
RIGHTS OF AN ACCUSED PERSON: AN INDIAN, UK, US, FRANCE, RUSSIAN PERSPECTIVE

Madhukrishna N, The Tamilnadu Dr Ambedkar Law University - School of Excellence in
Law

ABSTRACT

“Innocent until proven guilty- presumption of innocence”

This statement ensures the strong foundation of the rights of an accused person all over the world. Every country's constitution mandates that every person who is accused of certain allegation to be entitled with certain rights such as , right to be informed, bail, grounds of arrest, free legal aid, free trial, fair trial, medical examination, to be heard , dignified treatment etc,. This paper focuses initially on the international stands on the protection of the rights of an accused person where it dealt with universal acceptance of the protection of the accused persons rights through various legal measures. Next this paper focuses on the rights of an accused person available in various countries like India, UK, US, France, Russia. The major laws differs from country to country, the rights of an accused of person remains the same as every country protects the accused person's rights irrespective of any circumstances. This paper wholly attempts to establish that all these 5 countries laws are protecting everyone through their constitutions and such laws also protects the accused person impartially.

Keywords: Rights, accused person, constitution, legal measures.

1. INTRODUCTION

As concerns for human rights grow, International Conventions now include the basic rights of those accused and require signatory countries to strictly follow them. Any law that disrupts these basic rights would contradict the ideas of freedom and humanity. Some of these points are found in the Universal Declaration of Human Rights, 1948 (UDHR). Article 3 of the UDHR states that "Everyone has the right to life, liberty and security of person." This same idea is strongly repeated in Article 21 of the Constitution of India¹. Article 3 of the UDHR states that "Everyone has the right to life, freedom, and safety of their person."²

The fear of getting arrested is always existing in society but at the same time it is more important to know about the rights that the person holds at the time of getting arrested by the police. Every law in the world prescribes certain rights to the accused person, being protected by the legal frameworks and also by the constitution which is the supreme law of the land of the country. Those rights have been ensured for the arrested or the accused person to make sure that their detention would not lead to custodial torture and none of their rights have been used for the illegal activities. And these rights of the accused person to be understood in a way that the person who has been accused of an offence is essential not just for their arrest and also to the citizens of the nations ensuring the concept of natural justice has not been misused and biased, also the constitutionally prescribed protections of the persons are being respected³.

The defense of the accused is important for all civilized legal systems. Every legal system sets standards for the rights of the accused. This means that criminal cases must follow legal rules and that no harm should come to those accused. Thus, they are entitled to a fair and efficient trial. These concepts are part of human rights and are recognized both nationally and internationally⁴.

The International Criminal Courts (ICC), is considered to the first permanent court for the criminal law Internationally, where the prime aim of the ICC is the promotion of the vital

¹ Indira Gandhi National Open University, *Rights of Accused: Unit 1* (eGyanKosh, 2025) <https://egyankosh.ac.in/bitstream/123456789/38907/1/Unit-1.pdf> (accessed 29 October 2025)

² United Nations, *Universal Declaration of Human Rights* (Illustrated Edition, United Nations, 2015) <https://www.un.org/en/about-us/universal-declaration-of-human-rights>(accessed 29 October 2025)

³ Lloyd Law College, "Complete Guide to the Rights of the Accused in India" (Lloyd Law College Blog) <https://www.lloydlawcollege.edu.in/blog/rights-of-the-accused-india-complete-guide.html>(accessed 01 November 2025)

⁴ Ali Selimi, *Rights of the Accused in the International Criminal Court Proceedings* (Master's Thesis, Faculty of Law, Pristina University, 2014).

concept of the rule of law and most importantly to ensure the grave offences and crimes under the perspective of the International law will not be left unpunished. The starting point for all the recognition of the rights of the accused person is the UNIVERSAL DECLARATION OF HUMAN RIGHTS and to be more specific it is the ICCPR also referring to the other International instruments. It also includes the Nuremberg and the Tokyo tribunals⁵.

This paper is mainly going to focus on the rights of the accused person in INDIA, USA, UK, FRANCE, RUSSIA and also the comparative analysis of the rights prescribed by the nations.

2. INTERNATIONAL STAND ON THE RIGHTS OF AN ACCUSED PERSON

Jurisdiction is the foundation that allows a country to provide legal protections to its citizens abroad. For instance, if the United States has jurisdiction over an American citizen, that person is tried in a U.S. court, enjoying all the constitutional rights given to an accused in the U.S. Problems arise only when the American citizen falls under the jurisdiction of a foreign court. There are two main perspectives on jurisdiction in international law, both based on the idea of state sovereignty. The first perspective is territorial sovereignty. According to this idea, a nation's jurisdiction within its own borders is exclusive and absolute.

Because of global respect for territorial sovereignty, it is assumed that when a citizen of one country enters another country, they must follow the laws of that country. This general assumption can be changed if there is a specific agreement or consent from the host country. The country may choose to give up its legal authority over the accused in a particular situation or make treaties that give up parts of its territorial authority under certain conditions⁶.

When a U.S. citizen is covered by the NATO SOFA procedural guarantees:

1. They have the right to a quick trial;
2. They must be informed ahead of time about the specific charges against them;
3. They have the right to face the witnesses who testify against them;

⁵ Ali Selimi, *Rights of the Accused in the International Criminal Court Proceedings* (Master's Thesis, Faculty of Law, Pristina University, 2014).

⁶ United States Department of Defense, *Rights of the Accused in the Military Justice System* (Defense Technical Information Center Report No. ADA275479, 1994)

4. They can obtain witnesses in their favor if those witnesses are in the receiving State's jurisdiction;
5. They can choose their own lawyer for defense or receive free or assisted legal help based on the current rules in the receiving State;
6. If needed, they can have a qualified interpreter;
7. They can talk to a representative from their home Government and, if allowed by court rules, have that representative present during their trial.

Paragraph 8 also ensures protection against double jeopardy. The U.S. citizen is entitled to these guarantees as well as all rights typically provided by local law⁷.

Every year, millions of individuals worldwide are arrested or held by police or other law enforcement officials. The International Covenant on Civil and Political Rights ("ICCPR") outlines basic guarantees to ensure that everyone can defend themselves and receive fair treatment.

However, there is a significant difference among countries regarding the acknowledgment and application of these rights in real life. Many nations do not provide the necessary elements for effective criminal defense, leaving suspects and accused individuals in a precarious situation: lacking legal help, unaware of the charges against them, and unable to seek pretrial release. This can lead to devastating consequences for a person's life⁸.

This summary includes all universal standards for effective criminal defense from the ICCPR and important case law interpretations from the Human Rights Committee. First, it outlines the legal framework, including excerpts from the ICCPR and the General Comments approved by the Human Rights Committee. Then, it provides summaries of all significant case law from the Human Rights Committee, introduced by a brief explanation of the decisions in a highlighted text box.

⁷ North Atlantic Treaty Organization, *Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces (NATO SOFA)* (signed 19 June 1951, entered into force 23 August 1953) art 7(9).

⁸ United Nations Human Rights Committee, *Digest of Jurisprudence on the Right to Liberty and Security of Person: Article 9 of the International Covenant on Civil and Political Rights* (Office of the United Nations High Commissioner for Human Rights, Geneva, 2013) <https://www.ohchr.org/en/publications/digests/digest-jurisprudence-right-liberty-and-security-person-article-9-international> accessed 1 November 2025

2.1 THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR), established in 1966, is a crucial legal document that binds member states that choose to ratify it. It lays out a thorough framework aimed at safeguarding the rights of individuals accused of crimes, especially highlighted in Articles 9 and 14⁹.

Article 9 – Right to Liberty and Security¹⁰

- This article states that no one should face arbitrary arrest or detention.
- If someone is arrested, they must be promptly informed of the reasons behind their arrest and any charges against them.
- The arrested individual should be brought before a judge without delay and has the right to a trial within a reasonable timeframe or to be released.
- They also have the right to challenge the legality of their detention in court (habeas corpus).

Article 14 – Right to Fair Trial¹¹

- This article outlines essential guarantees for a fair trial:
- Everyone is equal before the courts and tribunals.
- Individuals have the right to a fair and public hearing by a competent, independent, and impartial tribunal.
- Everyone is presumed innocent until proven guilty.
- Individuals must be informed promptly and in detail about the charges against them.

⁹ United Nations, *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

¹⁰ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 9.

¹¹ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 14

- They have the right to sufficient time and resources to prepare a defense and to communicate with their chosen legal counsel.
- Trials should occur without unnecessary delays.
- Individuals have the right to be present during their trial and to defend themselves, either personally or with legal assistance.
- They have the right to examine witnesses and to present witnesses in their favor.
- The right to free assistance from an interpreter is also guaranteed.
- No one can be forced to testify against themselves or to admit guilt.
- Individuals have the right to appeal to a higher court.

Lastly, no one should be tried or punished twice for the same offense (*ne bis in idem*). The summary addresses all essential procedural rights that support access to justice and a fair trial:

- The right to know about rights and charges, and access to evidence¹²;
- The right to represent oneself or receive legal help from the beginning of the investigation, and the right to have enough time and resources to prepare a defense¹³;
- The right to legal aid¹⁴;
- The right to be presumed innocent and the right to remain silent¹⁵;
- The right to be released from custody before trial¹⁶;
- The right to take part in your trial, to be tried without unnecessary delays, and to call witnesses¹⁷;

¹² United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 9.

¹³ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 14(3)

¹⁴ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 14

¹⁵ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 14(2)

¹⁶ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 9(3)

¹⁷ United Nations, *International Covenant on Civil and Political Rights*, 999 UNTS 171, art 14(3)(d)

- The rights to free interpretation and translation; and
- The right to appeal

This summary is meant to serve as a resource for criminal lawyers, prosecutors, judges, and police all those involved in the process.

2.2 THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

The Universal Declaration of Human Rights (UDHR), established in 1948, was a groundbreaking document that declared the inherent dignity and equal rights of every individual. It includes several articles that specifically safeguard the rights of those accused of crimes:

Article 9: No one should face arbitrary arrest, detention, or exile.

Article 10: Everyone has the right to a fair and public hearing by an independent and impartial tribunal, ensuring full equality.

Article 11(1): Anyone charged with a criminal offense is presumed innocent until proven guilty, and they have the right to a public trial with all necessary guarantees for their defense.

In this way, the UDHR sets a strong moral foundation for the rights of accused individuals in all future human rights treaties¹⁸.

2.3 UNITED NATIONS CONVENTION AGAINST TORTURE (UNCAT) , 1984

The United Nations Convention Against Torture (UNCAT), established in 1984, firmly prohibits torture and any form of cruel, inhuman, or degrading treatment of individuals who are deprived of their liberty.

In Article 15, it clearly states that any confession or statement obtained through torture cannot be used as evidence in legal proceedings. This provision is crucial in protecting the rights of

¹⁸ United Nations, *Universal Declaration of Human Rights* (adopted 10 December 1948) UNGA Res 217 A (III)

the accused and ensuring that coerced confessions are not admissible in court¹⁹.

2.4 INTERNATIONAL CRIMINAL COURTS (ICC)- ROME STATUTE 1998

The Rome Statute of the International Criminal Court (ICC), established in 1998, lays out important procedural rights for individuals facing charges in international criminal cases²⁰.

Article 55 highlights the rights during an investigation, which include the right to remain silent and the protection against self-incrimination²¹.

Article 67 focuses on fair trial rights, ensuring the presumption of innocence, providing adequate time for defense, guaranteeing public hearings, and the right to legal representation²².

This Statute upholds high standards of justice, even for those accused of serious offenses like genocide and war crimes.

3. RIGHTS OF AN ACCUSED PERSON- AN INDIAN PERSPECTIVE

In India, we operate under an adversarial criminal justice system, which means that no decision in any criminal judicial proceedings is made without giving the accused a fair chance to present their side of the story.

Legality principles:

- Nullum sine crimen lege.
- Nullum poena sine lege.
- Audi alteram partem.
- Ex-post facto laws, and so on.

¹⁹ United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85, art 15.

²⁰ *Rome Statute of the International Criminal Court, 1998*, U.N. Doc. A/CONF.183/9 (entered into force 1 July 2002)

²¹ *Rome Statute of the International Criminal Court, 1998*, Art. 55, U.N. Doc. A/CONF.183/9 (entered into force 1 July 2002).

²² *Rome Statute of the International Criminal Court, 1998*, Art. 67, U.N. Doc. A/CONF.183/9 (entered into force 1 July 2002).

Based on these principles and in accordance with Article 14 of the Indian Constitution, which guarantees the "Right to Equality," the accused are granted certain rights and privileges to defend themselves²³.

ACCUSED PERSON:

“Webster Law Dictionary”-“*Person or Persons against whom a charge or crime or misbehaviour is brought*”²⁴.

“Black Law Dictionary” – “*Person who has been blamed for wrongdoing specially a person who has been subjected to actual restraints on liberty through an arrest or a person against whom a formal indictment or information has been returned*”²⁵.

The rights of the accused person has been safeguarded by several legislations in India. The notable ones are the Constitution Of India, Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, Bharatiya Sakshiya Adhinyam, 2023.

Right against Handcuffing

With the rise of human rights awareness, the general principle is that handcuffing an accused person violates Articles 14, 19, and 21 of the Constitution. However, it can be allowed in exceptional circumstances, and a special reason must be documented when handcuffing is deemed necessary. In the case of Prem Shankar Shukla, AIR 1980 SC 1535²⁶, the Supreme Court established that handcuffing should not be permitted.

Right to Life

This right is guaranteed under Article 21 of the Constitution. It's recognized as both a Fundamental right and a Natural right. The law states, “No one shall be deprived of his life and personal liberty except according to the procedure established by law.”²⁷ In the case of Babu Singh v. State of UP, AIR 1978 SCR(2) 777²⁸, the Supreme Court ruled that refusing bail in a

²³ Meenakshi Jain, *Emerging Trend of Human Rights: A Study on Rights of an Accused* (LatestLaws.com, 2023).

²⁴ “Accused Person”, *Webster’s Law Dictionary* (New York: Merriam-Webster, 2016) p. 24.

²⁵ “Accused Person”, *Black’s Law Dictionary* (10th edn, Bryan A. Garner ed., St. Paul: Thomson Reuters, 2014) p. 26.

²⁶ *Prem Shankar Shukla v. Delhi Administration*, AIR 1980 SC 1535

²⁷ *The Constitution of India*, art 21.

²⁸ *Babu Singh v. State of Uttar Pradesh*, AIR 1978 SC 527

murder case without a reasonable basis constitutes a denial of personal liberty. Another significant case, *Sunil Batra v. State of Delhi*, AIR 1980 SCR (2) 557²⁹, addressed the issue of “solitary confinement.” The Supreme Court determined that subjecting an under-trial prisoner to solitary confinement without just cause violates Article 21 of the Constitution.

Right to Fair Trial

This right is recognized by all democratic nations as a fundamental human right. It primarily concerns the administration of justice, as without proper legal processes, just and fair laws lose their value. This right falls under Article 21 of the Constitution. In the landmark case of *Maneka Gandhi v. Union of India*, AIR 1978 SCR (2) 621³⁰, the Supreme Court asserted that the procedure established by law must be right, just, and fair, embodying the principles of natural justice. In *Rattiram v. State of M.P.* (2012) 4 SCC 516³¹, the Supreme Court emphasized the importance of due process of law, which is the foundation of Article 21 of the Constitution.

Right to Speedy Trial

The right to a speedy trial is a crucial aspect of the right to a fair trial and is enshrined in Article 21 of the Constitution. Delays in trials for under-trial prisoners equate to a denial of justice. In the case of *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1379³², the Supreme Court held that a speedy trial is part of the fundamental right to life and personal liberty. Similarly, in *Kadra Pahadiya v. State of Bihar*, AIR 1981 SCC 671³³, the Supreme Court declared that a speedy trial is a fundamental right and criticized the numerous under-trial prisoners who remained incarcerated without a proper trial.

Right to free legal aid

Right to Free Legal Aid is outlined in Article 39-A of the Constitution, which ensures that those who are poor and accused, or under trial, receive legal assistance to protect them from injustice and to uphold their Constitutional and Statutory rights. In the case of *Suk Das v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991³⁴, the Apex Court ruled that if an accused person is not provided with

²⁹ *Sunil Batra v. Delhi Administration*, AIR 1980 SC 1579

³⁰ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

³¹ *Rattiram v. State of Madhya Pradesh*, (2012) 4 SCC 516.

³² *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1379

³³ *Kadra Pahadiya v. State of Bihar*, AIR 1981 SCC 671

³⁴ *Suk Das v. Union Territory of Arunachal Pradesh*, AIR 1986 SC 991

free legal aid at the State's expense, it could invalidate the trial. Additionally, if legal aid is not given within a reasonable timeframe, it constitutes a violation of Article 21 of the Constitution.

Right against exposed facto laws

Moving on to the Right against the Retrospective Application of Penal Law, we have two important maxims: *Nullius crimen sine lege* and *Nullum poena sine lege*, which translate to "no crime without law" and "no punishment without law," respectively. Article 20(1) of the Constitution prohibits only the conviction or sentencing, not the trial itself.

Right against double jeopardy

Now, let's discuss the Right against Double Jeopardy. The principle *Nemo debet Proeadem Causa bis Vexari* means that a person cannot be tried twice for the same offense. The terms *Autrefois acquit* and *Autrefois convict* refer to previous acquittals or convictions. In the case of *Kolla Veeta Raghav Rao v/s Gorantla Venketeshwar Rao* 2011 CrLJ 1094 (SC)³⁵, the Supreme Court declared that "No one can be tried and convicted for the same or even for different offenses based on the same facts." Article 20(2) of the Constitution states, "No one can be prosecuted for the same offense."

Right Against Third-Degree Methods

In India, the law strictly prohibits any form of physical or mental torture, including the use of third-degree methods during investigations or at any other time. This is because such practices violate the Right to Life, which is guaranteed under Article 21 of the Constitution. Landmark judgments like *Joginder Kumar vs. State of UP* (1994) 4 SCC 260³⁶ and *D.K. Basu vs. State of WB* 1997 CrLJ 743 (SC)³⁷ have established important guidelines regarding arrest and detention.

Right to Fair Treatment

Fair treatment is a crucial and inherent aspect of Article 21 of the Constitution. When it comes to custodial deaths, administrative and judicial actions can be taken against the police if they

³⁵ *Kolla Veera Raghav Rao v. Gorantla Venkateshwar Rao*, 2011 Cri LJ 1094 (SC)

³⁶ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260.

³⁷ *D.K. Basu v. State of West Bengal*, 1997 Cri LJ 743 (SC)

are found guilty of unlawful behavior. In the case of *Sheela Barse vs. State of Maharashtra* AIR 1983 SCR(2) 337³⁸, Justice Bhagwati emphasized that the police have a duty to ensure fair treatment for individuals in their custody.

Presumption of Innocence

The Indian legal system operates on an adversarial model, where every accused person is presumed innocent until proven guilty. Sections 113-B and 114-A of the Indian Evidence Act, 1872, outline provisions related to the presumption of culpable mental state concerning offenses like Dowry Death under Section 304-B and custodial rape under Section 376(2) of the IPC. In the case of *Mohmd. Hussain @ Julfikar Ali vs. State (Govt. of NCT) Delhi* AIR 2012 SC 3860³⁹, the court affirmed that the presumption of innocence is a fundamental human right of the accused.

Rights of an accused person under the then Criminal Procedure Code, now Bharatiya Nagarik Suraksha Sanhita

Right to Grounds of Accusation.

Section 50(1) of the Cr.P.C and Article 22(1) of the Constitution highlight this important right, which states that no one can be held in custody without being informed of the reasons for their arrest. Additionally, Section 41-B of the Cr.P.C requires the arresting officer to create a memorandum of arrest, which must be signed by a family member or a respected local figure. A significant case that illustrates the violation of this right is *Dr. Rini Johar vs. State of MP*, AIR 2016 SC 2679⁴⁰, where the Supreme Court awarded three lakhs in compensation for not following the legal procedures during the arrest.

Right to Silence.

According to Section 313 of the Cr.P.C, the accused has the right to remain silent. In the case of *State of MP vs. Ramesh* (2011) 4 SCC 786⁴¹, the Supreme Court clarified that when you read Article 20(B) of the Constitution alongside Sections 161, 313(3), and 315(b), it becomes

³⁸ *Sheela Barse vs. State of Maharashtra* AIR 1983 SCR(2) 337

³⁹ *Mohmd. Hussain @ Julfikar Ali vs. State (Govt. of NCT) Delhi* AIR 2012 SC 3860

⁴⁰ *Dr. Rini Johar vs. State of Madhya Pradesh*, AIR 2016 SC 2679

⁴¹ *Youth Bar Association vs. Union of India*, AIR 2016 SC 4136

clear that Indian law protects the accused from any negative assumptions based on their silence.

Right to have a Copy of the FIR.

Section 207 of the Cr.P.C states that the accused is entitled to receive a copy of the FIR after the police submit the charge sheet to the Magistrate. However, in the case of *Youth Bar Association vs. Union of India*, AIR 2016 SC 4136, the Supreme Court ruled that the accused should be able to obtain a copy of the FIR as early as possible, in line with Article 22(1) of the Constitution and Sections 41B and 50A of the Cr.P.C.

Right to a Public Trial.

Section 327 of the Cr.P.C ensures that trials are held in open court, with some exceptions outlined in subsection (2) of that section. The case of *Kehar Singh vs. Delhi Administration*, AIR 1988 SC 1883⁴², reinforces that even if a trial is moved to a private residence or jail, it still

Right to Bail.

Sections 436-439 of the Cr.P.C cover the ins and outs of bail, distinguishing between bail-able and non-bail-able offenses. According to Section 50(2) of the Cr.P.C, when a police officer makes an arrest, they must inform the arrested individual about their right to bail. In the case of *Rasiklal vs. Kishore Khanchand* (2009) 4 SCC 446, the Supreme Court affirmed that the right to claim bail under Section 436 for bail-able offenses is an absolute and unassailable right. Additionally, an indigent person has the right to be released on a personal bond instead of having to post bail.

Now, moving on to Section 167(2) of the Cr.P.C, it guarantees that an accused person can secure bail if the investigation isn't wrapped up within 90 days for offenses that carry the possibility of death or life imprisonment, or for those punishable by a term of at least ten years.

Right to Evidence Recorded in the Presence of the Accused.

Section 273 of the Cr.P.C states that all evidence during a trial must be presented in the presence of the accused, allowing them to grasp the case against them and prepare their defense. In the

⁴² *Kehar Singh vs. Delhi Administration*, AIR 1988 SC 1883

case of Mohd. Sukur vs. State of Assam⁴³, the Apex Court ruled (AIR 2011 SC 1222) that if a criminal case is decided without the accused's counsel present, it violates Article 21 of the Constitution.

Rights of an accused under the then Indian Evidence Act , now Bharatiya Sakshiya Adhiniyam

Right of the Accused to Examine Witnesses

137-166 of the Indian Evidence Act (IEA) of 1872. Specifically, Section 137 addresses the processes of Examination in Chief, Cross-examination, and Re-examination. During Cross-examination, leading questions can be posed, and Section 143 of the IEA clarifies when such questions are permissible.

Right of the Accused regarding confessions

If an accused person admits their guilt voluntarily, that confession can serve as valid evidence against them. However, as highlighted in the case of Vohra Ibrahim vs. State of Maharashtra AIR 1976 SCR (3) 672 SC⁴⁴, if a confession is made under duress or coercion, it is deemed inadmissible. Sections 24 of the IEA, along with Sections 153, 154, 281, and 463 of the Criminal Procedure Code (Cr.P.C), emphasize the importance of safeguarding these rights for the accused.

Right of the Accused to Information

Section 65 of the IEA, which allows for certified copies under the Act. The Right to Information under the RTI Act of 2005 also falls within this framework. The law respects the privacy of communications between certain individuals, particularly in relationships like marriage, where spouses cannot be compelled to disclose their private conversations. These exceptions are important to consider within this legal context.

There's a growing trend in human rights that emphasizes the importance of ensuring that everyone accused of a crime receives their basic rights throughout every stage of a fair trial. A fair trial is at the core of criminal law, and the Indian legal system aligns itself with international

⁴³ Mohd. Sukur vs. State of Assam (AIR 2011 SC 1222)

⁴⁴ Vohra Ibrahim vs. State of Maharashtra AIR 1976 SCR (3) 672 SC

conventions that promote the advancement of human rights. Additionally, there are provisions in place for those who cannot afford legal representation, such as free legal aid and bail options with security bonds. It's clear that the system is evolving in response to the emerging trends of a modern and developed society.

4. RIGHTS OF AN ACCUSED PERSON IN UNITED KINGDOM

As far as United Kingdom is concerned, their criminal justice system is the classic representation of the common law adversarial system. The accused person's protection rights have been evolved through judicial practices that are centuries old, the parliamentary statutes and lastly the inclusion of the International Human Rights via the EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR). More specifically the POLICE AND CRIMINAL EVIDENCE ACT, 1984 also comes into play in the criminal cases

CONSTITUTIONAL AND HUMAN RIGHTS FRAMEWORK OF UNITED KINGDOM

In contrast to countries that have written constitutions, the UK operates on the principles of parliamentary sovereignty, the rule of law, and judicial precedent as its main legal safeguards. The Human Rights Act 1998 (HRA) brought the European Convention on Human Rights (ECHR) into UK law, allowing courts to apply these rights directly.

Article 6 of the ECHR ensures that everyone has the right to a fair and public hearing within a reasonable timeframe by an independent and impartial tribunal. It also upholds the presumption of innocence and guarantees essential defense rights, such as access to legal assistance and the ability to question witnesses⁴⁵

Meanwhile, Article 5 of the ECHR safeguards the right to liberty and security, making it clear that no one can be arbitrarily arrested or detained unless it's done according to the law⁴⁶

These rights can now be enforced in UK courts. If a piece of legislation conflicts with the ECHR, courts have the authority to issue a declaration of incompatibility under Section 4 of the HRA⁴⁷ 1998.

⁴⁵ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* art 6

⁴⁶ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* art 5

⁴⁷ United Kingdom, *Human Rights Act 1998*, s 4.

THE POLICE AND CRIMINAL EVIDENCE ACT, 1984

PACE came into being after a wave of criticism regarding police powers and claims of misconduct, especially in light of the Confait case and the Royal Commission on Criminal Procedure in 1981. It aimed to create a more standardized approach to police procedures, laying down a clear code for how arrests, detentions, interrogations, and searches should be conducted.

Section 28 PACE⁴⁸: mandates that individuals must be informed of the reasons for their arrest in a way that is easy to understand.

Section 34 PACE⁴⁹: outlines the rules for detention at police stations, ensuring that custody officers look after the well-being of suspects and keep a thorough record of their custody.

Section 58 PACE⁵⁰: gives anyone who is detained the right to speak privately with a solicitor whenever they need to.

Section 76 PACE⁵¹: states that any confession obtained through coercion or in situations that could make it unreliable cannot be used in court.

The PACE Codes of Practice especially Code C, provide further details on these legal provisions. They are mandatory for police officers to follow and are often cited in judicial reviews and when it comes to excluding evidence.

Right to Know the Reasons for Arrest

Whenever someone is arrested, they have to be informed right away about the fact that they've been arrested and the reasons behind it. If this doesn't happen, the arrest can be deemed invalid. This important principle comes from the case *Christie v. Leachinsky* (1947 KB 124)⁵² and is now part of Section 28 of the Police and Criminal Evidence Act (PACE)⁵³.

⁴⁸ United Kingdom, *Police and Criminal Evidence Act 1984*, s 28

⁴⁹ United Kingdom, *Police and Criminal Evidence Act 1984*, s 34

⁵⁰ United Kingdom, *Police and Criminal Evidence Act 1984*, s 58

⁵¹ United Kingdom, *Police and Criminal Evidence Act 1984*, s 76

⁵² *Christie v. Leachinsky* (1947 KB 124)

⁵³ United Kingdom, *Police and Criminal Evidence Act 1984*, s 28

Right to Silence and the Caution

The well-known English right to silence is a mix of statutory law and common law. When someone is arrested, they must be given a caution that goes like this:

“You don’t have to say anything, but if you don’t mention something when questioned that you later bring up in court, it could hurt your defense.”

The Criminal Justice and Public Order Act 1994, specifically **sections 34–37**⁵⁴, allows for some limited negative inferences to be drawn from silence, as long as there are safeguards in place. Courts need to determine whether a person’s silence truly suggests guilt or if it’s just them exercising their constitutional rights.

Access to Legal Counsel

According to **Section 58 of PACE**⁵⁵ and Code C : 6.1, anyone who is detained has the right to speak with a solicitor privately and at no cost if needed. Access to legal counsel can only be delayed in rare cases involving serious crimes and requires written approval from a senior officer, which is subject to judicial review. The European Court of Human Rights highlighted in *Salduz v. Turkey* (2008 ECHR 1542)⁵⁶ that having early access to a lawyer is crucial for a fair trial, and UK courts take this into account when interpreting PACE rules.

Recording and Oversight of Interrogations

PACE requires that police interviews be recorded, both audio and increasingly video. Custody records keep track of the suspect’s condition, meal times, legal consultations, and interviews, ensuring everything is transparent and can be reviewed later by the courts.

Presumption of Innocence

At the heart of English criminal law lies the presumption of innocence, a principle firmly rooted in both Article 6(2)⁵⁷ of the ECHR and our domestic legal framework. It’s the prosecution’s

⁵⁴ United kingdom, *Criminal Justice and Public Order Act 1994*, ss 34-57

⁵⁵ United Kingdom, *Police and Criminal Evidence Act 1984*, s 58

⁵⁶ *Salduz v. Turkey* (2008 ECHR 1542)

⁵⁷ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* art 6(2)

responsibility to prove guilt beyond a reasonable doubt; any exceptions to this rule, like certain reverse-burden offences, must meet the proportionality test outlined in the Human Rights Act.

Legal Representation and Legal Aid

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 sets the rules for publicly funded legal representation. To qualify for legal aid, individuals must pass both means and merits tests, but crucially, everyone is guaranteed representation in core criminal trials to ensure fairness.

Disclosure and Equality of Arms

Prosecutors have an ongoing obligation to share any material that could help the defence or weaken the prosecution's case, as highlighted in *R v. Ward* [1993] 1 WLR 619 (CA)⁵⁸. Failing to disclose such information can lead to overturned convictions and disciplinary measures.

Trial by Jury and Public Hearing

When it comes to serious offences, the accused has the right to a public trial by jury. This principle was reinforced in *Attorney-General v. Leveller Magazine* [1979] AC 440⁵⁹, which stressed that justice must not only be served but also be visible to the public.

5. RIGHTS OF AN ACCUSED PERSON IN THE UNITED STATES OF AMERICA

The rights of individuals accused of crimes in the United States are firmly rooted in the nation's constitutional framework, especially through the **Bill of Rights** established in 1791 and the interpretations made by the Supreme Court over the years. The American criminal justice system operates mainly on an adversarial model, which highlights the importance of procedural fairness, equality under the law, and the presumption of innocence.

At the heart of the U.S. legal system is the belief that "it is better that ten guilty persons escape than that one innocent suffer." This guiding principle has shaped American criminal law from the colonial period to modern discussions surrounding policing, plea deals, and the issue of mass incarceration. U.S. constitutional law, particularly through the Fourth, Fifth, Sixth,

⁵⁸ *R v. Ward* [1993] 1 WLR 619 (CA)

⁵⁹ *Attorney-General v. Leveller Magazine* [1979] AC 440

Eighth, and Fourteenth Amendments, provides robust protections for the rights of those accused of crimes, bolstered by a strong tradition of judicial review.

CONSTITUTIONAL AND LEGAL FRAMEWORK

The Constitution of the United States lays down the essential legal protections for individuals who are accused of crimes. Here are the key amendments that play a crucial role:

Fourth Amendment: This amendment safeguards against unreasonable searches and seizures, ensuring that warrants are issued only when there's probable cause⁶⁰.

The Right Against Unreasonable Search and Seizure

The Fourth Amendment states:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...”⁶¹ This crucial protection lays the groundwork for the exclusionary rule, which prevents evidence gathered in violation of constitutional rights from being used in court.

Weeks v. United States, 232 U.S. 383 (1914)⁶² : This case established the exclusionary rule for federal cases.

Mapp v. Ohio, 367 U.S. 643 (1961)⁶³ : This ruling extended the exclusionary rule to state cases through the Fourteenth Amendment.

Katz v. United States, 389 U.S. 347 (1967)⁶⁴ : This case introduced the idea of a reasonable expectation of privacy, especially concerning wiretaps.

Terry v. Ohio, 392 U.S. 1 (1968)⁶⁵ : This decision allowed stop-and-frisk searches based on reasonable suspicion, striking a balance between public safety and individual rights.

⁶⁰ *Constitution of the United States of American , Fourth Amendment*

⁶¹ *Constitution of the United States of American , Fourth Amendment*

⁶² *Weeks v. United States, 232 U.S. 383 (1914)*

⁶³ *Mapp v. Ohio, 367 U.S. 643 (1961)*

⁶⁴ *Katz v. United States, 389 U.S. 347 (1967)*

⁶⁵ *Terry v. Ohio, 392 U.S. 1 (1968)*

This doctrine ensures that law enforcement follows constitutional procedures, making any unlawfully obtained evidence inadmissible in court.

Fifth Amendment: It offers protection against self-incrimination and double jeopardy, while also guaranteeing due process of law⁶⁶.

The Right Against Self-Incrimination : The Fifth Amendment states:

“No person shall be compelled in any criminal case to be a witness against himself...”⁶⁷ This crucial protection is the foundation of the well-known Miranda warning system, which requires police to inform suspects of their rights before any questioning begins.

Miranda v. Arizona, 384 U.S. 436 (1966)⁶⁸: This case established that confessions obtained without informing the suspect of their right to remain silent and to have legal counsel are not admissible in court.

Escobedo v. Illinois, 378 U.S. 478 (1964)⁶⁹: This ruling affirmed the right to have an attorney present during police interrogations.

Malloy v. Hogan, 378 U.S. 1 (1964)⁷⁰: This case extended the privilege against self-incrimination to state law through the Fourteenth Amendment.

According to the Miranda rule, individuals in custody must be informed that they have the right to remain silent, that anything they say can be used against them, and that they have the right to an attorney, even if they can't afford one.

Sixth Amendment: This amendment secures the right to a speedy and public trial, an impartial jury, notification of the charges, the ability to confront witnesses, the right to obtain witnesses, and the assistance of legal counsel⁷¹.

Gideon v. Wainwright, 372 U.S. 335 (1963)⁷² : This landmark case determined that the state

⁶⁶ *Constitution of the United States of American* , fifth Amendment

⁶⁷ *Constitution of the United States of American* , fifth Amendment

⁶⁸ *Miranda v. Arizona*, 384 U.S. 436 (1966)

⁶⁹ *Escobedo v. Illinois*, 378 U.S. 478 (1964)

⁷⁰ *Malloy v. Hogan*, 378 U.S. 1 (1964)

⁷¹ *Constitution of the United States of American* , sixth Amendment

⁷² *Gideon v. Wainwright*, 372 U.S. 335 (1963)

is required to provide legal counsel for defendants who can't afford it when they're facing serious charges.

Argersinger v. Hamlin, 407 U.S. 25 (1972)⁷³: This case broadened the right to legal representation to include any situation where imprisonment could be a consequence.

Strickland v. Washington, 466 U.S. 668 (1984)⁷⁴: This ruling set the benchmark for what constitutes ineffective assistance of counsel, mandating that there must be evidence of both poor performance and harm to the defense.

Presumption of innocence

The presumption of innocence is a cornerstone of American law, even though it doesn't appear word-for-word in the Constitution. It's the prosecution's job to prove guilt beyond a reasonable doubt—no ifs, ands, or buts about it.

In re Winship, 397 U.S. 358 (1970)⁷⁵, the Supreme Court confirmed that this reasonable-doubt standard applies to everyone, whether they're adults or juveniles.

Coffin v. United States, 156 U.S. 432 (1895)⁷⁶, the court acknowledged the presumption of innocence as a key element of justice.

Estelle v. Williams, 425 U.S. 501 (1976)⁷⁷, it was decided that forcing a defendant to show up in court wearing prison clothes can really undermine that presumption of innocence.

Eighth Amendment: It prohibits excessive bail, excessive fines, and any form of cruel or unusual punishment⁷⁸.

The Right Against Cruel and Unusual Punishment

The Eighth Amendment is all about keeping punishments humane by prohibiting “cruel and unusual punishments.” This means it puts a stop to excessive sentences, torture, and penalties

⁷³ Argersinger v. Hamlin, 407 U.S. 25 (1972)

⁷⁴ Strickland v. Washington, 466 U.S. 668 (1984)

⁷⁵ In re Winship, 397 U.S. 358 (1970)

⁷⁶ Coffin v. United States, 156 U.S. 432 (1895)

⁷⁷ Estelle v. Williams, 425 U.S. 501 (1976)

⁷⁸ Constitution of the United States of American , eighth Amendment

that just don't fit the crime.

Furman v. Georgia, 408 U.S. 238 (1972)⁷⁹: This case temporarily struck down death penalty laws because they were applied in an arbitrary way.

Gregg v. Georgia, 428 U.S. 153 (1976)⁸⁰: Here, the death penalty was brought back, but with some important procedural safeguards in place.

Atkins v. Virginia, 536 U.S. 304 (2002)⁸¹: This ruling made it clear that we can't execute people who are intellectually disabled.

Roper v. Simmons, 543 U.S. 551 (2005)⁸² This case banned the death penalty for anyone under 18 years old.

Overall, this doctrine is crucial in ensuring that punishments are not only humane but also fair and in line with our evolving standards of decency.

Fourteenth Amendment: This amendment extends the guarantees of due process and equal protection to state-level legal proceedings⁸³.

Together, these amendments create a solid foundation for the rights of the accused, striking a balance between the state's interest in prosecuting crimes and the protection of individual freedoms.

6. RIGHTS OF AN ACCUSED PERSON IN FRANCE

The French criminal justice system is built on the core values of liberty, equality, and fraternity, which are highlighted in the Declaration of the Rights of Man and of the Citizen (1789), the French Constitution (1958), and the Code de Procédure Pénale (known as the CPP). Unlike common-law systems, France operates under a civil-law inquisitorial model, where the judge plays an active role in uncovering the truth instead of just relying on the arguments of opposing sides.

⁷⁹ Furman v. Georgia, 408 U.S. 238 (1972)

⁸⁰ Gregg v. Georgia, 428 U.S. 153 (1976)

⁸¹ Atkins v. Virginia, 536 U.S. 304 (2002)

⁸² Roper v. Simmons, 543 U.S. 551 (2005)

⁸³ *Constitution of the United States of American* , fourteenth Amendment

Over the years, the rights of individuals accused of crimes in France have seen a remarkable evolution, moving away from the arbitrary justice of the ancient regime to a modern system that prioritizes rights and aligns with the European Convention on Human Rights (ECHR). Notably, Article 6⁸⁴ of the ECHR guarantees fair trial rights that apply to all member states of the Council of Europe, including France.

CONSTITUTIONAL AND LEGAL FRAMEWORK

When it comes to protecting the rights of those accused in France, the legal framework is built on three key pillars:

1958 Constitution of the Fifth Republic, which firmly establishes France as a nation that upholds the rule of law (État de droit) and ensures that fundamental rights are respected.

Declaration of the Rights of Man and of the Citizen from 1789⁸⁵. This document holds constitutional significance, especially Articles 7 (which guards against arbitrary detention), 8 (which lays down the principle of legality for offenses and punishments), and 9 (which upholds the presumption of innocence).

Code de Procédure Pénale (CPP), which neatly compiles all the procedural safeguards related to investigations, detentions, and trials.

Lastly, the European Convention on Human Rights (ECHR) plays a crucial role, particularly through Articles 6 and 5, which guarantee the right to a fair and public trial and protect individuals from unlawful detention⁸⁶.

To ensure that all criminal procedures align with these constitutional and international standards, we have the Conseil Constitutionnel (Constitutional Council) and the Cour de cassation keeping a watchful eye.

Right to liberty and security

The French Constitution, when read alongside Article 7 of the 1789 Declaration, clearly

⁸⁴ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* art 6

⁸⁵ France, *declaration of the rights of the man and of the citizen, 1789*

⁸⁶ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* art 6

prohibits any form of arbitrary arrest and detention.

Article 63-1⁸⁷ of the CPP states that anyone taken into garde à vue (police custody) must be promptly informed about the reasons for their arrest, the charges against them, and their legal rights.

Article 63-3⁸⁸ of the CPP ensures that individuals have the right to notify a family member or employer and to receive a medical examination.

Article 63-4⁸⁹ of the CPP allows for the right to consult with an attorney, which must happen within two hours of the start of detention.

In the case of **Letellier v. France (1991 ECHR 17)**⁹⁰, the European Court of Human Rights (ECtHR) determined that if someone is held in pre-trial detention for an extended period, there needs to be “relevant and sufficient reasons” to justify it..

Presumption of innocence

According to Article 9⁹¹ of the 1789 Declaration, “Every man is presumed innocent until he has been declared guilty.” The preliminary article of the CPP reinforces this idea, making it clear that the prosecution carries the burden of proof and that any uncertainties should favor the accused (in dubio pro reo).

In the case of **Alenet de Ribemont v. France (1995 ECHR 85)**⁹², the European Court of Human Rights condemned police officials for publicly declaring a suspect guilty before the trial had even begun. This kind of statement was found to violate the presumption of innocence as outlined in Article 6(2) of the ECHR.

Right to legal counsel:

The right to have a legal representative has been guaranteed to an accused person at every stage

⁸⁷ France, Code of Criminal Procedure, art. 63-1

⁸⁸ France, Code of Criminal Procedure, art. 63-3

⁸⁹ France, Code of Criminal Procedure, art. 63-4

⁹⁰ Letellier v France, 1991 ECHR 17.

⁹¹ France, *declaration of the rights of the man and of the citizen*, 1789 art, 9

⁹² Alenet de Ribemont v France, 1995 ECHR 85.

of a criminal proceedings

Article:63-4 of the CPP⁹³, says that the accused person has the right to consult an advocated immediately after the commencement of the detention for about 30 minutes and at each of the 24 hour detention

At the same time, **article 116 of CPP⁹⁴**: during the (*juge d'instruction*) which means the judicial investigation, the accused to be mandatorily represented by the counsel at all the stages of the investigation of the interrogation before the judge who is investigation

Sadduz vs turkey case though not directly related to France but only after the verdict of this case helped in the amendment of the CPP for the rights to have legal counsel

Right against self incrimination and right to silence:

Article 63-1 of CPP : The accused to be informed about the right including the right of remaining silent under the police custody. **Funke vs France (1993 ECHR 6)⁹⁵**, this case have condemned the French government for compelling the individuals to give a self-incriminating statement. **Article 114 of CPP**, states that the accused to be informed about the charges against him and the caused of accusation⁹⁶

Right to fair public trial , guaranteed by the ECHR under article 6 where they have tribunal correctional for less offences and the cour d'assises for the serious offences. **Pelissier and sassi vs france (1999 ECHR 54)⁹⁷**, the defendants to be clearly informed about the fact and to be given appropriate and adequate time for the accused to prepare their claim/ defence

Right to appeal also been ensured to the accused in the criminal matters under **article 496 of CPP** , **article 380-2 of CPP**, **article 622 of CPP**, all these articles gives the accused person the right to appeal to be an effective part of the fair trial as decided in the case of **delcourt vs Belgium (1970 ECHR 1)⁹⁸**

⁹³ France, Code of Criminal Procedure, art. 63-4

⁹⁴ France, Code of Criminal Procedure, art. 116

⁹⁵ Funke v France, 1993 ECHR 6.

⁹⁶ France, Code of Criminal Procedure, art. 114

⁹⁷ Pelissier and Sassi v France, 1999 ECHR 54.

⁹⁸ Delcourt v Belgium, 1970 ECHR 1.

Right against arbitrary detention, has been ensured to the accused person in the case of the **kemmache vs france (no:3) (1994 ECHR 59)⁹⁹**, and this case mandated the French government to stringent the laws towards the pre trial detention

7. RIGHTS OF AN ACCUSED PERSON IN RUSSIA

The protection of the rights of individuals accused of crimes in the Russian Federation is a vital aspect of the country's shift from the old Soviet-style inquisitorial system to a more semi-adversarial approach, which is grounded in constitutional protections and international obligations. The Russian Constitution (1993) and the Criminal Procedure Code (CPC) of 2001 form the legal foundation for ensuring due process, while Russia's participation in the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR) adds further international responsibilities to uphold fair trial rights.

However, despite these formal protections, Russia often faces criticism over issues like judicial independence, the influence of politics in criminal cases, and how law enforcement adheres to procedural rules. Still, if the statutory and constitutional framework is applied correctly, Russia offers one of the most comprehensive lists of rights for accused individuals found in contemporary legal systems.

The Constitution of the Russian Federation, adopted in 1993, clearly lays out the procedural rights for individuals who are under investigation or facing trial. Here are the key provisions:

Article 46 This article guarantees judicial protection for rights and freedoms.

Article 47 It ensures that no one can be denied the right to have their case heard by a competent and lawful court

Article 48 This establishes the right to qualified legal assistance from the moment someone is detained, including the right to free legal counsel for those who can't afford it.

Article 49 It codifies the presumption of innocence, stating that everyone is presumed innocent until a lawful court judgment proves otherwise

⁹⁹ Kemmache v France (No 3), 1994 ECHR 59.

Article 50 This prohibits the use of evidence obtained illegally and guarantees the right to appeal a conviction.

Article 51 It protects individuals from self-incrimination, allowing them to refuse to testify against themselves or their close relatives.

These constitutional protections reflect the principles found in Articles 9 and 14 of the ICCPR and Article 6 of the ECHR, highlighting Russia's formal commitment to international fair-trial standards.¹⁰⁰

The Criminal Procedure Code of 2001 (CPC) brought significant changes to Russian criminal law, aligning it more closely with international human rights standards. It introduced adversarial proceedings, ensured judicial oversight for pre-trial detention, and expanded the role of defense attorneys.

Rights During Arrest and Pre-Trial Detention

Right to be Informed of the Grounds of Arrest

According to Article 46(2) of the Criminal Procedure Code (CPC) and Article 22(2) of the Constitution, individuals must be promptly and clearly informed about the reasons for their arrest and the charges they face. This requirement is in line with Article 5(2) of the European Convention on Human Rights (ECHR). Any detention that lacks judicial approval for more than 48 hours is considered unconstitutional.

Judicial Authorization of Detention

In Russia, the CPC states that any pre-trial detention lasting longer than 48 hours needs to be sanctioned by a court order (Article 108 CPC). This judicial oversight was established following the significant Decision of the Constitutional Court No. 3-P in 1996, which determined that only courts not prosecutors have the authority to approve detention. This change was a response to past abuses seen in the Soviet prosecutorial system.

¹⁰⁰ Russia, Constitution of the Russian Federation,

Right to Legal Counsel

As outlined in Article 48 of the Constitution and Article 50¹⁰¹ of the CPC, anyone accused has the right to legal counsel from the moment they are officially suspected or detained. If the accused cannot afford a lawyer, the State is required to provide a free public defender. In the case of *Ryabtsev v. Russia* (ECHR, 2008)¹⁰², the European Court of Human Rights highlighted the importance of having early access to legal representation to prevent coerced confessions.

Right to Silence and Protection Against Self-Incrimination

Article 51¹⁰³ of the Constitution clearly establishes the right to remain silent. The accused cannot be forced to testify against themselves or their relatives. Any statements obtained in violation of this right are considered inadmissible under Article 75¹⁰⁴ of the CPC. This is similar to the Miranda rights seen in the United States.

When it comes to the trial rights of the accused, the **presumption of innocence** is a fundamental principle. According to Article 49(1) of the Constitution and Article 14 of the Criminal Procedure Code (CPC), anyone accused of a crime is considered innocent until a lawful court proves otherwise. It's the prosecution's job to provide evidence, and any uncertainties should be resolved in favor of the accused¹⁰⁵.

In the case of *Khodorkovsky and Lebedev v. Russia* (ECHR, 2013)¹⁰⁶, the Court took a stand against Russian authorities for breaching the principle of equality of arms and impartiality. They emphasized that the presumption of innocence also means that the accused should be free from any prejudicial comments made by the state.

Moving on to the **right to defense and legal assistance**, Article 53¹⁰⁷ of the CPC ensures that legal counsel can be involved at every stage of the process from the initial interrogation all the way through to appeals. The defense has the right to question witnesses, present evidence, and access the case file once the investigation wraps up (as stated in Article 217 CPC)¹⁰⁸. If the

¹⁰¹ Russia, Constitution of the Russian Federation, art 50

¹⁰² *Ryabtsev v. Russia* (ECHR, 2008)

¹⁰³ Russia, Constitution of the Russian Federation, art 51

¹⁰⁴ Russia, Constitution of the Russian Federation, art 75

¹⁰⁵ Russia, Constitution of the Russian Federation, art 49(1)

¹⁰⁶ *Khodorkovsky and Lebedev v. Russia* (ECHR, 2013)

¹⁰⁷ Russia, Constitution of the Russian Federation, art 53

¹⁰⁸ Russia, Constitution of the Russian Federation, art 217

defense is denied access, it violates Article 6 of the European Convention on Human Rights (ECHR).

As for public and independent hearings, Article 241 of the CPC requires trials to be open to the public, except in cases that involve state secrets, minors, or personal privacy. Judges must remain impartial and independent, and in serious criminal cases, jurors can be called upon (as per Article 30 CPC)¹⁰⁹.

When it comes to the appellate and review process in Russia, there are several levels to consider:

Appellate Review (Articles 389–401 CPC): This allows higher courts to take a fresh look at both the facts and the legal aspects of a case.

Cassational Review: This type of review zeroes in on whether the procedures were followed correctly and if there were any judicial mistakes.

Supervisory Review: This is a special process that lets the Supreme Court or the Prosecutor-General reopen cases if new circumstances come to light. **Lastly, the Constitutional Court of Russia serves as the ultimate protector of procedural rights, with the authority to invalidate any provisions that go against constitutional guarantees**¹¹⁰

CONCLUSION

The way accused individuals' rights have evolved across different jurisdictions shows a global shift towards a criminal justice system that prioritizes human rights.

In India, there's a unique blend of constitutional values and judicial activism, particularly seen in Articles 20–22 and 21. The UK maintains fairness rooted in common law, thanks to precise statutes and the incorporation of the European Convention on Human Rights. In the U.S., we see a model of constitutional rigidity, where judicial enforcement acts as a key safeguard. France stands out with its civil-law procedures, all while being overseen by European human rights institutions. Russia, despite its constitutional commitments, struggles with

¹⁰⁹ Russia, Constitution of the Russian Federation, art 241

¹¹⁰ Russia, Constitution of the Russian Federation, art 389-401

implementation due to centralized institutions and political pressures.

In the end, protecting the rights of those accused is crucial for upholding the rule of law. The dignity of each individual the foundation of democratic justice hinges not on how many are convicted, but on the fairness of the processes that lead to those convictions. As Lord Sankey beautifully stated in *Woolmington v. Director of Public Prosecutions* (1935 AC 462)¹¹¹,

“It is the duty of the prosecution to prove the prisoner’s guilt; the presumption of innocence is the golden thread running through the web of English criminal law.”

This golden thread now weaves through every civilized justice system around the globe, embodying humanity’s shared quest for fairness, equality, and justice for all who are accused.

¹¹¹ *Woolmington v. Director of Public Prosecutions* (1935 AC 462)