

Presumption of Innocence versus Prison Reality: A Constitutional Critique of India's Undertrial Justice System-

Abstract

The presumption of innocence is an essential component of criminal law and a key to upholding the principle of liberty. Including this precept in our Constitution (Articles 14 & 21) has been reinforced by international human rights law. However, how it is applied through our criminal justice system, particularly in relation to pre-trial detention, is still highly debated.

Close to half of all prisoners in India are being held pre-trial without any finding of guilt. While it can take months, sometimes years, to get to trial, those awaiting trial suffer through overcrowding, inadequate medical care, marginalisation in society, and psychologically debilitating stress due to the uncertainty of their future. There is a clear disconnect between the Constitution and what is happening in the justice system in India where the criminal process itself operates as a punishment. This paper examines this disconnect and how it affects India's Constitution through a detailed analysis of how the presumption of innocence, the right to life and liberty, and human dignity all connect. By using the case law contained in the Constitution as well as international human rights law, a summary of how pre-trial detainees suffer a form of punishment prior to being convicted of a crime contradicts constitutional morality. Finally, the article proposes a new 'dignity-based' model of pre-trial detention which prioritises quick trials, bail, humane prison conditions, and institutional accountability.

Introduction

Every criminal justice system's legitimacy rest on an extremely basic, nonetheless powerful, constitutional commitment: that every single person accused of an offense will be regarded as innocent until proven guilty through a fair and competent process within a Court of Law. The presumption of innocence is more than just a procedural rule for a criminal trial; it is a substantive assurance that protects individual rights from the power of the Government. It is enshrined in our Constitution stating through provisions found in Articles 14, 20, 21 and 22 that no person shall be punished or suffer public shame or condemnation until it has been legally established via a lawful, independent and fair process. In India, the Constitutional basis for the presumption of innocence arises from the Constitution's Articles 14, 20, 21 and

22¹ and has been established by judicial adjudication. The Right to Life and Personal Liberty recognised by the Supreme Court includes within its scope the Right to a Fair Trial, the Right to a Speedy Trial, the Right to Legal Representation, and the Right to Protection from Arbitrary Detention. Also supporting the universal right to the presumption of innocence are International Conventions such as Article 11² of the Universal Declaration of Human Rights and Article 14(2)³ of the International Covenant on Civil and Political Rights. India's undertrial prisoners have an exceedingly different lived experience than what would be expected from the protections outlined above. Due to many delays in investigations and legal proceedings and having limited ability to afford bail or post bail because of socioeconomic disadvantages many people are incarcerated while they are still presumed innocent. Being incarcerated often means the same conditions as those convicted including overcrowding, lack of medical care, mental trauma, and other social effects from being incarcerated. The entire judicial process for people who are presumed innocent while waiting for trial serve as a form of punishment and decreases the protection of their presumption of innocence included in the Constitution. The contradiction of the presumption of innocence guaranteed by the Constitution and the actual experience of those who are being held as an undertrial shows to be not only a failure of administration but a constitutional crisis. The prolonged incarceration of undertrials is against the principles of equality, liberty, human dignity, and constitutional morality because people are being punished before being found guilty. Through exploration of constitutional law and case law as well as the actual conditions and realities of prisoners in India, it concludes that to restore the constitutional balance of the rights of undertrials with the administration of criminal justice, an undertrial justice framework should be formed based on people's dignity.

Presumption of Innocence: Constitutional and Human rights Foundations-

Presumption of Innocence is a legal fundamental principle of jurisprudence in criminal trials that is purely against the arbitrary state action. This principle ensures that a person till not proven guilty is presumed innocent. This is protected by Article 14, 20, 21 and 22 of Constitution of India. The idea is to make sure that a person without going through trial system does not suffer from any impartiality and unfair treatment. This doctrine preserves the

¹ https://www.indiacode.nic.in/bitstream/123456789/19150/1/constitution_of_india.pdf

² <https://www.humanrights.com/course/lesson/articles-06-11/read-article-11.html>

³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

fairness, dignity, and individual liberty of a person until proven guilty. According to our criminal justice system, the burden of proof always lies upon the prosecution to show evidence and proof regarding the guilt of the accused. Furthermore, then the burden shifts upon the defence to counter and present their side of the arguments. Hence, this is the core part of presumption of innocence and any part of departure from this threatens the legitimacy of the criminal justice system.

Although the principle has not been expressly laid down as part of fundamental right, but this has been derived from various constitutional principles of right to life and personal liberty except any procedure established by law, provided under Art 21. This has been expanded to interpret to include right to fair trials, legal representation, and speedy justice. In the case of *Maneka Gandhi v Union of India*,⁴ Court expressed that the procedure here should be just, proportionate, reasonable and fair in all criminal proceedings for the administration of justice.

The Supreme Court has repeatedly emphasised that accused persons do not lose the effect of their fundamental rights and have been protected by each fundamental principle of the Constitution of India. In case of *Hussainara Khatoon v State of Bihar*⁵ recognised right to speedy and just trial under Art 21, observing prolonged incarceration of undertrial prisoners without conclusion of trial constitutes a grave injustice. In case of *Dataram Singh v State of Uttar Pradesh*⁶, a person is presumed to be innocent until proven guilty, where detention before conviction should only be an exception. Internationally, this doctrine has recognition in Human rights law. Article 11(1) of Universal Declaration of Human Rights says establishes the fundamental right to be presumed innocent until proven guilty. It states that anyone charged with a penal offense has the right to a public trial with all the necessary guarantees for their defence. Art 14(2) of International Covenant on Civil and Political Rights, guarantees presumption of innocence in which India is state party. Thus, this ensures these proceedings respect the dignity of the accused persons.

But, In India, the presumption of Innocence as guaranteed by the Constitution is in direct contrast to what most undertrial prisoners experience. Most undertrial prisoners are held in prison for many months or sometimes years until their guilt is determined and their detention is often indistinguishable from that of convicted prisoners. This creates a constitutional issue

⁴ <https://indiankanoon.org/doc/1766147/>

⁵ <https://indiankanoon.org/doc/1373215/>

⁶ <https://indiankanoon.org/doc/122663958/>

of whether a person, presumed innocent, is permitted to be subjected to treatment and punishment like that of convicted persons. The tension between the legal principle and actual institutional reality lies at the centre of this paper and warrants a review of the undertrial justice system from an angle of constitutional dignity.

Prison Reality- The real experience of undertrial prisoners in India

The main idea of this paper is to highlight the major contradiction between the principle of presumption of innocence and the reality of the living conditions of the prisoners today. Nowadays, we read and listen to a lot of stories of prisoners where before the actual conviction or even the undertrial, they have been subjected to continuous exploitation and abuse. Thus, this contradiction represents one of the biggest constitutional dilemmas across the criminal justice system of India. According to the records of National Crimes Records Bureau (NCRB)⁷ prison statistics, more than half of the prisoner population is undertrial prisoners, this disclose the very fact that individuals whose guilt has not yet been proved undergo prolonged exploitation. This depicts delayed investigations, restrictive bail practices, prolonged trials, and chronic judicial backlog. Hence, such kind of incarceration before any kind of conviction should only be an exception which has become a very recurring feature of criminal justice system.

The real experience of these undertrial prisoners has become very difficult to distinguish from the conditions of actual offenders. This is marked by overcrowded, poor sanitation, and similar discipline actions among both. They are even deprived of basic and essential health care facilities. Even though manually in the procedures there is a distinction set between the undertrial prisoners and actual offenders, but this is somewhat lost in the actual practice and execution due to infrastructural limitations and administrative inefficiencies. The prolonged pre-trial detention of these prisoners often does not only affect the physical conditions of the prisoners, but this also extends to the mental and psychological factors of them causing severe distress, anxiety or even depression. ⁸They often lose their employment, reputation, educational opportunities, social standing despite being declared guilty by the court of law. Thus, even if the prisoners after the trial are declared not guilty and are set free, they have already been the sufferers of such process itself being the punishment, transforming criminal prosecution into irreversible social deprivation. This reality is more severe and harsh for

⁷ <https://ncrb.gov.in/>

⁸ <https://tiharprisons.delhi.gov.in/tiharprisons/overcrowding-under-trials>

people belonging from marginalised sections of society, simply because they cannot furnish a bail, secure adequate legal representation becomes the victims of such process. Poverty and social status thus become an indirect determinant of fair trial conditions undermining the constitutional disparities under Article 14 which guarantees equality before law.

Altogether, all these realities of the principle of presumption of innocence while simultaneously exposing the institutional practices of such undertrial prisoners. The distinction between the actual offenders and undertrial prisoners has often been blurred due to these reasons. This moreover can be named as ‘presumption-punishment paradox’,⁹ where the punishment has been practiced in law.

Human Dignity and Constitutional Morality

I strongly believe that human dignity has a very wide space and central position of constitutional framework in India. As discussed, dignity has been an integral and heart of art 21 which has been recognised through various judicial interpretations and precedents. Over years the judiciary has stopped viewing dignity only from a moral perspective but also from an inbuilt constitutional principle or value. Thus, it is the duty of the state to abide and conform to constitutional obligation of every citizen irrespective of any social or economic status. It is very evident that the protection of any individual and the perseverance of fundamental rights does not cease just because the person is accused of committing an offence. Therefore, even though the state may detain a person for the administration of justice, but such procedural manner has to be effective, just and proportionate that does not impose punishment before the actual conviction of the offender. In case of *Francis Coralie Mullin v Administrator, Delhi*¹⁰ widened the ambit of article 21 considering human dignity. In case of *Sunil Batra v Delhi Administration*, it will clearly hold to support the conditions of prisoners and the idea that they do not lose the essence of fundamental rights like any other citizen of the country. In *Charles Sobhraj v Superintendent, Central Jail*¹¹ that trial cannot become a sole reason for an absolute deprivation or restriction of Art 21 or any kind of arbitrary detention. Now, this can further be understood by the principle of constitutional morality. It requires not only the mere following of statutory protection of law but beyond that the moral protection of the same. It ensures the

⁹ https://scholarship.law.bu.edu/faculty_scholarship/4216/

¹⁰ <https://indiankanoon.org/doc/78536/>

¹¹ <https://indiankanoon.org/doc/1518037/>

core moral values of liberty, equality, fairness, justice for every individual. Thus, the presumption of innocence has been supported and strengthened by both legal and constitutional means.

Towards a dignity centred undertrial justice framework

Moving on, to address various challenges that the undertrial prisoners are facing, there is a need of strict prisoner reforms and shift in constitutional protection requiring a dignity centred pretrial detention. The idea of presumption of innocence can only be protected if the conditions and idea of pre-trial prisoners is being distinguished with that of convicted offenders. Hence there must be strict ideas to protect the constitutional morality and basic rights of these prisoners. The infrastructure they have been kept and ensuring they have been provided with essential necessities those of health care, sanitation and food. Thus, this has become extremely important for amendments and guidelines for such drastic improvement. I believe the justice system should consider that, bail is generally the rule, and jail is only an exception especially for non-violent offences. Judicial intervention or approach should be made while keeping in mind to preserve the dignity of such individual and prioritises the liberty as well. Whenever feasible or possible any accommodation, travel allowances, access to educational or vocational institutions should be provided to such prisoners. Such activities ensure they have been still exercising their basic rights and are not subjected to any arbitrariness or cruelty.

An important aspect is the timely resolution of criminal cases. The constitutional right to receive a speedy trial, as part of the right to life and personal liberty in Article 21, must be transformed into a measurable institutional practise, with systems of case management, increasing the number of judges available, and ensuring that long undertrial periods are given priority. For cases where there are delays within the system or prosecution reasons, courts should reconsider whether the continued court custody of the accused is necessary. Delayed justice does not only erode the public's faith in the justice system, but also causes irreparable harm to a suspect, who has not yet been proven guilty.

Conclusion

The presumption of innocence guaranteed by the constitution is not meaningful when being detained before trial is itself a form of punishment. Even though the presumption of innocence is included in India's constitutional provisions and international human rights obligations, the reality of long periods of imprisonment, overcrowding in prisons, long delays

to get to trial, and lack of access to justice create a significant gap between the legal principle and actual practice. For many accused persons, the criminal justice process has already punished them before any determination is made as to their guilt, infringing upon the rights to liberty, equality, and due process.

This contradiction goes well beyond issues of prison administration and begins to cross into the area of constitutional morality. A constitutional democracy, which is founded upon the protection of human dignity, cannot allow procedural delays, poverty, or systemic problems to dictate how much an individual's freedom will be limited. A justice system should be measured not just by its ability to punish the guilty, but also by its ability to defend the rights of those who have not yet been found guilty of committing crimes. Courts have consistently found that incarcerated prisoners and pretrial detainees do not stop being entitled to fundamental rights by being in custody.

References

A. Constitutional Provisions

1. Constitution of India, 1950, arts. 14, 20, 21, 22.

B. Cases

1. Maneka Gandhi v. Union of India, AIR 1978 SC 597 : (1978) 1 SCC 248.
2. Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1360 : (1980) 1 SCC 81.
3. Dataram Singh v. State of Uttar Pradesh, (2018) 3 SCC 22.
4. Francis Coralie Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746 : (1981) 1 SCC 608.
5. Sunil Batra v. Delhi Administration, AIR 1978 SC 1675 : (1978) 4 SCC 494.
6. Charles Sobhraj v. Superintendent, Central Jail, Tihar, AIR 1978 SC 1514 : (1978) 4 SCC 104.

C. International Instruments

1. Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (1948), art. 11(1).
2. International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 14(2).

D. Reports and Official Data

1. National Crime Records Bureau, *Prison Statistics India* (Ministry of Home Affairs, Government of India), available at <https://ncrb.gov.in/en/prison-statistics-india>.