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RIGHTS OF THE ACCUSED-

A COMPARATIVE ANALYSIS BETWEEN INDIA AND USA

Sweta Mishra

CHAPTER 1: INTRODUCTION AND SCOPE

The Indian as well as the United States Constitution recognises certain rights that are provided to the accused during his trial before the Court of Law. These rights are enshrined by the legal statutes in order to protect the privileges of a person accused of a crime which in return would ensure a fair trial before the eyes of law. There wasn’t any recognition provided to such rights initially during the 18th century rather they were limited to the procedural aspects. In the later half of the 20th century, such rights of the accused were given a prime importance and were extended to the pre-trial as well as the post-trial periods.

The fundamental rights of the accused are guaranteed by the legal systems. Though, it might not be in effect due to improper implementation yet the rights of the accused are mentioned by the statutes. These fundamental rights include an accused’s right to legal process, his right to be legally represented in the court of law, his right to production of testimony and fair evidence in order to prove his innocence and his right to be protected from double jeopardy. The accused person is entitled to all such fundamental rights as similar to that of the citizens of the country until and unless he has limited himself from accessing the liberty of a person under the existing laws. The only difference that has been laid between the accused and the citizens is that the accused is suspected and charged because of certain violations of the provisions of law due to any crime/offence committed. Thus, protection of the rights of accused has been of great importance in today’s society. The Criminal Justice System follows two important principles- 1) It is the liability of the prosecution to prove the charges against the accused beyond the reasonable doubt; 2) The duty to prove the guilt of the accused must be absolute. The liability to prove the guilt of the accused as conclusive always remains with that of the prosecution and can never be exploited by the usage of the weaknesses of the accused. The mere intention of the legislator in establishing such principles was in order to protect the one who is innocent from heavy punishment.  

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2 Ram Gopal and Ors. v. State; Criminal Revision No. 1143 of 1991, 11-02-2015
Constitution basically focuses on the fundamental rights of an accused and also grants the authorities to respect such rights during the criminal procedure and the Code of Criminal Procedure provides the procedural aspects of such rights. Some of the rights under the Constitution of India as well as under the Code of Criminal Procedure are as follows:

1) Right to be informed regarding the grounds of Arrest
2) Right to Legal Representation by a Counsel
3) Right to appear before the Magistrate
4) Right to bail in case of Bailable Offences
5) Right to Free Legal Aid
6) Right to Speedy Trial
7) Right to Appeal

Similarly, the Sixth Amendment (Amendment VI) to the United States Constitution is an important part of the United States Bill of Rights which provides rights to the accused with respect to Criminal Prosecutions. The Due Process Clause of the Fourteenth Amendment came into action in order to protect the said amendment.

The Sixth Amendment states the following: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”

The rights of the accused as enshrined by the sixth amendment of the US Constitution ensures that the accused follows and complies with all due procedures of law and with that of court proceedings according to the principle of law in order to maintain a competency in the project.

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3 Article 22 (1), The Constitution of India, 1950
4 Id
5 Article 22 (2) of the Indian Constitution, 1950
6 Section 50 (2) of CrPC, 1973
7 Section 304(1) of CrPC, 1973
8 Section 437 (6) of CrPC, 1973
9 Gideon v. Wainwright; 372 U.S. 335 (1963)
10 Sixth Amendment, The US Constitution, Accessed on 15th August, 2020 at 9:20 PM; https://constitution.congress.gov/constitution/amendment-6/#:~:text=In%20all%20criminal%20prosecutions%2C%20the,of%20the%20accusation%3B%20to%20be
service provided. This Amendment consists of seven chapters/rights that fall within the ambit of the Sixth Amendment. The following are such rights:

- The Right to a Speedy Trial\textsuperscript{11}
- The Right to a Jury Trial\textsuperscript{12}
- The Right to a Public Trial\textsuperscript{13}
- The Place of Prosecution\textsuperscript{14}
- The Right to be Informed of the Nature and Cause of the Accusations\textsuperscript{15}
- The Confrontation Clause\textsuperscript{16}
- The Compulsory Process Clause\textsuperscript{17}

The author in this academic venture shall limit her study to that of Rights of Accused in India as enshrined under the Indian Constitution and Code of Criminal Procedure and Rights of Accused under the US Constitution. This paper shall also deal with a detailed comparative study between the Rights enshrined by Indian legal system with that of the US legal system.

**RESEARCH OBJECTIVES:**

1. To analyse the rights of the accused under the Constitution as well as Code of Criminal Procedure,
2. To compare and analyse the rights of the accused in India with that of USA,
3. To explore the enacted Act by the Legislature with regards to the rights of the accused,
4. To analyse the judicial interpretations of these rights through various case laws and obiter of judges,
5. To form a conclusion and add suggestions, if needed.

**RESEARCH QUESTIONS:**

1. Whether the accused is entitled to certain rights under the Constitution and the Code of Criminal Procedure of India and USA?

\textsuperscript{12} Ibid at p. 1406
\textsuperscript{13} Ibid at p. 1408
\textsuperscript{14} Ibid at p. 1419
\textsuperscript{15} Id
\textsuperscript{16} Ibid at p. 1421
\textsuperscript{17} Ibid at p. 1429
2. Whether such rights of the accused are being protected by the legal statutes?
3. Whether any such rights of the accused in United States of America can be adopted in that of Indian legal system?
4. Whether the rights of accused in India are similar to that of US legal system?

**RESEARCH METHODOLOGY:**

The research paper follows the Doctrinal Methodology. Information has been derived from Secondary sources due to the unavailability of primary information. The doctrinal research includes a systematic analysis of the rights of the accused with reference of legal principles and statutory provisions. The doctrinal research includes information on the basis of rule of law, existing doctrines, statutes as well as judicial pronouncements. The content in the paper is mostly descriptive and analytical. A comparative study of rights of the accused in India with that of USA as mentioned under the Criminal Procedure Code as well as the Constitution and the applicability of such rights and their exercise are studied using the cases which deal with contract of sale. A thorough analysis of the judgments and obiter of various judges has been studied and the information derived from various experts in this particular field has also been taken into consideration.


The concept of free and fair trial is a commitment made by the Indian Constitution towards the citizens and the criminal law is considered as a fundamental principle of Natural Justice ensuring the rights of the victims as well as the accused. It is the duty of the prosecution to prove the guilt of the accused beyond a reasonable doubt. Similarly, the accused is entitled to certain rights and such fundamental rights are enshrined by the Indian Constitution. Thus, the accused is entitled to rights which can be applicable during the course of investigation or during trial in case of criminal offences. Thus, any arbitrary or unlawful detention should be avoided.

It is the role of the prosecution to stand on his own in order to admit the guilt of the accused as a conclusive one and the prosecution can never try exploiting the weakness of the accused. These above-mentioned fundamental rights which are enshrined by the Constitution of India are for the betterment of the accused and also asks higher authorities to ensure the
implementation of such rights that are guaranteed by the Indian Constitution. These procedural aspects regarding the arrest and various other rights of the accused are guaranteed by the Code of Criminal Procedure.

ARTICLE 20 – PROTECTION IN RESPECT OF CONVICTION FOR AN OFFENCE\textsuperscript{18}:

1. “No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence”\textsuperscript{19}

2. “No person shall be prosecuted and punished for the same offence more than once”\textsuperscript{20}

3. “No person accused of any offence shall be compelled to be a witness against himself”\textsuperscript{21}

INFORMING THE GROUNDS OF THE ARREST:

The accused is entitled to be informed about the grounds of the arrest for the offence he has been arrested for under Article 22 (1) of the Constitution\textsuperscript{22}.

Similarly, “every police officer or any other person who arresting the accused without issuance of any warrant should communicate the reasons of such arrest according to Section 50(1) of Criminal Procedure Code”\textsuperscript{23}.

RIGHT OF THE ACCUSED TO DEFEND HIMSELF BY THE HELP OF A LAWYER:

“Right of consulting a lawyer and being defended by such lawyer is one of the fundamental rights guaranteed the Indian Constitution”.\textsuperscript{24} Any accused shall not be denied his right to consult and be defended by a lawyer of his choice according to Article 22 (1) of the Constitution provides.

Similarly, any person who is accused of any criminal offence or any person against whom the proceedings are instituted before the criminal court shall not be denied his/her rights of being

\textsuperscript{18} Article 20, Accessed at https://indiankanoon.org/doc/655638/
\textsuperscript{19} Ibid
\textsuperscript{20} Ibid
\textsuperscript{21} Ibid
\textsuperscript{22} Article 22 (1), The Constitution of India
\textsuperscript{23} Section 50 (1), The Code of Criminal Procedure, 1973
\textsuperscript{24} Article 22 (1), The Constitution of India
defended by a legal practitioner of his choice under Section 303 of Criminal Procedure Code. Such right can be executed soon after his/her arrest.  

**APPEARING BEFORE THE MAGISTRATE:**

The accused is entitled to “a right of being appeared before the Magistrate within 24 hours of his arrest under Article 22 (2) of the Constitution”. Similarly, according to Section 56 of Criminal Procedure Code, the person accused and arrested for any offence by any police officer without warrant shall send the accused before a Magistrate having jurisdiction in the case.

In the case of *Poovan v. Sub-Inspector of Police*, the Hon’ble Court held that if a person hasn’t been produced before the Magistrate within 24 hours of the arrest, the Magistrate can call upon the police office who is concerned in the matter to state whether the allegations made against him are true and if the concerned officer denies the arrest made, the Magistrate is allowed to make an inquiry about such issue and can decide and pass the reasonable orders.

**INFORMATION OF SUCH ARREST TO A PERSON NOMINATED:**

Every police officer making such arrest is entitled to disclose the information of the arrest and the place of arrest of the accused to any of the friends, relatives or any other person who is nominated by the accused for disclosing such information according to Section 50-A of the Criminal Procedure Code.

**RIGHT TO BE BAILED IN CASE OF BAILABLE OFFENCES:**

The accused person is “entitled to be released on bail and arrange for sureties” in case he has been accused of a bailable offence and the police officer making such arrest should ensure informing the same to the accused according to Section 50(2) of Criminal Procedure Code.

**RIGHT TO FREE LEGAL AID:**

In case of a trial before the Court of Session, where the Hon’ble Court feels that there isn’t any sufficient means for the accused to arrange for a pleader, in such case, the Court shall “assign a pleader for the defence of such accused at the expense of the State according to...”
Section 304(1) of Code of Criminal Procedure”.

In the case of Khatri v. State of Bihar, the Hon’ble Supreme Court held that the right of accessing to a legal practitioner is implicitly mentioned in Article 21 which talks about life and liberty and the state is under an obligation to ensure the constitutional mandate of providing free legal aid to the accused person.

**RIGHT TO INTERPRETATION OF EVIDENCE:**

In case of any evidence which is not in the language that is understood by the accused, in such cases, the accused is entitled to a right to interpretation of the evidence in open court in the language that is understood by him when he is present in the Court in person according to Section 279 of Criminal Procedure Code.

**RIGHT TO SPEEDY TRIAL:**

According to Article 21 and the principle of Natural Justice, an accused is entitled to a speedy trial and moreover under Section 437(6) of Criminal Procedure Code, “if the accused is in detention and the trial is not completed within 60 days from the first date fixed for hearing he shall be released on bail”.

Moreover, in the case of Hussainara Khatoon v. State of Bihar, a writ petition was filed in the Hon’ble Supreme Court for release of under-trial prisoners in Bihar. The Hon’ble Court held that “the State can never avoid constitutional obligation to provide the right to speedy trial to the accused by pleading financial or administrative inability”. It is a constitutional mandate for the State in order to ensure the proper implementation of the right to speedy trial and any other measures which ever is necessary for this purpose.

**RIGHT TO APPEAL:**

An accused is entitled to right of appeal in case of any injustice done or any other errors committed by the Hon’ble Court before a superior court and is asked to reverse or correct such judgment or decision of the Sub-ordinate Court.

**RIGHT AGAINST SELF-INCRIMINATION:**

The Right against Self-Incrimination or the Right to be Silent under CrPC is enshrined under Section 161 (2) and states that “every person is bound to answer truthfully all questions, put
to him by a police officer, other than questions the answers to which would have a tendency to expose that person to a criminal charge, penalty or forfeiture”.35 Moreover, Article 20 (3) of the Indian Constitution states that “no person accused of any offence shall be compelled to be a witness against himself” and this principle is based upon the maxim “nemo tenetur seipsum accusare” which means “No man is bound to accuse himself for any offence he is charged with”.36 In the case of Nandini Sathpathy v. P.L. Dani37, it was held by the Hon’ble Court that an accused cannot be forced to produce any statement against himself and has the right to be silent during such interrogation and no such statement can be extracted by use of force.

CHAPTER-3: RIGHTS OF THE ACCUSED IN THE UNITED STATES OF AMERICA: AN ANALYSIS

In the United States of America, the rights enshrined in favour of accused are provided in four of the ten amendments such Fourth, Fifth, Sixth and Seventh Amendment in the US Constitution and these amendments are applied to the federal as well as state government.

DOUBLE JEOPARDY:

Under the Fifth Amendment, it has been stated the government cannot prosecute any person twice for one offence committed. The amendment states that “no person shall be subject for the same offence to be twice put in jeopardy of life or limb”.38 Thus, it can be inferred that in case of a defendant being convicted and such conviction is taken into appeal then he might not be prosecuted again for the same offence. “The Double Jeopardy Clause encompasses four distinct prohibitions: subsequent prosecution after acquittal, subsequent prosecution after conviction, subsequent prosecution after certain mistrials, and multiple punishments in the same indictment.”39 Therefore, there hasn’t been any permission given to the government in order to appeal after acquittal.

The case of Blockburger v. United States40 focusses on the concept of multiple punishments and inclusion of the prosecution after conviction of the accused. The Hon’ble Supreme Court

35 Section 161 (2), The Code of Criminal Procedure, 1973
36 Article 20 (3), The Constitution of India
38 Fifth Amendment, The Constitution of United States
40 Blockburger v. United States, 284 U.S. 299
held the following test to be conducted: “the government may separately try and punish the defendant for two crimes if each crime contains an element that the other does not and Blockburger is the default rule, unless the legislature intends to depart from it via enacted law; for example, Continuing Criminal Enterprise (CCE) may be punished separately from its predicates, as can conspiracy”.

In case of the defendant being moved for a mistrial, there wouldn’t be any bar to the retrial until and unless the prosecution committed any bad faith. But in case of prosecutor moving for a mistrial, there wouldn’t be any bar to the retrial in case if “manifest necessity” if found by the judge for grant of the mistrial.

THE RIGHT AGAINST SELF-INCrimINATION:
Right against Self-Incrimination is also provided under the Fifth Amendment and thus no accused can be compelled to self-incriminate himself in case of a criminal offence. It is to be noted here that a confession made by the defendant should not be included in the evidence if the same isn’t made voluntarily. In *Miranda v. Arizona*\(^ {41}\), it was held by the Supreme Court that “no confession is admissible if the police have not first advised a suspect of his constitutional rights, including the right to have a lawyer present to advise him during the questioning”. Therefore, the Fifth Amendment aims to protect the accused form self-incrimination. “To plead the Fifth is to refuse to answer a question because the response could provide self-incriminating evidence of an illegal act punishable by fines, penalties, or forfeiture”.\(^ {42}\) Therefore, Right and Protection against Self-Incrimination can be observed implicitly from the Miranda Rights and “the right to remain silent” comes under the ambit of the same. The Supreme Court has also held that “a witness may have a reasonable fear of prosecution and yet be innocent of any wrongdoing and the privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances”\(^ {43}\).

RIGHT OF SPEEDY TRIAL:
The Sixth Amendment under the Constitution of United States, the government is advised to try the cases speedily. Speedy Trial Act was enacted in the year 1975 in order to give specific emphasis on the criminal cases before the Federal Courts. The criminal prosecutions are asked to go to trial within a period of 75 days.

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\(^{41}\) Miranda v. Arizona, 384 US 436 (1966)
\(^{42}\) Ibid
\(^{43}\) Ibid
CROSS-EXAMINATION:
The right to confront the witnesses against the accused is also enshrined under the Sixth Amendment. The person who is going to make the testimony has to be present before the jury in order to permit the testimony.

RIGHT TO ASSIST A COUNSEL:
The Right to Assist a Counsel is guaranteed under the Sixth Amendment. The defendants were refused to assist a counsel during the trial in the Eighteenth century and before. This concept of Right to Counsel is broader in nature in USA and the state is asked to pay for the lawyers in most of the Criminal cases.

The clause pertaining to the “Assistance of Counsel” under “the Sixth Amendment to the United States Constitution” provides: “In all criminal prosecutions, the accused shall enjoy the right… to have the Assistance of Counsel for his defense.”

Moreover, this clause includes five distinctive rights:

- “The right to counsel of choice”
- “The right to appointed counsel”
- “The right to conflict-free counsel”
- “The effective assistance of counsel”
- “The right to represent oneself pro se”

In the case of Brewer v. Williams, the right to assist a counsel refers to “at least that a person is entitled to the help of a lawyer at or after the time that judicial proceedings have been initiated against him, whether by formal charge, preliminary hearing, indictment, information, or accusation”. It has been further explained that the defendant has a right to be legally represented after that start of adversarial proceedings and the defendant is being interrogated by the government and when a defendant is arrested, “arraigned on an arrest

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44 Gideon v. Wainwright, 372 U.S. 375
45 Assistance of Counsel Clause, The Sixth Amendment to the US Constitution
46 Ibid
48 Ibid
49 Ibid
50 Brewer v. Williams, 430 U.S. 387 (1977)
warrant before a judge” and “committed by the court to confinement… there can be no doubt that judicial proceedings have been initiated.”

But the right to counsel under the Sixth Amendment is not applicable to the individuals who are subjected to grand jury proceedings as the criminal proceedings before the grand juries are not considered under the ambit of the Hon’ble Supreme Court of United States thus, triggering the protection of the Constitution.

THE CONCEPT OF IMPARTIAL JURY:
The nature of the offence is taken into consideration with which the defendant has been charged and the right to impartial jury is based upon this nature. “Even where multiple petty offenses are concerned, the total time of imprisonment possibly exceeding six months, the right to a jury trial still does not exist and also, in the United States, except for serious offenses (such as murder), minors are usually tried in a juvenile court, which lessens the sentence allowed, but forfeits the right to a jury.”51

The Right to a Jury Trial initially referred to “a trial by jury as understood and applied at common law, and includes all the essential elements as they were recognized in this country and England when the Constitution was adopted”52. Therefore, it was observed that the jury trial should comprise of 12 persons and the verdict has to be decided unanimously.

The standards of the Right to a Trial by Jury were re-examined by the Hon’ble Supreme Court and it was held that the number of jurors was historically decided to be 12 (twelve) but a minimum of six jury would be sufficient but anything under six wouldn’t permit the defendants to have an access to the right of trial by jury. The Sixth Amendment however makes it mandatory for an unanimous verdict in a jury trial before federal courts but the Hon’ble Supreme Court has held that “the Due Process Clause of the Fourteenth Amendment, while requiring States to provide jury trials for serious crimes, does not incorporate all the elements of a jury trial within the meaning of the Sixth Amendment and does not require jury unanimity”53.

51 Lewis v. United States, 518 U.S 322 (1996)
52 Thompson v. Utah, 170 U.S 343 (1898)
53 Apodaca v. Oregon, 406 U.S. 404
CRUEL AND UNUSUAL PUNISHMENT

Punishment was considered to be disastrous under the common law and the punishment of Death Sentence was awarded for minor crimes as well. Punishments are still considered to be cruel and heinous for e.g. Stoning a person to Death in many parts of the world. In the case of Weems v. United States\textsuperscript{54}, it was that the Hon’ble Supreme Court had to consider a Criminal Sentence as Cruel and Unusual and “the Court overturned a punishment called cadena temporal, which mandated hard and painful labor, shackling for the duration of incarceration and permanent civil disabilities and this case is often viewed as establishing a principle of proportionality under the Eighth Amendment and however, others have written it is hard to view Weems as announcing a constitutional requirement of proportionality”.

In the case of Trop v. Dulles\textsuperscript{55}, the Supreme Court held that it would be considered as unconstitutional if a natural-born citizen is asked to give away his citizenship for a crime. The punishment was considered “more primitive than torture” as it involved the “total destruction of the individual’s status in organized society”.

PRESUMPTION OF INNOCENCE:

It is considered to be one of the most important constitutional rights in the US criminal justice system. It can be seen from various instances that the Hon’ble Supreme Court has directed the sub-ordinate courts to consider the defendant as innocent until proven guilty. This concept was to be considered “beyond all reasonable doubts”.

CHAPTER-4: COMPARATIVE ANALYSIS OF RIGHTS OF ACCUSED IN INDIA AND USA AND SUGGESTIONS

The Rights of the Accused in India and USA were discussed above and it can be concluded that both the countries have certain similarities in the rights of the accused. But it can be observed that the United States has recognised certain important rights of the accused which can be considered to be formulated in India and various other places which can result in the benefit of the accused. The concept of Right against Self-Incrimination in United States is of broad in nature as compared to India. The accused is entitled to Right against Self-Incrimination in India only when the accused is being compelled to provide a statement against himself which might result in self-incrimination of himself in his present case but if

\textsuperscript{54} Weems v. United States, 217 US 349 (1910)

\textsuperscript{55} Trop v. Dulles, 356 U.S 86 (1958)
see carefully, the concept of such right in USA considers the concept of “To plead fifth” and also includes “no confession is admissible if the police have not first advised a suspect of his constitutional rights, including the right to have a lawyer present to advise him during the questioning” which in result makes it mandatory for the concerned police officer to disclose all such rights of the accused that he is entitled to and in absence of such information to the accused, the confession or statement received from the accused shall not be considered valid as being unknown about his rights being an accused. This acts as a punishment for the concerned police officer in order to ensure that such rights of the accused must be known to the accused immediately after arrest. In this way, it strengthens the concept of Accused’s Right against Self-Incrimination.

Similarly, the concept of Right to consult a Legal Practitioner in USA had more clarity than that of India as it clearly includes five other distinctive rights under the same such as right to choose a counsel of his own choice, right to appoint such counsel, right to conflict-free counsel, right to represent oneself pro se and right to effective assistance of the counsel. Thus, this concept of right to be legally represented by a counsel in USA is wide in nature and includes all the necessary and vital components of such right. Thus, the concept of consulting a legal practitioner in India could be widen in order to expand its horizon.

Further, the concept of Right to Impartial Jury in USA gives a clarity where the accused can exercise his right to jury and about the importance of jury being impartial while making a verdict which in return helps in ensuring justified verdicts by the usage of knowledge of law and precedents and the same concept of having impartial judges in Indian Courts can also help in ensuring justice and upholding the rights of the accused. Moreover, the existence of Speedy Trial Act in order to enforce the right to Speedy Trial in USA is highly commendable which helps in speedy recovery of the cases through the speedy mode of trial.

Lastly, the concept of Cruel and Unusual Punishments in USA should be appreciated as such concept helps in bifurcating the valid punishments to be awarded and the cruel and unnecessary punishments. It gives a clarity regarding the kinds of punishments to be awarded in various cases and various other unnecessary punishments which should be avoided in order to justify the crime with that of the punishment.

Similarly, the concept of Right to Interpretation of Evidence in India should be appreciated which looks after the accused’s understanding regarding the evidence and thus helps the Accused in having a clarity about the evidence being produced before the court. Thus, the
rights of accused in India and USA should both be appreciated but the implementation of certain rights of the Accused of USA should be taken into consideration and by the help of existing legal policies in India, such rights could be given a chance to be implemented in India’s legal system to ensure a smooth run of the system.

CHAPTER-5: CONCLUSION:

From the above discussion, it can be concluded by saying that the existence of courts and legal provisions is to ensure equality amongst the citizens of the Country. Thus, it is always considered that the accused shall always be considered as innocent until proven guilty beyond the reasonable doubt and the accused should be given equal opportunity to exercise his rights in order to ensure a fair and just trial. The primary aim of the Criminal Justice System is to ensure a fair trial and the accused should be given equal opportunity to be defended in the court of law. Moreover, the accused should be made aware about his rights immediately after the arrest and the accused should be given an equal opportunity to prove his innocence before the court of law. The concept of free and fair trial is always considered as a constitutional commitment and the cardinal principle of Natural Justice revolves around the equal rights of the accused as well. The Accused person is granted the above-mentioned rights may it be under Constitution or Code of Criminal Procedure and thus, should be protected against the illegal arrests if made. Thus, the comparative analysis made above projects a clear picture about the rights of accused in India and USA and both the systems provide similar rights and the proper implementation of such rights must be ensured in the legal system. Proper awareness of rights as well as proper implementation of the legal system will help in smooth run of the system.

Moreover, there should be an awareness amongst the citizens in order to know their respective rights and exercising such rights whenever required. Thus, the rights of the accused are provided under the Indian Constitution and various legal acts in order to ensure a dignified life of the prisoner. “Although these rights are essential for any convicted or an accused person to maintain and balance their spiritual status as a human being, the ineffectiveness of the Indian law enforcement system prevents the detainee from exercising these rights.”56 However, there has been continuous working on the part of “the Supreme Court”, “the National Human Rights Commission” and “various other NGOs” in order to

56 A.A. Mulla v State of Maharashtra, AIR 1997 SC 1441
ensure a smooth implementation of all these rights. On a successful completion of such work, the rights enshrined can be implemented properly.

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