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Speedy Trial: A Constitutional Right.

1. Abstract

A trial is a formal meeting in a law court, in which a judge and jury listen to evidence and decide whether a person is guilty of a crime. The chief purpose of a trial is to secure fair and impartial administration of justice between the parties to the action. A trial seeks to ascertain the truth of the matters in issue between the parties and to apply the law to those matters. Administration of justice is not limited to the conviction of the guilty person and acquittal of the innocent one but it also deals with the fair and speedy trial. We all know the fact that the speedy trial is the need of the hour. A speedy process is one of the basic human rights, as justice cannot exist without it. It is advocated in almost all international charters and treaties. In particular, one of them was ^{ratified} by India on April 10, 1979 for the International Covenant on Civil and Political Rights (ICCPR). A principle established in Articles 38 (1), 39 and 39A of the Constitution of India, which guides national policy based on India's obligations under international law to ensure timeliness. The legislation in force does not specify a time frame for completing the process. If the law provides a time frame, it is "inventory" rather than "required". In various judgments, the Supreme Court found that Article 21 of the Constitution contained a rapid process. The philosophy of the right to a rapid process has grown with age, but its goals have not yet been predicted. Right to Speedy Trial is a concept related to resolving a case as quickly as possible in order to make the judiciary more efficient and reliable. The main goal of the right to a speedy trial is to instill justice in society. It is human life that requires human rights. In a properly and systematically organized civilized society, it is imperative that all citizens lead a decent life. In other words, all rights are human rights. Because it helps people live like people. The basic purpose of a state institution to establish a judicial system is to bring justice to victims of crime.

2. Introduction

The topic of this research paper stands to be Speedy trial: A Constitutional Right. To be very specific we will study that speedy trial is from the point of view of constitutional right/ constitutional validity.

The judiciary is the ultimate protector of human rights and the last resort of justice. Indian citizens respect this institution with great respect and eternal hope. This bears a great responsibility for the entire legal system to live up to the expectations placed on it and to keep the sacred aura associated with it clean. The quality of honesty and honesty is inherent in these expectations. In developing countries, by chance, in all modern economies, there is an urgent need to carry out important country-related projects on a timely basis. The role of the judiciary puts a great deal of responsibility on the court. The development of a country depends equally on the dynamism and innovative strength of the judicial system. Therefore, there is an urgent need to keep up with justice and ensure that the current situation is resolved immediately. Despite the increasing use of justice, most of the population cannot rely on justice due to factors such as poverty, lack of consciousness, and established social discrimination. Therefore, there is an obvious paradox. So while the judicial system is handling an ever-growing number of cases, the social indicators of access to justice are generally very disappointing.

The Constitution of India imposes a major obligation on the judicial system to provide a legal mechanism for solving problems related to the provision of justice. The establishment of an independent judiciary, the inclusion of basic rights, and the guiding principles of the state police make the judiciary an effective organization of national institutions that people can confidently expect justice and trust. The speed of action is first mentioned in this groundbreaking document of English law, Magna Carta. Article 21 states that "no one will be deprived of his life or personal liberty except by following the procedures stipulated by law." Justice Krishna Iyer said while considering applying for Babu Singh v. State of UP¹: A speedy trial is because the entire community is interested in seeing criminals properly and reliably punished in a reasonable amount of time, and innocent people are exempt from improper code in the criminal procedure. A basic right included in the guarantee of life and personal freedom. Defendants denied the right to a speedy trial under Article 21 of the Constitution has the right to apply for this right to the Supreme Court under Article 32. The court then has the authority to give state governments and other

competent authorities the instructions necessary to secure the rights of defendants in fulfilling their constitutional obligations.¹

3. ARTICLE 21

The main aim of Article 12 is to deliver justice timely. It is a part of human right. Denial of speedy justice is a threat to public.

Article 21 of the Constitution of India stipulates that no one shall be deprived of his or her life and personal liberty except in accordance with the procedures stipulated by law. Protection under Article 21 consists of not only the measures taken by government agencies but also the measures taken by law. In *Munn v. Illinois*, the Court held that the term 'life' meant something more than mere animal existence.

Justice Bhagwati in *Maneka Gandhi* case said: Is the most extensive in Article 21 and contains several rights that make up the freedom of the individual human being, some of which have been promoted to basic rights in their own right and are given additional protection under Article 19. It is a very broad term and, when interpreted, includes the right of a person to undergo a speedy trial. Life and freedom are for life. Everyone has the right to a free and healthy life. In the case of a victim, he will eventually appear in court for years and seek justice. In the case of Defendant, he has been suffering behind the bar for years, waiting for trial. We all know that the defendant is not guilty until he is found guilty. In both cases, the parties to the proceedings. Delays in such procedures violate their right to life and personal freedom, leading to emotional distress. Confusion due to your worries, fears, costs, and unreasonable delays should be minimized. Article 21 of the Constitution guarantees that no one will be deprived of his or her life and personal liberty, except in accordance with the procedures stipulated by law. The Supreme Court ruled in 1978 in the *Maneka Gandhi* case that two conditions were necessary for the deprivation of life and liberty. The law is required, and the law must be "fair," and "free".

¹ DEBOPRIYO SHOME, STUDENT OF SISTER NIVEDITA UNIVERSITY, KOLKATA-WEST BENGAL,

The legal proceedings for the deprivation of liberty must not be "fair, impartial, or just" unless it guarantees a rapid process.

4. Speedy Trial under Article 21

Criminal cases in India have been going on for years, sometimes decades, and when we look at civil cases, the situation is terrible. A swift process is important to prevent false accusations, improper and oppressive detention, and to ensure justice by giving all citizens a fair and impartial trial. After 20 years of independence, the court did not care much about the length of the prisoner's sentence, but prosecutors argued that further detention of the prisoner needed to be justified. However, the Supreme Court after an emergency recognized the importance of keeping detainees stuck and developed many basic rights not explicitly stipulated in the Indian Constitution. This included the basic right to expedited proceedings under Article 21 of the Constitution.

In 1979, *Hussainara Khatoon v. Home Secretary, State of Bihar*, a petition was filed for a writ of Habeas Corpus, on behalf of a large number of men and women including children who were languishing behind bars for years awaiting trial and that the offences, even if proved, would not warrant punishment for more than a few months. The Apex Court, in this case, held that the "right to a speedy trial" is a fundamental right implicit in the right of life and personal liberty provided under Article 21 of the Indian Constitution. In its decision, the court-mandated greater access to bail, more humane living standards and a significant reduction in time from arrest to trial. The court observed that no procedure which does not ensure reasonable quick trial can be regarded as reasonable, fair and just as interpreted in *Maneka Gandhi* case. Hence ordered the Bihar Government to release forthwith the under trial prisoners on their bond.

5. Factors for Pendency of Cases.

1. Delayed judicial system: Delay from the approval of the procedure to the start of the procedure.
2. Delays by lawyers / lawyers and others: Delays caused by the following actions by lawyers B. Postponement, etc.

The main reasons for delay in trial are: -

1. The first and biggest problem is the delay in processing the case. Due to the large dependencies, it can take years, usually months, to completely eliminate a case. The backlog creates a delay, which means that public access to the judiciary is literally denied.
2. Judge-Population: - Currently takes into account the country's population and pending proceedings. Very few judges are available.
3. The infrastructure of the lower court is very disappointing. The Supreme Court and the High Court have good infrastructure, but they are not in the same position as the Inferior Court. The court does not have the proper buildings or physical facilities to take the time to resolve the proceedings. Good libraries, the necessary furniture, the right staff, and the right space are requirements of quality justice, and most of these facilities are not available in lower courts.
4. Due to the independence of the judiciary, some judges believe that they are not accountable to anyone, and this factor drives judges into laziness, ignorance, and ultimately. It can lead to process delays.
5. Postponement: - The main reason for the delay in proceedings is a postponement granted by the court for unreasonable reasons.
6. Court Holidays: Reasons for giving court holidays encourage further delays in proceedings, especially in countries such as India, where the proceedings are very high. Most countries, such as the United States and France, do not have such provisions.
7. Delay in investigation: Investigators such as police also play a role in delaying the case. In many cases, investigative agencies take time to file a prosecution that causes a delay in court.

6. Factors affecting due to delay in trial process.

(i)The real question raised in court was to determine if the delay was reasonable and, if so, what the consequences of such a delay would be. To understand the answer to that question, let's take a look at some groundbreaking Supreme Court decisions.

Sheela Barsa vs. Union of India, 1986

In this case, the Supreme Court held that if an accused is not tried speedily and his case remains pending before the Magistrate or the Sessions Court for an unreasonable length of time, it is clear that his fundamental Right to Speedy Trial would be violated unless there is some interim order passed by the superior Court or deliberate delay on the part of the accused. The consequence of such a delay would be that the prosecution would be liable to be quashed.

Abdul Rehman Antuley v. R S Nayak, 1992

In this case, the Supreme Court, in this case, held that the Right to a speedy trial under Article 21 is available at all stages namely, the stage of investigation, inquiry, trial, appeal, revision and retrial. The Court laid down detailed guidelines for the speedy trial of an accused in a criminal trial but refused to set a time limit for the conclusion of the trial. The Court held that the nature of the offence and the circumstances may be such that quashing of proceedings may not be in the interest of justice. In such a case it may make an order that the trial may be concluded within a fixed time

Speedy trial is an integrated part of Article 12.

The Supreme Court has emphasized the above propositions again and again in its judgements. In Kartar Singh v. State of Punjab, the Supreme Court held that the concept of speedy trial is an essential part of Article 21 of our Constitution. This right to speedy trial begins with the arrest of the accused and consequent incarceration and continues at all the stages of investigation, enquiry, trial, appeal and revision so that prejudice caused by the impermissible and avoidable delay can be averted.

7. Measures which could prevent delay are:

- I. Effective court management: Time scheduling should to be done so that effective time management leads to effective management of the judicial system.
- II. Judges should regularly receive appropriate training and calling to improvise their drafting, listening and writing skills, as well as the ability to make accurate and quick decisions.
 - ii. In addition, the ratio of judges to the population needs to be increased in order to resolve the case very quickly.
 - iii. Arbitration should be done wherever possible and in particular small and petty cases arbitration should be made compulsory. It will save precious time o the courts.
 - iv. Nyaya Panchayats should be authorized to dispose off small and petty cases. However. Lok Adalats were established for the speedy disposal of cases at lower level.
 - v. The procedure of Adjournment should be modified in a way so as it is reduced to a limit and fine should be imposed on the person who files application for an adjournment on flimsy grounds. vii. Technological Courts and Speedy Justice.

9. Conclusion.

"Justice delayed is justice denied" is a legal maxim meaning that if legal redress is available for a party that has suffered some injury, but is not forthcoming in a timely fashion, it is effectively the same as having no redress at all. This principle is the basis for the right to a speedy trial and similar rights which are meant to expedite the legal system, because it is unfair for the injured party to have to sustain the injury with little hope for resolution.

From the above context, we can conclude that initially, the speedy trial was not so important but after the period of emergency, the Courts started taking interest in providing speedy trials to prevent unnecessary harassments to the parties to a criminal proceeding. The Apex Courts through

its judicial pronouncements held that speedy trial is an inalienable right under Article 21 of the constitution and hence no person shall be deprived of his life and liberty without the procedure of law and the procedure of law must be 'fair', 'reasonable', and 'just'.

The right to a speedy trial is available at all stages namely, investigation, inquiry, trial, appeal, revision and retrial. The Supreme Court in its various judgements emphasized that a person can approach the Supreme Court under Article 32 and the High Court under Article 226 to enforce the right to a speedy trial. However, the Court at various times refused to fix a time limit under which a trial has to be concluded. At last, after making so many provisions to ensure speedy justice the people of India are still not getting speedy justice in the true sense. There exist various reasons for the delay in the trial. Though the right to a speedy trial is a fundamental right, it still requires empirical study and comprehensive law for its meaningful application.

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