

**TRAINING PROGRAMME FOR
BANGLADESH JUDGES**

**CRIMINAL JUSTICE ADMINISTRATION
AND HUMAN RIGHTS**

BY

JUSTICE U.C. DHYANI

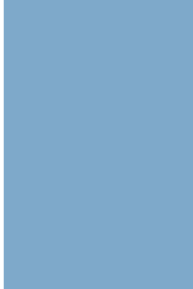
February 9, 2023

NATIONAL JUDICIAL ACADEMY, INDIA

FAIR TRIAL



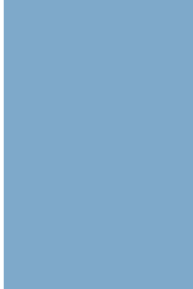
Quality of a nation's civilization : Joginder Kumar's Case (1984)



Criminal Justice System : Symbol of organized society



Fair to the prosecution and fair to the accused.



Adversarial System / Accusatorial System, as opposed to Inquisitorial System

HUMAN RIGHTS

**Human Rights,
Inherent in
Human Beings :
Inalienable rights**

**A man may be
born free but
every where he is
in chains.**

**Presumption of
innocence of
accused – A legal
presumption**

**Societal
Interest versus
Individual
Rights**

Sydney Morning Herald

Reason and Passion
Technique and Power
Nerve and Judgement

CONSTITUTION



The Constitution of INDIA

**The Constitution of
BANGLADESH**

**Criminal Jurisprudence :
Articles 20, 21 and 22.**

ARTICLE 20

(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

ARTICLE 21

Protection of life and personal liberty

No person shall be deprived of his
life or personal liberty except
according to procedure
established by law

ARTICLE 22

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

REMAND

Remand should not be given mechanically

Mrs. Gandhi's Case

Roshan–Ud-Daula Court's instance

Bhagalpur Blindings' Case

Statutory / Compulsory bail : Anti corruption case, Nainital Instance, Vigilance Sector; NDPS Case-Darul Shafa, Lucknow

PRECEDENTS

- ❖ **Lalita Kumari v. State of U.P., (2014) 2 SCC 1 : Reporting of Crime.**
- ❖ **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273**
- ❖ **Mohd. Ajmal Kasab v. State of Maharashtra, AIR 2012 SC 3565 : Right to consult a lawyer of choice or provide a legal practitioner at state expense**

PRECEDENTS

***State of U.P. v. Naresh & Others*, (2011) 4 SCC 324 :**
Every accused is presumed to be innocent unless his guilt is proved.
It is a Human Right. Subject to Statutory exceptions.

***Babu Bhai v. State of Gujarat*, (2010) 12 SCC 254 :**
Not only fair trial but fair investigation is also part of
constitutional rights.

***Nirmal Singh Kehlon v. State of Punjab*, (2009) 1 SCC 441 :**
An accused is entitled to a fair investigation. A victim of crime is
equally entitled to a fair investigation.

***Khatri v. State of Bihar*, (1981) 2 SCC 493 :**
Accused entitled to free legal aid.

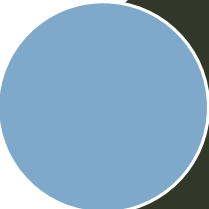
PRECEDENTS

- ❖ **Hussainara Khatoon v. Home Secretary, State of Bihar, AIR (1979), 1369 : Speedy trial is fundamental right / Human right**
- ❖ **D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 : Guidelines to be followed by Police Officers conducting arrest.**
- ❖ **Zahira Sheikh v. State of Gujarat, (2006) 3 SCC 374 : Inbuilt right to be dealt with fairly in a criminal trial.**
- ❖ **Sakiri Vasu v. State of U.P., (2008) 2 SCC 409 : A magistrate can pass directions to ensue 'proper investigation'**

PRECEDENTS



**Sunil Batra v. Delhi Administration,
AIR 1980 SC 1579 : Hand cuffs and Bar fetters**



**Prem Shankar Shukla v. Delhi
Administration, AIR 1980 SC 1535**



**Mintu Choudhary's instance, Kashipur
(Uttarakhand)**

PRISONS

Prison Visits

Trials

Decongestion

Quality of Food etc.

Sheela Barse v. State of Maharashtra,
AIR 1983 SC 378.

LAST BUT NOT THE LEAST

**Sentencing Policy : Aggravating
and mitigating circumstances**

Minimum & Maximum sentence

**Principles of Natural Justice must
be followed**

CREDITS

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and

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Thank You

