



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

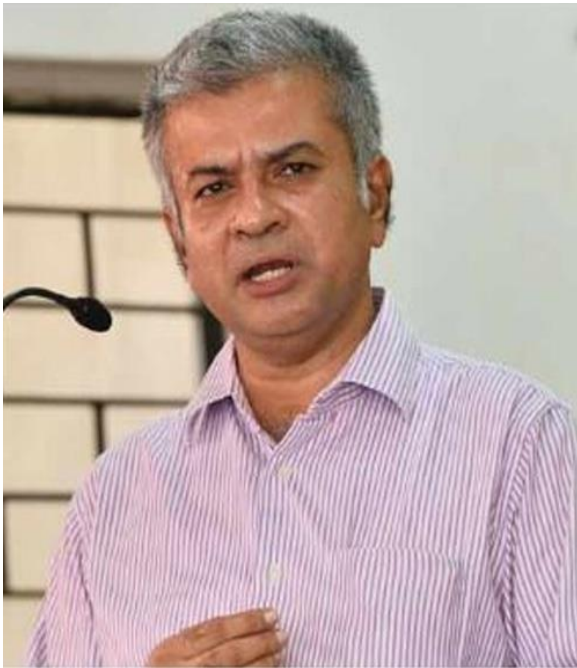
**DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL** **TEAM**

### **Raju Narayana Swamy (IAS ) Indian Administrative Service** **officer**



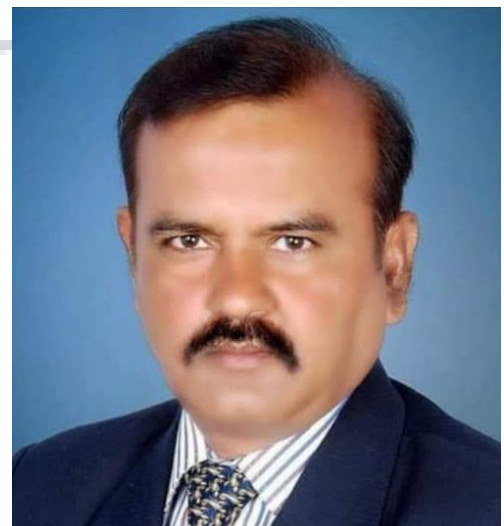
Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) ( with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

diploma in Public

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



### **Dr. Rinu Saraswat**

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

### **Dr. Nitesh Saraswat**

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

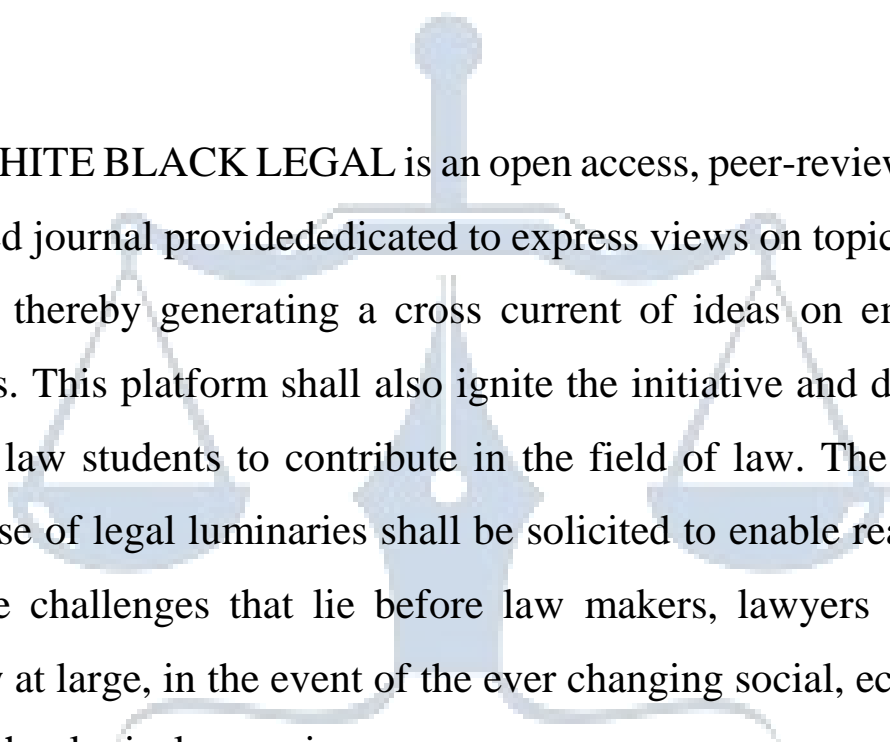


### **Subhrajit Chanda**

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

W H I T E B L A C K  
L E G A L

# **RIGHT TO FAIR TRIAL UNDER INDIAN JUDICIAL SYSTEM: A STUDY**

AUTHORED BY - RATNESH KUMAR

Research Scholar, Netaji Subhas University

CO-AUTHOR - DR. ACHARYA RISHI RANJAN

Supervisor, Pro Vice Chancellor, Netaji Subhas University

## **Abstract**

A fair trial is an open trial by an impartial judge in which all parties are treated equally. The right to fair trial is one of the fundamental guarantee of human rights and rule of law, aimed at ensuring administration of justice. Fair trial includes fair and proper opportunities allowed by law to prove innocence.

The presumption of innocence serves as the foundation for fair trials, which are protected under Article 21 of the Indian Constitution. The law treats everyone equally, and a fundamental component of laws that ensure equality is the provision for fair trials. Furthermore, they are protected by numerous international agreements and statutes, such as Article 6 of the European Human Rights Convention. An independent, unbiased tribunal must be set up in order to hold a fair trial.

A fundamental element of justice, the right to a fair trial is protected by the Indian legal system. It covers the rights to produce evidence, a fair and unbiased judge, and legal representation. The successful implementation of this right, however, may be hampered by issues like judicial delays and limited access to high-quality legal aid. In the Indian judicial system, striking a balance between the values of justice and securing that everyone obtains a fair trial is still a difficult and continuous task.

In addition to, the integration of technology in the legal system is under consideration as a way to accelerate court hearings and enhance access to justice. Among the technical innovations being used to improve the effectiveness and transparency of legal procedures are online case management platforms, virtual court sessions, and digital evidence presentations. India is

working to protect the right to a fair trial while adjusting to the changing demands and demands of its legal system by adopting innovation and updating its legal processes.

**Keywords:** Fair trial, Constitution, Article 21.

## Introduction

The right to fair trial has been established in various international agreements. The **Universal Declaration of Human Rights 1948** upholds the fundamental components of a fair criminal trial.

The Constitution of India, which was drafted by the citizen of the country, embodies the rule of law, which governs our country<sup>1</sup>. The rule of law is protected when there is an accessible legal system that fairly and non-discriminatorily tackles the needs and concerns of people worldwide. The notion that the law comes first is known as the rule of law.

An accused individual is presumed innocent unless and until his guilt is proved beyond a reasonable doubt, according to a fundamental norm, and the prosecution bears the burden of proof. The parties must agree on an appropriate location for the inquiry or trial.

Although Article 21 of the Indian Constitution states that everyone has the fundamental right to a fair trial and a speedy hearing, numerous cases remain unresolved in Indian courts, and these are concerning to the State as well as the parties involved. A fair trial is the most crucial and necessary requirement for judicial accountability.

## MEANING OF "FAIR TRIAL"

The most crucial requirement for enforcing justice is a fair trial. There is no absolute way to measure fairness because it is always relative. A fair trial is defined as the impartial and equitable implementation of justice while taking into account the person accused, the State, and the great majority of individuals whose protection criminal laws are meant to offer. The main objectives of the state are to provide a peaceful social environment for its people and to protect them from criminals by enforcing fair penalties. In accordance with the principles of

---

<sup>1</sup> Talab Haji Hussain v. Madhukar Purshottam Mondkar , 1958 SC 376, Iqbal Ismail Sodawala. v. State of Maharashtra, (1975) 3 SCC 14.



natural justice, the Bharatiya Nagarik Suraksha Sanhita, 2023 was drafted with the belief that the poor should be treated equally and that the accused should be given a fair trial. Provisions pertaining to fair trials are found in both the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023. A fair trial is conducted in public under the direction of a qualified, impartial, and independent judge.

An accused individual is presumed innocent unless and until his guilt is proven beyond a reasonable doubt, according to a fundamental norm, and the prosecution bears the burden of proof

### **FAIR TRIAL IN INDIA**

The fundamental tenet of the fair trial notion is that it is the responsibility of the state and its representatives to bring perpetrators to justice. The Indian courts have acknowledged that the main goal of Bharatiya Nagarik Suraksha Sanhita, 2023 is to guarantee accused persons<sup>2</sup> a fair trial in their fight against crime and delinquency.

One of the most significant protections against arbitrary or illegal deprivation of human rights and freedoms, particularly the right to liberty and personal security, is the right to a fair trial.

### **DEVELOPMENT OF FAIR TRIAL IN INDIA BY JUDICIAL PROCESS**

The judiciary is well supported by the public and has a major role in our political system. The expression "*judiciary is our last hope*" is well-known and it is frequently used by the citizen. The court is referred to as a "*temple of justice*." The aim of the judicial system is to provide justice to the people.

In the landmark judgment of *Maneka Gandhi*<sup>3</sup> and *Hussainara Khatoon*<sup>4</sup>, a fair trial and a speedy trial have been acknowledged as fundamental rights under Article 21 of the Indian Constitution.

---

<sup>2</sup> Talab Haji Hussain v. Madhukar Purshottam Mondkar, AIR 1958 SC 376

<sup>3</sup> AIR 1978 SC 597

<sup>4</sup> AIR 1979 SC 1360 5 AIR 1955 SC 792.

## **DEVELOPMENT OF FAIR TRIAL BY JUDICIAL INTERPRETATION**

### ➤ **EXAMINING THE ACCUSED TO GUARANTEE A FAIR TRIAL**

In the landmark judgment of **State of Hyderabad v. Manchander**<sup>5</sup>, the accused person was exonerated by the **Honorable Supreme Court**, which ruled that it was unacceptable to keep people waiting in anticipation for life-or-death proceedings because trial judges had acted improperly. The concept of justice is multifaceted. There are many aspects to it, and we need to reconcile the conflicting rights and responsibilities. An accused individual should be granted the opportunity to close any arguments or gaps that he may have had and should have in the lower courts, even if it is our fault for their errors. Regardless of whether the State is favored or not, or whether the accused is found guilty, justice must always be conducted fairly and impartially. This error goes beyond a matter of fact.

### ➤ **REJECTION OF BAIL IN BAILABLE OFFENCES FOR FAIR TRIAL**

The High Court has the inherent power to suspend any bail given to an accused person for a serious unlawful activity, according to the Supreme Court, and it is permitted to do so in cases where doing so would promote the interests of justice. The Court holds that if a fair trial is the main objective of the Bharatiya Nagarik Suraksha Sanhita, 2023, then any obstacle to its persistence must be addressed.

### ➤ **DELAY IN OBTAINING JUDGMENT PERTAINING TO THE FAIR OF THE TRIAL**

The provisions of the Criminal Procedure Code, 1973, were invoked in the case of **Iqbal Ismail Sodawala v. State of Maharashtra** because the accused obtained a copy of the judgment seven months after the session judge had not yet published the verdict through the clerk.

The Supreme Court held that in the above mentioned case, "the object of the Code is to ensure that the accused has a full and fair trial in accordance with the principles of natural justice."

### ➤ **TRANSFER OF THE CANCELLED CASE FOR A FAIR TRIAL**

The appellant in **Maneka Gandhi v. Rani Jethmalani**, who was accused of defamation, pleaded to have the case moved from Bombay to Delhi since he could not afford legal counsel for the trial. The petition was declined down. According to the Court, guaranteeing a fair trial is the most important aspect of administering justice and the fundamental consideration for the

---

<sup>5</sup> AIR (1975) 3 SCC 140.

court when evaluating a transfer application.

#### ➤ **SPECIAL COURTS FOR FAIR TRIAL**

A speedy resolution of cases is made possible by the creation of special courts. The Special Courts Bill, nevertheless, forbids transfers case, thereby endangering the parties' right to a fair trial. Natural justice's foundations are undermined, When bias is present, a replacement is required.

#### ➤ **ANTICIPATORY BAIL**

Section **482(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023**, states that in order to grant anticipatory bail, a certain condition must be satisfied. The applicant must show that he has "reason to believe" that he might be held in custody for a crime for which he is not entitled for bail. "Reason to believe" means that there must be a valid reason to believe that the applicant will be held in this manner. However, using the Section 482 power does not require submitting a First Information Report.

#### ➤ **RIGHT OF BAIL FOR UNDER TRIALS**

A writ petition was filed in Supreme Court Legal Aid Committee Representing **Under-Trial Prisoners v. Union of India case**<sup>6</sup> requesting that the under-trial inmates released since the **Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988** cases were taking too long to be decided.

#### ➤ **VICTIMS OF RAPE**

To highlight the pathetic situation of four or six domestic workers who were sexually assaulted by seven army personnel, the Delhi Domestic Working Women Forum filed a public interest lawsuit in **Delhi Domestic Working Women v. Union of India**, citing Article 32 of the Indian Constitution. The Court has established standards for a speedy trial inquiry to protect the rights guaranteed by Articles 14 and 21 of the Constitution. To help rape victims and guarantee a fair trial, the Court issued certain guidelines.

#### ➤ **Is FAIR TRIAL A SPEEDY TRIAL?**

In the Landmark judgment *Maneka Gandhi case in 1978*, court held that the right to fair trial

---

<sup>6</sup> AIR 1994, 6 SCC 731. 8 1995 SCC (1) 14.

is a Fundamental Right given under part third of the constitution and it is implied in Article 21 of the Indian Constitution.

In Landmark judgment **Husainera Khatoon and others v. Home Secretary, State of Bihar, AIR 1979 SC 1369** “speedy trial is an essential ingredient of right to life and liberty under Article 21 of the constitution and it is the constitutional duty of the state to set up procedure to ensure speedy trial.”

In the Landmark judgment **Zahira Habibullah Sheikh case (2006)**, the idea of a fair trial and the protection of the victim and witness were broadened, and in the **Dhananjay Kumar Singh case (2006)**, the principles of natural justice were deemed to be an important component of a fair trial in light of Article 21 of the Constitution and the **Universal Declaration of Human Rights, 1948**.

In **Moti Lal Saraf v. Union of India, 2007**, “the Court observed that the concept of fair trial flows directly from the Article 21 of the Constitution of India.” Article 21 of the Indian Constitution states that “No person shall be deprived of his life and personal liberty except according to procedure established by law

### ➤ **PRINCIPLES OF FAIR TRIAL**

There are various principles of fair trial. They are as follow:-

- ❖ Adversary trial system :
- ❖ Presumption of innocence
- ❖ Independent, Impartial and Competent judge:
- ❖ Knowledge of accusation:
- ❖ Right to open trial
- ❖ Right to free legal aid
- ❖ Right to free legal aid
- ❖ The trial in presence of accused
- ❖ Evidence to be taken in presence of accused
- ❖ Protection against illegal arrest
- ❖ Right to bail
- ❖ Prohibition on double jeopardy
- ❖ Right against self incrimination



#### ➤ **ADVERSARY TRIAL SYSTEM**

The Criminal Procedure Code 1973 presently replaced by **Bharatiya Nagarik Suraksha Sanhita, 2023** adopted this system. In an adversarial system, the judge serves as a neutral arbitrator and the prosecution is responsible for producing the evidence. According to this trial system, the state will pursue the offender using its investigative agencies and with the help of government attorneys. The culprit will then use the best attorneys to contest and refute the prosecution's evidence.

#### ➤ **PRESUMPTION OF INNOCENCE**

The accused is always given the presumption of innocent at the beginning of a criminal trial. The prosecution bears the responsibility of establishing the accused person's guilt; if it abstains from doing so, the courts will not be authorized to record a conviction.

The Supreme Court noted in **State of U.P. v. Naresh and Others** that "every accused is presumed to be innocent unless his guilt is proven." A human right that is subject to statutory exclusions is the presumption of innocence. The aforementioned idea serves as the cornerstone of Indian criminal law.

#### ➤ **INDEPENDENT, IMPARTIAL AND COMPETENT JUDGES**

The fundamental tenet of the right to a fair trial is that a competent, independent, and unbiased court must preside over any criminal case. Since the state is the prosecuting party in a criminal

trial and the police are a state institution, it is critical that the judiciary be free from any allegation of direct or indirect administrative influence and control.

Therefore, the Indian judiciary has the entire responsibility for a fair and unbiased trial. "No man shall be judged in his own cause" is the fundamental concept.

## ➤ RIGHTS OF ACCUSED DURING FAIR TRIAL

### ❖ PRE-TRIAL RIGHTS

During any investigation, inquiry, or prosecution of an offense for which he is charged, an accused person is entitled to certain rights under the **Bharatiya Nagarik Suraksha Sanhita, 2023**.

### ❖ KNOWLEDGE OF THE ACCUSATION

The accused must be given a sufficient chance to assert himself in order for there to be a fair trial. However, if the accused is not made aware of the charge against him, this opportunity will be worthless. Therefore, the Code states in simple language in sections 228, 240, 246, and 251 that the specifics of the offense for which an accused person is charged must be explained to him when he is brought before the court for trial. Serious offenses require the court to draft a formal accusation in writing, which it must then read and explain to the accused.

### ❖ RIGHT TO OPEN TRIAL

A public appearance in an open court is also necessary for a fair trial. The right to a public hearing implies that, absent any particular demands from the parties, the hearing should normally be held orally and in public. If a judgment was published, pronounced orally in court, or made public through any of those means, it is said to have been made public.

### ❖ FREE LEGAL AID OF COUNSEL

Article 22(1), which states, among other things, that no one should be denied the right to consult with and be defended by a lawyer of his choosing, recognizes the right to counsel as a fundamental right of a detained person in India. This constitutional requirement is manifested in Sections 341 of the **Bharatiya Nagarik Suraksha Sanhita, 2023**.

According to the court's ruling in **Khatri v. State of Bihar**<sup>7</sup>, the accused is entitled to free representation by an attorney not only during the trial phase but also upon initial

---

<sup>7</sup> AIR 1981, 2 SCC 493

appearance before the magistrate and remand.

Additionally, the 42nd Amendment of 1976 added Article 39-A to the Constitution, requiring the state to enact appropriate laws to support and provide free legal aid. The Legal Services Authorities Act of 1987 was passed by Parliament in order to do this. Legal services are provided to the individuals listed in Section 12 of the Act.

#### ❖ **EXPEDITIOUS/SPEEDY TRIAL**

In **Hussainara Khatoon v. State of Bihar**<sup>8</sup>, the Supreme Court ruled that a speedy trial is an indispensable part of the "reasonable just and fair" process that is guaranteed by article 21 and that the state has a constitutional duty to establish a process that would guarantee the accused a speedy trial. The state cannot claim administrative or budgetary deficiency as an excuse for avoiding its constitutional duty.

In the landmark judgment of **A.R. Antulay v. R.S. Nayak** the Supreme Court has issued certain guidelines for the time period during which various cases are to be concluded.

#### ❖ **PROTECTION AGAINST ILLEGAL ARREST**

According to Section 50, everyone detained without a warrant must be informed right away why they were detained. When making an arrest without a warrant, police officers have an obligation to act quickly when they suspect criminal activity, but they should also be careful not to confuse innocent people for guilty ones. In order to prove that he had reasonable suspicions, the police officer must prove this to the court where the arrest is being contested.

Section 57 of Cr.P.C. and Article 22(2) of Constitution provides that "a person arrested must be produced before a Judicial Magistrate within 24 hours of arrest."

The Supreme Court's decisions in **Joginder Kumar v. State of Uttar Pradesh and D.K. Basu v. State of West Bengal**<sup>9</sup> have been incorporated in Section 50-A, which requires police officers to notify the arrested person's friend or family of his arrest and to record it in the police register. This was carried out to guarantee fairness and transparency in arrests. According to Section 160 of the Cr. P.C., a police officer may only conduct an investigation at the residence of a woman or a male under the age of fifteen. According to Section 46(4), unless there are extraordinary circumstances, no woman may be arrested after sunset or before sunrise. In these cases, the female police officer must first obtain the prior consent of the Judicial Magistrate of the first class in

---

<sup>8</sup> AIR 1980, 1 SCC 98 at 107

<sup>9</sup> 1997 (1) SCC 416

whose local jurisdiction the offense was committed or the arrest is to be made by filing a written report.

#### ❖ **RIGHT TO BAIL**

In situations that are listed as bailable offenses in the First Schedule to the Code, the person being accused may, by reason of Section 436, demand bail as a matter of right. Bail is essentially a release from confinement, specifically from police custody. An order of bail restores the accused person's liberty of movement, provided that he comes up for his trial. Bail will be issued immediately if the offense is subject to it. However, whether an offense is eligible for bail or not is not a matter of right under Section 389(1) upon conviction. The accused in imprisonment has the right to be released on bond if no charge sheet is submitted within the allotted 60 or 90 days, as applicable. If the charge sheet is not filed within sixty days, the magistrate has the authority to release the defendant on bail for non-bailable offenses without informing the opposing party. Depending on the nature of the offense, women, the elderly, and those who are ill are given priority when it comes to bail.

#### ❖ **PROHIBITION ON DOUBLE JEOPARDY**

The theory of "**autrefois acquit**" and "**autrefois convict**," which states that a person cannot be tried twice for the same offense or on the same facts for any other offense if he is tried and found not guilty of an offense, is the foundation of the double jeopardy idea. The common law principle of **nemo debet vis vexari**, which states that no man should be put in danger twice for the same offense.

According to **Section 300** of the Code and Article 20(2) of the Constitution, a person who has been found guilty or exonerated cannot be prosecuted again for the same crime or on the same charges. If the processes for which the accused is being prosecuted are different and separate from the offense for which the accused has already been tried and found guilty, the plea of double jeopardy is not relevant.

#### ❖ **RIGHT AGAINST SELF-INCRIMINATION**

Article 20(3) provides that "No person accused of any offence shall be compelled to be a witness against himself." Article 20(3) is based on the maxim "**nemo tenetur prodere accusare seipsum**," which means that "no man is bound to accuse himself."

The Supreme Court has issued certain guidelines in *Selvi v. State of Karnataka*. They are:-

 In India, there are no constitutional restrictions on the collection and



preservation of DNA samples, which are considered tangible evidence.

- ✚ Involuntary brain fingerprinting, polygraphy, and narco-analysis tests constitute forceful interference with an individual's mental activities, which is against both Article 20(3) and the right to privacy.
- ✚ The narco-analysis technique encourages a person to communicate while under the influence of drugs, and there is no reason why this behavior should be considered any differently from vocal responses given during a routine interrogation.

### ➤ **POST-TRIAL RIGHTS**

#### ❖ **Lawful punishment**

According to Article 20(1), a person can only be found accountable of an offense if the act is punishable under an existing law. The rule that no one can be punished unless they have broken an existing law is recognized by the constitution.

### **RIGHT TO HUMAN TREATMENT**

A prisoner does not cease to be a human being. Prison takes away one's freedom. The prison system must strive for reformation even while it does this. In addition to demonstrating to inmates how to adjust to life outside of jail, treatment must focus on psychological healing, stress relief, and the restoration of self-respect. Every prisoner is entitled to a hygienic and sanitary jail environment, a medical examination by the medical officer, family visits, and other privileges.

### **RIGHT TO FILE APPEAL**

Section 389(1) provides the appellate court the authority to grant bail pending an appeal or to halt the execution of the sentence when the convicted individual is in custody. The public prosecutor need not be notified by the court before a sentence is suspended or someone is released on bail. An appeal must first exist before bail may be granted. Regardless of whether the offense is bailable or not, granting bail to a guilty individual is not a right and should only be permitted after the accused has been heard and the judgment<sup>10</sup> has been rendered.

---

<sup>10</sup> Section 436 of Cr. P.C.

## PROPER EXECUTION OF SENTENCE

India's judicial system is regarded as the greatest example of the expression "justice delayed, justice denied." Justice has not been delivered in a timely manner by the Indian legal system. A speedy trial is an essential component of a fair trial, but in India, the idea that cases should be resolved as quickly as possible seems to be more of a secondary one because there are several factors that contribute to procedural delays .some of the factors are:-

- ❖ Insufficient judicial strength and related to issues of appointment of judges.
- ❖ Strikes of Lawyers.
- ❖ The absence of transparency.
- ❖ Less knowledge of technology.
- ❖ Challenges and tribulations.

Even though the Indian legal system is among the most successful in the world, however, it is currently dealing with a number of problems that are making it less effective. Because of these barriers, people are becoming less trusting of the legal system and are reluctant to use it to help them get through their problems.

## CONCLUSIONS

International legal norms pertaining to the right to a fair, impartial, and competent trial are protected by Indian law. The law ought to treat everyone equitably. Everyone will have the right to a fair trial in court. The need for a fair and reasonable trial is one that is immediately apparent.

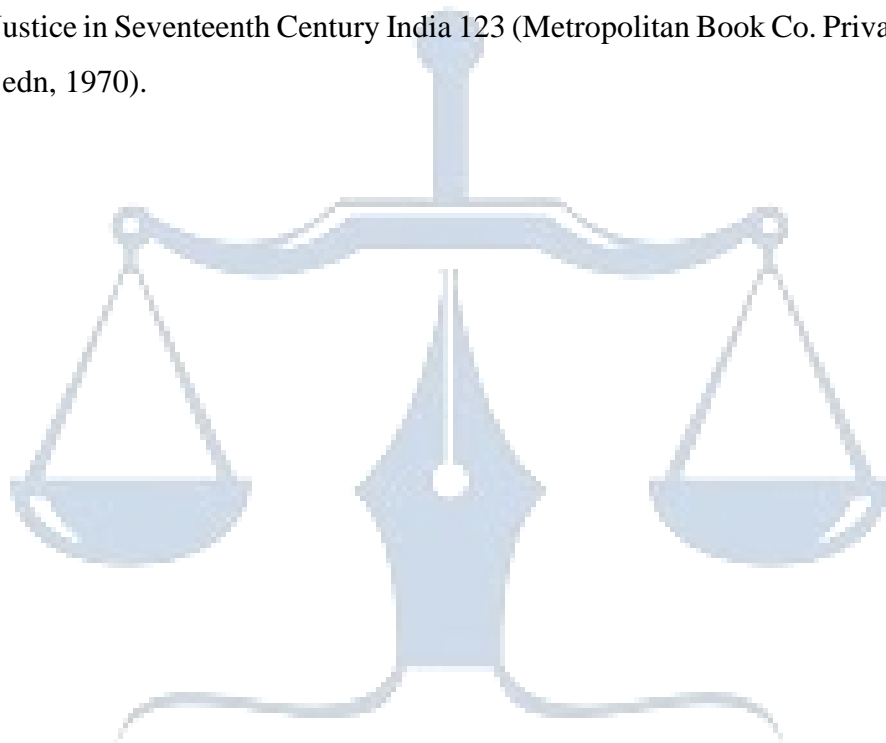
## SUGGESTIONS

- ❖ The executive and legislative branches of government should not be involved in the selection process for judicial officers; instead, appointments should only be made with the unanimous approval of the panel.
- ❖ Must maintain balance between "justified justice" and "speedy trial."
- ❖ The victims must be made aware of their obligations, rights, and role in the proceedings.
- ❖ Efforts should be made to ensure privacy and safety in order to lessen the annoyance to victims.
- ❖ Officers responsible for maintaining law and order and investigators should be kept apart.

- ❖ There should be no delays between the witness' deposition and the lawyer's cross - examination.

### **REFERENCES**

- B. M. Gandhi (ed.), Landmarks in Indian Legal and Constitutional History (Eastern Book Company, Lucknow, Ninth edn. 2009).
- BatukLal, The Law of Evidence 579 (Central Law Agency, Allahabad, 19th edn, 2012).
- J. N. Sarkar: Mughal Administration, p. 106 (reference from B. S. Jain, Administration of Justice in Seventeenth Century India 123 (Metropolitan Book Co. Private Ltd., Delhi, 1st edn, 1970).



WHITE BLACK  
LEGAL