

PRESUMPTION OF INNOCENCE

The presumption of innocence is the legal principle that the prosecution must prove guilt. The accused does not have to prove innocence and is considered to be innocent until proven guilty.

KEY PRINCIPLES

All people are considered **innocent**. This means all people, no matter their race, gender, religion or association are considered good, honest and free from blame.

It is a **presumption** and imposes on the accuser the burden of proving an assertion as correct.

Excluding or modifying the presumption should **never be easy**.

Where one's freedom and livelihood are at stake, society should be very careful to protect a person's presumption of innocence.

Whilst it is included in the Universal Declaration of Human Rights it is not an enforceable legal right. It can (and often is) excluded or modified at any time by an Act of Parliament.

IMPLICATIONS

1 It is better for a crime to go **unpunished** than an innocent person be condemned- even if the crime is heinous.

2 The **onus of proof** is on the accuser to prove guilt.

This protects the accused and ensures they are;

- informed of the charge and any relevant evidence
- provided the right to defence in an open court
- protected from coercion (or torture) where their testimony might incriminate them (right to silence)
- not disadvantaged where the accuser has greater financial resources and power; and
- tried for a specific crime that is against the law and not for their race, religion, association or crime of another person

This also provides checks and balances on the accuser to stop them from misusing their power.

3 A person cannot be convicted unless there is **satisfactory legal evidence** that relates to the accusation and not merely vague, unsubstantiated stories or evidence