

History and development of the sixth amendment

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The Sixth Amendment of the Bill of Rights contains seven clauses that protect the rights of the accused. The amendment assures the accused that “ In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (U. S. Const. Amend. 6)

One of the most important parts of this amendment is the right to counsel. The right to counsel guarantees the accused is provided with an attorney who is both competent and well - versed in the law. In this day and age, even the defendants that cannot afford counsel are provided with public defenders. The history of the Sixth Amendment can be traced back to English law, where defendants did not have a right to hire counsel to defend themselves, unless the circumstances were extraordinary.

Subsequent to the 1688 Glorious Revolution (in England), English Parliament allowed only those accused of treason to be represented by counsel at proceedings. It wasn't until 1836, when the Prisoner's Counsel Act was passed, that the right to counsel was withheld from defendants. (" Right to counsel," 2008) Once the colonies in America were established, most of the American law remained rooted in English law and continued the practice of denying counsel to defendants, although the laws varied depending on the colony.

Close to the end of the Revolutionary war in America, the right to represent and the right to counsel was widely regarded as a necessity and a right. ("Right to counsel," 2008) The development of the Sixth Amendment right to counsel began in the Supreme Court with *Powell v. Alabama*, 287 U. S. 45 (1932). In this case eight, young black men were convicted and sentenced to death in a racially tense Alabama, where the trial was carried out expediently, while denying the right to counsel for the defendants. Once the case was heard by the

Supreme Court, Justice Sutherland stated that " the Court, always requires the observance of certain fundamental personal rights associated with a hearing, and "the right to the aid of counsel is of this fundamental character. " (" Assistance of counsel," 2004) Justice Sutherland included that "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law.

If charged with crimes, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him.

Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. (" Assistance of counsel," 2004) This established that the right to counsel needed to be upheld because the accused were not always well equipped to defend themselves and may not always understand what they are being accused of. Six ears later, Johnson v. Zerbst, 304 U. S. 458 (1938) the Supreme Court established a clause that required the appointment of for those criminal defendants that did not have to means to employ counsel.

Justice Black declared that it "is necessary to insure fundamental human rights of life and liberty [and that] [t]he Sixth Amendment withholds from federal courts, in all criminal proceedings, the power and authority to deprive an accused of his life or liberty unless he has or waives the assistance of counsel. " (" Assistance of counsel," 2004) The court established through this that if the defendant waives the right to counsel it must be through an intelligent and informed choice and the waiver of this right needed to be determined prior to the proceedings.

Then in 1942, Betts v. Brady, 316 U. S. 455 (1942) established that a majority of states did not require counsel to be appointed in non- capital cases. Betts, who was indicted for robbery requested counsel prior to his arraignment but was denied by the presiding judge, eventually filing a writ with the Supreme Court, where the Court decided that the right to counsel should be taken into consideration depending on the case. (" Assistance of counsel," 2004) This ruling was the standard until Gideon v. Wainwright, 372 U. S. 335 (1963).

Gideon v. Wainwright, unanimously overturned Betts v. Brady citing that "that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. " (" Assistance of counsel," 2004) It was in this case that the Court established that the right to counsel was a fundamental right of the accused and that " that no person may be sentenced to jail who was convicted in the absence of counsel, unless he validly waived his right. (" Assistance of counsel," 2004)

These landmark cases were the stepping stones to solidify the right to counsel as a fundamental right of the accused. It was through these cases that the established the sheer importance of representation in a cases that could incarcerate the accused and truncate their life. It was an important recognition b the court because it validated and confirmed that the justice system was fair and balanced and had every party's interest in mind.