

charge against him".<sup>16</sup> The UDHR guarantees for the right to equal protection of the law,<sup>17</sup> the right to be presumed innocent in criminal investigations,<sup>18</sup> and the right to non-discrimination<sup>19</sup> are also related to the right of access to justice.

3. The International Covenant on Civil and Political Rights (ICCPR) guarantees the same rights and uses similar language. In Article 2 (3) thereof, each State Party undertakes: (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an *effective remedy*, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) to ensure that any person claiming such a remedy shall have his right thereto determined by *competent judicial, administrative or legislative authorities*, or by any other *competent authority* provided for by the legal system of the State, and to develop the possibilities of judicial remedy; and (c) to ensure that the competent authorities shall *enforce such remedies* when granted. In Article 14, paragraph 1, "all persons shall be equal before the courts and tribunals" and that "[i]n the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."
4. In General Comment 13 (1984), the Human Rights Committee clarifies that all the provisions of Article 14 of the ICCPR "are aimed at ensuring the proper administration of justice, and to this end uphold a series of individual rights such as equality before the courts and tribunals and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law." It further clarifies that paragraph 3 of Article 14 elaborates on the requirements of a fair hearing with regard to the determination of criminal charges, but that they are only minimum guarantees that may not always be sufficient to ensure the fairness of a hearing. The minimum requirements of a fair hearing under Article 14, paragraph 3 are: (a) prompt and detailed information, in a language the person understands, of the nature and cause of the charge against her; (b) adequate time and facilities for the preparation of her defense and to communicate with counsel of her choice; (c) trial without undue delay; (d) trial in the person's presence, and defense of oneself in person or through legal assistance of her own choosing; information, if she does not have legal assistance, of this right; and free legal assistance, in any case where the interests of justice so require and when she has no sufficient means to pay for it; (e) examination of witnesses against her, and the presentation and examination of witnesses on her behalf under the same conditions as the witnesses against her; (f) free assistance of an interpreter if she cannot understand or speak the language used in court; and (g) the right not to be compelled to testify against herself or to confess guilt.
5. Applying the standards of effective remedy, the first Optional Protocol to the ICCPR exempts from the requirement of exhaustion of all available domestic remedies in filing communications under the Optional Protocol cases where "the application of the

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16. Art. 10.

17. Art. 7.

18. Art. 11.

19. Art. 3.