for the accused during trial.

**Right of fair hearing**

Anyone is entitled to fair hearing and this is among citizens’ absolute rights which have received much attention in international documents and constitutions of most countries. Right of fair hearing is an indispensable part of a fair trial. Right of fair hearing in international trials is determined by some relevant and real rights such as the presumption of innocence, trial without undue delay, provision of reply, defense through an advocate or personally, right to summon and question the witnesses, and right of defense against retroactive criminal laws. Nevertheless, according to international standards of legal trials, these rights are the minimum assurances of a fair trial. Observing each of these assurances does not lead to a fair hearing in all cases. Right to a fair trial is broader than personal assurances and depends on appropriate holding of the trial (Taha, 2007, 193-197).

The equality of facilities between the two parties of the case is another guarantee to a fair hearing. Paragraph one of article 67 of the statute of International Criminal Court holds that: “In the determination of any charge, the accused shall be entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially… in full equality”. In criminal trials in which prosecution is fully supported by the government, the principle of equality of basic facilities is for the right of personal defense of the accused.

**Right to a public hearing**

Right to a public hearing means that ordinary people as well as the two parties of a case are entitled to appear at the court. The public has the right to know that how justice is implemented and how the verdicts are reached in judicial system. Public hearing is a basic guarantee for fairness and independence of judicial procedure and a support for public trust in judicial system. Public hearing requires holding public oral sessions on the nature of the case in which all people including media can take part. The court shall disclose the information regarding the place and time of the sessions to the public and make enough provisions for appearance of interested people by exerting reasonable restrictions (Mourse, 215, 1986). Paragraph one of article 67 of the statute of International Criminal Court signifies this. Access to all criminal and legal hearing sessions, except for few exceptions, should be public.

**The presumption of innocence**

It is the principle that everyone is considered innocent until proven guilty. This principle is regarded as the Mother Principle in criminal trials since it prevents judges’ and the police’s arbitrariness in detaining and violating the civilians’ rights and guarantees their freedom. In cases where accusations are made, it eliminates the possibility of using force against the accused and by ensuring the accused right of silence, it binds the prosecution authority to prove the accusation (Shmas Nateri, 290, 2004). In Islamic law, the presumption of innocence is acknowledged based on Holy Quran (17: 15) and Sharia laws. Effects of the presumption of innocence pertaining to the right of defense of the accused include:

- The necessity of interpreting uncertainty to the favor of the accused
- Interference of the judicial authority in depriving the accused from his/her freedom
- The prosecution authority is required to obtain and disclose the evidence
- Ban on forcing the accused to prove innocence or confession against him/herself
- Immediate freeing of the accused as soon as the acquittal is issued
Existence of clear laws about right of objection of the accused to the arrest and immediate hearing of it in an impartial court
Recover the accused whose arrest is regarded as unjustified (Ashuri, 205, 2000).
Observing the presumption of innocence from the beginning of the accusation to the end of final hearing is necessary. The police and investigation, prosecution and hearing authorities are responsible for the presumption of innocence (Ashuri, 1999, Maava journal 266-268). Article 66 of the statute of International Criminal Court holds that: "Everyone shall be presumed innocent until proved guilty before the Court in accordance with the applicable law".
This presumption is so emphasized to be protected that even in cases where the conviction of the accused is presumed based on clear evidence this shall not affect the presumption of innocence (Ashuri, 2000, 216).

Ban on retroactivity of punitive laws
The effect of law is in the future and no one shall be prosecuted for doing or not doing a deed that was not done at the time of committing the crime and no one can be prosecuted more than once in a judicial area. Article 22 of the statute of International Criminal Court holds that: "A person shall not be criminally responsible under this Statute unless the conduct in question constitutes, at the time it takes place, a crime within the jurisdiction of the Court. However, people can be prosecuted for committing crimes such as genocide, crimes against humanity, war crimes, slavery or torture even if these actions were not regarded as a crime according to internal laws. Hence, the ban on retroactivity of punitive laws prevents from punishment more than what was assigned in the laws at the time of committing the crime. Nevertheless, the governments are bound to retroact, if after committing the crime milder punishments are stated in the laws. In any way, with regard to article 20 of the statute of International Criminal Court which holds that: "No person who has been tried by another court for conduct also proscribed under article 6, 7 or 8 shall be tried by the Court with respect to the same conduct unless the proceedings in the other court: (a) Were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court; or (b) Otherwise were not conducted independently or impartially in accordance with the norms of due process recognized by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice" it can be said that persons who are tried in internal courts because of severe violation of human rights can be tried in international courts in order not to regard the conduct that the person has done as an ordinary crime, or the proceedings of hearing were not conducted independently or impartially, or the jurisdiction of the court has been towards acquitting the accused from criminal responsibility, or the case is not fully tried in the court (Taha & Ashrafi, 2007, 164-167).

Right of trial without undue delay
The hearings shall begin without undue delay and the final sentence shall be issued after all revisals are made. This right binds the authorities to ensure that the pre-trial stages and revisal are done in due time. Part (c) of paragraph one of article 67 of the statute of International Criminal Court holds that the accused shall be tried without undue delay. Ensuring immediate trial in criminal courts is connected with the right of freedom, the presumption of innocence and right to defend oneself. The aim is to guarantee that the person's destiny is determined immediately and not to attenuate his/her defense since the witnesses' memories might deteriorate by passing of time and they might become inaccessible and other evidence may vanish. While hearing a case, reasonable time is the time during which a case is heard and several factors including nature of the crime, number of accusations, nature of necessary investigations and number of people concerned and the witnesses are effective in determining whether the time is reasonable based on the complexities of the case (Taha, 2007, 169-173).

Right to defense in person or through legal assistance
Any person accused of a crime has the right to conduct the defense in person or through legal assistance of his/her choosing. Right to have an attorney and declaring it from the beginning of crime discovery until enforcement of the law is among the most important guarantees to the right of defense.
Part (d) of paragraph one of article 67 of the statute of International Criminal Court holds that: "Subject to article 63, paragraph 2, to be present at the trial, to conduct the defense in person or through legal assistance of the accused's choosing, to be informed, if the accused does not have legal assistance, of this right and to have legal assistance assigned by the Court in any case where the interests of justice so require, and without payment if the accused lacks sufficient means to pay for it". Right to make use of legal assistance includes the right to choose an attorney or, where the interests of justice so requires, to assign a public defender and without payment if it is required. Moreover, the accused and his attorney (if any) shall be given enough time and facilities to be prepared
for defense (Taha & Ashrafi, 2007, 176). In Shiia jurisprudence (Fiqh), under the title attorney in arguments, the
faqih have allowed right to have attorney in all criminal and civil cases (Khomeini, 2004, 45).
Even in some Islamic law literature, not assigning an attorney during the crime discovery stage and
interrogation and initial investigations is regarded contrary to the interests of justice (Jafari Langerudi, 1984, 446).
This right is enforced even when the accused does not want to take part in the hearing since it is a way to ensure
protection of human rights of the accused, especially right to a fair trial.

Right to Revision of Sentences
Any person being accused has the right to protest the sentences issued in a higher court. This right is clearly
acknowledged in Iran’s legal system in article 232 of Civil Procedure Code. Although in Iran law, the sentences are
basically certain, the cases of revision are so abundant that include all crimes with major punishments in such a
way that we can consider revision as the basis (Akhoundi, 2010, 179). Part (d) of paragraph one of article 67 of
the statute of International Criminal Court holds emphasizes this right. Right of presence of the accused in revision
stage depends on whether the revision court investigates the natural issues similar to formal issues in a way that
protects the interests of the accused. If the revision court has competency to decide on natural and formal issues,
fair trial necessitates presence of the accused in order to protect his right of defense.

CONCLUSION AND FURTHER SUGGESTION

One of the main purposes of international criminal law is to prevent criminals to go unpunished. This is
pinpointed in the preamble of the statute of International Criminal Court which states: “Affirming that the most
serious crimes of concern to the international community as a whole must not go unpunished and that their
effective prosecution must be ensured by taking measures at the national level and by enhancing international
cooperation”.

With regard to the abovementioned points and emphasizing the right to a fair trial to ensure that
international criminals are not punished illegally and unfairly, the statute of International Criminal Court, in article 67
determines some rights for the accused and states: “In the determination of any charge, the accused shall be
entitled to a public hearing, having regard to the provisions of this Statute, to a fair hearing conducted impartially,
and to the following minimum guarantees, in full equality”.

The social rights of the accused which are clarified and emphasized in this statute are based on social
logic, historical experiences and human emotions. Social logic requires that rights of the accused be introduced in
line with rights of the society. Also, these rights should be defended without violating the public good. Moreover,
unfortunate historical experiences, violation of rights of the accused has much encouraged seeking and clarifying
these rights and their individual and social effects. Human emotions that exist within every righteous person’s soul
have contributed to protect the rights of the accused besides experience, logic and knowledge. Thus, it can be said
that in order to preserve human values of the accused, his rights are clearly defined in the statute of International
Criminal Court to prevent arbitrariness in hearing international crime cases and violating the rights of the accused.
Today, this right is included and supported in international and national documents as an important principle of a
fair trial. Therefore, to better observe the rights of the accused we suggest that:

About the jail punishment and emphasizing that the accused be tried in a country that the Court determines
or a state voluntarily wants to allow the accused to suffer his/her punishment in that country, the accused be
delivered to his or her native country to suffer his/her punishment and the Court fully observes his or her sentence
period in order to allow his/her family to easily enjoy the right of visiting the accused.

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