

Preserving Justice: A Comprehensive Guide to Safeguarding the Rights of the Accused in India's Criminal Justice System

written by King Stubb & Kasiva | December 18, 2023



Introduction

The Indian legal system emphasizes the protection of its citizens' fundamental rights, ensuring equitable and just treatment for all individuals regardless of their legal position. It also extends to persons facing criminal charges, i.e., the accused, ensuring that they are offered certain safeguards throughout the different phases of the criminal justice system.

The Indian Constitution, as a cornerstone of the nation's legal framework, lays the groundwork for these safeguards. **Articles 20 and 22** guarantee fundamental rights such as freedom from self-incrimination, access to legal counsel, and a fair trial. In addition, the **Code of Criminal Procedure (CrPC)**, which contains specific legal provisions, reinforces these safeguards even further.

The “presumption of innocence” is the core premise of criminal justice in India. This fundamental concept ensures that an accused is assumed innocent until proven guilty beyond a reasonable doubt; the prosecution bears this burden of proof. This principle emphasizes the importance of a fair and impartial trial in which the defendant is allowed to present evidence and challenge any accusations leveled against them.

This article aims to provide an overview of the rights of the accused in the different phases of the criminal justice system in the following manner:

- Rights in the Pre-Trial Stage
- Rights during the Trial Stage
- Rights in the Post-Trial Stage

Rights in the Pre-Trial Stage

- **Right to Know the Charges and Offences (Sections 50 and 75, CrPC) [\[1\]](#):** These sections mandate that the accused must be promptly and comprehensively informed of all charges against them at the time of arrest. The arresting officer is duty-bound to inform the accused of the full details of the crimes for which the arrest is being made to ensure transparency.
- **Right against Unlawful Arrest (Article 22(2), Constitution and Section 57, CrPC):** Every accused has the right to object to an unlawful arrest and detention. If the accused is arrested under a warrant, he must be brought before a magistrate within 24 hours, excluding the time taken to travel from the police station to the court.
- **Privacy and Prevention of Illegal Searches (Article 21):** This article provides a shield against unlawful intrusion to uphold the right to life and liberty, which includes the right to privacy. This right exists even after an arrest. The police must obtain a search warrant to conduct any search and seizure as per CrPC provisions.
- **Right against Self-Incrimination (Article 20(3) and Section 161(2), CrPC):** The accused is obligated to answer questions asked concerning the case, but he can refrain from answering questions that may lead to self-guilt.

In *MP Sharma v. Satish Chandra* [\[2\]](#), the Supreme Court explained this provision and right in the following manner:

- It is a right available to an individual accused of a crime.
- It protects him from being forced to be a witness in such a case.
- It protects him from testifying against himself under coercion.

This right has been further upheld in *Nandini Sathpathy v. PL Dani & Ors.* [\[3\]](#)

- **Protection against Double Jeopardy (Article 20(2)):** The accused are safeguarded from being tried and punished more than once for the same offence.

In *Natarajan v. State*[\[4\]](#), the Supreme Court clarified that an individual tried and acquitted or convicted for an offence shall not be retried from the same or different offences arising from the same act.

- **Right to Object to Ex-Post Laws (Article 20(1)):** This right provides that individuals cannot be convicted under laws that were not in force at the time the alleged crime occurred. To be convicted for a crime, that specific violation of law must be in force at the time the act occurred.

The case of *Maru Ram v. Union of India* illustrates this right, where the Supreme Court held that amendments modifying the punishment for certain offences cannot be applied retrospectively to the disadvantage of the accused.[\[5\]](#)

- **Right to Bail:** An accused arrested for a crime is entitled to bail unless the offence is a non-bailable one. Even in the case of a non-bailable offence, bail can be granted under certain conditions. The police are required to inform the accused that he can be granted bail on the payment of surety, as per **Section 50, CrPC**.[\[6\]](#)
- **Right to be taken before a Magistrate without Delay (Sections 55 and 76, CrPC):** Irrespective of the nature of the arrest being warranted or not, the accused must be brought before a magistrate within 24 hours, without any unnecessary delay.
- **Right to Legal Aid (Article 21 and Section 304, CrPC):** Every accused has a right to legal advice. The State is obligated to provide legal aid if the accused cannot afford legal advice.

In cases like *Sheela Barse v. State of Maharashtra*[\[7\]](#) and *Khatri v. State of Bihar*[\[8\]](#), the immediate implication of legal aid at the time of arrest is highlighted. Legal aid must be provided to the poor and needy at different stages of the legal process to uphold their fundamental rights. In *Suk Das v. Union Territory of Arunachal Pradesh*[\[9\]](#), the court highlighted the need for legal literacy and awareness among the general public about the right to legal aid.

- **Right to be Examined by a Doctor (Section 54, CrPC[\[10\]](#)):** If the arrested accused alleges that a body examination will provide evidence to prove him innocent or provide evidence to establish the commission of crime by another person, the Magistrate shall direct such examination by a registered medical practitioner.

Rights During the Trial Stage

- **Right to a Free and Fair Trial (Articles 14 and 21):** Every accused has the inherent right to a free and fair trial. This implies the right to be heard without prejudice to ensure that no bias hinders achieving justice. This right also includes the right to a speedy trial under Article 21, as held in *AR Antulay v. RS Naik and Another*.[\[11\]](#) This was further elaborated upon in *Hussainara Khatoon v. Home Secretary, State of Bihar*[\[12\]](#), where the court held that the State cannot avoid its constitutional obligation to provide a speedy trial by taking the defence of financial or administrative inability.
- **Right to Appear at Trial (Section 273, CrPC):** The accused has a right to be present during the trial to witness the presentation of evidence and documents in the court. A trial may proceed without the accused only if it is expressly stated that he should not be present at the time of a particular statement or if he is deliberately absent.
- **Right to Obtain Copies of Documents (Section 76, Indian Evidence Act):** The accused has a right to receive copies of the documents presented in court, including evidence from both the prosecution and defence, court orders, and any other document related to the proceedings. This ensures that he remains fully informed about the proceedings and has a fair chance to defend himself against the allegations.
- **Right to be Presumed Innocent until Proven Guilty:** The fundamental principle of presumption of innocence is recognized in *Article 11*[\[13\]](#) of the *Universal Declaration of Human Rights* as well, which considers it a fundamental right of every accused. In India, this principle is constitutionally granted and places the burden of proving the guilt squarely on the prosecution.
- **Right to Cross-Examination (Section 244, CrPC):** During the trial, the accused has a right to cross-examine the witnesses presented by the prosecution. This stage, which involves Chief Examination and Cross-Examination, allows the accused to challenge and highlight loopholes in the evidence and present their version of events, which contributes to proving the accused's innocence.

Rights in the Post-Trial Stage

- **Right to Appeal:** After conviction, the accused has the primary right to appeal to a higher jurisdiction, to challenge the order or judgment of the lower court. It provides an opportunity for re-examination of the case and ensures a fair and thorough review.
- **Right to Receive the Acquittal Decree (After Acquittal):** If the accused is acquitted, they are entitled to receive a copy of the acquittal decree, which serves as official recognition of their innocence. This is important to establish their clean record.

- **Right to Humane Treatment in Prison:** This right includes both physical and mental well-being. It includes adequate food, living conditions, medical care, and freedom from torture or cruel, inhumane, or degrading treatment. This is a fundamental right under Article 21 and has been upheld in the landmark case of *DK Basu v. State of West Bengal*.[\[14\]](#) Guidelines for the same are also laid down through the Prison Act of 1894.
- **Right to Rehabilitation and Social Integration:** The goal of the criminal justice system is not solely punishment, but also the reformation of the criminal. This right includes access to education, vocational, and psychological programs to help inmates develop skills and better reintegrate them into society post their sentence.
- **Right to Compensation for Wrongful Conviction:** Indian jurisprudence recognizes the right of individuals to seek compensation for wrongful conviction. The first time such compensation was awarded was in the landmark case of *Rudal Sah v. State of Bihar*.[\[15\]](#) This is necessary as justice demands that compensation be paid to such an individual for the suffering endured.

Conclusion

The accused's rights are firmly protected by the Indian legal system, ensuring impartiality and upholding the fundamental principle of innocence until proven guilty. The criminal justice system exhibits sensitivity to the system's complexities by instituting safeguards such as humane treatment and rehabilitation post-trial, in addition to pre-trial protections against arbitrary arrest and self-incrimination. It aims to create a balance between individual liberty and the need for accountability. The complicated network of rights supports a society in which justice reigns supreme, protecting innocent people from punishment and providing possibilities for rehabilitation and reintegration.

Frequently Asked Questions (FAQs)

What is the fundamental premise of the Indian criminal justice system?

The fundamental premise of the Indian criminal justice system is the presumption of innocence until proven guilty.

What right does an accused have to challenge evidence during the trial?

The accused has the right to cross-examination under Section 244 of CrPC, which allows them to question and challenge the witnesses presented by the prosecution.

When is the police required to inform the accused about the charges?

As per Sections 50 and 75 of CrPC, the police are required to inform the accused of all charges at the time of arrest.

[1] The Code of Criminal Procedure, 1973, § 50 & 75, No. 2, Acts of Parliament, 1974 (India).

[2] MP Sharma v. Satish Chandra, AIR 1954 SC 300.

[3] Nandini Sathpathy v. PL Dani & Ors., AIR 1978 SC 1025.

[4] Natarajan v. State, 1991 CrLJ 2329.

[5] Maru Ram v. Union of India, AIR 1980 SC 2147.

[6] The Code of Criminal Procedure, 1973, § 50, No. 2, Acts of Parliament, 1974 (India).

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

[8] Khatri v. State of Bihar, (1981) 1 SCC 627.

[9] Suk Das v. Union Territory of Arunachal Pradesh, AIR 1986 SC 991.

[10] The Code of Criminal Procedure, 1973, § 54, No. 2, Acts of Parliament, 1974 (India).

[11] Abdul Rehman Antulay and others v. R.S. Naik and another, 1992 (1) SCC 225.

[12] Hussainara Khatoon v. Home Secretary, State of Bihar, AIR 1979 SC 1369.

[13] Article 11, Universal Declaration of Human Rights,
<https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

[14] Shri D.K. Basu v. State of West Bengal, AIR 1997 SC 610.

[15] Rudal Sah v. State of Bihar, 1983 SCC (4) 141.

King Stubb & Kasiva,
Advocates & Attorneys

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