

# Rights of accused: research paper examples

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## **Rights of Accused**

The concept of the due process can be traced from multiple origins which include customs, practices, enshrined ideals, cherished moral and ethical values and finally, precedents. . (Leonard W. 1968). Because of the continued struggle for the freedom of the people, the due process has lead to the acknowledgement of the human rights by the government and they were finally made into legally binding statutes. . (Leonard W. 1968). It is clear that the idea of the due process was already old when the constitution of United states was written, in fact is also older than English common law. The process can be associated with the Magna Carta although it is differently being understood nowadays.

The process can be traced back to unrecorded time especially in very few earlier private courts who could at least realize that even the accused needed some protection against the charges. They also realized that the accused could be stripped off his charges and set free in case he/she was not guilty.(Samuel, W. 1980). Despite this, during the ancient times, rough justice formed the order of the day due to the fact that by these times the due process was not widely spread.

The Magna Carta captured very old doctrines which can be traced back to 1215.(Samuel, W. 1980). It protected properties of a man and it went further to explain that these properties can only be taken away from a person after lawful judgment. The term due process for the very first time appeared in the edition of the Magma Carta in 1354. (Samuel, W. 1980). But in the early English law, it was polished and refined. Due process was incorporated in the very early state constitutions which lead to the amendments of the United

States constitution with the request of New York.

The accused can be protected against abuse by the federal government using several steps. These steps are actually coming from due process which was amended into the U. S constitution. First and foremost, amendment number four guides how the police should carry out their duties. This amendment prohibits the police from searching the accused houses or premises without the court warrant. (Leonard W. 1968). Years back, the states police used to search houses without any warrant and therefore violate human rights. It also states that someone should not be jailed without proper trials. In amendment number five, it gives the accused the right to obtain information and present them in courts as evidence.(Leonard W. 1968). The same amendment gives the accused the power not to be interrogated without proper reason and if necessary, should keep mum. The accused also used to spend many days in the custody before being arraigned in courts but when amendment number six was put in place, there is now prompt arrangement for trial and at the same time, the accused should be made aware of the charges, the witnesses and the right to consult with his/her lawyer. (Samuel, W. 1980). This lead to very fast trial and at the same time reduces the backload of people in the custodies. In the society people do not have same financial capabilities and also the accused do not have the same magnitude of offences hence the bail given to each and every accused should be comparative to his/her offence.(Samuel, W. 1980). This is according to the amendment number eight of the constitution of United States.

Another area where due process provided protection to the accused is in

amendment number fourteen where it required that all citizens of the state should be given equal trials including the slaves and the blacks. (Samuel, W. 1980). This amendment was majorly known as reconstruction amendment which warns the state against depriving any individual of his/her property or life without following the rule of law.

In conclusion, the rights of the accused are being given first priority and this was declared since independence. At times, because of the due process, the accused might walk away free when there is no enough evidence to prove that the person was guilty of the offence he is charged with. The main aim of the due process is to ensure that any person is innocent not unless charged guilty in a court of law under the law of the land. (Leonard W. 1968).

## **References**

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Leonard W. (1968). Origins of the Fifth Amendment . New York: Oxford University Press.

Samuel, W. (1980). Popular Justice: A History of American Criminal Justice. New York: Oxford University Press.