

Abstract

A disabled persons means any person unable to ensure by himself or herself wholly or partly the necessities of a normal individual and/or social life as a result of a deficiency either congenital or not in him or her physical or mental capabilities. Therefore, it is a must to provide special measures in the criminal process to protect disabled persons who have been accused. At present, there are not enough necessary measures in criminal proceedings to protect the rights of disabled persons such as the blind, the deaf, the mute, the physically handicapped, the mentally handicapped, those with psychological problems or those with learning problems. In the thesis, I will demonstrate problems related to the above disabilities as they occur during police interrogations and court procedures, and categorize according to each kind of disability.

In the case of the accused persons being physically handicapped, blind, deaf or mute but who can acknowledge and understand the criminal litigation, there is only article 13 of the Criminal Procedure code that protects the accused with hearing or communication disabilities. There is no provision at all to protect with other disabilities.

Therefore, if there should be provisions to protect the accused with other disabilities, court procedures would be more effective in providing justice with less discrimination and negative repercussion on the people with various forms of handicap.

Nevertheless, the accused with mental or behavior or learning disability is currently protected by article 14 of the Criminal Procedure code. The provision cannot differentiate between the accused with mental and behavior disabilities, who can understand the litigation, and the accused with unsound mind. Thus, it is indispensable for the process of criminal justice to provide legal measures to properly protect their rights, beginning from the interrogation process. Furthermore, there is no specific legal method to measure the level of mental or learning disability. This leads to many problems for the accused with the above disabilities during litigation process.

As can be seen, legal protective measures for disabled persons' rights are of prime importance. However, there is still no legislation to protect most of the disabled persons.

After researching, I feel that the accused with disability have no absolute protection for their rights, the criminal process cannot succeed. Besides this, remedial measures for those suffering from miscarriages of justice, is also another aspect to be seriously and urgently considered. As a result, it is necessary to thoroughly understand the problems. This could be done by making a comparative with similar cases in other countries. This can be a first step towards solving the problems and get the best solutions so that we can adapt or rectify our laws effectively.