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## Case Comment: Hussainara Khatoon v Home Secretary, State of Bihar: Analysing India's First Public Interest Litigation Case

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### INTRODUCTION

The landmark case of *Hussainara Khatoon v State of Bihar*<sup>1</sup> came to the forefront in 1979, and it soon became a prominent example of upholding fundamental rights for the general public. This particular case left its mark on our country as it emerged as India's first Public Interest Litigation (PIL). A Public Interest Litigation, in simple terms, is a case that is filed in court on behalf of a group of people whose fundamental or legal rights have been affected in some way. This case, however, is filed by a third party who might not have any personal connection to the aggrieved party, but they do it purely for altruistic purposes. In scenarios where the victim or the complainant is financially or economically disadvantaged and cannot afford to bring this case, then a private citizen does it on their behalf.<sup>2</sup> This concept is driven by the practice of judicial activism by the courts of India. The philosophy of judicial activism rests on the belief that the court can go above and beyond the written or codified law and derive multiple meanings and

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<sup>1</sup> *Hussainara Khatoon v State of Bihar* (1979) 1 SCC 98

<sup>2</sup> Mohd Haris Usmani, 'Public interest litigation:- It's origin and meaning' (*Legal Service India*, 18 May 2020) <<https://www.legalserviceindia.com/article/1273-Public-Interest-Litigation.html>> accessed 17 May 2024

implications for a decision. The practice of judicial activism flourished by filing PIL cases, allowing the courts to redress injustice on various fronts.

One of the most essential and common reasons for filing a public interest litigation is the violation of the victim's fundamental right. The case mentioned above advocates the fundamental rights provided to every prisoner or convict under Article 21<sup>3</sup> (Right to life and personal liberty) under the Indian Constitution.<sup>4</sup> This case especially highlights essential rights such as the right to a speedy trial, reading and writing, freedom of expression, and clean surroundings. It reiterates the fact that the applicability of the law does not only end with the victims but also extends to prisoners, inmates, and convicts, proving that the law governs us as an all-encompassing and indiscriminative entity. This case aided in the broadening of Article 21 of the Indian Constitution, giving new meaning to the relatively simple definition of the article. In India, public interest litigation is wielded as a tool to prevent miscarriage of justice, enabling access to human rights to all those denied due to their socio-economic position in society.

## BACKGROUND OF THE CASE

In 1977, a National Police Commission was organized in Bihar to investigate the prevalent conditions in the Bihar Jail. R. F Rustum, during his tenure as a committee member in the National Police Commission, personally visited the Bihar Jail.<sup>5</sup> He noticed that in various jails in Patna and Muzaffarpur, the inmates were still present even after their prison term had expired because the people were unaware of the legal procedures due to their illiteracy. Hence, his deductions were organized into a report. This report was later published as an article by the newspaper 'Indian Express.' Advocate Pushpa Kapila Hingorani, after reading the article published in the newspaper, decided to file a Habeas Corpus writ at the Supreme Court of India on behalf of the prisoners, highlighting the grave injustice against the inmates. She later went

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<sup>3</sup> Constitution of India 1950 art 21

<sup>4</sup> Zachary Holladay, 'Public Interest Litigations in India as a Paradigm for Developing Nations' (2012) 19 (2) Indiana Journal of Global Legal Studies  
<<https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1492&context=ijgls>> accessed 17 May 2024

<sup>5</sup> Sakshi Jain, 'Hussainara Khatoon v. State of Bihar (1979): case analysis' (*iPleaders*, 07 March 2024)  
<<https://blog.iplayers.in/hussainara-khatoon-v-state-of-bihar-1979-case-analysis/#>> accessed 17 May 2024

on to be called the ‘Mother of Public Interest Litigation’ as she was the first person to lay down the foundation for a case impacting a substantial group of victims who were denied their rights.

## FACTS OF THE CASE

Advocate Pushpa Kapila Hingorani, upon perusing the news article, came to know that a large number of women and children were being held in prison despite the expiry of their prison sentence, and various others found themselves in jail without a fair trial. Moreover, people who went to jail for committing minor offences worth only a few months in prison ended up being jailed for 5-10 years due to their court hearings getting postponed every time. Hence, taking note of the article, she filed a Habeas Corpus writ in the Supreme Court of India, under Article 32<sup>6</sup> of the Constitution, on behalf of Hussainara Khatoon and all the other prisoners’ names that were mentioned in the article published. These prisoners were supposed to be released according to an order from the Bihar government that commanded all the prisoners held under the Foreign Act (1946)<sup>7</sup> to be freed.<sup>8</sup> At first, the case was considered to be invalid because the petition did not have any clients; only the newspaper article was submitted as an affidavit. However, after the first trial in 1979, the state of Bihar not only accepted the case but also ordered the release of all the prisoners mentioned in the article so that they could be a part of this case.<sup>9</sup>

## LEGAL ISSUES

1. Whether the prisoners who were in jail had been detained for longer than their sentence.
2. Whether the right to speedy and fair trials is included under Article 21 of the Indian Constitution.
3. Whether the state provides free legal aid to the country’s socially and economically weaker sections.

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<sup>6</sup> Constitution of India 1950, art 32

<sup>7</sup> The Foreign Act 1946

<sup>8</sup> Sushmana Pandey, ‘Hussainara Khatoon v. Home Secretary, State of Bihar’ (*Law Foyer*, 01 March 2024) <<https://lawfoyer.in/hussainara-khatoon-v-home-secretary-state-of-bihar/>> accessed 17 May 2024

<sup>9</sup> Anurag Singh, ‘Case Commentary; Hussainara Khatoon & Ors v. Home Secretary, State of Bihar’ (2023) 1(1) *Ile Lex Speculum* <<https://ls.iledu.in/wp-content/uploads/2023/08/V1I112F.pdf>> accessed 17 May 2024

## PETITIONER & RESPONDENT ARGUMENTS

Advocate Pushpa Kapila Hingorani, the petitioner in this case, utilized R F Rustom's observations of the jail and argued that the prisoners were not only unlawfully held back in jail but also did not receive a just or speedy trial. Her arguments revolved around how these rights should be considered fundamental rights for the prisoners because their trial is being postponed indefinitely without pronouncing a quick judgment for their release. Despite being charged with petty crimes whose sentences barely lasted a few months, inmates who did not possess legal knowledge were experiencing unjust treatment by their prolonged stay in jail. Therefore, a large number of prisoners were held back in police custody for extended periods even after they were supposed to have served their jail sentences.

The respondents, on the other hand, argued that there was an influx of prisoners in the courts for their pending trials. Under-trial detainees from the Muzaffarpur Central Jail, Patna Central Jail, and the Ranchi Central Jail frequently visited the magistrate and were subsequently sent back to judicial custody. Furthermore, the respondents also stated that there was an increase in the number of pending trials in court, and the judges were unable to pronounce quick judgments. They had to temporarily discontinue 10% of the cases that reached the court because they were waiting on expert opinions about the case. The court, however, decreed both these arguments as inapplicable because they were unreasonable in nature.<sup>10</sup>

## JUDGMENT

The judgement for this landmark case was expressed by Justice P N Bhagwati and Justice D A Desai. The under-trial detainees mentioned in the Indian Express article were ordered by the court to be released. Their indefinite detention by the police was considered unlawful and violative of their fundamental right under Article 21 and their freedom of movement. The court further ordered the government of Bihar to compile a list of all the pending cases and submit it

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<sup>10</sup> *Ibid*

to the court authorities.<sup>11</sup> Taking reference to the case of *Maneka Gandhi v Union of India*<sup>12</sup>, the court incorporated the right to a just and speedy trial under Article 21 of the Indian Constitution.<sup>13</sup> The court reiterated that the violation of a fundamental right and the discrimination against economically weaker prisoners are considered to be inexcusable. The court went on to blame the judicial system for the injustices committed against the unaware prisoners. The ratio decendi was established when the court supported the idea of providing free legal aid to illiterate and poor convicts. This would ensure that they are also guaranteed their fundamental right to a just, fair, and speedy trial. The court's judgement further aimed to bring into control the court's locations and sessions as well as the influx of cases. The court strictly imposed the rule that if a case has been ongoing for a period of more than six months, an explanation regarding the delay must be provided at the case's hearing.<sup>14</sup>

## ANALYSIS

Incorporating the motive 'Delayed Justice is Denied Justice' is the most vital point of the judgment given for this case. The judges correctly highlighted the importance of the right to a speedy trial as a fundamental right, and it ordered the state government to put more effort into organizing the prison system and its prisoners.<sup>15</sup> In the United States, the right to a speedy trial is considered a constitutional right, and in the UK, it is clearly defined under Article 3 of the European Convention on Human Rights.<sup>16</sup> When this right is widely practised in different nations for the well-being of the people, it is only fitting that India incorporates it under Article 21 of its Constitution.<sup>17</sup> It is also highly appreciable that the court discovered that the Indian prison and bail system is rigged against the economically weaker section of people. Apart from not knowing their rights, impoverished people do not possess the monetary means to avail

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<sup>11</sup> Surya A Nair, 'Hussainara Khatoon v. Home Secretary, State of Bihar' (*Manupatra*, 23 August 2022) <<https://articles.manupatra.com/article-details/HUSSAINARA-KHATOON-V-Home-Secretary-STATE-OF-BIHAR>> accessed 17 May 2024

<sup>12</sup> *Maneka Gandhi v Union of India* (1978) 2 SCR 621

<sup>13</sup> Saha Ashish, 'Case Summary on Hussainara Khatoon v. Home Secretary, State of Bihar 1979' (*Legal Service India*) <<https://www.legalserviceindia.com/legal/article-10673-case-summary-on-hussainara-khatoon-v-s-home-secretary-state-of-bihar-1979.html>> accessed 17 May 2024

<sup>14</sup> Nair (n 11)

<sup>15</sup> Singh (n 9)

<sup>16</sup> European Convention on Human Rights 1950, art 3

<sup>17</sup> Arbuda Singh, 'Hussainara Khatoon & Ors v. Home Secretary, State of Bihar' (*The Legal Lock*, 02 March 2022) <<https://thelegallock.com/hussainara-khatoon-ors-vs-home-secretary-state-of-bihar/>> accessed 17 May 2024

themselves of the services of a lawyer or pay their bail fees. A judicial system that is biased towards the rich can by no means be considered fair and just.

The significance of this case's judgment is reflected in the release of over 40,000 prisoners who were found to be illegally detained.<sup>18</sup> The court stood firm on the reasoning that unless there is a just and reasonable explanation for the detention, it can be immediately terminated. This case brought about systemic reforms and promoted practices like judicial activism. The judgment given by the justices encouraged the revolution of just prison systems that treated every inmate the same. The judiciary was actively involved in the implementation of its orders because it impacted the rights of the general public. Furthermore, this judgment also advocated the awareness of fundamental rights for every citizen of India, and it raised public awareness of the discrimination occurring in Indian jails against poor under-trial prisoners. Establishing such a rational and compelling judgment planted the concept of public interest litigation in people's minds, inspiring them to stand up for the economically weaker sections of people whose rights have been denied. The introduction of PILs brought a plethora of social grievances and injustices to the forefront.<sup>19</sup>

## CONCLUSION

The case of *Hussainara Khatoon v State of Bihar* established a judgment that took the necessary steps to mitigate one of the most significant flaws in India's judicial system. It upheld the law as an inclusive entity that extends to prisoners and convicts. The violation of a fundamental right is considered to be a violation no matter who the victim is, especially if the denial of rights is on unfair or unreasonable grounds. India's prison system had proven itself to be incompetent and unfair to its inmates. This case was a monumental leap in the right direction as it brought about immediate action from the state. Immediate relief was granted to unlawful detainees, and the judgment also laid down essential guidelines for the state's prison system to adhere to. The court passed several decrees in support of women and children who were held under custody and

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<sup>18</sup> *Ibid*

<sup>19</sup> Lavanya Lakhota, 'Hussainara Khatoon & Others (I) v Home Secretary, State of Bihar' (2021) 2(1) Indian Journal of Law and Legal Research <[https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5\\_34c936681c254edaa15cbe2095352d5d.pdf](https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_34c936681c254edaa15cbe2095352d5d.pdf)> accessed 20 May 2024

directed their immediate release only after their period of detention was completed. Furthermore, the Supreme Court demanded the submission of charge sheets in cases where the jail time is over two years, and failure to do so would result in the case being withdrawn. The court also mandated that all the under-trial prisoners be brought before the magistrate. Finally, the state government was stipulated to oversee instances where the investigation is being conducted for a duration of more than six months. The government of Bihar was also demanded to update a chart containing the number of prisoners based on their jail time and the severity of their offenses. This case remains a tribute to Advocate Pushpa Kapila Hingorani, the first woman to speak out on behalf of severely impacted victims, and to many more future advocates willing to follow in her footsteps.<sup>20</sup>

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<sup>20</sup> Singh (n 9)