



## Fundamental rights of prisoners of speedy trial

Varsha Desai

Research Scholar(law) Karnavati University, Gandhinagar ,Gujarat

Corresponding Author- Varsha Desai

### Abstract:

Article 21 of the Constitution ensures a prisoner's right to life and personal freedom as well as a fair, just, and reasonable legal system. By giving a broad and liberal definition of life and personal liberty, the Supreme Court of India has shown tremendous vigilance and care for the fundamental rights of prisoners. Because of many factors, inmates who are being tried in any court in India but cannot afford a surety bond or obtain legal representation are detained behind bars for long stretches of time. Their fundamental rights have been gravely violated. In various Indian courts, under trial detainees made up 61.24% of the population

**Key Words:** Quick, Liberty, Guaranteed, Reasonable, Liberal, Encroachment, Surety, Trial, etc.

### 1.Introduction

People who have been accused and found guilty by a court are typically physically held and partially deprived of their freedom in a jail. The prison system is a crucial component of any country's criminal justice system. Prisons may only be intended for males, women, or adults, among other groups. From one country to another, the cause for incarceration may be different. Among other things, it might be a) punitive, b) reformatory, c) deterrent, or d) therapeutic. Convictions are primarily used to defend society against criminals and crime. The primary objective of prisoner rehabilitation cannot be reached by reformatory techniques of therapy alone[1]Justice is of worse quality when an innocent person is imprisoned or a guilty person is acquitted, as well as when criminal cases are decided with great delay. Our criminal justice system, like that of every other democratic society, is supposed to deal with crimes and offenders in an efficient, swift, and lawful manner in order to give the general public the greatest sense of security. A civil society cannot survive without the criminal justice system functioning properly and effectively. Victims, accused parties, and witnesses endure countless forms of harassment throughout drawn-out trials. To lighten the load of trials and promote swift case resolution, a variety of tactics and instruments have been employed in different jurisdictions. Justice must be served quickly, which necessitates the trial .The Indian

judicial system went deeply into the principles underlying the basic liberties guaranteed by studied our constitution and noticed that Article 21's provisions and its inherent right to a "speedy trial". In the historic cases of HussainaraKhatoon v. State of Bihar[3] and M.H. Hoskot v. State of Maharashtra [2], the Supreme Court agreed, stating that "speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty as enshrined in Article 21 of the Constitution." In other important instances, the Supreme Court ruled that Article 21 of the Constitution implicitly guarantees the right to a timely trial and that violating it may result in the prosecution itself being thrown out of court on the grounds that it violated a basic legal privilege. A person's right to a speedy trial is affirmed by international treaties like the 1966 Covenant on Civil and Political Rights, which also underline the need of fast justice. India ratified the covenant, taking on the obligation to respect it legally. Despite the Sixth Amendment to the United States Constitution guaranteeing the right to a timely trial. 35 state constitutions provide a quick trial, but these clauses only apply when the delay has been significant. The U.S. Supreme Court has refused to establish any specific trial time range.[5]

Due to the ambiguity of the Constitution's requirements and the need for swift justice,

legislators have recently showed a strong interest in strengthening the provision of a fast trial. The 1974 (Amended in 1979) Federal Speedy Trial Act is the greatest and most thorough attempt. A notable example of legislation that works to accelerate criminal prosecutions is the Speedy Trial Act of 1974. Contrary to The right to a speedy trial is not expressly included as one of the fundamental freedoms in the Indian Constitution, despite the Seventh Amendment of the United States Constitution explicitly and formally reaffirming this right in the United States. In all criminal proceedings, the accused is guaranteed the right to a fair, transparent, and quick trial. According to the Fourth US Amendment, "no person shall be deprived of life, liberty, or property without the due process of law." This comes on top of that. This change closely corresponds to both Article 31 and the deleted clause-II of Article 21 of the Indian Constitution. Article 21 of the Constitution states that "No individual shall be deprived of his life or personal liberty without For the first time, the Supreme Court of India determined that the right to a fair trial was inherent in the broad definition in the case of *Shobha Mittal v. Home Secretary, State of Bihar*. The right to a prompt and impartial public trial is one of the elements of the fair and reasonable process that Article 21 protects. It couldn't be cruel, unfair, or irrational. At its core, "speedy trial" was seen as a guarantee against imprisonment.

## **2.0. Concept and Meaning of Speedy Trial**

The sine qua non (essential requirement) of criminal law has always been swift justice. To protect against oppressive and unnecessary detention, it is crucial. It lessens the worry and dread that come with the allegation. Additionally, it significantly reduces the chance of limiting an accused person's capacity for self-defense. There is still a strong cultural desire to provide justice quickly and fairly. Recently, the right to a swift trial has come into play. The extent of fundamental rights that are guaranteed by the constitution has also been broadened by the Indian courts in a number of decisions.

The idea of a rapid trial was originally included in the Virginia Declaration of Rights in 1776. From then, this idea made its way into the seventh The right to a fair, speedy, and public trial for all criminal defendants was created by an

amendment to the US Constitution. It's crucial to remember that the United States of America has a Federal Act from 1974 called the Speedy Trial Act in this situation. This Act makes time restrictions a particular reference. in relation to significant criminal offence prosecution events including indictment, information, and arraignment. Canadian laws also have similar clauses. The Magna Carta's guarantee of a swift and fair trial is also acknowledged as a fundamental legal right[6]. Germany rejects this viewpoint, which is held in Canada, the United Kingdom, New Zealand, and the United States of America. This particular common law right, however, does not give an absolute and suitable remedy to be granted under several principles established in various court rulings. Article 16 of the 1976 International Covenant of Civil, Economic, and Political Rights also protects the right to a speedy and fair trial. Article 9 of the European Convention on Human Rights stipulates, similarly to Speedy, that an accused person cannot be detained and maintained in custody for a protracted period of time without a fair trial. According to this Convention, the defendant has a right to a quick trial.

The Constitution guarantees the right to a speedy and fair trial. Indian Constitution, yet different jurisdictions have different baseline standards. Then, every criminal defendant has a right to a quick trial. Justice therefore entails providing quick and affordable remedy to those who come before the different legal matters before the court. Since lengthy litigation, a delay in delivering justice has been considered a denial of justice. generates several issues, including financial strain and emotional anguish for the parties involved as well as diminishing their greatest confidence in the judicial system. The biggest problem with Indian judicial system is the delay in case resolution.

The right to a timely trial is an essential and necessary part of the basic right to life and liberty guaranteed by Article 21 of the Indian Constitution. The right to a speedy trial is implicit in Article 21 of the Indian Constitution, according to the Apex Court, which stated this in its Constitutional bench decision in the case of *Aslam Rahman vs. Ram Nayak*[7]. The Apex Court further observed "Now obviously, procedure prescribed by law for denying a person their

freedom cannot be reasonable, fair, or just unless that procedure ensures a speedy trial for determination of such person's guilt," the court stated. No method may be considered fair, reasonable, or equitable if it does not guarantee a relatively speedy trial. Therefore, there can be no question that the basic A timely trial is one that goes reasonably fast, which is described under Article 21 as a right to life and liberty. The right to a quick trial should commence without undue delay and within the time periods prescribed by law. Due to a wide range of legitimate postponements, these deadlines must be extended. It only applies when a person is labeled as a "accused," that is, when he has been accused of a crime or imprisoned to face criminal charges. Even if someone is released from custody after being in custody, they are still considered to be an accused and are entitled to a quick trial. Criminal trials are temporarily postponed in a number of Indian courts in an effort to keep up with the volume of criminal cases since The cost of compliance has been the delay of legal actions. Additionally, a large share of the possible problems arise due of certain circumstances., such complicated drug conspiracy trials and serious murder cases, do not easily fit into the required time periods. As a result, Indian state laws often grant judges broad discretion when considering whether to waive time constraints in the sake of fair justice.[8]

### **3.0. Nature of Delay and Time-Frame**

Delays that are seen as systemic in criminal processes and that neither the accuser nor the prosecution can control. the absence of judges, delay entirely brought on by overcrowding on the court's calendar or other events outside the prosecutor's control. In addition to asking for brief adjournments, the accused employed other legal strategies that the prosecution must combat to prolong the proceedings. Delay brought on by such orders of the court, whether or not they were requested by the accused, necessitating modifications, appeals, or other suitable processes or acts . Delay brought induced by the prosecutor's lawful activities, such as tracking down a crucial document or obtaining evidence from abroad, or obtaining a critical witness who flees the courtroom or other processes. The aforementioned delays are not seen as impeding the right to prompt justice. The purposeful delays that lengthen the

procedures, whether caused by the prosecution or the accused, are the ones that are under scrutiny. Both the accused and the prosecution may wish to drag out the proceedings if they have a victimization case against the accused or if they want to harass him or her.

The absence of a trial in a timely manner is not shown by the mere fact of a delay. Instead, it is necessary to adopt a balancing test to determine if a case should be dismissed for not having a quick trial. During this test, the actions of both the prosecution and the defense are weighed, and the following elements are taken into account: [9] Delay for: The prosecution's deliberate endeavor to prolong the trial clearly shows that the right to a prompt trial was disregarded. But a convincing justification, like a missing witness, usually accounts for the delay without jeopardizing the accused. Length of delay: By alone, a lengthy delay does not prove that the right to a prompt trial was trampled upon. A case that depends on eyewitness testimony, however, has been argued to benefit from a quicker decision. is detrimental to the accused If the accused's deliberate tactics are to blame for the delay. He will be regarded to have relinquished his right to a prompt trial. The accused's imprisonment in another state does not, by itself, warrant postponing his trial on the current case. The prosecution must make an effort to convince the other state to temporarily relinquish custody so that the case against them may be tried. [10]

### **4.0. Numerous Human Rights Approaches**

Laws and the courts have enabled a significant shift in the methods used in the criminal justice system. The treatment of inmates is also covered by several rules and regulations from the UN. The Nation has a duty and obligation under the law to safeguard its citizens and ensure that they enjoy Some essential rights are protected by other laws including the Indian Constitution. However, the expansion of the inmates' fundamental rights begs the important question of how far Article 21 of the Indian Constitution may be expanded to include the prisoners' entitlement to conjugal rights while they are within the jail. [11] Additionally, how can the convicted person's realm of rights be expanded under the guise of human rights without violating the rights of those who took the brunt of the harm done to them in the crime? What about

the victims' fundamental rights, against whom they had perpetrated the crime? The biggest human rights issue they are now dealing with is the delay in their case trials. Under Article 21 of the Fundamental Rights of the Indian Constitution, which also provides a fair, just, and reasonable procedure, a prisoner's fundamental rights to life and personal freedom are protected. 70% of those now incarcerated are, however, awaiting trial, and some of them aren't released even after being granted basic bail because they can't afford to post surety bonds for the court or because it's impossible to confirm the residences of certain convicts. "The quick trial of offenders is one of the main objectives of the criminal justice delivery system. A prompt, fair trial must be undertaken when the court receives the charge in order to find the criminal party guilty and the innocent party innocent. According to a well-known saying, no one is guilty unless evidence of their guilt is shown. The accused's innocence must thus be shown as soon as is practical due to the difficulty of surviving in a culture where allegations are widespread. Therefore, it is the duty of the legal system to make sure that no one who has committed a crime gets absolved. The second duty is to make sure that justice is served promptly and that the accused are not subjected to unrelenting torture. It is crucial that the guilty party is tried quickly so that the accused individual does not have to serve any more time in jail than is absolutely necessary if the judge denies bail. One of the most widely acknowledged human rights is the right to a timely trial.[12]

#### **5.0. Concerns Relating To Prisoners' Rights Being Violated**

The nations of the world have developed a number of international tools for the condemned criminals. In India as well, many laws pertaining to prisoners' rights have been implemented in addition to Several essential rights are outlined in the Indian Constitution. residents. The following list of issues related to the violation of prisoners' rights notwithstanding the existence of several laws: insufficient prisoner access to medical care. Intolerable behavior of the correctional staff. The penalty administered by the concerned The penalty given by the court is in conflict with actions taken by prison staff. barbaric treatment of the condemned on a physical and emotional level. Indigent inmates are unable to pay the

hefty surety bond sum mandated by the courts. rejection of the assurance owing to financial difficulties or address verification, as poor convicts lack housing.

#### **6.0. Judicial Concept on Speedy Trial Of Prisoners**

The struggle for Indian independence started the process of recognising certain fundamental rights for prisoners. After gaining its independence, our country's Constitution gave its citizens a number of fundamental liberties. According to Article 21, which protects the right to personal liberty, it is forbidden to treat anybody harshly or inhumanely, whether they are an Indian or a foreigner. Nobody's life or personal freedom may be taken away from them unless the legal process is followed." Article 21 of the Constitution declares. Through its interpretation of Article 21 for the protection and preservation of prisoners' rights for the maintenance of human welfare and dignity, the Supreme Court established human rights law. Deprivation of life and liberty is permitted in accordance with the established legal procedure, but the procedure cannot be unfair, arbitrary, or illogical.[13]

The Supreme Court ruled in *Minakshi Dutta v. Union of India*[14] that the process must not be unjust, arbitrary, or irrational. The court additionally decided that under to Article 21 of the Constitution, no person's life or personal liberty may be taken away unless and until after a fair, reasonable, and just process that is neither capricious or arbitrary has been followed. The Indian judicial system has done a fantastic job of upholding the human rights of those who have been found guilty by a jury. The following list includes the many rights that the Indian Constitution recognizes for prisoners:

#### **7.0. Compensation**

A prisoner, a defendant, or a detainee may submit a claim for damages with the High Court under Article 226 and the Supreme Court under Article 32 for the violation of his rights while in custody. *Sultan Mohammad* was released from jail after serving a 12-year term in *Sultan Mohammad v. State of Bihar and Others* on the grounds of insanity after being declared not guilty [15]. The Court noted that no proof of any kind was offered to back up the decision made by prison personnel to either diagnose the prisoner as insane or to retain him in

custody as a result of that diagnosis. He didn't receive intensive medical treatment to cure him. The Court further stated that any mental illness a prisoner could have had had to do with the conditions at the facility. The petitioner was granted Rs. 65,000 in compensation by the court, and it was made clear that any additional compensation claims will be filed in the appropriate court. Article 21 would not have any real relevance if the Court could simply order a person's release. In Mohan Lal case 16, a habeas corpus petition was filed. Both a priest of the Naga people and a principal, Mohan Lal. His school received a visit from the military. In addition to the petitioner, the army was charged with many offences including kidnappings. A petition for habeas corpus was filed, but the State ignored the judge's instructions. The court inquired as to what the right procedure was for guaranteeing a writ of habeas corpus compliance. As a result, the State is required to provide each of the rightful heirs of the missing people Rs 2 lakh, the court ruled later. Compensation in the sum of Rs. 70,000 was given for confinement for unlawful or malign purposes. In connection with Janak Ram Case 17, an MLA was held in police custody, and remand orders were obtained without his appearing before the appropriate magistrate. The Apex Court emphasised in the Nilabati Modi case [18] the urgent need for the courts to create new tools and strategies to greatly simplify public laws by adapting them to the context and scenario with a view to upholding and preserving the rule of law. In Shalendra Chaturvedi v. State, the Supreme Court enhanced the amount of compensation to be given to forty-one members of the general classes who died in police custody while disregarding court orders from Rs 20,000 to Rs 40,000. [19] The Court further noted that although the payment of such an amount does not absolve the wrongdoers' guilt, it is being done so out of practicality, as a matter of working principle, and in an effort to restore the legal heirs of the deceased.

### **7.1. Fair Procedure**

The Indian Constitution recognises the ideals of fair and natural justice, and Part III of the Constitution covers these concepts. In Abdul Khan v. State of Madhya Pradesh [20], the High Court ruled that the court should, in the interest of justice, either send a qualified attorney to assist the court

or directly question the witness in cases where the accused refuses to seek legal assistance and is not represented by an attorney. As directed by the court, the matter was remitted for a further trial. In Shivappa Swami v. State of Kerala [21], the Supreme Court ruled that the magistrate who records confessional confessions of the accused must scrupulously adhere to the rules, making sure that the detention is carried out in accordance with the law and making sure that the police are not impeding a speedy trial.

### **7.2. Human Sentencing**

The judge has a tremendous and sacred duty to weigh all relevant factors in the case and deliver a sentence that is commensurate with the gravity of the conduct. The Supreme Court clarified in this ruling the circumstances under which a felon may be released early: if the crime is a single act of transgression with no repercussions for society as a whole? Does the sentenced person lose the ability to commit crimes? Do you think there's a chance the crime will be done again in the future? In Akhtar Hussein and Others v. State of West Bengal [22], the Supreme Court stated that it is important to consider the petitioners' actions and conduct while they were being held in custody in order to determine whether or not their ability to commit crimes has been diminished as a result of their prolonged detention.

### **7.3. Parole**

In Sunil Manchanda v. Union of Indi [23], the Constitutional Bench of the Supreme Court noted that parole is a temporary release from custody that does not suspend the period of detention but instead offers a few days of conditional release from custody in jail and modifies how the sentence is to be served. A prisoner cannot be granted parole unless they fulfil the following requirements: Marriages of the prisoner, his son, grandson, granddaughter, etc.

### **8.0. International Obligations And Requirements**

The Constitutional Bench of the Supreme Court noted in Sunil Manchanda v. Union of Indi [23] that parole is a brief release from custody that modifies how the sentence is to be served but does not suspend the period of detention. Rather, it offers a few days of conditional release from custody in jail. If a prisoner does not meet the following criteria, they will not be allowed parole:

marriages to the prisoner, his son, grandson, granddaughter, etc. Similar to this, each distinct state was in charge of how it dealt with its citizens or other stakeholders. This covers both the treatment of prisoners and the protection of human and basic rights. However, the treatment of prisoners by certain nations and the requirement for speedy trials later attracted the attention of several social and political activists and were included in regional and global human rights accords. Due to the change in public power that took place in the 1960s, which is comparable to the situation in the research project, the United Nations and regional human rights treaties address prisoners' rights. The United Nations and other regional human rights systems have also established dispute resolution structures with the competence to settle conflicts over the interpretation and application of the pertinent treaties. Human rights committees, such as the overall perspectives of the IESCR and ICCPR committees on the numerous rights of prisoners, are one of the sources I will use for my study.[24]

#### **[9] Landmark Cases Related to Speedy Trial:**

##### **1. State of Bihar v. Home Secretary, Hussainara Khatun & Co., 1979**

It was determined in this case that an inmate's extended imprisonment in jail if found guilty would be utterly unreasonable and a breach of their basic right under Article 21. This decision gave rise to the concept of a quick trial. When a lawsuit goes on for more than 11 years without any resolution for no fault of the accused-petitioner, excessive delays are in violation of Article 21 of the Constitution. Everyone has a basic right to promptness, which cannot be infringed upon unless one of the parties can be held responsible for the delay. When the trial is unreasonably delayed, the accused has the right to request bail. Additionally, it was decided that no delay would be granted unless and until the judiciary was helpless to alter the situation. The judiciary is in charge of keeping an eye on prisoners who are awaiting trials and prosecuting them. A person's rights cannot be taken away because of overloaded courts, insufficient funding, or a financial shortfall.

##### **2. Katar Singh vs. Punjab State**

The fundamental rights to life and liberty were held to be inseparably linked, and this included the right to a speedy

trial. Thus, it may be said that the accused has a right to a speedy trial, which includes all phases such as the investigation, inquiry, trial, appeal, revision, and retry.

#### **10.0. Conclusion:**

A person's respect and dignity are also safeguarded by the country, therefore just though they have committed a crime does not mean they lose their human rights. As far as the idea of human rights of a swift trial is concerned, it is necessary for a bench of the High Court or the Supreme Court to reconsider granting conjugal rights to the convicted person while they are in prison. By giving inmates greater importance, the nation will eventually risk upsetting the balance of the criminal justice system, and jails may eventually turn into resting places as a result. Therefore, convicts must have a quick trial. Additionally, the United Nations and other regional human rights systems have established tribunals with the authority to resolve disagreements on the interpretation and application of the relevant treaties.

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3. AIR2012SC1867.
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5. Manzoor Laskar, History of Speedy Justice, available at: <http://indiaholic.blogspot.in>. (Visited on March 26, 2019).
6. Part III of the Indian Constitution is known as the Magna Carta. Fundamental Rights are enshrined in the Part III of the Indian Constitution. It constitutes articles from 12 to 35. The reason Fundamental Rights include the term Fundamental is because they are guaranteed and protected by the Constitution, which happens to be the fundamental law of the land.
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