

Landmark Judgement

**Analysis of the 1979 case Hussainara Khatoon & Ors. v.
Home Secretary, State of Bihar**



HUSSAINARA KHATOON VS HOME SECRETARY, STATE BIHAR (1979)

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Overview

Hussainara Khatoon & Ors. is a famous case that was decided on **March 9, 1979**, giving **Article 21** a broader meaning and holding that every citizen has a basic right to a prompt trial. It is the most well-known case pertaining to Indian inmates' human rights. The honorable Supreme Court noted that in order to administer justice, the State must guarantee free legal aid and a prompt trial.

Reference: AIR 1369, 1979

Court: India's Supreme Court

Bench: Pathak, R.S., Koshal, A.D., Bhagwati, P.N. Background

In 1979, an article on the incarceration of inmates awaiting trial in the Bihar jail appeared in the **Indian Express newspaper**. Few of these inmates awaiting trial were incarcerated for an extended period of time—in fact, longer than the length of time the courts had actually given them.

One of the readers of the essay was advocate Pushpa Kapila Hingorani, who filed a Public Interest Litigation petition with the Indian Supreme Court. **Advocate Pushpa Kapila Hingorani is known as the "Mother of Public Interest Litigation in India,"** and this was the country's first documented PIL case.

Facts

The Court received a writ petition of habeas corpus under story 32 seeking the release of 17 inmates awaiting trial whose names were listed in the **Bihar newspaper story**. After classifying the under-trial inmates into two main groups—those charged with minor offenses and those charged with significant offenses—the state of Bihar was instructed to submit an updated chart that showed the **year-by-year breakdown** of the inmates.

Problem

Should the right to a prompt trial be seen as a **component of Article 21**?

Can the law enforce the provision of free legal aid?

Arguments

In the counter-affidavit presented to the court, it was stated that numerous under-trial inmates who were detained in the Patna Central Jail, Muzaffarpur Central Jail, and Ranchi Central Jail prior to their release had frequently appeared before the magistrates and had been remanded to judicial custody when necessary.

These claims, however, were deemed inadequate by the Court because they failed to provide the dates these inmates were placed under remand.

Furthermore, it has been argued that in nearly 10% of cases, the inquiry is delayed because expert views are not received on time.

Evaluation

The Court ordered the release of these under-trial detainees whose names were listed in Mrs. Hingorani's record because their continued detention was deemed unlawful and violated their fundamental rights under Article 21 of the Constitution because they had been incarcerated for a longer period of time than they should have been charged with.

"What faith can these lost souls have in the judicial system which denies them a bare trial for so many years and keeps them behind bars, not because they are guilty, but because they are too poor to afford bail and the courts have no time to try them," the court noted.

The Court also ordered that **the State Government appoint a lawyer at its own expense to make a bail application**, limiting remand, and with a point at which a speedy trial can begin on the following remand dates when the undertrial detainees accused of bailable offenses are delivered before the Magistrates.

The location of **the State of Bihar's courts of magistrates and courts of sessions**, as well as the total number of cases outstanding in each court as of December 31, 1978, had to be provided by the State Government and High Court.

They also had to explain why it was not possible to resolve matters that had been pending for longer than six months.

Examination

In the US, the right to a speedy trial is protected by the constitution.

A person who is arrested or detained has the right to a trial within a reasonable time frame, according to Article 3 of the European Convention on Human Rights. Consequently, the court held that **"a speedy trial is of the essence of criminal justice and there can be no doubt that delay in trial by itself constitutes a denial of justice."**

Therefore, under Article 21 of the constitution, the right to a prompt trial was considered a basic right of the prisoner. It would be a flagrant violation of their freedom if some of them were judged not guilty of the charges against them after spending a considerable amount of time behind bars for crimes they were ultimately found not to have committed.

The court also recommended a significant modification since it believed that India's bail system at the time was unfair to the poor, who frequently lack the means to hire an attorney to represent them. A system cannot be deemed just and equitable if it denies the impoverished access to legal representation.

Financial or administrative incapacity cannot be utilized by the State to deny the accused their constitutional right to a prompt trial, and it was long overdue for the introduction of a personal bond bail system similar to those used in western nations.

The court stated that the accused's ties to the community should be taken into account while granting bail on personal bonds in order to keep him from escaping. These ties include:
How long he has lived in the area, his work status, his background, and his financial situation,

His interactions with his family,

His reputation, personality, and state of mind,

His conviction history and court appearance history,

The names of trustworthy community members who would attest to his **dependability,**

The type of offense alleged and the likelihood of conviction,

any further information that shows the accused's connections to the community or has an impact on the likelihood of a deliberate refusal to appear.

In conclusion

The fact that nearly 40,000 inmates awaiting trial were freed following this ruling demonstrates the significance of this case. The case inspired a number of socially conscious individuals and attorneys to speak up for the poor and make use of the broad scope of public interest litigation in order to achieve justice.