



# **PRESERVING JUSTICE: SAFEGUARDING THE RIGHTS OF THE ACCUSED IN ACCUSATORIAL LEGAL SYSTEMS**

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## **Abstract:**

Justice and equity are fundamental principles that underpin any robust legal system, with particular emphasis on accusatorial or adversarial systems. In these systems, the protection of the accused's rights is critical, serving as an essential check on the prosecutorial authority of the state. This abstract examines the various laws and procedures established to ensure that the accused receives a fair trial and due process. In the United States, the United Kingdom, and India, accusatorial judicial systems are founded on a formalised conflict between the prosecution and the defence. Strict protections for the accused are mandatory within this framework to prevent inequities and uphold the integrity of the legal system. Important protections include the presumption of innocence, the right to a fair and public trial, the right to counsel, the right to remain silent, the prohibition against double jeopardy, and the right to appeal. The presumption of innocence is a fundamental principle that ensures the burden of proof continues to rest with the prosecution. This concept fulfils the moral and ethical responsibilities of the court system while safeguarding individuals from wrongful convictions. The right to a fair and public trial encompasses several fundamental rights, including but not limited to the ability to present evidence and witnesses in support of one's case, cross-examine witnesses, and be served by an impartial jury. An additional pivotal element is legal representation, as adept defence attorneys are necessary to successfully navigate intricate legal environments and mount a formidable defence. Furthermore, the accused is safeguarded by the prohibition against self-incrimination and the right to remain mute, which prevent coercion and ensure that any statements made are truly voluntary. In addition, the prohibition against double jeopardy ensures the conclusion of legal proceedings, safeguards against court harassment, and prevents individuals from being prosecuted twice for the same offence. The appeals process provides a vital mechanism for oversight, allowing higher tribunals to rectify errors and ensure the administration of justice. Ensuring the preservation of public confidence in the legal system and providing recourse for any injustices that may have transpired throughout the trial are both contingent upon the ability to appeal.

While these safeguards appear logical in principle, their implementation could potentially encounter obstacles. The rights of the accused may be jeopardised by inadequate legal representation, unethical prosecution methods, institutionalised biases, and pretrial detention conditions. Hence, to strengthen these safeguards and ensure their effective implementation, continuous advocacy, legislative reforms, and scrutiny are essential. In accusatorial legal systems, defending the rights of the accused requires more than a mere formality; it requires a genuine commitment to justice and human dignity. The preservation of these rights by the legal system serves to safeguard individuals against unjust convictions while also upholding the integrity and credibility of the judiciary. Constant effort is required to iron out defects and fortify these safeguards in order to preserve the fundamental principles of justice and equity that underpin accusatorial legal systems.

**Keywords:** Accused, harsh laws, just trial, rule of law, expedited trial.

## Introduction

The definition of justice varies depending on the context and time period. It is an ideal that the law should pursue. The Preamble of the Constitution enshrines "justice" as the primary goal and objective to be attained. Article 38<sup>1</sup> immediately incorporates the social, economic, and political goal of "justice."<sup>2</sup> Renowned constitutional analyst Mr. H. M. Seervai has noted that Article 39 expands on the idea of justice. According to the Supreme Court's ruling, social justice encompasses "legal justice," which means that the legal system must offer low-cost, quick, and efficient means of enabling all members of society to realize justice, regardless of their financial or social status.<sup>3</sup> From the beginning of human civilization, crime has been a perplexing issue. The adversarial system and the inquisitorial system are the two popular methods for dealing with the problem of punishing the wrongdoer.<sup>4</sup>

The accusatorial or adversarial legal system, prevalent in countries such as the United States, the United Kingdom, and India, is designed to ensure fairness and justice through a structured confrontation between the prosecution and the defense. Central to this system is the protection of the rights of the accused, which serves as a vital counterbalance to the prosecutorial powers of the state. This article explores the various mechanisms and legal

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<sup>1</sup> Article 38 in the Constitution of India 1949

State to secure a social order for the promotion of welfare of the people

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations

<sup>2</sup> P. Jaganmohan Reddy, *Quest of Justice* (1975), Madras Law Journal Office, Madras, p.1

<sup>3</sup> J.S. Verma, *New Dimensions of Justice* (2000), Universal Law Publishing Co. Pvt Ltd, p.1

<sup>4</sup> N.V. Paranjape, *Criminology and Penology* (2008), p..3

safeguards that protect the accused, examining their importance, implementation, and the challenges they face.

### **Adversarial Framework**

The first instance of an adversarial process was the arbitration custom of ancient Rome. In common law systems, the adversarial method of dispute resolution is used by the trial judge to oversee proceedings. Certain hybrid civil law systems—such as those found in Scotland, Quebec, and Louisiana—have an adversarial system rooted in English law, but their substantive law is civilian in nature.

Key characteristics of an adversarial system <sup>5</sup>

1. Formal allegations: A person cannot be tried for a crime unless he is formally accused, which can happen through an inquest (a precursor to a grand jury) or the voluntary allegations of a sufficient number of witnesses.
  2. Arguments: Before the court, both the prosecution and the defense prepare their arguments.
  3. Witnesses' role: The voluntary charges that form the foundation of this system.
  4. False Accusation: Witnesses are reluctant to make charges since the consequences of doing so are harsh.
  5. Ordeal or Combat: This system adheres to certain procedures, such as ordeal or combat.
- Presumption of innocence is a fundamental principle of accusatorial legal systems. In accordance with this principle, a person is presumed innocent until culpability is established beyond a reasonable doubt. By shifting the burden of proof to the prosecution, this legal principle safeguards individuals against unjust convictions. International human rights law, including the International Covenant on Civil and Political Rights (ICCPR), codifies this principle as follows: "All individuals accused of a criminal offence shall enjoy the presumption of innocence until proven guilty in accordance with the law." The presumption of innocence serves to uphold the integrity of the judicial system by requiring the state to provide substantial evidence in support of its accusations.

### **Common Law and Civil Law Systems' Distinctions**

An inquisitorial system of adjudication is used in the majority of civil law states. Adversarial processes are used in several civil law systems. Both systems' proponents believe that their framework safeguards the rights of the defenceless. Common law nations contend that: (1) there is no such thing as the "presumption of innocence" under civil law or inquisitorial systems; and (2) these systems fail to defend the rights of the innocent. On the other hand, nations with inquisitorial systems contend that accusatorial systems unfairly benefit wealthy defendants.

The presumption of innocence is mandated for all members of the Council of Europe under Article 6 of the European Convention on Human Rights. 46 of the Council of Europe's member nations so subscribe to this idea.

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<sup>5</sup> This was enshrined as Article 38 of the [Magna Carta](#) in [1215](#)

The adage "Let thousands of criminals go free, but do not punish a single innocent person" is a fundamental principle of the Indian legal system, which in all matters defends the absolute superiority of justice over the individual. The extraordinarily evocative vocabulary of the word "Accused" signifies "being held accountable." No reference is made to his culpability or lack thereof. An essential element of the rule of law is the notion of natural justice, which comprises two fundamental rights—the right to be heard and the prohibition against partiality. "All individuals are equal before the law and entitled to the same protection under the law," and "No person shall be deprived of life or personal liberty except in accordance with the law," are provisions of the Indian Constitution that affirm and protect these rights.

In reality, these two concepts form the basis of our criminal justice system. Inherent in these concepts is the right to due process. Specifically, the right to a fair trial is the most crucial element in any criminal justice system. Apart from safeguarding the right to a fair trial, additional liberties will be included. The aforementioned rights encompass the right to remain silent, the presumption of innocence, the privilege against self-incrimination, the right to an expeditious trial, the right to document disclosure, and the right to have evidence admitted in court that did not involve a violation of a fundamental right. Derivation rights comprise the preponderance of these rights. Globally, the presumption of innocence from incrimination until trial is firmly established.

"All individuals who are accused of a criminal offence are entitled to the presumption of innocence until proven guilty in a public trial where they have been afforded all the necessary safeguards for their defence," as articulated in Article 11 of the Universal Declaration of Human Rights. The European Convention on Human Rights also encompasses a proclamation of a comparable nature.

### **Indian Framework**

Within the local context, the Constitution protects an individual's right not to have their life or liberty taken away from them unless it is required by law. In this sense, "law" refers to "a system of law which incorporates those fundamental rules of natural justice that had formed part and parcel of the common law of England that was in operation at the commencement of the Constitution." Until a person is proven guilty, they are deemed innocent under English common law. Thanks to our Federal Constitution's Article 5(1), the presumption of innocence has long been the cornerstone of English common law.

### **Accused's Rights**

The international community is now concerned with the promotion and defense of individual human rights, rather than just national governments. Part III of the Indian Constitution provides citizens with a list of fundamental rights. A number of these rights also apply to someone who is being tried, a suspect, and the accused. Articles 19, 20, 21, and 22 of the Indian Constitution give these rights. The advantages of Articles 32 and 226 of the Constitution also apply to prisoners. This privilege addresses

- a) Criminal law ex post facto.
- c) Double jeopardy.

- d) The prohibition against incriminating oneself.
- d) The accused person's right to counsel from an attorney and to know the reason behind his arrest.
- e) The accused person's right to appear before a magistrate within a day.
- f) The right of an individual not to have their personal freedom taken away from them unless it is required by law.

Apart from the fundamental rights, the Indian Penal Code, 1860, the Criminal Procedure Code, 1973, and the Indian Evidence Act, 1872 grant various additional legal rights to accused individuals, suspects, and undertrial inmates. Not only did the Supreme Court of India and other High Courts contribute significantly to the constitutional relevance of these rights, but they also widened their scope via compassionate judicial interpretation. The following are just a few of the accused person's rights as stated in our constitution:

### **Right to Life**

A natural right is the right to life. Part III of the Indian Constitution guarantees it as one of the fundamental rights. "No person shall be deprived of his life or personal liberty except according to the procedure established by law," states Article 21 of the Constitution. The right to life is one of the accused's most significant rights. The Supreme Court of India has interpreted Article 21 of the Indian Constitution literally in the Gopalan case<sup>6</sup>. "Law meant a law made by the state and courts were not competent to enquire the reasonableness of that law," the Court ruled.

In the case of Maneka Gandhi<sup>7</sup>, the question of how to interpret "procedure established by law" came up once more. The Gopalan case verdict was overturned by the Supreme Court, which stated that the legal process refers to the proper, just, and equitable process that upholds the natural justice concept rather than an arbitrary, coercive, or oppressive process. The established procedures must pass the reasonableness test as outlined in Article 19 of the Constitution.

The fundamental goal of an organization tasked with upholding the law is to fulfill the fundamental human right—the right to live in dignity, which is the cornerstone of any civilized society. The purpose of the police force was established to safeguard society<sup>8</sup>. The Supreme Court declared that torture and cruelty are violations of Article 21 of the Constitution in the case of Francis Coralie Mullin v. Union Territory of Delhi<sup>9</sup>.

Legislation that grants authorization or prescribes a process that leads to torture or degrading, cruel, or human treatment can never satisfy the standards of reasonableness and non-arbitrariness. Such legislation would manifestly violate Articles 14 and 21, rendering it blatantly unconstitutional and invalid. Any form of torture or inhumane, inhuman, or degrading treatment would be deemed an affront to human dignity and an infringement upon this right, according to this interpretation. Article 21 obviously implies

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<sup>6</sup>A.K.Gopalan v. State of Madras, AIR 1956 SC 27.

<sup>7</sup>Maneka Gandhi v. Union of India, AIR 1978 SC 659.

<sup>8</sup> 1999 Cr.L.J. (J) 156.

<sup>9</sup> AIR 1981 SC 746.

the right to be free from torture and other cruel, inhuman, or degrading treatment, which is protected by article 7 of the International Covenant on Civil and Political Rights and is stated in article 5 of the Universal Declaration of Human Rights.

In *Sunil Batra v. Delhi Administration*<sup>10</sup>, it was decided that a prisoner's use of "solitary confinement" violated Articles 14, 19, 20, and 21 of the Constitution. The Court ruled that the Prison Act did not give the prison administration the authority to place a prisoner with a death sentence in solitary confinement. A court of law may impose solitary confinement as a substantive penalty in accordance with Sections 73 and 74 of the IPC. Therefore, the use of such authority cannot be subject to the whims and avarice of prison officials.

In the *Dalip Singh v. State of Haryana* case<sup>11</sup>, the Supreme Court adopted a cautious stance on police custodial deaths. In this instance, two police officers and a sub-inspector from Kurukshetra District were found guilty of beating the defendant to death and were held guilty under Section 304(II) of the Indian Penal Code, which pertains to death by carelessness.

### **The Right to a Prompt Trial**

According to the maxim JUSTICE DELAYED IS JUSTICE DENIED, an unjustifiable hold-up in the legal system's execution results in an unjustifiable denial of justice. The growing backlog of cases in the trial and appellate courts, the enactment of laws establishing new rights and obligations, the country's industrial development, the rise in trade and commerce, and the legislative and administrative actions affecting citizens at all levels have all contributed to the mounting arrears in these courts. A citizen's right to life and liberty under Article 21 includes the right to a dignified life and liberty. According to the law of the land, liberty must entail the absence of humiliation and indignity at the hands of the authorities, to whom the person's custody may pass temporarily or permanently.<sup>12</sup> The public interest lies in a speedy trial. Cases shouldn't be looked at by courts separately. Once the trial has begun, conduct it *de die in diem* until it is over, unless there is a really urgent circumstance that requires an adjournment. The largest issue the Indian legal system is currently dealing with is the steadily growing backlog of cases, both civil and criminal, that have been sent from subordinate courts to the Supreme Court.

Article 21 of the Indian Constitution contains provisions pertaining to the right to a speedy trial in criminal cases. The Supreme Court has noted in multiple rulings that this right is an essential entitlement of all citizens, falling under the purview of Article 21's Right to Life. However, the reality in the nation is quite different; thousands of detainees awaiting trial are rotting in jails across India, and in many cases, the trials have not even begun yet. This is despite the priority placed on this fundamental right.<sup>13</sup>

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<sup>10</sup> AIR 1978 SC 1975.

<sup>11</sup> AIR 1993 SC 2302.

<sup>12</sup> Dr. K.I Vibhute, *Criminal Justice: A Human Rights Perspective of the Criminal Justice Process* (2004), Eastern Book Company, Lucknow, p.86

<sup>13</sup> <https://ncrb.gov.in/en/prison-statistics-india-year-2013> (Visited on 25th Dec , 2021)

It is possible to specifically address the need for a new perspective on certain of the current legal requirements in the context of criminal justice. The initial one concerns the issuance of provisional bail. The United Kingdom, the United States of America, and the majority of other nations do not have mechanisms in place for the granting of anticipatory bail. This provision has been abused numerous times. People in positions of influence, wealth, and power have used this facility without consequence to avoid being detained by the authorities and having their questions answered.<sup>14</sup>

In India, there are 27,8503 convicts awaiting trial, according to data published in Prison Statistics India-2013<sup>15</sup>. Although the Bombay High Court has established a special task group to ensure a prompt trial, the situation for the 19,331 under trial convicts in Maharashtra remains dire. The right to prompt justice is a "Constitutional reality" that requires respect because it is neither a fact nor a work of fiction. It is already recognized by the legislation and the courts as a means of lessening the courts' mounting caseloads. This Sixth Amendment provision is an essential component of the Bill of Rights and an additional significant aspect of our legal legacy since it ensures the right to a speedy trial and the consequential effects it has on the defendant and society.<sup>16</sup>

The criminal justice system's persistent postponements and continuations hinder victims from ever finding financial, physical, or emotional solace for the suffering they endured as a result of the crimes committed against them. Delays in prosecution can also hinder victims' access to justice in cases where the victim's health deteriorates or when their memories or those of other witnesses fade with time. The Hon'ble Apex Court has voiced its concerns over court delays on multiple times. It has even gone so far as to state that both the accused and the victims of the crime have a right to a prompt trial. Due to the rise in the number of cases that are still outstanding and the decline in the administration of justice, society now believes that justice denied is justice delayed.<sup>17</sup>

The judiciary is gradually losing the trust of those it is obligated to serve with justice as a result of its protracted proceedings. The expeditious trial is recognized as a fundamental right under Article 21 of the Indian Constitution, as the Supreme Court affirmed in its ruling. In spite of this, the situation remains constant and unchanging. Several committees and boards that the administrations had periodically established had developed strategies for reforming the legal system and finding practical ways to administer justice. Nevertheless, these suggestions have not yet been taken into consideration or implemented. Even if the state is required by the Constitution to provide the people with affordable and efficient justice, the very concept and purpose of justice is undermined when it cannot be carried out in a timely and efficient manner.

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<sup>14</sup> <https://main.sci.gov.in/case-status>(Visited on 5<sup>th</sup> Oct, 2021)

<sup>15</sup> As on 29.5.2017, available at: [http://njdg.ecourts.gov.in/njdg\\_public/main.php](http://njdg.ecourts.gov.in/njdg_public/main.php) (Visited on 15<sup>th</sup> Nov, 2021)

<sup>16</sup> [https://www.mha.gov.in/sites/default/files/criminal\\_justice\\_system.pdf](https://www.mha.gov.in/sites/default/files/criminal_justice_system.pdf)(Visited on 21<sup>st</sup> Jan, 2022)

<sup>17</sup> Alexander, Michelle. "The New Jim Crow: Mass Incarceration in the Age of Colorblindness.(2010,ED 2)

The significance of delivering justice in a timely, cost-effective, and efficient manner is stated explicitly in the preamble of the Constitution. The state has been obliged to incorporate provisions pertaining to expeditious justice in Part IV, and the supreme court has broadened the scope of Article 21 to include expeditious trial within the ambit of fundamental rights. However, in spite of these measures, as well as other statutory and procedural laws that contain sufficient provisions pertaining to expeditious trial, India's courts remain extremely overburdened and unable to provide people with prompt justice. There are around 24230843 cases outstanding in subordinate courts, approximately 4011965 cases in High Courts, and approximately 60751 cases pending in the Supreme Court itself, according to the Supreme Court's website status report. These case lags are not exclusively the result of one factor. Several factors need to be taken into account for the current judicial system to be reformatted. The Law Commission of India has highlighted the difficulty courts face in providing prompt justice in a number of reports. Legislators have occasionally amended the laws already in place to implement the recommendations of this committee as well as those of other committees, including the Malimath Committee, but the issue of arrears has not improved over time and is actually becoming worse. It is anticipated that the judiciary would not be able to empty its docket even in 300 years with this pace, infrastructure, and method of dispensing justice. It is extremely disheartening that, in spite of all the legal and constitutional provisions that emphasize the importance of prompt justice delivery, different reports from the Law Commission and other state committees indicate that they are unable to handle the backlog of cases, directly violating the people's constitutional right to prompt justice. This research endeavor aims to examine the notion and significance of prompt justice, an examination of the current legal structure of prompt justice in India, the reasons behind significant case backlogs, their consequences, and potential solutions.

In criminal proceedings, a prompt trial is regarded as a necessary component of the right to a fair trial. The court would view the needlessly protracted imprisonment of detainees awaiting trial as an affront to all civilized standards of human liberty as well as a violation of the fundamental rights to life and personal liberty implied in Article 21 of the Constitution.

In *Hussainara Khatoon(1) v. State of Bihar*<sup>18</sup>, the Supreme Court ruled that the fundamental rights to life and personal liberty protected by Article 21 of the Indian Constitution include a quick trial. Under trial inmates' fundamental rights as stated in Article 21 of the Constitution would be violated if they were to be imprisoned indefinitely without even having their trial begin.

### **The Right to Seek Legal Advice**

An accused person's right to legal representation is known as their right to counsel. An accused individual must be afforded the chance to call and cross-examine witnesses on his behalf. He ought to be allowed to use his counsel or to exercise that right in person. Denying the accused legal representation is equivalent to forcing him to endure an unjust trial.

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<sup>18</sup> AIR 1978 SC 1819.

### **Entitlement to Unrestricted Legal Assistance**

The Indian Constitution does not recognize the right to free legal help as a basic right. People who are accused of crimes for which there is a bail requirement do not request bail because they are impoverished or have financial difficulties. They also don't know that they have the right to be released on bond. In this situation, the state is required by Article 39-A of the Constitution to give legal assistance in order to safeguard the rights of impoverished defendants or inmates awaiting trial against injustice and to ensure that they receive the protections they deserve.

The notion of "reasonable, fair and just" procedure, which is implied in the right to life and personal liberty under Article 21 of the Constitution, would be vitiated if free legal services were denied to impoverished accused individuals or inmates awaiting trial.

If the accused individual does not object to appointing legal representation for his defense, the Court may exercise its implied authority under Article 142 read with Articles 21 and 39-A of the Constitution to assign counsel to him. The Apex Court ruled in *Sukdasv. Union Territory of Arunachal Pradesh*<sup>19</sup> that the trial is void if the accused is not given free legal representation at the expense of the state. The accused's conviction was overturned by the court on the grounds that Article 21 of the Constitution was violated because he was not given legal representation during his trial.

In the case of *Sheela Barse v. State of Maharashtra*<sup>20</sup>, the court provided comprehensive guidelines for guaranteeing legal assistance services to prisoners who are awaiting trial. The District Legal Aid Committee was instructed by the Court to offer legal assistance to the undertrial parties.

In order to provide legal services to the economically and socially disadvantaged segments of society, the Legal Services Authorities Act, 1987 was passed. Benefits under Section 12 of the Act are available to members of SC/STs, victims of human trafficking, human trafficking, or begar, women and children, mentally ill or disabled individuals, victims of violence, natural disasters, victims of disasters, industrial workers, and lower income groups.

### **The Prohibition against Self-Incrimination**

No one who has been accused may be forced to testify against themselves. The goal of police coercion of an accused individual is to coerce them into making a confessional statement. Until the accused is proven guilty in accordance with the law, they are deemed innocent. The Indian Evidence Act of 1872 has provisions that address the presumption of innocence. It is a widely accepted idea that it is preferable to liberate 100 criminal individuals than to convict one innocent person, especially in the absence of evidence. The Supreme Court ruled in *Nandhini Satpati v. P.L. Dani*<sup>21</sup> that Article 21 of the Constitution guarantees both the right to silence and the prohibition on self-incrimination.

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<sup>19</sup> (1986) 2 SCC 401.

<sup>20</sup> AIR 1983 SC 378.

<sup>21</sup> AIR 1978 SC 1025.

The right to self-incrimination is violated when an accused person is forced to testify against their will. However, the police frequently violate this freedom in the majority of third-world nations, including India. Even an innocent individual who has been apprehended by the police is treated as a criminal, and all forms of torture are employed to coerce a confession for the supposed crime, even though the forced confessions made to the police are not acceptable in court. The Supreme Court reaffirmed in *Yusuf Ali v. State of Maharashtra*<sup>22</sup> that it will be considered custodial violence if the accused is subjected to abuse, malnourishment, or torture in any manner while the police are conducting their investigation. To elaborate, the Apex Court in *Nandini Satpati v. P. L. Dani* established specific standards to offer protection to an accused individual detained by the police. The Court decided that any sort of pressure—whether subtle or severe, mental or physical, direct or indirect—applied by the police to coerce the accused into providing information would constitute torture in custody and violate their right against self-incrimination. The accused is not required to answer questions that would implicate him, but the court made it clear that he must respond to inquiries that would not implicate him.

### **Conclusion**

Safeguarding the rights of the accused in accusatorial legal systems is not merely a procedural formality but a substantive commitment to justice and human dignity. By upholding these rights, the legal system not only protects individuals from wrongful conviction but also maintains the credibility and moral authority of the judiciary. Continuous vigilance, legal reforms, and advocacy are essential to address deficiencies and reinforce these protections. In doing so, we preserve the principles of justice and fairness that underpin accusatorial legal systems.

This discussion makes it evident that while certain fundamental rights—like the presumption of innocence—are granted to those who are accused, most, if not all, of these rights have been eroded because of three factors: (1) legislation passed by the Legislature, which gradually weakens these rights; (2) judicial interpretation by the Judiciary, which effectively denies these rights to an accused person; and (3) enforcement of the law by the Executive, which rarely follows the letter of the law. Not only is the judiciary uninterested in doing so, but it actively supports the legislature and executive in their efforts to weaken the rights of those who are accused, even though it is meant to be the only branch of government that can reduce or even completely eradicate these abuses of power.

Regretfully, there is likewise no easy fix for this persistent and methodical infringement on an accused person's rights. Furthermore, all three branches of government must contribute to any significant and practical solution, which means that policy plays a major role in the solution.

The rights of those who are accused would stop being eroded and might even be strengthened if all branches of government could effectively implement and manage this paradigm shift. However, until that time, it is only reasonable to anticipate that protections for the accused will be eroded more severely and more frequently.

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<sup>22</sup> AIR 1968 SC 150.