



IN THE PURSUIT OF JUSTICE: UNDERSTANDING THE RIGHTS OF THE ACCUSED IN INDIA

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ABSTRACT:

The Constitution of India places individuals' rights in a very wide range as its tendency and arrangements to hold the accused people in dignity and honourable position in the criminal justice system. Which place fundamental rights under Articles 14(Right to Equality) and 21(Right to Life and Personal Liberty) in a lot to say that principle of treatment and equal distribution is the foundation. The Third right, to the extent that it deals with self-incrimination, disallows the individual's testimony against himself to be kept under duress. Article 22 of the ECHR, like a lot other of its provisions that provides for the rights to a fair trial, the right to legal representation and the right to not be detained without reasoning. A human rights form of a constitution entails such provisions as applying due process of law, presuming one innocent until proven guilty, and be immune from second prosecution pursuit of a same case (Article 20(2)). The right to privacy embodied in the general accepted fact by the judicial system, furthermore, ensures the right to save accused. These provisions are essentially together, and they boil down to a good basis for the securing and upholding of justice, due process and human right protection in the criminal justice system in India.

INTRODUCTION:

A person at a police station or waiting for trial in a court room still has civil and human rights that should not be taken away due only to their confinement. This principle is built upon the assumption that there is no value in sending hundreds of innocent people to prison if in the process risking to punish one innocence. The Constitutional rights of those accused in criminal jurisdiction, certainly there are some protection available, have been strongly defended by the Indian Constitution¹. Justice is blind and it is the prosecution that is obliged to provide solid evidence that would prove the guilt of the accused. This presumption of innocence constitutes the fundamental building block of our legal system. Ensuring that the due process of law afforded to the accused remains preserved is of significant importance. This is as it constitutes the main security mechanism to prevent miscarriage of justice. Through highlighting the importance of the said subject we can call for the acceleration of the process of respecting human rights of everyone no matter their legal status.

The presumption of innocence connotes vital importance to the procedure by insinuating and ascertaining the prejudice towards the accused. The fact that the person whose guilt is under consideration is considered innocent in the beginning is a given and they are required to be free of criminal blame. However this happens only after the prosecution has proven its case beyond a reasonable doubt. To prevent abuse and to ensure that the law is followed, the Indian Constitution along with other criminal laws rules provide that the accused is innocent until proven guilty in a court of law. The rights of the defendant via the guarantees of the United States constitution are all active during the entire trial process and exert themselves in the arrest, search and seizure situations as well. It is needed to avoid the violation of suspect's rights by ensuring that the rights of the victim are not charged. We need to intensify the importance of maintaining the presumption that innocent people should not be assumed to be guilty of any offense and how that helps people charged with offenses, in the criminal justice system.

The Criminal Procedure Code, 1973, enacted for this purpose lays down a hallmark series of principles and processes to be followed by executive agencies and judiciary, while handling criminal cases at different stages of the criminal justice system. These are processes like collecting evidence, interrogating witnesses, making arrests, examining witnesses, methods of prosecuting the defendant; and making sure the accused is fairly tried by the court of law. Thus, these procedures maintain the higher standard of humankind and fundamental legal provisions for the accused persons as well². Through such practices, investigating agencies and criminal courts implement a system that is completely in sync with ensuring the rights of the people being accused is respected and justice served to them fairly and impartially. Criminal law protection becomes imperative in the domain of criminal justice arrest and detention action must be prevented from unlawful or casual movement in order to sustain the rights of the accused. The police acting in the capacity of law enforcers are given the privilege to arrest and investigate suspects of cognizable offenses without an intervention of direct magistrate. Nevertheless, the court has a role to play in monitoring the trial process to make sure no authority harassment is allowed as the police may be tempted to misuse their powers to serve their own ends. The 4th Amendment to this constitution acts as a sufficient provision to further elucidate the

¹ Kartik Bohra, *Legal Protection Available To An Accused During A Criminal Trial*, available at: <https://blog.ipleaders.in/legal-protection-available-accused-criminal-trial> last seen on 24/11/2023

² Kakoli Nath, *What are the Rights of an Arrested Person*, available at: <https://blog.finology.in/criminal-law/rights-of-arrested-person> last seen on 25/11/2023

significance of equal and fair treatment of the defendant. In addition, the emphasis of this amendment on judicial check on the other government authorities moves to imply further importance of sound and fair judicial system.

OBJECTIVE:

The main goal of the legislature in introducing the fundamental legal declaration of sentencing the accused person is to protect the inherent human dignity that is the right of every citizen of India as declared in the Constitution.³ Such a situation obliges the accused to be respected and given the same fair trial as any other person who has not been declared culpable. It is important to keep in mind that, whether a criminal act has been committed or not, no of the rights of a person in conflict with the law should be jeopardized. As such, criminal jurisprudence embodies rules and principles that protect the accused and render the procedures followed at the investigation and trial process fair and just. An accused whose humanity is sacred must be treated with core human values like dignity, respect, or any other citizen regardless of their legal status. This makes certain that they are not discriminated against on the pretext of their alleged misconduct or disobedience of law. The first and foremost aim of the accused's legal protection throughout investigation and litigation is maintaining fairness, justice, and equality in accordance with the Indian Constitution. This is an indispensable condition for granting the accused the right to be considered without prejudice and in a fair manner.

A PERSON ACCUSED WITHIN THE CONTEXT OF CRIMINAL LAW:

Contrary to the 1973 Criminal Procedure Code, there is no specific definition of an individual who is said to be "accused". Moreover, the custodial sense of the term also comprehends people who have been accused of breaking a particular law or a dispute with legal principles separately outlined in the criminal jurisdiction. The accused is made to account for such actions and is liable to be implicated of the offence which may attract appropriate punishments according to the I.P.C.1860, or any other relevant penal legislation at the relevant time. It is worth mentioning that just being accused is not the same as being charged guilty and it is important to let the accused have their say before coming to any conclusion about it. The defendant alongside every other citizen are granted the same rights but with regard to the legal provisions, his/her freedom can be limited. These rights only help to guarantee their rights and giving them the right to be treated fairly under law. These rights help to protect their identities and ensure that no one mistreats them.

JUDICIAL PROCEEDINGS: AN OVERVIEW OF CRIMINAL TRIALS IN INDIA:

The criminal trial process in India, essentially, substantially happens as governed by the Indian Criminal Procedure Code, 1973. This procedural framework will in turn, guide steps and define what us the way how the proceedings will be proceeded if not specified otherwise. Aside from the Code of Criminal Procedure the Indian Evidence Act, 1882 which is also performs crucial roles in trying criminal cases in India. In that respect, the act named Evidence defines who provides the evidence during a trial, and it explains how to use such evidence in court. Furthermore, medical malpractice law covers the issue of expert witnesses, as well as it prescribes the burden of proof and logistical aspects of involvement of scientific evidence. There is one thing to be mentioned particularly that India works under the system of adversary trials where the state or the prosecution is responsible to prove the fact that the accused is not guilty beyond a reasonable doubt. It guarantees equity and justice in a trial that will provide the accused with an arbitrary assumption of innocence until they are proven guilty.

IMPORTANCE OF RIGHTS OF ACCUSED PERSONS:

The idea of the presumption of innocence, when the person becomes innocent on the arrest up till the time the verdict supported by evidence is given, in our legal system is a fundamental principle. It is also very telling of the principles of democracy in the society where every person, even those which may be accused of crimes, are regarded highly for their rights. The accusation is not the final say, as a person's worth is not diminished by being charged with an offense, nor does it lower their standing in society. Our legal system is crafted so as to protect the freedom of individuals and to fully abide the principle that there cannot be any person held in detention without a legal authorization to do so. This principle, therefore, emphasizes the necessity to offer fair and just treatment to all persons arrived at by no default of the accusations raised before them.⁴ The principle of innocence until guilt is proven serves to deepen our understanding that the main function of the court system is to protect the innocence of every individual which is a principal for ensuring that every individual's human rights are protected.

The constitution of the country, and Article 21⁵ in particular, prohibits anyone from being deprived of their life and personal liberty except it is done in an already announced and legally established procedure. Therefore this process must be conducted in the manner of the ground of justice and that nobody is denied rights unjustly, unreasonably and cruelly. The mere fact of conformance to the law is not going to be enough. The question of justification is still to be answered. It is the Indian Constitution which confirms the rights of arrested individuals as part of the quintessential personal fundamentals. This literally means that any legal power related to arrests should only incorporate the law but also recognize public demand that such actions are justifiable.

³ Ibid

⁴ Mahak Gandhi, *Arrested Persons Rights Under CrPC*, Law Times Journal, available at: <https://lawtimesjournal.in/arrested-persons-rights-under-crpc/> last seen on 24/11/2023

⁵ Art 21, Constitution of India

As such, one of the basic concepts that many nations around the world make use of involves people who go through the process of being accused as being given particular rights under the law. The core idea of the reason why these rights do exist is that the government as these defends a huge amount of resources just to prosecute certain individuals. Therefore, the point that accused people should not be wrongly misused by the state or government is vital to protect these individuals' rights. These rights are essential in the legal system as any attempt to create a level playing field and prevent violation of human dignity are sometimes pursued through them.

When we are talking about a criminal investigation or inquiry, a court trial in this case, it is necessary to remember the status and the rights of the accused, hence to see his rights as something that should be safeguarded. Specifically the rights are there to guarantee the judiciary process in such a way that an accused person is not subjected to arbitrary arrest or illegal detention. Of critical importance is the fact that lawful detainment cannot be based upon a mere hunch or any data that is supposedly in the suspect's possession. Whether it involved informing or pursuing a suspect becoming the one who ran and interrogated them, the individual with information was not a person who had that authority. The maxim does not require a change in perspective if it seeks to legitimize the action of an ordinary man who deprives someone else of freedom due to his own opinions. Consequently, it seems clear that the accused is entitled to legal protection of his/her rights, which include following legal procedures, having those rights respected, and avoiding the arbitrary actions. It should be pointed out that the last requirement concerns observance of legal protocols.

In the pivotal case of *Kishore Singh Ravinder Dev vs. the State of Bihar*⁶, the Supreme Court established the doctrine of *Mandamus* as a means to check the executive's arbitrary use of its power. The state of Rajasthan raised a question that the Indian legal system has a very elaborate framework of law that protects the rights of the indicted people. The constitutional, evidentiary, and procedural laws that make up this system are all created in accordance with one principle which is the dignity of the accused as a human being. Thus, a trial must be completely fair, just, and impartial. The Indian legal system puts great stress upon the rights of the accused that lies in their inherent personality and assets, which include the recognition of their fundamental entitlements and the efforts to ensure fair handling of the process.

In the *Maneka Gandhi vs Union of India*⁷ case as well, the court established a landmark judgment on the ground that any process made to execute any state authoritarian regulations shall be done in accordance with principles of justice, impartiality and reasonableness, regardless of the method used.

RIGHTS OF AN ACCUSED:

1. Right to be Informed:

- i. The section of Indian Constitution tagged as Article 22⁸ is undoubtedly an essential provision or an unchangeable clause that protects the fundamental rights of every individual. The person cannot be detained without being indicted of the reasons as per this aspect. Implying this would make sure that any individual has the right to know why they are serving detention and protects them from the effect of arbitrary detention.
- ii. Section 50(1) of the Indian CrPC⁹ ensures the detained an accused without warrant of arrest, rights to get notified information about the particular nature of crime. The very right itself is there against the injustice someone might get by the officers who make the arrest.
- iii. As per section 55 of CrPC¹⁰, one who is caught during raids and arrests has the right to ask the corresponding authorities to provide warrant listing those reasons, mutually comprehensible by both parties. Not carrying such a warrant would thus decrease the due process of law and perhaps the legality of the arrest itself. This condition may function as a binding rule, guarding citizens from illegal and unconsented detentions. The legislature will have a chance to check the action of the police departments because of this condition.
- iv. According to the CrPC, wherein section 75¹¹ is concerned, the officer who carries out the arrest is mandated to provide the person being arrested with the reason and the details, as long as it is necessary for the occurrence of the arrest.

1. Right to Remain Silent:¹²

- i. As per Article 20(3) of Indian Constitution, the arrested individuals cannot be compelled to prosecute for the case hence act as witness. Serious infringements towards the personal autonomy are prohibited by the articles referring to the methods of interrogation which should not include any coercion. The Accused hereby competes with the right to be silent within the process of investigation and interrogation. Crucial in ensuring the protection of individual rights, an important clause within the criminal justice system which grants the absolute right to be tried in absence of self-evidencing is specified in this part of the Constitution. The purpose of this provision is to secure that there are no grounds for bias and implied self-denunciation.
- ii. However, the condemnation of these methods (narco-analysis, brain mapping and lie detector tests) is mainly the result of disregard to those constitutional provisions that are listed in Article 20-3 of the national constitution. This basically encompasses the factor of individual's privacy and right of self-incrimination that is expected to be enforced upon the process of the mental state examination.

1. Right to Bail¹³:

⁶ *Kishor Singh Ravinder Dev Etc v State Of Rajasthan*, 1981 AIR 625, 1981 SCR (1) 995

⁷ *Maneka Gandhi v Union Of India*, 1978 AIR 597, 1978 SCR (2) 621

⁸ Art 22, Constitution of India

⁹ S.50(1) Code of Criminal Procedure, 1973

¹⁰ S.55 Code of Criminal Procedure, 1973

¹¹ S.75 Code of Criminal Procedure, 1973

¹² Art. 20(3), Constitution of India

¹³ Art 21, Constitution of India

- i. Article 21 of the Constitution entitled individuals who face both bailable and non-bailable offenses to the right of receiving bail. The court, combining the severity of the charges and the available proof, determines whether a defendant would be in custody or not. This fundamental right of an individual to not be held in bondage without sufficient cause to warrant it safeguards this right.
- ii. Section 50(2) of the Code of Criminal Procedure (CrPC) stipulates that when a police officer makes an arrest for crimes other than bailable and non-bailable offenses without a warrant, the arrested person should know about the right to be released on bail in the way mandated by the law. Moreover, this officer also empowers an accused person by providing surety for him/her.

1. Right to be taken to Magistrate without Delay:

- i. When bringing someone to justice, the arresting officer must not hold the arrested person any longer than 24 hours, and this is irrespective of the type of arrest, i.e. whether the arrest is made by warrant or not¹⁴. Which means that the efficiency of the arrest is preserved and that the rights of the arrested person are complied with, and the due process is done within the given period of time.
- ii. Code of Criminal Procedure (CrPC), which is Section 56¹⁵ says when an individual is apprehended after a warrant and accused of a crime it is mandatory to produce him immediately in the presence of the magistrate or officer connected with the police force. This provision aims at translating into practice the principle that everybody who is accused should get legal protection and be presented to a competent court without any prejudice the case may be postponed for long.
- iii. Section 76 of the CrPC says that this limit period cannot be more than 24 hrs, and, it explicitly specifies that the time taken to arrive at should be excluded when calculating this timeframe.
- iv. When this regulation comes in effect, it no longer allows police officers to indirectly or directly, exert pressure on any person who is in custody and has been apprehended in order to extract any kind of information from the individual.

1. Right against Double Jeopardy: (Art 20(2))

- i. With reference to the principle of double jeopardy, this means that no person can be prosecuted and punished as regard the same crime two or more times. The lack of certainty creates an obstacle for the implementation of the criminal law.¹⁶ In the American judicial system, once the defendant has been through the proper trial and has been held accountable for their actions, they have been given their due process and hence, they cannot be legally prosecuted for the same crime ever again, regardless of how their guilt may be perceived by the general public.
- ii. This is one of the fundamentals of the judicial system that not only makes sure fairness in court proceedings but it also acts as a barrier to potential misuse of power within the criminal justice system.

1. Right against Self Incrimination:

- i. The basis of this legal concept derived in the case of Selvi v. State of Karnataka¹⁷ is a clear Supreme Court order that stated that those who are being accused of any crime and are asked to become a prosecution witness cannot be forced to produce evidence against themselves.
- ii. This protection against self-incrimination does not apply just to a particular stage, phase or a part of the legal process; it is comprised an entirety throughout the entire phase of the investigative procedure. In other words, this fight against self-incrimination is not only a constitutional right belonging to the accused, but also to the people at a pre-trial stage of an investigation, that is, in the circumstance of their possible involvement in a criminal case. The provision of letters of deductibility goes further by covering even witnesses who are worried that their responses might be used in criminal case not only in the current investigation but also in other investigations.
- iii. This concept underlying this principle is a fundamental idea of protecting someone against the potential defamation when the testimonial evidence would reveal their own guilt.

1. Right to Fair Trial:

- i. Casting off the dictates of Art. 14 of the Constitution¹⁸ (which guarantees equality as a fundamental right) to the people. As well as in Code of Criminal Procedure it is stipulated that a fair trial is that which must bring together and take place in front of an open court. This stipulations is very significant because it to block any underground and secret programs in the quest of the conviction.
- ii. Nevertheless, on the exception case, the court must be able to track the privacy, confidentiality, and foreclosure of all parties who are involved in the trial. This obligatory measure of access to open courts not only depicts transparency, but also makes the system just and fair.

1. Right to Speedy Trial:

- i. However, the constitution itself is silent on this issue, but instead, the Supreme Court made this the mandatory performance standard for investigations, in the case of Hussainara Khatoon¹⁹, that they should be conducted with the utmost urgency and with care.
- ii. For the case where maximum term of detention is two years – the investigators are granted six months to complete all procedures leading up to the trial. The pause of the investigation may be made possible in such a case if the magistrate grants the order for this. The additional extension of the investigation is possible also – but the magistrate must provide the written documentation to support his decision. It is this aspect that will guarantee justice to all, through a timely and efficient legal system and the protection of the offenders and the victims' rights.

¹⁴ State of Punjab v Ajaib Singh

¹⁵ S.56, Code of Criminal Procedure, 1973

¹⁶ Art 20, Constitution of India

¹⁷ Selvi v State of Karnataka AIR 2010 SC 1974, (2010) 7 SCC 263

¹⁸ Art 14, Constitution of India

¹⁹ Hussainara Khatoon v. Home secretary State of Bihar AIR 1979 SCR (3) 532

1. Right to Consult Legal Practitioner²⁰:

- i. Moreover, they, the ones who arrested, shall admit and respected that all the arrested individuals are human beings, who have a natural right to seek for the advice of their choice lawyers. Hence, this right is conferred an identification which it holds explicitly as an integral part of The Constitution of India under Article 22(1). Being a fundamental right, the principle is non-debatable and absolves no single query in application.
- ii. Firstly, to put it strongly, the section 50(3)²¹ of the Code further adds weight to this safeguard by also explicitly pointing out that the individual who is afforded the protection of this law is entitled to be represented by a lawyer of their own choice. Right to counsel which the suspect get automatically when his/her apprehension occurs at the outset of the case will enable the suspect to be helped by lawyer through the whole justice system.

1. Right to Free Legal Aid:

- i. The Supreme Court, in the Khatri case²², it was decided that there is the constitutional duty implied in Article 21, which is one of the part of the constitution, to provide no charge legal aid to those who are from a financially weaker portion of society. The starting of this rights takes effect upon staging of the trial and continues to the point when the accused person is shown the magistrate. It also continues with the remand.
- ii. The Supreme Court emphatically underscores this right and mentions that the state an assertion that a failure of the state to make the accused aware of this right will mean that the entire trial must be dismissed. Whistle-blowing or loud-outreaching of this amplification contribute to shows the gist of state which is capable to enforce the principles of justice even with the indigent defendant.
- iii. Thus, it is the birth of an obligation for every judge and court to explain free legal aid availability to the poor persons facing criminal prosecution. The Supreme Court has developed this particular setback a little bit more in Suk Das v. Union Territory of Arunachal Pradesh²³ by maintaining that the right to fair trial cannot be denied even if the accused individual had not made an application for timely trial. Due to this, officials creating laws will not perceive the poor as the ones who do not have any means to defend themselves in the court the case happens.

1. Right to be examined by Medical Practitioner:

- i. With the help of 54(1) of the Cr.P.C.²⁴ an accused detained shall notify to the magistrate for examination by a medical practitioner. This section provides that, in the event when an arrested person whether the accused or not, challenges a Magistrate or their period of detention, to undergo a medical examination, in order to provide evidence to contradict his involvement, or to confirm that a crime they are blamed is committed on another person's body, the Magistrate must avail a medical officer to examine the body of the person.
- ii. The Magistrate should, thus, make use of his wisdom in the decision-making process and choose to reject a petition he is suspicious may come from a heart that desires to either bring more trouble to the court, delay cases, or stop the life of the court. In reference to the above-mentioned rule, this provision underscores the significance of medical evidence when the body of the criminals is used as key evidence introducing either self-exoneration for the accused or other party involved.
- iii. This provision shall open up a door where an individual will be receiving a thorough inspection by qualified medical personnel which in turn will make sure that the evidence sufficiently supports the allegations.

DK BASU GUIDELINES:

1. The D.K. Basu vs. State of West Bengal²⁵ case is a landmark matter in the history of the Supreme Court of India that helped set the new standard and make accountability prevalent in the custodial death cases after this case. For this reason, the top authority of the country has expressed its great spirit of shock at the escalating numbers of deaths in custody. The high court itself has stated that the people who are given the duty of protecting the public, enforcing law and order as being very unfortunate are amongst those who are involved in the such deaths.
2. However, not only police departments but also other authorities similarly contribute to this dangerous situation. One urgent issue that concerns the apex court is the manner of conducting policing. Hence, it has announced the code of conduct commonly known as the DK Basu guidelines.
3. This information stipulates the specific rates and ways of making arrests, conducting interrogations and detentions, which are binding to law enforcements. The enlargement of this groundbreaking decision will not only highlight the requirement but also the call for widespread changes in order to preserve the fundamental rights and the general welfare of detained individuals.

²⁰ Art 21(1), Constitution of India

²¹ S. 50, Code of Criminal Procedure, 1973

²² Khatri v State of Bihar, 1981 SCR (2) 408, 1981 SCC (1) 627

²³ Suk Das v. Union Territory of Arunachal Pradesh AIR 1986 SC 991

²⁴ S.54, Code of Criminal Procedure, 1973

²⁵ D.K. Basu vs. State of West Bengal 1997 (1) SCC 416

CONCLUSION:

The rights of persons accused need to be protected and promoted as deprived arrest restricts the most fundamental aspect of life and liberty, and such right has to be restricted. The Indian judiciary has always taken a very lenient view while considering the rights of persons accused of the offense. In over two-thirds of the cases, prisoner are under-trials. Awaiting trial, they suffered years behind bars, waiting eagerly for trial and still wait for their day in court, their day for justice. It should be highlighted that a disproportionate number of those awaiting trial come from socially disadvantaged groups-the scheduled castes, known as Dalits and Adivasis, religious minorities, or economic weaker sections from other communities.

On the one hand, proper counseling is warranted; on the other hand, it is necessary to do along with counseling for those that were acquitted need rehabilitation after years of incarceration. At the same time, authorities responsible for enforcement, which include the police and the state, have to protect law and order without persecuted by misuse and abuse of powers like suspected fake and framed cases and charges. Moreover, in this regard, they need to aware of the cases Courts' judgments. Moreover, human life and personal liberty are paramount, and the importance of this personal liberty is something that can be understood only by those who have lost it or have been deprived of it.

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