



SOCHUM

The Question of the Right to Trial





Committee: SOCHUM

Topic: The Question of the Right to Trial

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Summary

The right to trial is a guarantee that everyone who is accused of a crime is entitled to a fair hearing with an impartial and independent legislative decision maker. It is an internationally recognized human right, enshrined in key international legal frameworks such as the Universal Declaration of Human Rights (Articles 10–11). Fair trials help establish the truth in a just society, where people who have been suspected of a crime are treated with dignity and compassion. It is a cornerstone for justice, safeguarding citizens from being subjected to improper treatment within the legislative system.

When individuals face a criminal trial, they are confronted by the machinery of the state. How they are treated when accused of a crime is a test of the state's commitment to respect human rights. Unless human rights are upheld, justice is not served, and the government has failed in its duties.

Looking worldwide, the right to a fair trial remains unevenly protected, with significant disparities between regions and legal systems. There is still an urgent need for stronger international cooperation and domestic reforms to ensure that fair-trial standards are upheld universally. While international standards are high, the implementation hugely varies between regions. Delegates must consider how the fundamental principle of fair trial operates within different legislative systems, and to what extent these rights remain applicable given the complexity and sensitivity of court cases.

Risk of abuse

Charged individuals are often threatened by risk of abuse, especially when the accused is a political prisoner that poses a threat to those in power. The international community has developed principles and standards to define and protect people's rights through all stages, from arrest to trial, but many of these rights are undermined in practice. People are often treated as criminals before trial, and presumption of innocence is undermined by mass surveillance and use of artificial intelligence to profile individuals.

Violations of international law occur in many regions of the world, with higher rates in countries like Turkey, the Russian Federation, Romania, Ukraine, and Italy. Individuals' right to be subject to a just trial is hindered through arbitrary detention, coerced confessions, and secret trials. Additionally, many defendants face discrimination that manifests in various procedural obstacles including delays in judicial proceedings and unfavorable plea agreements that weaken the defendant's legal position.



The ongoing pattern of abuse highlights the challenge in ensuring that fair trial is respected in practice, even when they are already recognized by the law. The process of prosecution must be carefully monitored without sacrificing efficiency. It is the government's responsibility to ensure the law is enforced in a fair and humane way.

Relevant treaties

Universal Declaration of Human Rights (UDHR) 1948, Article 10 & 11 - serves as a foundation for right of trial, recognizing the right to a fair and public hearing, as well as the principle of presumption of innocence and guarantee for no retroactive criminal punishment.

European Convention on Human Rights 1950, Article 6 – guarantees the right to trial in criminal proceedings and disputes concerning civil rights and obligations. It also provides a set of minimum procedural rights, including presumption of innocence, right of silence, adequate time, and facilities etc.

International Covenant on Civil and Political Rights 1966, Article 14 – protects the right of everyone to equality before courts and tribunals, as well as fair trial especially in criminal proceedings.

African Charter on Human and Peoples' Rights 1981, Article 7 – sets out essential protections for anyone facing legal proceedings by ensuring right to fair trial and access to justice, including right to defence and right to appeal.

Definition of Key Terms

The rights of trial can be categorized into Rights Before Trial and Rights At Trial.

Rights before trial:

The right to liberty- This refers to the right that everyone enjoys personal freedom, so an arrest or detention is only permissible if they are conducted in accordance with the law by personnel authorized by law. People charged with a criminal offence should not normally be held in detention pending trial.

The right of people in custody to information – Ensuring that suspects have a complete understanding over the course of a trial is essential, so anyone arrested or detained must be notified at once of the reasons for the charges against them, allowing the person to prepare for their defence if charged.

The right to the assistance of a lawyer before trial – Access to a lawyer should be immediate to protect the rights of the person in detention. Sufficient time and facilities must be provided to facilitate confidential communication.

The right to adequate time and facilities to prepare a defense – This is to ensure anyone accused of a criminal offence can have meaningful preparation for their defense.



Rights at trial:

The presumption of innocence – Every person charged with a criminal offence has the right to be presumed innocent unless proven guilty according to law after a fair trial. The legal burden of proof rests on the prosecution and they must provide compelling evidence that the accused is guilty beyond reasonable doubt.

The right to defend oneself – Everyone charged with a criminal offence has the right to defend themselves with assistance of a lawyer.

The right to a public hearing – the transparency of public hearing helps maintain fairness of the judicial process and public confidence except in narrowly defined circumstances.

The right to an interpreter and to translation – Everyone charged with a criminal offence has the right to the free assistance of a competent interpreter and to have relevant documents translated.

The right to be compelled to testify or confess guilt – No one charged with a criminal offence may be forced to testify against themselves, in accordance with the presumption of innocence.

Major Countries involved

United States – The Sixth Amendment of the US constitution provides guarantee to right to a fair trial, including right to a speedy trial, an impartial jury, legal representation etc. Procedural rights are emphasized but limited but legal representation quality.

India – has comprehensive legal provisions for fair trials under Article 21 of the constitution of India. The Supreme Court of India has played a crucial role in expanding and protecting these rights.

China – inconsistent practical application with the judiciary not being fully independent and often influenced by political considerations. Reforms were attempted, but challenges remained.

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