



## Charge on Procedure Code 1392 and international instruments

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### ABSTRACT

being aware of the charges and reasons for being one of the most important rights of defendants at all stages of criminal proceedings in which almost all international instruments on human rights, both at international level and at the regional level, the recognition of such a right, to have a right to know the reasons against the persons arrested, caught, arrested and eventually convicted, they noted, has been endorsed and code of Criminal Procedure also stipulates the right of the accused, duties for law enforcement officials and the judiciary has ordained. With the use of certain practices such as charge notification, the notification of summon letter and awareness in the press is trying to meet them. Under Article 32 of the law. A. C. D. One of the rights of the accused who is charged with guaranteeing the fairness of the proceedings and all Law enforcement must handle all preparatory steps to comply. Therefore, awareness of the Code of Criminal Procedure, 2013, at all times and in the right of all people that their personal security is compromised in some way as a result of police actions and has been specified. The researchers sought to examine the laws governing the rights of the accused and the charges against him, the exact dimensions of the preliminary investigation proceedings and the charges against the accused in the preliminary stages highlighted in domestic legislation and the implementation of international conventions in support of the charges against the defendants created; to some of the challenges and shortcomings of domestic law in support of the charges against the defendants to pay.

### Keyword:

Accused, charged, legal proceedings, international standards

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## INTRODUCTION

One of the main reasons for the charges awareness of the issue is the most important guarantee for the rights of the defendants at all stages of criminal proceedings. Almost all international human rights instruments or regional identified such right as the arrest of the reasons against individuals, draw, was arrested and eventually brought their convictions have given a seal of approval. Code of Criminal Procedure 2013 being influenced by global model of fair trial and Comparative studies and new approaches has being away from the new audit procedure on the preliminary investigation stage. (Shamlvahmdy, 2002: 33) Diversity of supply arrangements in the bill and the rights of defendants and the charges against the defendants and the inclusion of requirements on monitoring judicial appointments is one of the main measures taken in the new Code of Criminal Procedure (zamani, 2014).

On the procedure of knowing charges, judicial authorities, particularly prosecutors, investigators, and interrogator and research prosecutor does have the major role. Police and officials does have also responsible role as critical at this stage of procedure. Since the discovery of the crime, the judiciary shall prosecute for the accused to have the judicial record form. (Zamani, the same)

### *Defense rights of the accused*

Defense rights of the accused are the most important topic on human right and have been mentioned on human rights documents. The basis of defense rights of the accused should be analyzed by the characteristics of the modern era that has been distinguished from pre-modern eras by creating and establishing modernity and strict sense by political modernity. The first division of the divided right is perhaps the famous division of right being the right and the right of having. In this division, first the concept of right is a value and almost is equal to being good or correct in which does have long historical preliminarily on right on the second meaning. Second meaning of the right is to enjoy some advantages in which legal system support them. (Golding, 2002: 248).

Iranian criminal procedure laws, like for example other countries, the rights of defense is not defined. Defendant rights of defense have been defined as "set of points which the defendants may not be ensured from availability of criminal procedure (Carnot, 2008: 149).

### *The charge status in international instruments*

#### *The concept of charges in international documents*

The understanding that each defendant be informed of the nature of the criminal charge before the study began, so as to provide the appropriate defenses. Charges that are considered vital for basic human rights declarations and even ordinary laws of most countries. (Assyrian, 2011: 264).

#### *The charge from the perspective of international documents*

According to domestic law and international instruments, the necessary charges against the accused have been discussed in any of the proceedings and each stage is subject to the terms and procedures of their own. Below each of the steps we speak.

Charge realization on chase Stage:

According to international regulations, pursuant to section 3 of Article 9 of the International Covenant on Civil and Political Rights adopted on 16 December 1966 the United Nations General Assembly on 23 March 1967 has entered into force and The Iranian government also joined on 8.March.1975 and in accordance with the provisions of Article 9 of the Civil Code it is for our country in the rule of law, "Anyone who is arrested shall be informed immediately at the time of arrest, of the reasons for his arrest."

According to paragraph 2 of Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 15 (approved on November 4, 1950 European Convention on the Rights of the Council of Europe) that has been in force on 3 September 1953, "A person who is arrested shall be promptly, in a language which he understands, of the reasons for arrest and any charges against him, to be informed."

Also paragraph 4 of Article 7 of the American Convention on Human Rights, adopted on 22 November 1969 in Latin America and the Caribbean reached and of 18 July 1978 has entered into force, states, "Any person who is detained should be informed of arrest reasons and should immediately be informed of the charge or charges against him there." Paragraph of the "urgency" of the detention spoken to process meanwhile, the governing "the arrest" is not charged.

According to subparagraph "1" paragraph "1" of the 88 principles and guidelines on the right to a fair trial and legal assistance in Africa 18 (Principles and Guidelines in Africa), adopted by the African Commission on Human and Peoples' Rights (Maputo -Mvzamyk 4 to July 2003), "Anyone who arrested at the time of the arrest in a language which he understands of the reasons for arrest and charges should be informed." Said the "time" indicates the urgency to understand the defendant's arrest.

### *Charge realization in court*

In various international documents, charged by judicial authorities has been formally predicted. The International Covenant on subparagraph "a" paragraph "3" Article 14 says: "In deciding on any criminal charges following guarantees everyone the right to have: immediately, detail in a language which he understands, of the nature and cause of the accusation against him to be informed." (Abdullahi, 2011: 22)

### *Formally charged components from the perspective of international instruments*

In addition to the accused described the charges against the alleged charges should contain other components that had been anticipated in the international instruments. The materials related to the charge, in international instruments of components "arrested", "because the banned", "nature of the charge," "accused", "applicable law", "alleged incidents" have been discussed in which in this study, the researcher has sufficient only to mention their titles.

### *Conclusion:*

Principally, criminal procedure code issues has been paid attention to it today is:

Subject charge to the accused by the judicial authorities and announcing the charges to the accused by the police as a court restraining. Although the underlying charge is not

proof of guilt, however, in the beginning, to recognize warning to the accused and his warning about the place. Unaware of the charges against the accused emission, the road that showed no sign of danger or alert. The defendant in the path of self-defense should not be ignorant or surprised. But he shall be formally charged for the charges angles. He was then questioned. In order to strengthen the rights of the accused in some cases the Code of Criminal Procedure 2013, the possibility of relying on web invalid credit preliminary investigation has predict. As we have seen, Article 190, disability, or denial of the right to communicate with counsel to the accused the right to bring discredit the research is considered. However, in new law as previous law, sanction of nullity as a general rule not been addressed in lack of observing the rights of the accused.

In nearly all evidence so far of human rights has been adopted by international authorities, the same content can be seen, these documents are summarized on this point agree that their human rights and freedoms that must be necessarily and effectively support it and in case of violation of these rights, governments are bound to make arrangements to provide for the rights of people. To recognize the rights and freedoms of people today can hardly be satisfied by internal resources texts. The bulk of these rights and freedoms in international instruments or regional arise. The latest international document in which the rights of defendants and ensuring that the above examples can be pointed to the Statute of the International Criminal Court in which in accordance with Article 67, the law contains a fair, impartial and independent investigation into allegations that persons have been entered.

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**International documents:**

- Global announcement of human rights, approved on 10 December 1984
- European convention on maintaining human rights and basic freedom, approved on 4 November 1950
- Civil and political international law convention, approved on 16 December 1966

**Applied law:**

- Code of Criminal Procedure 2013
- The second principle constitution.
- The fourth principle constitution.
- Article 163 of the constitution.