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A Review on Garnishments from Legal and Juridical Perspectives

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Abstract

This research aims to investigate the term "garnishment" from legal and juridical perspectives. This research used a descriptive-analytical methodology and employed library resources. The results show that from a legal perspective, specific conditions have been considered in issuing a garnishment that takes into account the rights of the accused, but still in legal literature, this act is in contrast with the freedom principle and presumption of the innocence. Just like summoning and temporary detention, a garnishment not only does not have any place within religious rules; but also general jurisprudence and especially what is deducted from the context of being arrested on the charges of murder say that you shouldn't arrest someone or require them to be present or make them offer collateral or bail. However, Jurisprudential Documents show that issues such as temporary detention and determining bail in order to make things clear have a jurisprudential background. Also, jurisprudential texts mention the requirement for bail and arresting the defendant if there is a witness. From these texts, we can mention the jurisprudential principles of garnishments. Maybe we can ratify and implement this in positive law that is determined and written by people as a "social contract" which can be deemed correct based on the principle that says "the believer must abide by his commitments." However, when Sharia disagrees with the same law, then we can no longer choose people's wills over a Sharia legislator in an Islamic society. Therefore, issues related to "garnishments" have no jurisprudential significance in terms of primary sentences, unless they are a "religious order" from a Mujtahid, then they can be considered as compatible with Sharia laws.

Keywords: Garnishment; Temporary Detention; Bail; Law; Jurisprudence

1. Introduction

Orders that are issued from the beginning to the end of the trial include most of the court's decisions. One of these orders is garnishments, in this sense that there are possibilities and suspicions regarding the defendant between the initiation of proceedings and the final verdict; including the possibility of escape, transferring properties and destroying evidence or any other abuse that will disrupt the verdict and deny the plaintiff of his/her right. Based on this, legislators have discussed this matter in some parts of the civil and criminal procedure rules. Articles 108 to 129 of Civil Procedure Rules (CPR) have discussed the garnishment (garnishment and its types). Attachment of an official document to the claim, possibility of the claim to be denied, commitment of the plaintiff to pay possible damages is some of the conditions expressed in article 108 of CPR to prevent the violation of the claimant's rights. Also, articles 217 to 246 of criminal procedure rules (approved in 2013) have discussed garnishments in a criminal trial and article 217 has determined that in order to have access to the accused and to ensure his presence at the court, prevent her/him from escaping or hiding out, to guarantee the rights of the victim and compensation of his/her losses, the magistrate can ask for a garnishment based on sufficient evidence and after briefing the accused of his/her charges. Based on the type of the claim, the judge will determine whether the garnishment will be bail (and will determine its amount), collateral or temporary detention. Considering the issues mentioned above, now there is the question of whether issuing a garnishment is valid from a jurisprudential perspective. In jurisprudential resources, Islamic jurists (Faqihs) have expressed different opinions regarding this issue, without differentiating between civil and criminal trials. Based on this, this research aims to express these opinions and their reasoning, and finally, after evaluating their reasons, we present our final opinion based on Islamic narratives and general rules and principles. Therefore, answering this question is practically very important, because courts deal with this issue many times, and reviewing it in jurisprudential terms helps us make legal issuances clearer.

2. Theoretical Bases

2.1. Order (Qarar)

The word "Qarar" (directly translated as order) also means "stability, strengthening, determining and emphasizing" (Dehkhoda, 1993, issue 1, p514). In another dictionary, it means "unbreakable verdict." In terms of terminology, "order includes the court's decision in adversarial processes that does not end the argument (Jafari Langeroudi, 2007, p531).

2.2. Provision (Ta'min)

The word "Ta'min" (directly translated as provision) means being secured and saved (Malouf, 2001, p35). In terms of terminology, Ta'min means putting something or someone in safety and security. Therefore, Ta'min means getting collateral and guarantee (Jafari Langeroudi, 2009, p13) and in civil procedure rules, it means seizing the property, both moveable and immovable (article 121, civil procedure rules).

2.3. Garnishment (Ta'mine Qarar)

Garnishment is a precautionary strategy that is used to seize the defendant's property (equal to what is claimed by the plaintiff) until the end of the trial and makes that property non-transferable so that the plaintiff can receive his debt (Sadrzade, 1993, p344). This act is not exclusive to Islamic jurisprudence,

and this legal act dates back to ancient Persia and even before. It has been said that "in ancient Persian and a thousand years before that, the plaintiff could ask the court for an immediate order to seize money or another kind of property with the same value (from the debtor) and keep it as a collateral until the trial is over" (Shams, 2006, 3rd vol, issue 695, p427).

3. Garnishment in Civil Law and its Effects

3.1. Implementing Garnishment

Since issuing a garnishment alone cannot help the plaintiff achieve his/her goal, therefore implementing it is the ultimate effort mounted by the plaintiff and the court. In most of the cases, implementing garnishment is incorporated with forced actions by the judiciary system. Because most of the defendants not only do not give out the records of their properties, but they also put all their efforts into concealing these occupied properties and doing these things, they aim to put the plaintiff in a weaker position and frustrate them. Thus, implementing garnishment is the ultimate power of the plaintiff in this claim. In doing this garnishment, if the subject of the suit is a particular property, that property gets seized, but if it's not a particular property and it's cash, that amount of cash gets specified in the garnishment, and then to implement it, a part of the defendant's property whose value equals to that amount of cash gets seized. Properties that get seized might be moveable or immovable properties or cash. Because article 126 of civil procedure rules stipulate that "seizure of property, whether moveable or immoveable, creating an inventory and evaluating and preserving the seized properties and seizure of salaries and moveable properties that are given to a third party follow a sequence that has been predicted in the civil procedure rules." Therefore, the lawmaker has determined the seizure sequence based on a procedure in the civil procedure rules (Bonaki, 2012, p99). Also, based on article 65 of the CPR, the following properties do not get seized by the court order:

1. Clothes and objects that are necessary for the losing party and his/her family
2. Food and groceries necessary for one month
3. Simple tools and equipment of farmers and workers
4. Properties and objects are unseizable by specific laws (such as tools exclusive for farmers)

Note: Poems, writings, and translations that have not been published yet do not get seized without the consent of poet, writer or translator and in case of their death, they will not be seized without the consent of the heirs or their deputies. (Article 65 of CPR).

Article 61 of the regulations on the implementation of enforceable official documents stats: the following properties and objects are exceptions from the debt and will not be seized.

1. An appropriate house for the needs of the losing party and his/her spouse and children.
2. Clothes and objects that are extremely necessary for the losing party and his/her family.
3. Food and groceries for 3 months
4. Work tools and equipment for workers and farmers that are required for making a living
5. A vehicle appropriate for the needs of the committed party and his/her family.
6. Specific laws can not seize other properties and objects.

3.2. Effects of Garnishment in the Civil Law

If garnishment is executed after its issuance, it will have different effects on the plaintiff, the defendant and sometimes third parties; therefore, lawmakers have set some rules in this regard, and we will discuss these effects in the following. Reflecting on the issues regarding garnishment, we realize that the issuance alone does not create practical effects; meaning that the plaintiff does not receive what he wishes and the issuance alone does not put the defendant in a bad situation. Thus, it is the implementation of the garnishments that inhibit the defendant from moving the seized properties and if the property gets moved after the implementation, it will be illegal and will not be effective in the plaintiff's rights. Some lawyers have stated: "issuing a garnishment, as long as it is not implemented, does not do any damage to the defendant and in fact, an order which means the existence of financial commitments does not do any material or moral damage to both parties (Shams, the same, issue 784, p469). Article 4 of the law on how to execute financial convictions states: If someone transfers his property to get away with this payments, financial commitments and financial convictions and remainder of his/her property will not be sufficient to pay the debts, this act will be considered illegal and in this case, the exact property will be retrieved from the transferee, and otherwise its equivalent in cash will be seized from that person (Article 4 of the law on how to execute financial convictions states).

4. Garnishment in Criminal Courts and its Effects

One of the orders issued in criminal courts is garnishment. The legal document for this act is article 107 of the criminal procedure rules, which states: "the plaintiff could ask for a guarantee that damages to his/her will be compensated. If there is acceptable evidence, the magistrate will issue a garnishment". According to the note ", if a garnishment issue seizes the defendant's properties, the magistrate will have to consider this issue in issuing a criminal garnishment" (Article 107 of criminal procedure rules). Regarding the provision of the property, article 108 of this law stipulates "if what the plaintiff wants is not specific, or is specific but cannot be seized, the magistrate seizes its equivalent from other properties belonging to the accused (Article 108 of criminal procedure rules). After informing the accused of the garnishment order, despite a deadline of 10 days for objection, the garnishment order can be implemented. Due to article 109 of criminal procedure rules, "garnishment order is executed according to the civil procedure rules on executing criminal convictions in the related court." Moreover, solving the execution problems is up to the magistrate or the judge as authorities responsible for the execution of criminal convictions.

5. Criminal Garnishment in Primary Investigations and other Proceedings

In the process of primary investigations, the accused, which has not yet been convicted, has a right to freedom and should not be restricted (presumption of innocence). Therefore, after informing the accused of his/her charges (except for the order on not being able to leave the country) , the authority will issue an order based on the importance of the committed crimes, reasons for the charge, possibility of escape or destruction of evidence, background of the accused and his/her physical conditions and personality (Sattari, 2013, p95). Thus, criminal garnishments are considered as interlocutory orders that are issued in order to complete the primary investigation, prepare the criminal case, collect evidence, and also to have access to the accused. In criminal procedure rules approved in 1999 (editions ratified in 2002), articles 132 and 133 discuss criminal garnishments and include the following: 1. obliged to be present by promising 2. Obliged to be present by determining penalty clause 3. Seizing bail 4. Seizing collateral (Cash, bank guarantee for a moveable or immoveable property) 5. Temporary detention and also an order to keep the accused inside the country (Amiri, 2013, p85). In chapter 7 of the new criminal procedure

rules approved in 2013, the number of criminal garnishments has increased to 10. Due to article 217 of the new law, in addition to the 5 items mentioned above, the followings have also been added: "obliged not to exit the legal jurisdiction by a promise", "obliged not to exit the legal jurisdiction by a penalty clause", "obliged to introduce himself/herself weekly or monthly to the court by a penalty clause", "Making official servants or members of armed forces be present at court by a penalty clause" and "obliged not to leave the house or the determined residence by a penalty clause, using electronic surveillance". Also, based on note 1 of article 217 of issuing a bail, the performance bond is not accepting 4 out of the ten mentioned orders by the accused. According to article 237 of the new law on temporary detention, the principle is not to issue a temporary arrest, and in the stipulation of the mentioned article, the order of temporary detention (obligatory) has been removed, except in the rules for armed forces (Movaqar, 2014, p14).

6. Jurisprudential Authorization for Issuing a Garnishment

In Islamic jurisprudence, there has been no discussion on establishing the concept of garnishment. In Hanafi jurisprudence and in some cases (like the defendant's silence against the plaintiff's claim), the belief is that the claimant should be provided with what he claims if the claim cannot be denied, the scholars of this school of thought may have given this opinion based on their circumstances (Jafari Langeroudi, 2001, p442). Some scholars consider garnishment to be religiously unlawful, but regardless, the mentioned mechanism does not have any contradiction with jurisprudential principles, and it is compatible with fundamental rules of Islamic jurisprudence. Generally, establishing the concept of garnishment can be related to three jurisprudential principles, and we will discuss the relationship between each one with the mentioned establishment.

6.1. Dominion Principle

The meaning of the dominion principle is the absolute legal power of the owner to exercise dominion or control over his/her property and all the related properties, and no unlawful agent can deny the owner of his/her right to occupy his/her properties.

6.2. The Judge Is Legal Guardian for Refuse

Islam's Sharia has not established the dominion and possession principles based on the independent will of humans, but they are based on God's will, and they are traditionally given to us by God and because of this, possession and ownership are respected only when they're compatible with Sharia law, and that's why the generalities of dominion principle are sometimes violated by the Islamic lawmaker and have been limited and conditioned. One of the provisions added to the dominion principle is limiting possessory ownership to respect other's rights. Such as prohibition to occupy possession of someone who has gone bankrupt and occupying the possessions of the mortgagee by the mortgagor when it denies mortgagee of his/her rights and also the prohibition of property possession by mentally-ill or lunatics (Zanjani, same, p72-74). Garnishment can also be considered as one of the limitations in possessory ownership to respect the rights of creditors. Thus, based on the principle of "judge is the legal guardian for refuse", the judge has the right to disrupt the possessory ownership on behalf of the defendant under lawful conditions and seizes the owner's properties in order to save the plaintiff's rights and to apply the "the principle of no harm". (Haqani, 2016, p115).

6.3. Principle of No Harm

Generally, we should say that the "no-harm principle" prohibits any unlawful damage to people. The requirement for application of the "no-harm principle" in garnishments is the same of the judge's intervention in possessory ownership, and this means conflict between the no-harm principle and monarchy principle and priority of the no-harm principle is inevitable; because the lawmakers have forged the credit monarchy and if it causes any damage, it should be negated with the no-harm principle and it should be stated that the lawmaker does not give credit to the monarchy here, because the requirement for giving credit here is imposing harm and the damage is elevated (Mousavi Bojnourdi, 1993, 69).

Therefore, it should be stated that even though garnishment was not predicted explicitly in Islamic jurisprudence, but it matches the jurisprudential rules, and the Islamic Sharia implicitly confirms it. It is not possible to predict all the laws that need to be designed in accordance with current needs to adjust the legal relations between the members of the society; but the rich Islamic jurisprudence knows the fundamental rules that are compatible with human spirit and has provided a groundwork to establish proper legal rules in each period of time to adjust social relations.

Conclusion

Some conclusions can be drawn about garnishment in civil law by reviewing the mentioned subjects:

1. Garnishment is only a precautionary supportive institution.

2. This institution existed in ancient Iran.

3. In Ja'fari Jurisprudence, garnishment or an establishment like it has not been explicitly predicted. However, considering the existence of principles such as no-harm principle or "The Judge Is Legal Guardian for Refuse" shows that Muslims have used the benefits of such institution using these principles which lawyers call "garnishment", and also it was reviewed that in the conflict between dominion and no-harm principles, the latter has priority.

4. In article 108 of civil procedure rules, the law has given the plaintiff authority to ask for a garnishment issuance before the main lawsuit, during it or after it and as long as the trial is ongoing. When the plaintiff asks to use this institution before the following lawsuit, he/she is obliged to take legal action within ten days after the garnishment issuance.

5. It seems that the 10-day deadline for following the main lawsuit in article 112 is because the lawmaker assumes that the plaintiff will follow up on a lawsuit and answers the plaintiff's request on the same day and issues or rejects a garnishment. Otherwise, he should have followed the main principle and started the deadline from the day the garnishment was issued.

6. The right of priority for the plaintiff was specifically mentioned in the old civil procedure rules, but the new law has removed article 269 of the former civil procedure rules and has not yet determined a replacement article that recognizes this right. Because of this, some lawyers argue that removing article 269 without a replacement is because of the existence of article 148. It seems that affirming this right for the plaintiff in the current civil procedure rules is necessary.

7. As long as the issuance has not been implemented, it will not have any effects, but as soon as it is implemented, it will have positive and negative impacts on the defendant and sometimes third parties.

8. The presumption is that the plaintiff can ask for the seizure of all types of properties except for those mentioned in article 65 of the civil procedure rules if the plaintiff does not specifically lay claim on such property. Because if the plaintiff lays a claim on a particular property and although it may be one of those mentioned in article 65, it will be seized regardless.

9. After garnishment implementation or while it is being implemented, the plaintiff or the defendant has the right to ask the court for changing properties that are being seized. In the case of the plaintiff, it seems that if what he claims for is not specific, the court will have to accept this request. Because the law has given this option to him/her, and this institution has been established to support the plaintiff's wishes, and he/she can determine what is best for him/her. However, if it is the defendant who has such a request, the presented property should have the qualifications noted in the latter part of article 124. When the property being seized is the particular property claimed by the plaintiff, a request to change the seized property by any of the sides will only be accepted if the plaintiff and the defendant both agree on it.

The following conclusions were made by reviewing the mentioned subjects on garnishment in criminal courts:

Garnishment is a process that the lawmakers have considered increasing the chances of retrieving the losses of the victim and properties will be seized from the accused, and after proven innocent, his properties will be released. However, considering that the accused has not yet been convicted and is merely an accused and he/she might be proven innocent during or before the trial, the judge will accept this request based on logical reasons. For example, if the plaintiff can somehow prove that the defendant is looking to transfer or sell his/her properties and this can be proved by the testimony of the person who has bought properties of the defendant. Another requirement for the request to be accepted is that the request and what the plaintiff claims should be present and clear. When it can be tracked and evaluated, then garnishment can be requested. After the garnishment issuance, first the accused is informed, and then the order gets implemented, except when the accused can not be immediately informed and the property is being wasted. If a parquet issues this order, the accused can object to it within 10 days, but a garnishment from the court is definitive. During implementation, if a property is seized from a third party, that person can protest, and then the court will act based on the civil procedure rules. Making the garnishment ineffective can be carried out by the following manners: through a request by the plaintiff, not presenting the damage lawsuit to the court, cancellation of the garnishment request, termination of the case and plaintiff's defeat in the claim resulting from a crime.

Criminal garnishment has similarities to legal garnishments, but its procedures and conditions are very different. Some of these differences are:

1- In civil garnishments, the sole existence of one of the four items mentioned in article 108 of civil procedure rules means the court will have to issue the order. Whereas the issuance of a criminal garnishment depends on the presentation of logical reasons to the court.

2- In civil matters, a request for garnishment can be made before following a lawsuit. However, a request for criminal garnishment is not possible before the lawsuit.

3- In a civil garnishment, based on article 112 of civil procedure rules, a lawsuit regarding the main case should be presented to the court within 10 days of garnishment issuance; but in criminal garnishment, according to article 15 of criminal procedure rules, the deadline for following a lawsuit on the damages resulting from the crime is before the trial's termination.

4- A request for civil garnishment requires the plaintiff to pay for the costs of the trial, but there is no need for paying the trial costs for criminal garnishments.

5- In civic matters, a garnishment request should be written down formally before filing a lawsuit. A request alongside the lawsuit and during the trial also needs to be written. However, in criminal matters, the garnishment request alone is sufficient, and even a verbal request in acceptable.

6- In criminal garnishments, the damages should be the result of a crime, but in civic matters, the occurrence of a crime is not necessary.

7- In civic matters and according to article 108 of civil procedure rules, in cases where the lawsuit depends on an official document or the property is being wasted, or commercial papers are inquired, issuance of a garnishment does not need the infliction of possible damage, but in criminal cases, there is absolutely no need for being damaged. The reason is clear. If cant, when the plaintiff files a lawsuit, he/she has already been wronged by the defendant and is looking for compensation of damages and asking for garnishment to achieve this purpose. If he is required to deposit possible damage, not only the garnishment will not be made ineffective, but also it is an additional abuse that is in line with the violations of the accused, and the plaintiff might refuse to follow up on the lawsuit.

Rules on criminal garnishment in criminal procedure rules of 2013 have improved compared to the previous law, and it is a positive step in the way of fixing the ambiguities that existed in the previous rules, according to article 110 of criminal procedure rules. Disambiguating the garnishment request is up to the body that issues it and solving the problems of its implementation is up to entities responsible for executing criminal convictions. There were some differences of opinion regarding the righteous institution to handle the objections by a third party. Article 11 of the recent law considers the legal court to be a righteous institution. Article 114 is a new innovation to protect human rights and the environment from possible hazards for society's health and public security.

By reviewing the mentioned issues, conclusions can be made about the third stage, which is criminal garnishment in a primary investigation and other proceeding stages, which are:

In the new law, because of the emphasis on garnishment orders and legal surveillance in the primary investigations and dealing with the rights of the accused and consequently the principle of presumption of the innocence, this issue was legally and jurisprudentially investigated.

1- Reviewing former criminal orders and new procedures in criminal procedure rules, it can be concluded that in the new law which has increased garnishment orders and established judicial supervision order which complements the goals of garnishment orders and is a part of them (Some of these orders were taken from Article 129 of Criminal Trial Principles, and some were taken from France's Criminal Procedure Codes), the magistrate will be more comfortable in issuing a proper order for the accused. The principle of proportionality has increased the application of writs for the accused, because it is one of the most important principles in criminal law, and abiding by it can prevent many crimes. As you may well know, not committing to this principle not only keeps up away from the goals we have in issuing orders but also leads us to

more crimes. For example, consider an accused who has been detained with an issuance or other issuances that have somehow led to his/her detention. Considering that now he/she has been labeled as a felon, adaptability to the society will become more difficult. When these people see that society consider them to a felon and they are being treated as criminals, they will start to ignore the obscenity of a crime and will be led to committing more crimes. Also, when an accused goes to jail and becomes inmates will dangerous criminals, he/she might learn many new crimes that he might commit after being released. The judge should consider detention as the ultimate solution for those who are accused. As was mentioned, the principle in new laws to avoid issuing detention and even, the order of mandatory arrest has been revoked. Therefore, the principle of proportionality, as one of the most important criminal rules, is very useful in preventing crimes.

2- Also, by increasing the writs the new law is looking to reduce crimes, prevent complexity and ambiguity during the trial, increase accuracy of the verdict, reduce the mistakes of legal authorities, support the rights and freedoms of the accused and in the end guarantee the rights of the victim, and every lawmaker in any country is looking to achieve these goals.

3- The new writs of criminal procedure rules have many innovations:

A: In the subject of writs on the prohibition of leaving the legal jurisdictions by determining a consideration, the accused cannot leave the legal jurisdiction (without the judge's permission). This way, the accused will be informed more efficiently, and when his/her presence is necessary, absence during the investigation and trial will be less likely to occur, and the trial will move much faster and also the presence of the accused in the court will lead to more support for the victim's rights.

B: In the subject of introducing yourself to the court (weekly or monthly) and determining a consideration, the accused will be obliged to report himself/herself to legal authorities. Doing this, the accused will strongly feel the presence of legal authorities, and it is less likely that he/she will commit a crime. Crime prevention has occurred. On the other hand, the accused will be more informed about the trial and will be able to defend himself/herself better and also be more available to the legal authorities.

C: The subject of receiving a consideration such as cash, a bank guarantee, moveable, or immoveable property has also been raised as a new writ. Based on this, the judge will use this in many crimes that do not need heavy orders such as temporary arrest or bail and prevent writs that have many formalities and are time-consuming.

D: Another innovation in this law is the subject of forcing official national employees or members of armed forces to be present by determining a consideration after committing to pay from their wages. With this writ, if the accused escapes, his/her wage (official employee) will be used to pay for the consideration, and there will be no need for many formalities such as collateral writs, bails, and temporary arrest. Consequently, the victim's rights will be better supported, and the trial will move faster.

E: Another innovation of this law is the prohibition to leave the house or a determined residence with or without using electronic surveillance. We can have more control over the accused with this writ than with temporary detention. The accused can be with family and provide his/her defense which will be very useful in the verdict and the accused, just like the victim, will be free to prepare documents and evidence. The principle of equality between the victim and the accused is executed, and this will reduce

the chances of making a mistake in the verdict, and the trial will move faster, and this means more support for the rights of the accused and will not have the pernicious effects of the prison.

4- When a legal authority issues an order for arrest or orders that might somehow lead to arrest, the chances that the accused will be proven innocent are slim. Because the legal authorities will call him guilty to prove that they did not arrest him for no reason. The new law has predicted the damages of temporary detention and has made it possible for the court to compensate for its mistake in issuing temporary detention. This will reduce the mistakes made by judges, and the rights of the accused will not be denied.

The new law has made it possible to control and monitor the accused with these new writs effectively. By being free, the accused will be able to gather evidence of his innocence, and by being free he might be able to show some compelling evidence to finish the trial, and this will also reduce the mistakes made by judges. Writers of this law have considered the rights of the accused and the victim and adapted themselves with international documents on the innocence presumption.

5. Writs of Legal Supervision is also another new establishment that is looking to guarantee the victim's rights and prevent further crimes. According to Article 247, "the magistrate can not only issue a garnishment but also issue legal supervision for a specific period." It can be said that legal supervision is applicable along with the garnishments and can be considered as a part of garnishments, and they are a preventive aspect. The new law of legal supervision follows the goals of garnishment issuance.

In many cases, the accused is free and gets into a quarrel with the victim. Issuance of legal supervision prohibits the tools and opportunities that might help the accused commit a crime against the victim. Such as prohibiting the use of licensed guns, the prohibition against writing a check (in check-related crimes), etc. On the other hand, legal supervision is useful in the correction of the accused. Prohibition to do things that might lead to crime and also trying to treat the psycho-behavioral disorder and being forbidden to communicate with certain people not only serve in favor of the victim's rights, but they are suitable for the betterment of the accused. Issuing such an order by the judge means a step toward preventing crimes.

6. On an international level and to determine if human rights are being respected in a country, they take into account the procedural law of that country. Because of this, the new law has moved in the same direction as international documents to ensure human rights and set laws and regulations to support the presumption of the innocent and rights of the victim and accused. In the former criminal procedure rules, although there were laws regarding this issue, they were dispersed and incomplete and international organizations had accused us of violating human rights in this field many times.

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