**Trial in absentia?**

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A trial in absentia is usually considered a last option after all practical measures have been taken to ensure the defendant’s attendance. In the criminal judicial system, a trial in absentia, sometimes referred to as an ‘in absentia’ trial, is a legal action in which the defendant is not physically present in court during their trial.

These trials usually take place when the accused has absconded from the jurisdiction, is missing intentionally or accidentally, or cannot be found or has escaped to another country of jurisdiction. For a variety of reasons, countries enact laws allowing for trials in absentia; frequently, these laws aim to strike a compromise between the accused’s rights and the requirement for efficient administration of justice. Regular criminal courts, military courts, and international criminal tribunals all hold trials in absentia, and they are recognized everywhere.

The court can continue the trial without the defendant or accused in specific circumstances where they knowingly flee or become a fugitive in order to evade prosecution. This legal theory, sometimes referred to as the fugitive disentitlement concept, is used in situations where it is believed that the offender is intentionally trying to avoid justice. Trials in absentia are also governed by international law and conventions, with many nations having a duty to guarantee that people are not put through trials that infringe their rights.

An accused person cannot often be tried and found guilty in absentia. However, absentia trials are held in Pakistan, as well as in many other nations, when the accused is not present in court due to a variety of circumstances, including escaping the law on purpose, living abroad, or being a fugitive. This clause aims to protect any evidence that might be used against the fugitive if s/he is found and brought before the court. To address immediate security issues or avoid prospective harm, a trial in absentia is required in cases involving major crimes or risks to national security.

A century-old statute known as the Code of Criminal Procedure 1898 (CrPC) governs trials in absentia. That statute governs trials held in absentia. The Penal Code and other rules pertaining to the trial of offences have a strong foundation for this practice. The Criminal Procedure Code of 1898 governs the process for issuing proclamations in sections 87 and 88. The accused’s immovable property may therefore be attached by the court pursuant to Section 88 of the Code of Criminal Procedure, allowing the accused to appear in court.

If the court determines that the accused has been properly served with a summons or warrant and that there is no justifiable basis for their absence, it may proceed with the accused’s trial even though they are not present, as permitted under Section 512 of the CrPC. The legal framework may evolve over time, and different countries have different policies on the admissibility and particular guidelines for trials in absentia.

Section 4 of the Suppression of Terrorist Activities (Special Courts) Act 1975, Section 9 of the Terrorist Affected Areas (Special Courts) Act 1992, Section 21 of the Anti Terrorism Act 1997, Section 295A of the Pakistan Penal Code (which has been added to the list of offences only triable under the Anti Terrorism Act 1997), sections 172,173,174 of the PPC and Section 31 of NAB Ordinance, 1999 are among the special statutes that also offer the mechanism for trial in absentia. Before using this clause, nevertheless, a proclamation designating the accused as an absconder or proclaimed criminal must be made.

Before the trial can be held in absentia, the following legal requirements must be met: one, the accused is purposefully hiding his/her identity in order to obstruct justice; two, the state will pay for legal representation for the accused; three, in accordance with Section 87 of the CrPC, an appropriate proclamation has been issued; four, that nobody has been able to serve him/her with a notice to appear in court, and someone (typically a process server) needs to take care of this in person.

Five, that all attempts to get the accused to appear have been unsuccessful, and even warrants could not be carried out; six, offering the absconder legal representation is another; seven, the trial’s date, time, and place must be duly communicated to the defendant throughout the legal process. Usually, formal summonses or notices are used to notify the defendant and are delivered to their known address; eight, the accused’s inability to appear in court to respond to the charges or stand trial must be proven to the court’s satisfaction; and nine, based on the evidence and arguments put forward during the trial, the court can issue a verdict at the conclusion, declaring the defendant guilty or not guilty.

In addition to Pakistan, the UK, India, and other sub-continental countries also allow trials in absentia. Trials in absentia are permitted in a number of European nations as well including France, Italy, and Spain, with certain restrictions and with legal protections. There are legal provisions for trials in absentia in a few Middle Eastern nations, including Saudi Arabia and the United Arab Emirates. Simultaneously, Denmark, Norway, Denmark, Netherlands, Belgium, Austria, Switzerland, Finland, Portugal, Ireland, Hungary, Poland, Latvia, Lithuania, Slovakia, Cyprus, Malta, Luxembourg and Russia, also permitted the trial to be held in absentia.

Trial in absentia is a helpful tool for cross-border offences where the defendant or accused is outside the jurisdiction and intentionally not showing up in person for the trial. There are a number of benefits to holding a trial in absentia when it comes to crimes committed by people who have fled their country or committed crimes that cross international borders. Upon their return or apprehension, defendants found guilty in absentia typically have the option to contest the verdict or file an appeal. A trial in absentia is required when a defendant is avoiding justice or is uncooperative and refuses to follow the legal process. This ensures that the legal proceedings continue. Trials in absentia have the potential to accelerate legal proceedings by circumventing drawn-out extradition procedures or legal disputes concerning jurisdiction.

Especially in cases involving organized crime, national security matters, corruption, or influential individuals, an absentee trial might shield witnesses and victims from potential danger or intimidation on the part of the defendant. Extradition processes are started in order to bring back the person who was found guilty in absentia and bring them back to face the consequences of the trial’s verdict if they were later located in another country. This effectiveness is crucial when dealing with crimes that have broad ramifications across international borders relating to heinous crimes and national security matters.

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