# Fair trial in the context of Article 21 of the Constitution of India

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The concept of a fair trial is a fundamental aspect of the Indian Constitution, ensuring that justice is served with due process and impartiality. While the term "fair trial" itself isn't explicitly mentioned, its principles are enshrined in various constitutional provisions and judicial interpretations. As an example, Article 14 guarantees equality before the law and equal protection of the laws. It implies that everyone, regardless of status, is entitled to the same legal standards and fair procedures. Article 20 Prevents retroactive criminal legislation, ensuring that individuals are only tried for offenses under the law as it stood at the time the act was committed, Enshrines the principle of double jeopardy, preventing an individual from being tried for the same offense more than once & Protects individuals from self-incrimination, establishing the right to remain silent, a critical component of a fair trial. Article 21 has been interpreted expansively by Indian courts to include the right to a fair trial. It mandates that any deprivation of life or liberty must follow due process, including a fair, just, and reasonable trial. Article 22 Provides specific rights for arrested individuals, including the right to be informed of the grounds for arrest, the right to consult and be defended by a legal practitioner, and the right to be presented before a magistrate within 24 hours of arrest. The essential elements of a fair trial in Indian jurisprudence include ie. Judges must be unbiased and impartial, Both parties should have an equal opportunity to present evidence and cross-examine witnesses, Defendants have the right to legal counsel, and if they cannot afford one, legal aid must be provided, Convicted individuals have the right to appeal to higher courts.

In India, the right to a fair trial finds its constitutional protection primarily in **Article 21**, which enshrines the Right to Life and Personal Liberty. The article states: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Although the term "fair trial" isn't explicitly mentioned, the judiciary has interpreted Article 21 expansively to include fair trial principles as an essential part of life and liberty. Initially, Article 21 was narrowly understood to allow any deprivation of life or personal liberty as long as it followed a "procedure established by law." However, a shift came in **Maneka Gandhi v. Union of India1**, where the Supreme Court expanded this provision by ruling that

"procedure" must be "fair, just, and reasonable." This broadened the scope of Article 21 to encompass a wider range of rights, including the right to a fair trial, setting a standard for justice that upholds human dignity and due process.

# Principles of a Fair Trial Under Article 21:

The right to a fair trial under Article 21 includes several essential principles, as recognized by Indian courts:

1. **Right to a Speedy Trial:** The right to a speedy trial, recognized in Hussainara Khatoon, prevents prolonged detention and delays that can harm the accused's case and well-being. Delayed trials deny individuals timely justice, which is inherently unjust. Courts have reinforced that undue delays violate Article 21. The Supreme Court of India with a view to improve Human Right situation held in **Hussainara Khatoon V. State2** of Bihar that though the right to speedy trial as Fundamental Right is not expressly provided in the Constitution of India, it is implicit in the broad sweep and content of Article

21. The Court held that a procedure which denied speedy trial to the accused could not be fair, just and reasonable, and that speedy trial was an integral part of the Fundamental Right to life and personal liberty enshrined in Article

21. Therefore, it was a constitutional obligation of the State to take all steps necessary for a speedy trial of the accused and it could not deny this right on the ground that it had no adequate financial resources to improve the administrative and judicial apparatus to ensure speedy trial. It is to be noted that the Supreme Court has derived necessary support for holding right to speed trial as a part of just, fair and reasonable procedure under Article 21 of the Constitution from 6th Amendment of the constitution of U.S.A. and Article 14(3) (c) of the International Covenant on Civil and Political Rights, 1966. In this case it was brought to the light that a large number of men, women and children had been put behind bars for years awaiting trials in courts of law. The Court found that many of the under-trials were languishing in jails without trial for periods longer than those to which they could be sentenced, should they had been found guilty after the trial. The Court,

therefore, asked the State Government for a list of such under-trials and ordered an immediate release of all those whose names had appeared in the newspaper articles, on their personal tion.131 bonds without insisting on monetary obligation.

The Court in **Hussainara Khatoon3** the respondent State for betraying complete lack of concern for human values and expressed shock for the unjustified deprivation of personal liberty of the under trials. The Court after referring to **M.H. Hoskot V. State of Maharashtra4** and the new Directive Principles on legal aid under Article 39-A of the Constitution of India emphasized the right of the under- trials to have legal service in relation to the speedy trial.

The speedy trial component of personal liberty was emphasized by the Court in **Nimeon Sangama V. Home Secretary, Government of Meghalaya5** expressed strong displeasure for wholesale breach of Human Rights guaranteed under the Constitution, specially under Article 21.

Another sorry state of affairs appeared in **Mantoo Majumdar V. State of Bihar6** where two under-trial prisoners had been in jail for seven years without any investigation of charges or filing of charge sheet before the Court. Justice Krishna Iyer admonished the State of Bihar for its gross indifference and lack of concern for Human Rights. Holding that it was a gross violation of Article 21 and Section 167(2) of Cr.P.C., the Court directed the release of the two forthwith on their own bonds without sureties. What shocked the Court most in this case is that the judicial officers charged with the obligation to protect the personal liberty of the individuals were mindless of constitutional mandates and were mechanically authorizing repeated detentions of accused persons.

Another instance of utter callousness and in difference of legal and judicial system to the under-trial was reflected in **Kadra Pahadiya V. State of Bihar7**. The detention of 4 young boys for more than 8 years compelled the Court to infer that right to speedy trial remained a paper promise and had been grossly violated. The Court in this case asked the Sessions Judge to proceed with the case immediately on day to day basis without interruption and was also asked to inform the dates of the beginning and the conclusion of the proceedings.

The **Bhagalpur Blinding case8** depicted a very sad picture of under-trials. In this case many under-trials, suspected to be hard-core criminals were blinded by police while the criminals were under its custody. Some of them were detained in jails without any remand orders being passed by the Judicial Magistrates. By not taking any remand orders from the Judicial Magistrates the police violated the provision of law by which the Magistrates could keep check over the police investigation. However, the Judicial Magistrates also failed to discharge their duties when some blinded persons were produced before them for judicial remand. The Magistrates without applying their mind to the very objective of remand provision signed the remand orders mechanically without bothering to enquire from the blind persons as to how and when they received injuries in their eyes. The Court after making scathing attack on above state of affairs issued directives to provide reliefs to those who had already been blinded.

The right to speedy trial is not mentioned as a fundamental right in the Indian Constitution like the Sixth Amendment of the United States of America. It has been developed by the judiciary of India and at present the right to speedy trial has constitutional status as a fundamental right under Article 21. In fact, it is a fundamental pillar of criminal justice that a person accused of a crime should be tried within a reasonable time. This is also necessary for crime prevention and it can avoid the dissipation of energy of the person which happens due to the waste of his time and money. Any such procedure which makes the accused person wait for a long time for trial and judgment cannot be reasonable and just in any way. of India in 1981 in State of **Maharashtra v. Champalal Punjaji Shah9** The Supreme Court considered that if a trial is held to be unfair If it is delayed, what is its treatment and what is its result In this case the accused was sentenced to 9 years' imprisonment by the trial court Later, the conviction was reversed. The order of conviction was challenged in an appeal. The High Court acquitted him. The State of Maharashtra had filed a petition under Article An appeal was made to the Supreme Court under section 136. There the accused had a defence It was also held that the court may, on the basis of sufficient time having elapsed since the commission of the offence should not interfere with the acquittal order. Finding that in this case The accused himself was substantially responsible for the delay and it is not the fact that could show that the delay would cause him no adverse effect in the treatment of his defence had an effect, the court rejected the said argument of the accused.

1. **Right Against Self-Incrimination:** Article 20(3) explicitly provides protection against self-incrimination, while Article 21 reinforces this by ensuring that confessions or testimonies cannot be coerced. This principle protects individuals from being compelled to testify against themselves and is critical to maintaining the integrity of the justice process.
2. **Presumption of Innocence:** The accused is presumed innocent until proven guilty beyond a reasonable doubt. This fundamental principle protects individuals from being treated unfairly or prejudged based on accusations alone. It ensures that the burden of proof lies with the prosecution.
3. **Right to Legal Representation:** Legal representation is essential to a fair trial, ensuring that the accused can present a proper defense. The Supreme Court, in Khatri II and other cases, emphasized that legal aid must be provided to those who cannot afford it, linking it directly to Article 21.
4. **Access to Evidence and Witness Examination:** For a fair trial, both the prosecution and defense must have equal opportunity to present evidence, cross- examine witnesses, and challenge each other's arguments. This ensures a balanced trial, enabling the accused to contest the charges adequately.
5. **Right to Appeal:** The right to appeal is an essential part of the fair trial process, as it provides individuals the opportunity to challenge convictions and seek a review from a higher court. Ensuring an avenue for appeal supports accountability and correction of potential judicial errors.
6. **Transparency and Open Trials:** The Indian judicial system emphasizes that trials should generally be conducted in open courts, allowing public access. This transparency builds public confidence and helps ensure fairness. However, in specific cases (like cases involving minors or national security), exceptions may be allowed.
7. **Right to Bail of the Detenu and Article 21:**

The judicial activism of the Supreme Court has led it to hold that right to bail is a part of personal liberty of a detenu under Article 21 of the Constitution. The personal liberty of an accused, who might turn out to be an innocent, should not be curtailed by refusing bail to him arbitrarily. The purpose of detention being to make the accused available for investigation and trial and to reduce the possibility of tampering with the evidence, it would indeed be a travesty of justice to keep a person in jail for years together for an offence which may ultimately be found not to have been committed by him. In **Babu Singh V. State of U. P.10**, the Supreme Court recognizing the right to bail as a part of personal liberty held that personal liberty, deprived when bail is refused, is too precious a value of our constitutional system recognized under Article 21 and, therefore, the power to negate through refusal of bail is a great trust exercisable not casually and arbitrarily^ but in accordance with the "procedure established by law" as mandated by Article 21 of the Constitution. The personal liberty of an accused should not be eclipsed by refusal of bail for punitive purpose. The Court has realized that taking of heavy bail from poor is not fair under Article 21. In **Moti Ram V. State of M.P.11** the Court realizing this aspect of unfairness of heavy bail with respect to poor, suggested the reform of bail laws by the parliament. Justice Bhagwati also, while dealing with under-trial prisoners in **Hussainara Khatoon V. State of Bihara12** held that the present system of bail was very harsh against the poor and the amount of bail fixed by the courts was so "unrealistically excessive" that in majority of cases the poor were unable to satisfy the police or Magistrate about their solvency and the task became impossible where they had to bring sureties. Thus, though presumed to be innocent, they suffered psychological and physical deprivation of life and personal liberty and could not prepare their defence. Further, the loss of their jobs consequent to detention, deprived the family of the only source of support. Therefore, the learned judge suggested that instead of risk of financial loss, other relevant considerations such as family ties, roots in the community, job security, membership of stable organizations etc. should be the determinative factors in the grant of bail. It is also suggested that in appropriate cases, the accused should be released on his personal bond without monetary obligation.

# Major judicial decisions relating to fair trial:

Here are some landmark cases relation to fail trial in India:

**DK Basu v. State of West Bengal13**: This case established guidelines to prevent abuse during arrest and detention, ensuring procedural safeguards for fair treatment. It emphasized transparency and accountability in police custody and pre-trial stages, critical aspects of a fair trial under Article 21.

**Khatri II v. State of Bihar14**: This case dealt with the denial of legal aid to poor prisoners. The Supreme Court held that free legal aid was essential for a fair trial, and its denial would constitute a violation of Article 21. The court mandated that indigent defendants have access to legal representation as part of their right to a fair trial.

**Hussainara Khatoon v. State of Bihar15**: Known as the case that brought attention to undertrial prisoners languishing in jails, this judgment recognized the right to a speedy trial as an integral part of Article 21. The court held that delays in trials violated the fundamental rights of prisoners, emphasizing the need for timely justice.

**Maneka Gandhi v. Union of India16**: This case was a turning point, where the Supreme Court declared that "procedure established by law" under Article 21 must be "fair, just, and reasonable." The court established that procedural fairness was essential for the protection of life and liberty, forming the foundation for the right to a fair trial in India.

**Mohammed Ajmal Kasab v. State of Maharashtra17:** In this case, the Supreme Court reaffirmed that the right to a fair trial applies even to those accused of heinous crimes. The court underscored the importance of providing adequate legal representation and defense, reinforcing that the principles of fair trial were inalienable under Article 21.

# Challenges and Issues in Ensuring Fair Trials:

Despite constitutional guarantees, several issues still hinder the realization of fair trial rights in India:

* 1. **Quality of Legal Aid**: Although legal aid is provided by law, the quality and availability of legal services for marginalized individuals remain inconsistent. This often results in inadequate defense for those who cannot afford private lawyers.
	2. **Police Misconduct and Custodial Violence**: Instances of custodial violence and forced confessions violate fair trial principles and undermine procedural safeguards. The guidelines laid down in DK Basu are crucial, yet there is inconsistent adherence.
	3. **Media Trials and Public Prejudice**: Sensationalized media coverage can create public bias, potentially influencing court proceedings. While the judiciary emphasizes impartiality, media trials can impact public perception and the accused’s right to be presumed innocent.
	4. **Judicial Delays**: India faces significant delays in judicial proceedings, with millions of cases pending in various courts. These delays undermine the right to a speedy trial and prolong justice for both the accused and the victims.
	5. **Overcrowded Prisons and Undertrial Detentions**: A large portion of the prison population in India consists of undertrial prisoners. Long periods of detention before trial compromise their right to liberty under Article 21 and the principles of fair trial.

# Conclusion

The right to a fair trial under Article 21 is a cornerstone of the Indian justice system, embodying the principles of due process, equality, and individual dignity. While the Indian judiciary has played a crucial role in interpreting and expanding these rights, challenges such as judicial delays, prison overcrowding, and quality of legal aid continue to impede full realization. Addressing these issues requires systemic reforms, improved legal aid services, and adherence to fair trial principles. As India

progresses, the preservation and strengthening of fair trial rights under Article 21 remain essential to ensure justice, accountability, and public trust in the rule of law.

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