

***Fair Trial in The Criminal Justice System, Authored
by :Jagmohan Singh, Available at [Link](#)***



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Abstract

One of the main tenets of the criminal justice system and the basis of justice in a democratic society is a fair trial. It guarantees that the law treats every alleged crime victim fairly, equally, and with dignity. The concept of a fair trial stems from the belief that no one ought to be penalized without due legal process, trustworthy evidence, and an opportunity to present their case before an unbiased judge. It not only protects the rights of the accused but also helps to build public confidence in the judicial system.

The meaning and significance of a fair trial in the criminal justice system are examined in this work. Especially in the Indian perspective, it investigates the legal and constitutional protections that ensure fair trial rights. Essential components of a fair judicial procedure include the assumption of innocence, the right to legal representation, quick justice, open hearings, and protection against self-incrimination. The article discusses the part played by the court, police, prosecutors, and defence attorneys in guaranteeing that justice is given fairly and without prejudice.

Simultaneously, the study discusses a number of issues that compromise the integrity of criminal trials, such as court delays, inadequate legal assistance, media interference, custodial abuse, and socioeconomic inequities. It further examines the constitutional protections enshrined in Articles 14, 20, 21, and 22 of the Constitution of India and alludes to major judicial rulings that support the ideals of natural justice and due process.

The article argues that a fair trial is not only a legal right but also a fundamental human right necessary to preserve the credibility and functionality of the criminal justice system.

Preserving personal freedom and supporting the rule of law in society depend on guaranteeing equity, openness, and equal access to justice.

Introduction

The right to a fair trial under Article 21 is not just a theoretical idea written in the Constitution it actually depends on how different institutions in the criminal justice system function in practice. The police, the judiciary, the prosecution, defence lawyers, and even the media all play important roles in shaping whether a trial is truly fair or not. Each of these actors has a specific responsibility, but their roles are closely connected, and any weakness in one part can affect the entire process.

Over time, the Supreme Court of India has made it clear that a fair trial is not limited to what happens inside the courtroom. It is a much broader concept that begins at the stage of investigation and continues until the final decision is delivered. In *Zahira Habibullah Sheikh v. State of Gujarat* (2004), the Court described a fair trial as a “dynamic concept,” meaning that it evolves depending on the circumstances and must be ensured at every stage. According to the Court, fairness includes not just a proper hearing before a judge, but also a fair investigation, an unbiased prosecution, effective legal defence, and an impartial decision-making process.

When we look at this more closely, it becomes clear that the police are responsible for conducting an honest and unbiased investigation, since the entire case is built on the evidence they collect. The prosecution must present the case fairly, without suppressing facts or acting

with bias. Defence lawyers play a crucial role in protecting the rights of the accused and ensuring that their side is properly represented. The judiciary, as the final authority, must remain neutral and ensure that justice is delivered according to law. At the same time, the media, while not formally part of the justice system, can influence public perception and sometimes even affect the fairness of proceedings if reporting becomes sensational or prejudicial.

Because of this interconnected structure, fairness in criminal trials cannot be achieved by focusing on one institution alone. It requires that all these actors function responsibly and within constitutional limits. If any one of them fails whether through bias, delay, negligence, or external pressure the right to a fair trial can be seriously compromised.

This part of the study therefore looks at how these institutions actually operate in practice, and how their roles contribute to, or at times undermine, the goal of ensuring a fair trial in India.

Research Objective

1. Investigate the idea and relevance of a fair trial in the criminal justice system.
2. India's constitutional and legal provisions protecting the right to a fair trial must be examined.
3. To look into the fundamental components of a fair trial, such as the presumption of innocence, the right to legal representation, the right to a timely trial, and the need for an impartial judicial system.

4. To assess the part played by defence attorneys, prosecutors, police, and the courts in guaranteeing fairness in criminal procedures.
5. To determine the key issues impeding the application of fair trial standards, including court delays, media influence, custodial abuse, and inadequate legal support.
6. To investigate major court decisions and human rights principles pertaining to fair trial rights.
7. To recommend changes and steps for improving accountability, openness, and fairness within the criminal justice system.

1.1 Role of Police in Ensuring Fair Trial

The police form the starting point of the criminal justice system, and their role is both foundational and highly influential. In most cases, the police are the first authority to interact with the accused, the victim, and witnesses. Because of this, the way they act at the initial stages especially during investigation often shapes the entire direction of the case.

A fair trial, in many ways, begins with a fair investigation. If the investigation is carried out honestly and carefully, it builds a strong basis for justice. On the other hand, if it is biased, incomplete, or influenced by external pressure, it can distort the truth and make it difficult for courts to arrive at a just outcome. Even a well-conducted trial cannot fully correct the damage caused by a flawed investigation. This is why courts have repeatedly stressed that fairness must start at the very beginning.

1.1.1 Investigation and constitutional obligations

Under the Code of Criminal Procedure, 1973, the police are entrusted with the responsibility of investigating offences, particularly serious (cognizable) ones. This includes collecting evidence, recording statements, identifying suspects, and preparing the case for trial. However, these powers are not absolute they are subject to constitutional limitations, especially under Article 21, which guarantees fairness in any procedure affecting life and personal liberty.

The Supreme Court has made it clear that investigation is not just a statutory function but also a constitutional responsibility. In *Babubhai v. State of Gujarat* (2010), the Court observed that a fair investigation is an essential part of a fair trial. It emphasized that the police must act impartially and cannot favour either the prosecution or the accused. Any attempt to manipulate evidence, ignore relevant facts, or act with bias can undermine the entire justice process.

The importance of this principle was also highlighted in *Zahira Habibullah Sheikh v. State of Gujarat* (2004). In this case, the Court found that lapses in investigation and failure to protect witnesses led to a serious miscarriage of justice. It stressed that fairness cannot be confined to courtroom proceedings; it must be ensured right from the stage of investigation. This case clearly showed that if the foundation is weak, the entire structure of justice becomes unstable.

1.1.2 Custodial safeguards and arrest procedures

Another critical area where the role of police directly affects fair trial rights is in arrest and detention. Since arrest involves a direct restriction on personal liberty, it must be carried out with great care and in strict compliance with legal safeguards.

In *D.K. Basu v. State of West Bengal* (1997), the Supreme Court laid down detailed guidelines to regulate arrest and detention. These include requirements such as preparing an arrest memo, informing a relative or friend of the arrested person, maintaining proper records, and ensuring medical examination at regular intervals. These safeguards were introduced to prevent abuse of power, especially custodial violence.

The Court was very clear that custodial torture or inhuman treatment is a violation of Article 21. Such practices not only harm the individual but also damage public trust in the justice system.

Building on this, in *Arnesh Kumar v. State of Bihar* (2014), the Court addressed the issue of unnecessary arrests. It observed that arrest should not be treated as a routine step in every case. Instead, the police must justify the need for arrest based on factors such as the seriousness of the offence, possibility of tampering with evidence, or risk of absconding. This judgment reinforced the idea that personal liberty should be respected unless there are strong reasons to curtail it.

1.1.3 Fairness, independence, and accountability in policing

For the police to function fairly, they must not only follow the law but also remain free from improper influence. One of the long-standing concerns in India has been the lack of independence of the police, especially due to political or external pressure.

Recognising this issue, the Supreme Court in *Prakash Singh v. Union of India* (2006)¹ issued important directions aimed at police reforms. These included measures to ensure greater

¹ *Prakash Singh v. Union of India*, (2006) 8 SCC 1.

autonomy, transparency, and accountability in policing. The objective was to create a system where the police can perform their duties professionally, without fear or favour.

Accountability is equally important. Without proper oversight, there is always a risk of misuse of power whether in the form of false implication, coercion, or negligence. Judicial scrutiny, internal disciplinary mechanisms, and independent oversight bodies all play a role in ensuring that police actions remain within constitutional limits.

1.1.4 Broader impact on fair trial

The role of the police goes beyond just investigation and arrest. Their actions influence every stage of the criminal process:

- The quality of evidence they collect affects the strength of the prosecution's case
- The manner in which statements are recorded can impact witness credibility
- Any violation of procedure can weaken the case in court or even lead to acquittal

This shows that fairness at later stages such as trial and judgment depends heavily on what happens at the initial stage.

1.2 Role of Judiciary

The judiciary occupies a central and indispensable position in ensuring the right to a fair trial under the Constitution. It is not just a forum where disputes are decided; it acts as the constitutional guardian of individual liberty. Its responsibility goes beyond delivering judgments it also ensures that every stage of the criminal justice process meets standards of fairness, legality, and due process. Over time, the courts have shaped and strengthened fair trial rights through interpretation, intervention, and institutional oversight.

1.2.1 Guardian of Article 21

One of the most important contributions of the judiciary has been its role in expanding the meaning of Article 21. In *Maneka Gandhi v. Union of India (1978)*, the Supreme Court made it clear that it is not enough for the State to follow any procedure laid down by law the procedure itself must be fair, just, and reasonable. It cannot be arbitrary or oppressive.

This interpretation changed the way Article 21 is understood. It allowed courts to look beyond mere legality and examine whether a law or action actually meets standards of fairness. As a result, Article 21 became the foundation for many fair trial protections, such as the right to legal aid, speedy trial, and protection against arbitrary detention. The judiciary, in this sense, acts as the primary safeguard against misuse of State power.²

1.2.2 Ensuring fair investigation and trial

² *Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158.*

The judiciary has consistently emphasised that fairness in criminal justice is not limited to the trial itself. It begins at the stage of investigation and continues through prosecution and final adjudication.

In *Zahira Habibullah Sheikh v. State of Gujarat (2004)*³, the Supreme Court described a fair trial as a “dynamic concept” that includes fair investigation, fair prosecution, and fair adjudication. When it found serious flaws in the way the case had been handled, the Court did not hesitate to transfer the trial and order a retrial. This shows that the judiciary is willing to intervene when the process itself becomes unfair.

Similarly, in *State of Punjab v. Gurmit Singh (1996)*⁴, the Court stressed the need for sensitivity in cases involving sexual offences. It recognised that fairness also involves creating a safe and respectful environment for victims, while still ensuring that the accused receives a proper opportunity to defend themselves. This reflects the judiciary's effort to balance different interests without compromising on justice.

1.2.3 Protection of undertrials and speedy justice

The judiciary has played a major role in highlighting and addressing the issue of delays in the criminal justice system. In *Hussainara Khatoon v. State of Bihar (1979)*, the Supreme Court brought attention to the condition of undertrial prisoners who had been detained for years without trial.

³ *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384.*

⁴ Article 21, Constitution of India, 1950 (Right to life and personal liberty).

The Court held that the right to a speedy trial is a fundamental part of Article 21. This was a significant step in recognising that delays can seriously affect personal liberty and the credibility of the justice system.

Later, in *A.R. Antulay v. R.S. Nayak* (1992), the Court provided guidance on how to assess whether a delay violates constitutional rights. It made it clear that while no strict time limits can be fixed, courts must consider factors like the nature of the case, its complexity, and the reasons for delay. Through such decisions, the judiciary has tried to ensure that justice is delivered within a reasonable time.

1.2.4 Fairness in sentencing and procedure

The judiciary's role does not end with deciding whether an accused is guilty. It also extends to ensuring that punishment is fair and proportionate. In *Bachan Singh v. State of Punjab* (1980)⁵, the Supreme Court upheld the validity of the death penalty but introduced the “rarest of rare” doctrine.

This principle ensures that the most severe punishment is imposed only in exceptional cases. It reflects the idea that even at the stage of sentencing, courts must act carefully and fairly, keeping in mind the value of human life and dignity.

1.2.5 Supervisory role

⁵ *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.

Apart from deciding individual cases, the judiciary also plays a broader supervisory role in improving the functioning of the criminal justice system. Through decisions like *D.K. Basu v. State of West Bengal* (1997) and *Prakash Singh v. Union of India* (2006⁶), the Supreme Court has issued guidelines and directions aimed at systemic reform.

These decisions deal with issues such as custodial violence and police accountability, and they show that the judiciary is not limited to resolving disputes—it also works towards strengthening institutions and preventing future violations. Overall, the judiciary acts as both a protector and a watchdog. It ensures that laws and procedures are applied fairly, steps in when there are failures, and continuously shapes the system to better protect individual rights. In doing so, it plays a crucial role in making the right to a fair trial under Article 21 meaningful in practice.

1.3 Role of Prosecution

The prosecution plays a key role in the criminal justice system, as it represents the State and is responsible for presenting the case against the accused. At first glance, it may seem that the prosecution's job is simply to secure a conviction. However, the law places a much higher responsibility on it—the duty to ensure that justice is done. This means that the prosecution must act fairly, objectively, and in a way that upholds the integrity of the entire trial process.

1.3.1 Duty of fairness

⁶ *Prakash Singh v. Union of India*, (2006) 8 SCC 1.

Courts in India have consistently made it clear that the prosecution is not meant to act like an adversary determined to win at any cost. Instead, it is expected to function as a “minister of justice.”

In *Shiv Kumar v. Hukam Chand* (1999⁷), the Supreme Court emphasised that a public prosecutor must act with fairness and impartiality. The goal is not just to secure a conviction, but to assist the court in arriving at the truth. This means that the prosecutor must avoid exaggeration, suppression of facts, or any conduct that could mislead the court.

In practice, this duty requires the prosecution to present the case honestly, even if certain facts may weaken its position. The idea is that justice is better served by truth than by a one-sided victory.

1.3.2 Disclosure obligations

A fair trial depends heavily on transparency, and one of the key responsibilities of the prosecution is to disclose all relevant material to the defence. This includes not only evidence that supports the prosecution's case but also any material that may favour the accused.

If important evidence is withheld, it can seriously affect the ability of the accused to defend themselves. Courts have therefore stressed that non-disclosure undermines the fairness of the trial and can lead to miscarriage of justice.

⁷ Shiv Kumar v. Hukam Chand, (1999) 7 SCC 467.

In this sense, disclosure is not just a procedural formality it is a safeguard that helps maintain balance between the prosecution and the defence, ensuring that neither side is unfairly disadvantaged.

1.3.3 Witness protection and fair presentation

Witnesses often form the backbone of a criminal case, and how they are treated can directly impact the outcome of the trial. The prosecution has a responsibility to ensure that witnesses are able to testify freely and without fear.

In *Zahira Habibullah Sheikh v. State of Gujarat (2004)*, the Supreme Court highlighted how intimidation and lack of protection for witnesses can distort the truth and weaken the justice process. The Court made it clear that witness protection is essential for a fair trial.

Apart from protection, the prosecution must also present witness testimony fairly without coaching, manipulation, or selective presentation. This ensures that the court receives an accurate and reliable account of facts.

1.3.4 Independence and impartiality

Although the prosecution is part of the State machinery, it is expected to function independently and without undue influence. Its role is not to blindly support the police or the government, but to act in accordance with law and fairness.

Various reports of the Law Commission of India⁸ have pointed out the need to strengthen the independence of the prosecutorial system. The concern is that external pressures whether political or institutional can affect the objectivity of prosecutors and, in turn, the fairness of trials.

An independent prosecutor is better positioned to make balanced decisions, such as whether to proceed with a case, what charges to press, and how to present evidence.

1.3.5 Conclusion

In many ways, the prosecution acts as a bridge between the investigation and the courtroom. It must carefully evaluate the evidence collected by the police and present it in a manner that is both effective and fair.

When the prosecution performs its role properly, it helps ensure that guilty persons are held accountable while innocent individuals are not wrongfully convicted. But when it fails to act fairly by suppressing evidence, ignoring weaknesses, or pursuing conviction at any cost it can seriously damage the credibility of the justice system.

For this reason, the prosecution's role is often described as a balancing one. It must pursue justice, not just success, and in doing so, it becomes a crucial safeguard of the right to a fair trial.

⁸ Law Commission of India, Government of India (various Reports on criminal justice reforms and legal system).

1.4 Role of Defence Counsel

The defence counsel plays a vital and often decisive role in ensuring that a criminal trial is truly fair. In a system where the State has significant power through investigation, prosecution, and institutional resources the accused relies heavily on legal representation to present their side of the story. Without a capable defence, the idea of a fair trial risks becoming more theoretical than real. The defence counsel, therefore, is not just a participant in the process but a key safeguard against imbalance and injustice.

1.4.1 Constitutional recognition

The importance of legal representation has been firmly recognised by the Supreme Court as part of the right to life and personal liberty under Article 21. In *Hussainara Khatoon v. State of Bihar (1979)*, the Court held that free legal aid is a fundamental right, especially for those who cannot afford a lawyer. This decision was significant because it acknowledged that access to justice must not depend on economic capacity.

This principle was further clarified in *Khatri (II) v. State of Bihar (1981)*, where the Court held that legal aid must be provided at the earliest stage of the criminal process, including when the accused is first produced before a magistrate. The reasoning is straightforward: if a person is left without legal assistance at the initial stages, the damage to their defence may already be done before the trial even begins.

1.4.2 Effective assistance of counsel

The right to counsel is meaningful only when the assistance provided is effective. Courts have emphasised that merely appointing a lawyer is not enough the representation must be real, active, and competent. A passive or unprepared defence defeats the purpose of legal aid and can seriously affect the outcome of a case.

An effective defence counsel is expected to study the case carefully, advise the accused on legal options, and develop a proper strategy. They must also ensure that procedural safeguards are followed and that any violation of rights is brought to the court's attention. In this way, effective representation becomes a crucial element of procedural fairness under Article 21.

1.4.3 Role in adversarial system

India follows an adversarial system, where the prosecution and defence present opposing versions of the case before an impartial judge. In this structure, the defence counsel plays a central role in testing the strength and reliability of the prosecution's case.

This involves:

- Carefully examining and challenging the evidence presented
- Cross-examining witnesses to expose inconsistencies or bias
- Questioning the legality of investigation methods or procedures
- Highlighting gaps or weaknesses in the prosecution's narrative

Through these actions, the defence ensures that the case is not accepted at face value and that the court is able to make an informed and balanced decision.

1.4.4 Equality of arms

A fair trial requires a balance between the power of the State and the rights of the individual. This idea is often described as “equality of arms.” Since the State has access to resources like police machinery, forensic tools, and legal expertise, the defence counsel acts as an essential counterweight.

Without competent legal representation, the accused may not be able to understand the charges, challenge evidence, or even follow the proceedings properly. This creates a serious imbalance and can undermine the fairness of the trial. The defence counsel helps bridge this gap and ensures that the accused has a genuine opportunity to present their case.

1.4.5 Conclusion

In practical terms, the defence counsel is the voice of the accused within the legal system. They ensure that the accused is not reduced to a passive subject of the proceedings but remains an active participant in their own defence.

A strong and effective defence not only protects the rights of the individual but also strengthens the credibility of the justice system as a whole. By questioning evidence, ensuring compliance with legal standards, and holding the prosecution to its burden of proof, the defence counsel plays an indispensable role in upholding fairness.

Ultimately, a fair trial under Article 21 is not possible without meaningful legal representation. The defence counsel ensures that justice is not one-sided, but balanced, reasoned, and in line with constitutional values.

1.5 Media Trials

The role of media in criminal justice has grown significantly in the modern era, especially with the rise of 24×7 news coverage and digital platforms. On one hand, the media plays an important democratic function by informing the public about ongoing issues, including criminal cases. On the other hand, when reporting becomes sensational or one-sided, it can interfere with the fairness of a trial and influence public perception in a way that may prejudice the proceedings.

1.5.1 Freedom of press and limitations⁹

⁹ Freedom of Press, Article 19(1)(a), Constitution of India, 1950 (Freedom of speech and expression).

Freedom of speech and expression under Article 19(1)(a) includes freedom of the press, which is essential for a democratic society. It allows the media to report on matters of public interest, including criminal cases. However, this freedom is not absolute and is subject to reasonable restrictions under Article 19(2), especially when it affects the administration of justice.

In the context of ongoing criminal trials, excessive or prejudicial reporting can create a parallel narrative outside the courtroom. This may influence witnesses, pressure investigators, or shape public opinion in a way that affects the neutrality of the trial process. Because of this, courts have repeatedly emphasized the need to balance press freedom with the accused's right to a fair trial under Article 21.

1.5.2 Supreme Court observations

The judiciary has addressed the issue of media influence in several important cases. In *Romesh Thappar v. State of Madras (1950)*, the Supreme Court strongly upheld freedom of expression as a cornerstone of democracy. However, over time, courts have recognised that this freedom must be balanced against other constitutional rights, particularly the right to a fair trial.

A more direct and structured approach was taken in *Sahara India Real Estate Corp. Ltd. v. SEBI (2012)*¹⁰, where the Supreme Court acknowledged that media reporting during ongoing trials can sometimes create a risk of prejudice. The Court introduced the concept of “postponement orders,” allowing courts to temporarily restrict reporting of certain details

¹⁰ *Sahara India Real Estate Corp. Ltd. v. Securities and Exchange Board of India*, (2012) 10 SCC 603.

when there is a real risk of affecting the fairness of proceedings. This judgment reflects the Court's attempt to maintain equilibrium between transparency and justice.

1.5.3 Prejudice and presumption of innocence

One of the most serious concerns with media trials is their potential impact on the presumption of innocence. In criminal law, every accused person is presumed innocent until proven guilty beyond reasonable doubt by a competent court. However, when media coverage presents a person as guilty before the trial concludes, it can create a public perception of guilt.

This is problematic because it may indirectly influence witnesses, affect the mindset of those involved in the investigation, or even create pressure on the judicial process. The Supreme Court has repeatedly cautioned against such "trial by media," noting that it can undermine the fairness and neutrality of criminal proceedings.

1.5.4 Regulatory concerns

Courts have also highlighted the need for responsible and balanced journalism, particularly in sensitive criminal matters. While reporting on crime is important, it must be done in a way that does not interfere with ongoing investigations or judicial proceedings.

This includes avoiding disclosure of prejudicial details, not publishing speculative conclusions, and respecting the privacy and rights of both victims and accused persons. The judiciary has consistently stressed that media freedom must be exercised with caution, especially when a case is sub judice.

1.6 Conclusion

The role of various institutions in the criminal justice system shows that the right to a fair trial under Article 21 is not maintained by the courts alone, but is the result of coordinated functioning between multiple actors. Police, judiciary, prosecution, defence counsel, and media each influence the fairness of criminal proceedings in different ways, and any weakness in one link can affect the entire process.

Indian constitutional jurisprudence has consistently stressed that fair trial is a continuing obligation, not a one-time requirement. From the stage of investigation to final adjudication, every step must reflect fairness, transparency, and respect for human dignity. Judicial decisions such as *Maneka Gandhi v. Union of India* (1978) and *Zahira Habibullah Sheikh v. State of Gujarat* (2004) have reinforced this idea by recognising that fairness in criminal justice is a dynamic and system-wide concept.

Ultimately, the effectiveness of fair trial rights depends on how well these institutions perform their roles within constitutional boundaries. While the judiciary acts as the ultimate safeguard, the police must ensure impartial investigation, the prosecution must act with fairness, the defence must provide meaningful representation, and the media must exercise responsibility. Together, they shape the real experience of justice under Article 21, ensuring that the promise of a fair trial is not merely theoretical but meaningful in practice.