



Evolution of the Right to Fair Trial in India: Judicial Interpretation by the Supreme Court of India

Ms. Priyanka

LL.M. (4th Semester)

Narayan School of Law, GNSU, Sasaram

Dr. Saiyyad Kalim Akhtar

Assistant Professor

Narayan School of Law, GNSU, Sasaram

ARTICLE DETAILS

Research Paper

Keywords :

*Fair Trial, Article 21,
Personal Liberty, Due
Process, Judicial Activism,
Criminal Justice System*

ABSTRACT

*The right to a fair trial is a fundamental component of a just legal system and an essential safeguard against arbitrary deprivation of liberty. Although not explicitly mentioned in the Constitution of India, this right has been judicially recognized as part of **Article 21** through progressive interpretation by the Supreme Court of India. This paper examines the evolution of the right to a fair trial in India, tracing its journey from a narrow interpretation in the early years to its recognition as a fundamental right. It analyses landmark case laws, highlights procedural safeguards, and evaluates the role of the judiciary in strengthening fair trial principles. The study also identifies challenges and suggests reforms to ensure effective implementation of fair trial rights.*

Introduction

The right to a fair trial is a cornerstone of any democratic legal system and forms an essential component of the rule of law. In India, this right has not been explicitly enumerated in the Constitution but has evolved through dynamic judicial interpretation, particularly under Article 21, which guarantees the right to life and personal liberty. Over time, the Supreme Court of India has played a transformative role in expanding



the scope of Article 21 to include a wide range of procedural safeguards that collectively ensure fairness in criminal proceedings.

The journey of the right to a fair trial in India can be broadly divided into three phases. The early phase was marked by a narrow and literal interpretation of Article 21, as seen in *A.K. Gopalan v. State of Madras*, where the Court upheld the supremacy of legislatively enacted procedure, irrespective of its fairness or reasonableness. This restrictive approach limited judicial scrutiny and failed to adequately protect individual liberty.

A significant shift occurred during the transformative phase, beginning with the landmark decision in *Maneka Gandhi v. Union of India*, where the Court introduced the requirement that any procedure affecting personal liberty must be “just, fair, and reasonable.” This marked the incorporation of substantive due process into Indian constitutional law and led to the recognition of several rights such as speedy trial, legal aid, and protection against custodial abuse.

Subsequently, the judiciary firmly established the right to a fair trial as a fundamental right, recognizing it as an integral part of Article 21, read in conjunction with Articles 14 and 19. Through a series of progressive judgments, including *Hussainara Khatoon v. State of Bihar* and *Zahira Habibullah Sheikh v. State of Gujarat*, the Court emphasized that fairness must permeate every stage of the criminal justice process—from investigation to adjudication.

In addition, the Supreme Court has strengthened procedural safeguards by laying down detailed guidelines to prevent arbitrary state action, ensure transparency, and uphold human dignity, as seen in cases like *D.K. Basu v. State of West Bengal* and *Selvi v. State of Karnataka*.

Thus, the evolution of the right to a fair trial in India reflects a shift from formal legality to substantive justice, transforming Article 21 into a powerful tool for the protection of individual rights. This chapter seeks to examine this evolution through judicial pronouncements and analyze how the Indian judiciary has shaped the concept of a fair trial into a fundamental guarantee within the criminal justice system.

Early Phase – Narrow Interpretation of Article 21

The early constitutional jurisprudence of India reflects a highly restrictive interpretation of Article 21, which significantly limited the scope of the right to a fair trial. During this phase (1950s–1960s), the Supreme Court of India adopted a formalistic and literal approach, focusing on the validity of enacted law rather than its fairness, reasonableness, or justice.



A.K. Gopalan v. State of Madras

The narrow interpretation of Article 21 originated with this landmark judgment. The petitioner, A.K. Gopalan, challenged his preventive detention under the Preventive Detention Act, 1950, arguing that it violated his fundamental rights under Articles 19 and 21. The Court held that the phrase “procedure established by law” means any procedure duly enacted by the legislature, regardless of whether it is just, fair, or reasonable. It rejected the American concept of “due process of law,” thereby denying judicial review on the grounds of substantive fairness. Fundamental rights were interpreted as mutually exclusive, meaning Article 21 could not be read in conjunction with Articles 14 or 19.

Following *Gopalan*, the Supreme Court continued to uphold a restrictive interpretation in several cases:

State of Punjab v. Ajaib Singh The Court upheld preventive detention and reiterated that personal liberty could be curtailed by valid legislation, even if the procedure lacked fairness. Emphasis remained on legislative competence rather than procedural justice.

Kharak Singh v. State of Uttar Pradesh The case dealt with police surveillance and intrusion into personal liberty. The majority held that Article 21 does not require the procedure to be reasonable, reaffirming the *Gopalan* doctrine. However, Justice Subba Rao’s dissent is notable—he argued that personal liberty should include privacy and dignity, foreshadowing later developments.

Satwant Singh Sawhney v. D. Ramarathnam Although still within the narrow phase, the Court began to slightly expand Article 21 by recognizing the right to travel abroad as part of personal liberty. However, the judgment did not fully incorporate the requirement of fairness in procedure.

The judicial approach during this period can be summarized as follows:

- (1) Article 21 was interpreted strictly based on the text, without importing broader principles of justice.
- (2) Courts showed deference to legislative wisdom, avoiding scrutiny of procedural fairness.
- (3) The American doctrine of “due process” was deliberately excluded.
- (4) Fundamental rights were treated as isolated provisions, limiting their collective impact.

The early phase has been widely criticized for failing to protect individual liberty. By allowing any legislatively enacted procedure to suffice, the Court effectively weakened constitutional safeguards against arbitrary state action. This approach was particularly problematic in the context of criminal justice,



where fair trial principles such as impartial hearing, legal representation, and procedural fairness were not constitutionally guaranteed.

However, it is important to recognize that this phase laid the groundwork for future judicial evolution. The limitations of this approach eventually led to a transformative shift in constitutional interpretation, culminating in the landmark decision of *Maneka Gandhi v. Union of India (1978)*, which overruled the earlier doctrine and firmly established the requirement of fairness in procedure.

Transformative Phase – Expansion of Article 21

The transformative phase of Article 21 marks a constitutional shift from formalism to substantive justice, wherein the Supreme Court of India departed from its earlier restrictive interpretation and infused the provision with fairness, reasonableness, and due process principles. This phase, beginning in the late 1970s, laid the foundation for recognizing the right to fair trial as an intrinsic part of the right to life and personal liberty.

Maneka Gandhi v. Union of India This landmark judgment revolutionized the interpretation of Article 21. The petitioner challenged the impounding of her passport under the Passport Act, 1967 without being given reasons or an opportunity to be heard. The Court held that the “procedure established by law” must be “right, just, and fair”, and not arbitrary, fanciful, or oppressive. It introduced the doctrine of interrelationship between Articles 14, 19, and 21, ensuring that any law depriving personal liberty must satisfy the tests of reasonableness and non-arbitrariness. The judgment effectively imported the essence of “due process of law” into the Indian Constitution.

Hussainara Khatoon v. State of Bihar

This series of petitions exposed the plight of thousands of under trial prisoners languishing in jails for years. The Court declared that the right to speedy trial is a fundamental right under Article 21. It emphasized that delayed justice amounts to denial of justice.

M.H. Hoskot v. State of Maharashtra & Khatri (II) v. State of Bihar

The Court recognized that access to legal representation is essential for a fair trial. The Court held that legal aid is part of a fair procedure under Article 21. In *Khatri (II)*, it was ruled that the State is under a constitutional obligation to provide free legal aid to indigent accused persons.



D.K. Basu v. State of West Bengal

The Court addressed the issue of custodial torture and arbitrary arrests. Mandatory procedures for arrest and detention were laid down. Ensured transparency, accountability, and protection of dignity.

Zahira Habibullah Sheikh v. State of Gujarat

This case highlighted failures in the criminal justice system due to witness intimidation and prosecutorial lapses. The Court held that a fair trial includes fair investigation, fair prosecution, and an impartial judiciary. Emphasized that justice must be both done and seen to be done.

Selvi v. State of Karnataka

The Court examined the constitutionality of narco-analysis, polygraph tests, and brain mapping. Involuntary administration of such techniques violates Article 20(3) and Article 21. Emphasized mental privacy and personal autonomy.

Key Features of the Transformative Phase

- Introduction of fairness, reasonableness, and non-arbitrariness.
- Courts actively protected individual rights.
- Inclusion of speedy trial, legal aid, dignity, and protection against torture.
- Harmonious reading of Articles 14, 19, and 21.

Recognition of Fair Trial as a Fundamental Right

The formal recognition of the right to a fair trial as a Fundamental Right marks a crucial stage in the evolution of Indian constitutional jurisprudence. Building upon the transformative interpretation of Article 21 in *Maneka Gandhi*, the Supreme Court of India progressively articulated that fairness in criminal procedure is not merely statutory but constitutionally guaranteed. This phase firmly embedded fair trial rights within the framework of life and personal liberty under Article 21, read with Articles 14 and 19.

Fair Trial as an Essential Component of Article 21

After *Maneka Gandhi*, the Court consistently held that any procedure depriving a person of liberty must be “just, fair and reasonable.” This principle naturally extended to criminal trials, where the stakes involve personal liberty, dignity, and reputation.

In *Sunil Batra v. Delhi Administration*, the Court emphasized that prisoners are not denuded of their fundamental rights, and that fairness must extend even to post-conviction stages.



Right to Speedy Trial as a Fundamental Right

The recognition of fair trial was concretized through the doctrine of speedy trial, which became a core component of Article 21.

In *Hussainara Khatoon v. State of Bihar*, the Court held that: “The right to a speedy trial is an essential ingredient of reasonable, fair and just procedure.”

This principle was further elaborated in *Abdul Rehman Antulay v. R.S. Nayak*, where the Court laid down guidelines to determine violation of the right to speedy trial.

Right to Legal Aid and Fair Representation

The Court recognized that a fair trial is impossible without effective legal representation, especially for indigent accused persons.

In *Khatri (II) v. State of Bihar*, the Court held that the State is constitutionally bound to provide free legal aid to the accused at all stages of the trial.

Fair Trial Requires Fair Investigation and Prosecution

The Court broadened the concept of fair trial to include pre-trial processes such as investigation and prosecution.

In *Zahira Habibullah Sheikh v. State of Gujarat*, the Court observed:

“A fair trial obviously would mean a trial before an impartial judge, a fair prosecutor and atmosphere of judicial calm.”

Further, in *Pooja Pal v. Union of India*, the Court reiterated that fair investigation is a necessary precursor to a fair trial.

Protection Against Self-Incrimination and Coercion

The right to a fair trial also includes protection against forced confessions and coercive techniques.

In *Nandini Satpathy v. P.L. Dani*, the Court held that the accused has the right to remain silent during police interrogation.

This was further strengthened in *Selvi v. State of Karnataka*, where involuntary scientific tests were declared unconstitutional.



Fair Trial as a Human Right and Constitutional Guarantee

The judiciary has consistently affirmed that fair trial is not only a constitutional right but also a basic human right.

In *Rattiram v. State of Madhya Pradesh*, the Court held that:

“A fair trial is the heart of criminal jurisprudence and a denial of it would be a miscarriage of justice.”

Key Elements of Fair Trial Recognized by Courts

Through judicial pronouncements, the following have been recognized as essential components of a fair trial:

- ❖ Speedy trial
- ❖ Legal aid and representation
- ❖ Impartial judiciary
- ❖ Fair investigation and prosecution
- ❖ Protection against self-incrimination
- ❖ Transparency and accountability in procedure

Procedural Safeguards Strengthened by Judicial Pronouncements

The evolution of the right to a fair trial in India has been significantly shaped by the proactive role of the Supreme Court of India in strengthening procedural safeguards. Recognizing that fairness in criminal justice depends not only on substantive rights but also on proper procedures at every stage—investigation, arrest, trial, and post-trial, the judiciary has laid down detailed guidelines to prevent arbitrariness, abuse of power, and miscarriage of justice.

Safeguards Against Arbitrary Arrest and Custodial Violence

One of the most critical areas of judicial intervention has been the protection of individuals from illegal arrest and custodial torture.

In *D.K. Basu v. State of West Bengal*, the Supreme Court laid down mandatory guidelines to be followed during arrest and detention.

Key Guidelines:

- ❖ Police must prepare a memo of arrest attested by a witness.
- ❖ The arrested person has the right to inform a friend or relative.
- ❖ Medical examination of the accused must be conducted periodically.



- ❖ Police officers must display clear identification.

Right Against Self-Incrimination and Coercive Interrogation

The judiciary has reinforced safeguards against forced confessions and coercive investigative techniques, ensuring compliance with Article 20(3) and Article 21.

In *Nandini Satpathy v. P.L. Dani*, the Court held that:

- The accused has a right to remain silent during interrogation.
- Police cannot compel answers that may incriminate the accused.

Further, in *Selvi v. State of Karnataka*, the Court ruled that involuntary use of narco-analysis, polygraph, and brain mapping tests is unconstitutional.

Safeguards Ensuring Fair Investigation

The Supreme Court has emphasized that fair investigation is a prerequisite to a fair trial.

In *Pooja Pal v. Union of India*, the Court held that:

- Investigation must be impartial, honest, and free from bias.
- Courts can order re-investigation or transfer of investigation in cases of unfairness.

Similarly, in *Babubhai v. State of Gujarat*, it was held that: A tainted investigation vitiates the entire trial process.

Safeguards for Speedy and Fair Trial

Procedural fairness also requires that trials be conducted without undue delay.

In *Hussainara Khatoon v. State of Bihar*, the Court recognized the right to speedy trial as part of Article 21.

Further elaboration was provided in *Abdul Rehman Antulay v. R.S. Nayak*, where guidelines were laid down to determine whether delay violates fundamental rights.

Safeguards Through Legal Representation and Fair Hearing

The Court has consistently emphasized the importance of legal aid and proper representation. In *Suk Das v. Union Territory of Arunachal Pradesh*, it was held that: Failure to provide legal aid to an indigent accused vitiates the trial.

Safeguards for Witness Protection and Fair Environment

A fair trial also requires protection of witnesses from intimidation and coercion.



In *Zahira Habibullah Sheikh v. State of Gujarat*, the Court highlighted:

- The need for a fair and fearless environment for witnesses.
- Failure to protect witnesses leads to miscarriage of justice.

Key Features of Strengthened Procedural Safeguards

Through judicial pronouncements, the following safeguards have been firmly established:

- ❖ Protection against arbitrary arrest and detention
- ❖ Right to silence and protection against self-incrimination
- ❖ Fair and impartial investigation
- ❖ Right to speedy trial
- ❖ Access to legal aid and representation
- ❖ Witness protection and fair trial environment

Conclusion

The evolution of the right to a fair trial in India reflects a remarkable transformation in constitutional jurisprudence. Through judicial innovation, the Supreme Court of India has expanded the scope of Article 21 from a narrow procedural guarantee to a broad and dynamic fundamental right encompassing fairness, dignity, and justice.

Landmark judgments such as *Maneka Gandhi v. Union of India* have played a pivotal role in incorporating the principles of natural justice and due process into Indian law. Subsequent decisions have further strengthened procedural safeguards, ensuring that fairness is maintained at every stage of the criminal justice process.

However, the existence of legal principles alone is not sufficient. The persistence of systemic issues such as delayed trials, custodial violence, and inequality in access to legal representation highlights a gap between law in theory and law in practice. Therefore, while the judiciary has laid a strong constitutional foundation, the realization of fair trial rights requires effective implementation, institutional reforms, and accountability mechanisms.

Reference:

- *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; AIR 1978 SC 597.
- *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 SCC 81; AIR 1979 SC 1360.
- *M.H. Hoskot v. State of Maharashtra*, (1978) 3 SCC 544.



- Khatri (II) v. State of Bihar, (1981) 1 SCC 627.
- D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.
- Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158.
- *Selvi v. State of Karnataka*, (2010) 7 SCC 263.
- Sunil Batra v. Delhi Administration, (1978) 4 SCC 494.
- *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 SCC 81; AIR 1979 SC 1360
- Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225.
- Khatri (II) v. State of Bihar, (1981) 1 SCC 627.
- *Suk Das v. Union Territory of Arunachal Pradesh*, (1986) 2 SCC 401
- *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 SCC 158
- Pooja Pal v. Union of India, (2016) 3 SCC 135.
- Nandini Satpathy v. P.L. Dani, (1978) 2 SCC 424.
- Selvi v. State of Karnataka, (2010) 7 SCC 263.
- Nandini Satpathy v. P.L. Dani, (1978) 2 SCC 424.
- Abdul Rehman Antulay v. R.S. Nayak, (1992) 1 SCC 225.
- *Hussainara Khatoon (I) v. State of Bihar*, (1980) 1 SCC 81.
- Babubhai v. State of Gujarat, (2010) 12 SCC 254.
- Rattiram v. State of Madhya Pradesh, (2012) 4 SCC 516.