

HUSSAINARA KHATOON & OTHERS VS. STATE OF BIHAR¹

Hussainara Khatoon and Others versus the State of Bihar, 1979, is a cornerstone case in Indian History, which brought forth the issue of prisoners awaiting trial in Bihar for many years. The case is significant not only because it invoked Article 31A, which guarantees equal justice and free legal aid to all citizens, but also because it reflected the significant role played by the Media in a democracy.

On 8 and 9 January 1979, two articles were written by K F Rustomji in [The Indian Express](#), which brought the plight of the 18 undertrial prisoners kept in Patna and Muzzafarnagar Jail to the attention of everyone. Advocate Kapila Hingorani, on reading these reports, filed a habeas corpus on behalf of these undertrial prisoners. Hussainara Khatoon was one of the 6 women and 18 prisoners who were kept in detention. She came from Dhaka, and though the court had ordered that those arrested under the Foreigners Act coming from Bangladesh should be released on Bond, Hussainara was in jail for the last four years. Similarly, some prisoners were in detention for more than 10 years without ever once seeing the face of the Court. The file of one of the prisoners has been untraceable for the last 6 years, and he was imprisoned for more than 11 years.²

A habeas corpus petition was filed in the Supreme Court on 11 January 1979 under Article 32. However, according to the legal framework at that time, a petition could only have been filed by the close relations or next of kin of the undertrials. The petition, though, was presented in the court and understanding the gravity of the matter, a bench of two judges was formed for the hearing.

Question of Law

The major questions of law were the violation of Article 39A, a fundamental right, according to which equal justice and free legal aid should be given to citizens who cannot afford it. Other than this, the detention for such a long period was argued as a violation of the right to life and personal liberty as guaranteed by Article 21 of the Indian Constitution.

Judgement

The court, after hearing the arguments of both parties, concluded that undertrial detention for such a long period is a violation of the Fundamental rights (Articles 21 and 39A) of these individuals. The court found the need for restructuring of the Judicial system to ensure speedy trials. The bail system, which was highly antagonistic towards the economically weaker people, was called out for reform. Bail on personal bonds without monetary obligations was advocated. The

¹ AIR 1979 SUPREME COURT 1819

² Hingorani, Pushpa Kapila, "The Problems of Undertrial-I: Hussainara Khatoon and Public Interest Litigation" in *Punishment and the Prison: Indian and International Perspectives*, ed. Shankardas, Rani Dhavan, (Sage Publication, 2000), 185-188.

court ordered the release of all the prisoners mentioned in the reports of the Indian Express on personal bond without any monetary obligation. The case carries a legacy of its own as it is considered the first Public Interest Litigation (PIL) of India.