

ACHPR/Res.4(XI)92: RESOLUTION ON THE RIGHT TO RECOURSE AND FAIR TRIAL

The African Commission on Human and Peoples' Rights, meeting at its Eleventh Ordinary Session, in Tunis Tunisia, from 2 to 9 March 1992;

Conscious of the fact that the African Charter on Human and Peoples' Rights is designed to promote and protect human rights in accordance with the provisions contained in the Charter and recognised international human rights standards;

Recognising that the right to a fair trial is essential for the protection of fundamental human rights and freedoms;

Bearing in mind that article 7 of the African Charter on Human and Peoples' rights;

1. Considers that every person whose rights or freedoms are violated is entitled to have an effective remedy;
2. Considers further that the right to fair trial includes, among other things, the following:
 - a. All persons shall have the right to have their cause heard and shall be equal before the courts and tribunals in the determination of their rights and obligations;
 - b. Persons who are arrested shall be informed at the time of arrest, in a language which they understand, of the reason for their arrest and shall be informed promptly of any charges against them;
 - c. Persons arrested or detained shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or be released;
 - d. Persons charged with a criminal offence shall be presumed innocent until proven guilty by a competent court;
 - e. In the determination of charges against individuals, the individual shall be entitled in particular to:

- i). Have adequate time and facilities for the preparation of their defence and to communicate in confidence with counsel of their choice;
 - ii. Be tried within a reasonable time;
 - iii. Examine or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
 - iv. Have the free assistance of an interpreter if they cannot speak the language used in court;
3. Persons convicted of an offence shall have the right of appeal to a higher court;
 4. Recommends to States Parties to the African Charter on Human and ts to create awareness of the accessibility of the recourse procedure and to provide the needy with legal aid;
 5. Decides to continue to be seized with the right to recourse procedures and fair trial with the view of elaborating further principles concerning this right.