CHAPTER-6

RIGHT TO SPEEDY TRIAL: A COMPARATIVE STUDY OF UNITED STATES OF AMERICA AND INDIA

I. Introduction

Under the Constitution of United States of America “Speedy Trial” is a mandate of the Sixth Amendment. On the other hand, the researcher do not find such clear-cut mandate for expeditious disposal of Criminal cases in India. According to the Sixth Amendment of the American Constitution “In all criminal prosecutions, the accused shall enjoy a right to speedy and public trial.” The Constitution of India does not expressly declare this as a fundamental right. It is only by the Indian Supreme Court, which has established the proposition in a catena of cases that the right to a speedy trial is a fundamental right implicit in Article 21, because no procedure can be fair unless it ensures a speedy determination of the guilt of the accused. Therefore, speedy trial is of the essence of Criminal justice and there can be no doubt that delay in trial itself constitutes denial of justice. Article 21 of the Constitution of India requires that a person can be deprived of his liberty only in accordance with procedure established by law which should be a just, fair and reasonable procedure.

The constitutional guarantee of speedy trial is an important safeguard to prevent undue and oppressive incarceration prior to trial; to minimize concern accompanying public accusation and to limit the possibilities that long delays will impair the ability of an accused to defend himself. The right to speedy trial is first mentioned in the landmark document of English law, the Magna Carta. The Constitutional philosophy propounded as right to speedy trial has though grown in

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age but its goals to be achieved are yet a far-off peak. It is a concept which deals with speedy disposal of cases to make the judiciary more effective and to impart justice as fast as possible.

In United States of America, the right to speedy trial has been derived from a provision of *Magna Carta* and this right was interpreted and incorporated into the Virginia declaration of Rights of 1776 and from there into the 6th Amendment of the United States Constitution. To reiterate, in United States, the right to speedy trial is an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibility that long delay will impair the ability of an accused to defend himself. The passage of time alone may lead to the loss of witnesses through death or other reasons and the blurring of memories of available witness. It is a truism that the guarantee of a speedy trial is one of the most basic rights preserved by the American Constitution, it is one of those “fundamental” liberties embodied in the Bill of Rights which due process clause of the 14th Amendment make applicable to the State. The protection afforded by this guarantee is activated only when a Criminal prosecution has began and extends only to those persons who have been accused in the course of that prosecution.

In this chapter, the researcher will make an endeavour to discuss the general practice adopted in United States of America and India so far as the concept of right to speedy trial is concerned.

II. General Practice of Right to Speedy Trial in United States of America

The judicial system in the United States is unique insofar as it is actually made up of two different court systems, namely, the Federal Court System and the State Court Systems. Each court system is responsible for hearing certain types of cases, neither is completely independent of the other, and the systems often interact. The United States Constitution gives certain powers to the Federal Government and reserves the
rest for the States. It is, therefore, crystal clear that Constitution provides that Federal Government is supreme with regard to those powers expressly or implicitly delegated to it and the states remain supreme in matters reserved to them. This supremacy of each government in its own sphere is known as separate sovereignty, meaning thereby each government is sovereign in its own right.

In both, Federal and State Trial Courts (courts of first instance), the parties have a right to trial by jury in all criminal and most civil cases. Juries usually consist of a panel of six or twelve citizens who hear the evidence and apply the law stated by the judges to reach a decision based on the facts as they have been determined by them from the evidence at trial.

The structure of State Court systems varies from State to State. Each State Court System has unique features; however, some generalizations can be made. Most States have Courts of limited jurisdiction presided over by a single judge who hears minor civil and criminal cases. States also have general jurisdictions. Trial Courts that are presided over by a single judge. These Trial Courts are usually called Circuit Courts or Superior Courts and hear major civil and criminal cases. Some States have Specialized Courts that hear only certain kinds of cases such as traffic or family law cases. All States have a highest court, usually called a State Supreme Court, that serves as an Appellate Court. In most State Court Systems, the State Supreme Court has overall administrative authority over the court system. It is assisted by an administrative office. The Chief Justice of the State Supreme Court usually appoints the Director of the State Court Administrative Office. Justices of the United States Supreme Court and other Federal Judges are appointed for life by the President of the United States. Persons nominated to be Federal Judges must be approved by a majority vote of the United States Senate. The methods of selecting State Judges vary from State to State and are often different within a State, depending upon the type of court. The most common selection systems are by commission nomination and by popular election. In the commission nomination system, judges are appointed by the Governor (the State’s Chief Executive) who
must choose from a list of candidates selected by an Independent Commission made up of lawyers, legislators, lay citizens, and sometimes judges. In many States Judges are selected by popular election.

Prosecutors in the Federal system are part of the United States Department of Justice in the Executive Branch. The Attorney General of the United States, who heads the Department of Justice, is appointed by the President. The Chief Prosecutors in the Federal Court Districts are called United States Attorneys and are also appointed by the President. Within the Department of Justice is the Federal Bureau of Investigation which investigates crimes against the United States. Each State also has an Attorney General in the State Executive Branch who is usually elected by the citizens of that State. There are also Prosecutors in different regions of the State, called State’s Attorneys or District Attorneys. These Prosecutors are also usually elected.

(i) Federal Court System

The term ‘Federal Court’ actually refer to one of two types of Courts. The first type of Court is known as an Article III Court. These Courts get their name from the fact that they derive their power from Article III\(^2\) of the Constitution. These Courts include (1) the U.S. District Courts, (2) the U.S. Circuit Courts of Appeal, and (3) the U.S. Supreme Court. They also include two Special Courts: (a) the U.S. Court of Claims and (b) the U.S. Court of International Trade. These Courts are special because, unlike the other courts, they are not courts of general jurisdiction. Courts of general jurisdiction can hear almost all cases. All judges of Article III Courts are appointed by the President of the United States with the advice and consent of the Senate and hold office during good behavior.

\(^2\) The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.
The second type of Court also is established by Congress. These Courts are (1) Magistrate Courts, (2) Bankruptcy Courts, (3) the U.S. Court of Military Appeals, (4) the U.S. Tax Court, and (5) the U.S. Court of Veterans' Appeals. The judges of these courts are appointed by the President with the advice and consent of the Senate. They hold office for a set number of years, usually about 15. Magistrate and Bankruptcy Courts are attached to each U.S. District Court. The U.S. Court of Military Appeals, U.S. Tax Court, and U.S. Court of Veterans' Appeals are called *Article I* or Legislative Courts.

(ii) United States District Courts

There are 94 U.S. District Courts in the United States. Every State has at least one District Court, and some large States, such as California, have as many as four. Each District Court has between 2 and 28 judges. The U.S. District Courts are Trial Courts, or Courts of *Original Jurisdiction*. This means that most federal cases begin here. U.S. District Courts hear both civil and criminal cases. In many cases, the judge determines issues of law, while the jury (or judge sitting without a jury) determines findings of fact.  

(iii) United States Circuit Courts of Appeal

There are 13 U.S. Circuit Courts of Appeal in the United States. These courts are divided into 12 Regional Circuits and sit in various cities throughout the country. The U.S. Court of Appeals for the Federal Circuit (the 13th Court) sits in Washington. With the exception of criminal cases in which a defendant is found not guilty, any party who is dissatisfied with the judgment of a U.S. District Court (or the findings of certain administrative agencies) may appeal to the U.S. Circuit Court of Appeal in his/her geographical district. These Courts will examine the trial record for only mistakes of law; the facts have already been determined by the U.S. District Court. 

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4 Ibid.
(iv) United States Supreme Court

The Supreme Court of the United States sits at the apex of the Federal Court system. It is made up of nine judges, known as Justices, and is presided over by the Chief Justice. It sits in Washington, D.C. Parties who are not satisfied with the decision of a U.S. Circuit Court of Appeal (or, in rare cases, of a U.S. District Court) or a State Supreme Court can petition the U.S. Supreme Court to hear their case. This is done mainly by a legal procedure known as a Petition for a Writ of Certiorari (cert.). The Court decides whether to accept such cases. Each year, the Court accepts between 100 and 150 of the some 7,000 cases it is asked to hear for argument. The cases typically fit within general criteria for oral arguments. Four Justices must agree to hear the case (grant cert). While primarily an Appellate Court, the Court does have original jurisdiction over cases involving Ambassadors and two or more States.

(v) Trial Courts of Limited Jurisdiction

Trial Courts of limited jurisdiction are Courts that deal with only specific types of cases. They are often located in/near the county courthouse and are usually presided over by a single Judge. A Judge sitting without a jury hears most of the cases heard by these courts. Some examples of Trial Courts of Limited Jurisdiction include:

(A) **Probate Court:** This court handles matters concerning administering the estate of a person who has died (decedent). It sees that the provisions of a will are carried out or sees that a decedent's property is distributed according to state law if he/she died intestate (without a will).

(B) **Family Court:** This court handles matters concerning adoption, annulments, divorce, alimony, custody, child support, etc.

(C) **Traffic Court:** This court usually handles minor violations of traffic laws.

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(D) **Juvenile Court**: This court usually handles cases involving delinquent children under a certain age, for example, 18 or 21.

(E) **Small Claims Court**: This court usually handles suits between private persons of a relatively low dollar amount, for example, less than $5,000.

(F) **Municipal Court**: This court usually handles cases involving offenses against city ordinances.

Operationally, the U.S. Criminal Justice System consists of three main parts: (1) law enforcement, (2) adjudication (courts), and (3) corrections.

American Constitutional theorists and judges have struggled with problems of constitutional interpretation, exploring how meaning is properly derived from the Constitution and, insofar as the answer may be different, how courts ought to derive such meaning. Without entirely abandoning debates over constitutional debates over constitutional interpretation, constitutional theorists have started increasingly to wonder about those judicial outputs that feature in the enterprise of constitutional adjudication and yet are something other than court’s determination as to what any given provision of the Constitution means. Theorists have turned their attention from constitutional meaning to what we may call, at least on a first pass, constitutional doctrine. Justice Felix Frankfurter has said that “ultimate touchstone of constitutionality is the constitution itself and not what the (Judges) have said about it.”

Our Constitution is a long and detailed instrument of government, and our fundamental rights are subject to explicit and specific limitations. Our Constitution did not leave to the judiciary the wide discretionary power which was left to the judiciary in the United States, and the express exclusion of “due process” in our Constitution points in the same direction.

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8. However, the Judges of the Supreme Court in their wisdom have imported the doctrine of “due process” into in the Indian legal system through backdoor. See, *Maneka Gandhi v. Union of India*, AIR1978 SC 568.
Constitutional adjudication affects several aspects of culture of institutions and life of the people of a nation governed by it. Therefore, there can be no fixed or rigid rules of interpretation of the Constitution. American legal experts on the working of the Constitution of USA which is the oldest of an oldest democracy, have identified certain trends of interpretation in the long working of the Constitution and have identified certain principles — study of which may be beneficial for interpreting our Constitution, which is merely little more than fifty years old.

III. General Practice of Right to Speedy Trial in India

The Justice System in Ancient India was based on supremacy of the law of Dharma. The king was the fountain head of the State and was only a means to protect Dharma and advance the objectives of Dharma. “Law is the King Kings .... Dharma aided by the Power of the King enables the weak to prevail over the strong.” Ancient literature and treatises are replete with the evidences that the King as the repository of Executive power had obligation to protect the rights of the weak over the strong. It was the responsibility of the Executive to guard against the rights of the weaker sections because they require more protection than the strong. The principle of equalitarian was evident in: “The King should protect and support all his subjects without any discrimination in the same manner as the earth supports all living beings.”

The Integrity of character and discipline emphasized in Rajdharma applied equally to all persons who exercised political and administrative power; without this, the external checks would have had no meaning. If the Executive committed a crime or a breach of duty, he was punishable more severely than ordinary men. “The King himself was liable to be punished for an offence, with one thousand times more penalty than that would be inflicted on an ordinary citizen.”

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9 M. Rama Jois, Legal and Constitutional History of India 611.
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One of the ancient Smriti Katyayana has warned long ago that delayed justice is sure to result in the defeat of Dharma – that is, in a miscarriage of Justice.10

Thus, in ancient Indian criminal jurisprudence, there was no preferential treatment for executive officers, nor could there be any hindrance in approaching the King against any officer of the King. No officer could hush up a suit brought before him by any other person.

The ancient Indian legal system was based on the concept of Duty as against the western systems based on the concept of Rights. “Karmanyevadhikaraste ma phaleshu kadachana” which means that there is only one right that is the right to perform one’s duty. The rights accorded to the executive were only for the performance of their duties and no further.

In the Mughal period also, similar principles were followed. Criminal law emerged from the religion and crime was an offence against the State. Emperor was the fountain head of justice and was bound by Islamic law. The State was considered as belonging to God, therefore, the ruler was bound by his duties of religion to maintain law and order. Offences against the individuals were also punishable as they infringed private rights.11 Akbar was known to have high regard “for rights and justice in the affairs of the government.” In the famous Akbar Birbal stories, evidence can be found of Akbar taking affirmative action for redressal of grievances of his subjects.

Access to justice was not cumbersome; there was no requirement of any sanction against any official of the Emperor. Jehangir is known to have a bell hung outside his palace. An aggrieved individual could initiate the process of justice by simply ringing the bell.

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India then became a British colony for nearly two hundred years. Colonialism necessarily implies exploitation of the colony; economic, political and social. The Colonial rule was autocratic in that there was no constitutional institutionalization of power; social control and political power were monopolized by a single power holder, subordinating the individual to the ideological requirements of the group dominating the State. The power was centralized and personalized in the British Crown which had the authority to say what the purpose of power was. The political power was gained by accession of Indian territories to the Crown; implying it was a Defence State. The power was exercised in the interest of the British in an arbitrary manner to facilitate their exploitation of the colony and suppression of the subjects and there were no controls on power of the Crown. The laws were passed by the British Parliament for India and were applied in India. The purpose of rule was preservation of the ruling race i.e. the British and suppression of the enemy i.e. the Indian subjects.

There was incapacity in the ruled to make full use of the law and its institutions. Whether there was justice done in an individual case, or whether there was justice done at all, was not the concern of the State. The British criminal laws and institutions were such as only to serve their interests, and if there was actually justice done in any case, it was a mere coincidence. There was no concept of equal access to justice.

The concept of speedy justice is sine qua non of criminal jurisprudence. It saves a person from evil consequences of incarceration. In the past, a number of Committees have been set up to achieve the target of speedy justice. Rankin Committee was set up in 1924 on delay in civil cases in High Courts and Subordinate Court. In 1949, a High Court Arrears Committee under the chairmanship of Justice S. R. Das was appointed. In 1969, Hidayatullah, C.J., presided over a Committee to look into the problem of arrears in all its aspects. Later on, Justice Shah was appointed the Chairman of the Committee. The Committee was known as High Courts Arrears Committee, 1972. Further, the
Malimath Committee (1990, 2000) made recommendations for reformation of Criminal justice system, simplifying judicial procedures, practices and making the delivery of justice to the common man closer.

Similarly, the Law Commission of India in its various reports has also made number of recommendations and suggestions in this context. Law Commission of India in its 58th Report took note of imperative need to reduce load in the higher courts. Similarly, in 79th Report, the Commission concluded that search for solution is to be regarded as quest and periodicals redefinition of methods is necessary. It further emphasized the need for speedy implementation of many reports dealing with the problem of delay and heavy backlog of arrears. The Law Commission of India has addressed this issue in several reports since 1955: The 14th, 38th, 78th, 79th, 80th, 117th, 120th, 121st, 124th, 125th, 154th, 189th, 197th, 221st, 222nd and 230th reports touched and dealt with issues of delay, pendency and arrears. In its 239th Report of the Law Commission of India has suggested amendment to Code of Criminal Procedure by which the High Courts will assume more proactive role in taking various measures. Further, the recommendations regarding Court Management, Case Management were also made by Law Commission of India. Recently, a proposal was placed before the Chief Justice of India emphasizing the need for a comprehensive “National Court Management Systems” for the Country that will enhance the quality, responsiveness and timeliness of Court. The Chief Justice of India, after consultation with Minister of Law and Justice in Government of India, established National Court Management System on 2nd May, 2012.

**The Present Constitutional Framework**

The concept of access to justice has undergone an important change after the British rule ended in India. With the coming into force of Indian Constitution on 26 January 1950, there is a new form of power arrangement in the State: there is an institutionalization of political power within the Constitution which is the Fundamental law of Superior obligations. The Constitution also lays down the goals
in its Preamble which this new power ordering aspires to achieve. Political power
denotes, within the State society, the exercise of effective social control of the
power holders over power addressees.\(^\text{12}\) There is no single power holder under the
Indian Constitution, rather political power is distributed and shared by several
independent power-holders. There is the Legislature entrusted with the task of
Policy Making; Executive entrusted with Policy Execution; and the Judiciary with
Policy Control. There is a check on arbitrary exercise of power by the State and its
officials through denial of power to the State under Part III of the Constitution
dealing with Fundamental Rights as also to act in contravention of the Constitution
or any laws applicable in the state of India. There is division of power, which means
no single organ has absolute power, it is divided among three power-holders, and
each has been provided with a domain and has to function within it. No organ is
allowed to cross over its domain and usurp the powers of another. The Executive
power of the Union is vested in the President and shall be exercised by him either
directly or through officers subordinate to him in accordance with the
Constitution.\(^\text{13}\) The system of checks and balances ensures that each organ can
check arbitrary exercise of power by another. The Parliament can remove the
Executive by a vote of no-confidence\(^\text{14}\) and the Executive order can dissolve the
Parliament,\(^\text{15}\) leaving the choice of new power holders to the electorate. The
Judiciary exercises Policy Control by controlling the arbitrary exercise of power by
the Executive and declaring a law passed by the Legislature to be invalid if it
violates the Basic Structure of the Constitution. The power is accorded by the
Constitution and is directed to be used only for the purposes or the functions
enumerated and not any further. Thus, it can be asserted that Indian Constitution is a
controlling one. Being a modern democratic Constitutional State, there is
equilibrium envisaged between the plural powers, the essential characteristic of the

\(^{12}\) Loewenstein Karl: *Political Power and the Governmental Process*, University of Chicago Press.
Chicago and London 7(1965).

\(^{13}\) Article 53 of the Constitution of India.

\(^{14}\) Article 75(3); Ibid.

\(^{15}\) Article 85 (2)(b); Ibid.
power mechanism is contained in the control on political power through the processes of Denial, Division and Direction\textsuperscript{16} and Limitation\textsuperscript{17} of power.

There has been recognition of the ancient value of equality of status and opportunity and denial of power to the State in the form of Fundamental Rights, Human Rights, and Socio-Legal Rights. The right of effective access to justice has gained importance because we adopted the model of a ‘Welfare State’; which means that it is the duty of the State to see that rights of all individuals are protected, justice is done and is delivered at the doorstep of every individual. Indeed, the right of effective access is increasingly recognized as being of paramount importance among the new individual and social rights, since the possession of the rights is meaningless without mechanism for their effective vindication.\textsuperscript{18} Thus, the right to get justice when one has been wronged by an exercise of power without any legal justifications is the basic human right which is contemplated by Article 14 of the Constitution.

\textit{Article 14} of the Constitution incorporates \textit{Rule of Law} and declares that every person is equal in the eyes of Law. The Article reads:

\begin{quote}
\textit{The State shall not deny to any person equality before the law or equal protection of the laws within the territory of India.}
\end{quote}

Article 14 forms part of the Basic Structure of the Indian Constitution. It is the most fundamental of all fundamental rights and it forms the very basis of a democratic State. How else can we envisage democracy without the guarantee of equality? The principle of equity implicit in this article is the foundation stone of Welfare State. When it is the duty of the State to see that rights of individuals are

\textsuperscript{16} Part IV of Constitution deals with Directive Principles of State Policy which are the directions for the exercise of the power. They are fundamental in the governance of the Country and it shall be the duty of the State to apply them in its policy formulation.

\textsuperscript{17} Limitations on power are pronounced by the use of the words: “In accordance with the provisions of this Constitution” as in Article 53 or by “Subject to the provisions of this Constitution” as in which limits the exercise of power beyond the enumerated quantum.

protected, it is not the rights of a select few, but the rights of 'all treated as equals'. Any legislation, violative of Article 14 is of null and void constitutionally.

Article 14 lays down the policy and the procedure for realization of the right is contemplated in Article 256. It is not upon the individual, but primarily upon the State, to advance remedy in the event of violation of a right under Article 14. It connotes an affirmative action by the executive to ensure compliance of the laws by the State officials, and any deviance be punished in accordance with the Constitution and the laws, vide Article 256 which says that: "The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may, appear to the Government of India to be necessary for this purpose." In fact, this article is the repository of the executive function to ensure that justice is being done. It imposes a duty on the senior executive officers including the President to supervise the working of the subordinates to ensure compliance with the laws. In case of any deviance by any individual official, the senior has the authority to question and straighten up the facts and if necessary to institute disciplinary proceedings against the erring official who injures a citizen by illegitimate or ultra-vires exercise of his power.

Article 257 (1) debars the State executive from impeding or prejudicing the exercise of power by the Union executive and in case this happens, the latter may give directions and take corrective steps. This power also extends to giving of direction for national and military purposes. In case there is failure to comply with the directions of the Union executive, Article 365 empowers the President to hold that a situation has arisen in which the government of the State cannot be carried out in accordance with the Constitution. Thus, there are inbuilt mechanisms and inter-organ and intra-organ controls envisaged in the Constitution to check unauthorized use of power by the public officials as well as the instruments of the State, similar to

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19 Article 257(2).
the situation in ancient India, when the king used to move around incognito to assess the administration of justice in his kingdom and supervise over the functioning of executive officials.

Frankly admitting that an independent, impartial, speedy, and efficient judiciary is the very essence of civilization. The Supreme Court is the sacred cow and the supreme temple of justice in India. The government’s motto is ‘Satyameva Jayate’. The concept of ‘Nyaya Devta’, which elevates justice to the status of the Divine, is ingrained in Indian culture. On the emblem of the Supreme Court is inscribed its maxim, which defines its role: “Yatho Dharma\n\n\nJayatho” (Triumph is where Dharma, or the right order is). Securing justice – social, economic and political – to all citizens is a key mandate and cornerstone of the Indian Constitution. Contrary to the above, however, recently, our judiciary, by its very nature in actual function, has become ponderous, excruciatingly slow and inefficient. The imposition of many archaic and dilatory procedures prove to be extremely damaging to our governance and society. As Nani Palkhiwala observed once, “the progress of a civil suit in our courts of Law is the closest thing to eternity we can experience!” our laws and their interpretation and adjudication lead to enormous misery for litigants and force people to look for extra-legal alternatives. As rightly observed by former British Prime Minister William E. Gladstone, the adage “Justice delayed is justice denied”, holds true for millions and millions of average Indians.

Adjudication is the legal process by which an arbiter or judge reviews evidence and argumentation including legal reasoning set forth by opposing parties or litigants to come to a decision which determines rights and obligations between the parties involved. Three types of disputes are resolved through adjudication: dispute between private parties such as individuals or corporations; disputes between private parties and public officials; disputes between public officials or public bodies.
How Cases Get To the Supreme Court

The cases the court decides must fall within its jurisdiction, that is, it can decide only those cases it is empowered to hear by the Constitution or by the Statute. Once this requirement is fulfilled, the court has broad discretion what cases it will decide. The range of discretion available to the court has increased over time, and with this expanded discretion has come significant shifts in its case load.

Jurisdiction of the Supreme Court

1) A Court of Record – Article 129 makes the Supreme Court ‘a Court of Record’ and confers all the powers of such a court including the power to punish for its own contempt. A Court of Record is a Court whose records are admitted to be of evidentiary value and they are not to be questioned when they are produced before the Court. Once a Court is made a Court of Record, its power to punish for contempt necessarily follows from that position. In Delhi Judicial Service Assn. v. State of Gujarat, it has been held that under Article 129 the Supreme Court has power to punish a person for the contempt of itself as well as of its subordinate courts. The object for vesting such a power in the court was to uphold the majesty of law, the rule of law which is the foundation of democratic society.

2) Original Jurisdiction - The Supreme Court in its original jurisdiction cannot entertain any suits brought by private individuals against the Government of India. The dispute relating to the original jurisdiction of the court must involve

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21 Article 131. Original jurisdiction of the Supreme Court.—Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute—
(a) between the Government of India and one or more States; or
(b) between the Government of India and any State or States on one side and one or more other States on the other; or
(c) between two or more States,
if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:
Provided that the said jurisdiction shall not extend to a dispute arising out of any treaty, agreement, covenant, engagement, sanad or other similar instrument which, having been entered into or executed before the commencement of this Constitution, continues in operation after such commencement, or which provides that the said jurisdiction shall not extend to such a dispute.
a question of law or fact on which the existence of legal rights depends. The term 'legal right' means a right recognized by law and capable of being enforced by the power of a State but not necessarily in a court of law\(^{22}\).

Article 32 confers non-exclusive original\(^{23}\) jurisdiction on the Supreme Court to enforce Fundamental Rights. Under Article 32 every citizen has a right to move the Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights. The Supreme Court is given power to issue directions or orders or writs including writs in the nature of habeas corpus, mandamus, prohibition and certiorari whichever may be appropriate.

Supreme Court has also a original jurisdiction under Article 71(1) of the Constitution relating to disputes to the appointment of President and Vice-President.\(^{24}\)

3) Appellate Jurisdiction\(^{25}\) - The Supreme Court is the Highest Court of Appeal in the country. The writ and decrees of the Court run throughout the country. The appellate jurisdiction of the Supreme Court can be divided into four main categories:
   - Constitutional Matters
   - Civil Matters

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\(^{22}\) United Provinces v. Governor-General, AIR 1939 PC 58.

\(^{23}\) There are two types of original jurisdiction- (a) exclusive and (b) non-exclusive. In exclusive jurisdiction the Court is the Court of first instance to hear the case exclusively whereas in non-exclusive original jurisdiction there is also a alternate remedy.

\(^{24}\) Article 71. Matters relating to, or connected with, the election of a President or Vice-President.— (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

\(^{25}\) Article 132. Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases.— (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding, if the High Court certifies under Article 134A that the case involves a substantial question of law as to the interpretation of this Constitution.

(3) Where such a certificate is given, any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided.

Explanation.— For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal of the case.
Criminal Matters

Special Leave to Appeal

Constitutional Matters – Under Article 132(1) an appeal shall lie to the Supreme Court from any judgment, decree or final order or a High Court whether in civil, criminal or other proceedings, if the High Court certifies under Article 134-A that the case involves a substantial question of law as to the interpretation of this Constitution. Where such a certificate is given any party in the case may appeal to the Supreme Court on the ground that any such question as aforesaid has been wrongly decided. The object of the new Article 134-A is to avoid delay in granting certificate by the High Court for appeal to the Supreme Court. Under Article 134-A the High Court can grant a certificate for appeal to the Supreme Court under Article 132 on its own or on the ‘oral’ application of the aggrieved party.

Under Article 132(1) three conditions are necessary for the grant of certificate by the High Court:

1) The order appealed must be against a judgment, decree or final order made by the High Court in civil, criminal or other proceedings.

2) The case must involve a question of law as to the interpretation of this Constitution, and

3) If the High Court under Article 134-A certifies that the case be heard by the Supreme Court.

Appeal in Civil Cases - Article 133 provides that an appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court only if the High Court certifies (under Article 134-A) –

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26 Article 133. Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters.— (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India if the High Court certifies under Article 134-A—

(a) That the case involves a substantial question of law of general importance; and

(b) That in the opinion of the High Court the said question needs to be decided by the Supreme Court.
a) That the case involves a substantial question of law of general importance; and

b) That in the opinion of the High Court the said question needs to be decided by the Supreme Court.²⁷

It is not sufficient that the case involves a substantial question of law of general importance but in addition to it the High Court should be of the opinion that such question needs to be decided by the Supreme Court. In Kiranmal v. Dnyanoba,²⁸ the High Court dismissed the appeal by one word order “Dismissal” against the judgment of the Civil Judge. The Supreme Court found that the appellant could have raised serious questions of law and facts before the High Court and, therefore, held that it was a fit case which ought to have been admitted and disposed of on merits. The case was remitted to the High Court for disposal on merits.

Appeal in Criminal Cases- Article 134²⁹ provides for the provision of appeal in criminal cases. The power of the High Court to grant fitness certificate in the criminal cases is a discretionary power, but the discretion is a judicial one and must be judicially exercised along with the well established lines which govern these matters.

(2) Notwithstanding anything in Article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.

(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.

The 30th Amendment Act, 1972 has removed the condition of the monetary value that an appeal could go to the Supreme Court only when the amount or value in dispute was not less than Rs. 20,000.

²⁷ The 30th Amendment Act, 1972 has removed the condition of the monetary value that an appeal could go to the Supreme Court only when the amount or value in dispute was not less than Rs. 20,000.

²⁸ AIR 1983 SC 461.

²⁹ Article 134. Appellate jurisdiction of Supreme Court in regard to criminal matters.—(1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court—

(a) has on appeal reversed an order of acquittal of an accused person and sentenced him to death; or

(b) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or

(c) certifies under Article 134A that the case is a fit one for appeal to the Supreme Court:

Provided that an appeal under sub-clause (c) shall lie subject to such provisions as may be made in that behalf under clause (1) of Article 145 and to such conditions as the High Court may establish or require.

(2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.
Appeal by Special Leave under Article 136 the Supreme Court is authorized to grant in its discretion special leave to appeal from (a) any judgment, decree, determination, sentence, or order, (b) in any case or matter, (c) passed or made by any court or tribunal in the territory of India. The only exception to this power of the Supreme Court is with regard to any judgment etc. of any court or tribunal constituted by or under any law relating to the Armed Forces.

The power given under this Article is in the nature of a special residuary power which are exercisable outside the purview of the ordinary law. Article 132 to 135 deal with ordinary appeals to the Supreme Court in cases where the needs of justice demand interference by the highest court of the land.

In Jyotendra Singhji v. S.T. Tripathi, it has been held that a party cannot gain advantage by approaching the Supreme Court directly under Article 136 instead of approaching the High Court under Article 226. This is not a limitation inherent in Article 136 but it is a self imposed limitation by the Supreme Court.

IV. Right to Speedy Trial in United States of America and India: A Comparative Analysis

In United States of America, the right to a speedy trial is not only an important safeguard to prevent undue and oppressive incarceration but it serves to minimize anxiety and concerns that accompany the accusation. This right helps to limit the possibility of impairing the ability of an accused to defend himself. This right is actuated in the recent past and the Courts have laid down a series of decisions opening up new vistas of fundamental rights. In fact, more and more cases are coming before the Courts for quashing of proceedings on the ground of inordinate

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30 Article 136. Special Leave to Appeal by the Supreme Court.—(1) Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India.

(2) Nothing in clause (1) shall apply to any judgment, determination, sentence or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces.

and undue delay stating that the invocation of this right even need not await formal indictment of charge.

The United States is the first country which has enacted a legislation to implement the constitutional guarantee of speedy trial to all accused persons. The Federal Act of 1974 is titled as the Speedy Trial Act and was passed in 1974. The Act prescribes a set of time limits for carrying out the major events in criminal proceedings such as the giving of information and indictment in the prosecution of the Criminal cases. The Speedy Trial Act, 1974 requires the trial of the defendant to commence within 70 days from the filing date of the indictment or from the date on which the defendant appears before a judicial officer of the court, whichever date is later. The indictment should be filed within 30 days from the date of arrest. If a violation of the provisions of the Speedy Trial Act, 1974 occurs, the indictment against the defendant must be dismissed.

The protection afforded by this guarantee is activated only when a Criminal prosecution has begun and extends only to those persons who have been ‘accused’ in the course of that prosecution. Invocation of the right need not await indictment, information, or other formal charge but begins with the actual restraints imposed by arrest if those restraints proceed the formal preferring of charges. Possible prejudice that may result from delays between the time governments discovers sufficient evidence to proceed against a suspect and the time of instituting those proceedings is guarded against by statutes of limitation, which represent a legislative judgment with regard to permissible periods of delay.

In determining whether to dismiss with or without prejudice, a District Court “shall consider, among others, each of the following factors:

(a) The seriousness of the offence,

(b) The facts and circumstances of the case which led to the dismissal,

(c) And the impact of a re-prosecution on the administration of justice”.
The District Court must consider each of the factors and its reasoning must be clearly articulated. Moreover, in order to ensure that accused persons are not rushed to trial without an adequate opportunity to prepare, the Congress amended the Act in 1979 to provide a minimum time period during which trial must commence. Thereby, the Act provides that trial may not begin less than 30 days from the date the defendant first appears in court, unless the defendant agrees in writing to an earlier date.

In United States, certain pre-trial delays are automatically excluded from the Act's time limits, such as delays caused by pre-trial motions. Other delays excluded from the Act's time limit include delays caused by the unavailability to a co-defendant; and delays attributable to the defendant's involvement in other proceedings, including delay resulting from an interlocutory appeal. The Act provides the sanction of dismissal for violation of its time limits that may be with or without prejudice to re-prosecution. A District Court is not required to dismiss an indictment with prejudice for every violation of the Speedy Trial Act. The decision whether to dismiss a complaint under a Speedy Trial Act is entrusted to the sound discretion of the District Judge.

The right to speedy trial in United States of America is necessarily relative. It is consistent with delays and depends upon circumstances. It secures right to a defendant. It does not preclude the rights of public justice. No length of time is *per se* too long to pass scrutiny under this Act, but on the other hand neither does the defendant have to show actual prejudice by delay. The Court rather has adopted an ad hoc balancing approach.

The United States Courts have ruled that the denial of the right to speedy trial by the 6th Amendment automatically requires dismissal of the delayed prosecution with prejudice. Flexibility has been the rule in determining whether delay amounts to denial of the right to speedy trial or not. The conduct of both sides, prosecution and accused are weighed to decide whether there has been any
unreasonable delay or not. The length of delay, the prosecution's explanation of the delay, the manner in which the accused asserts his right to speedy trial and the prejudice caused due to delay are the important factors that are considered in deciding the merits of delay and consequently denial of the right to speedy trial. Further, in the United States, the American Bar Association has formulated a set of guidelines to be followed by all concerned in this area.

In United States, the states have also enacted legislation to ensure the right to a speedy trial. The Interstate Agreement on Detainers is a 1970 compact between forty eight states, the District of Columbia, and the Federal Government. Under the terms of this agreement, if a person is serving prison time in one state and charges are pending against him another state, he has the right to be brought to trial within 180 days of requesting final settlement of the pending charges. The agreement also provides for extradition between states for the purposes of standing trial, and requires that an extradited prisoner be tried within 120 days of his arrival in the receiving State. Finally, if any of these terms are violated, or if officials of the receiving state refuse to accept custody of a prisoner against whom they have an indictment, the indictment will be dismissed with prejudice.32

On the other hand, speedy trial is a fundamental right under the Constitution of India. However, Constitution of India does not specifically guarantee the fundamental right to speedy trial but it has been included implicitly in Article 21 due to judicial activism shown in respect of Article 21 which deals with fundamental right to life and personal liberty. The State as a guardian of the fundamental rights of its people is duty bound to ensure speedy trial and avoid any excessive delay in trial of criminal cases that could result in grave miscarriage of justice. Speedy trial is in public interest as it serves societal interest also. It is in the interest of all concerned that the guilt or innocence of the accused is determined as early as possible. Once an accused person is able to establish that this basic and

fundamental right under Article 21 has been violated, it is up to the State to justify that this infringement of fundamental right has not taken place, that the restrictions or provisions of law are reasonable and that the procedure followed in the case is not arbitrary but is just, fair, without delay, expeditious and reasonable.

The activist approach of the Supreme Court of India through liberal interpretations have given new dimensions to right to life and personal liberty. If there is any infraction, now the Court does not remain silent spectator but provides remedial relief by way of compensation. No doubt, the judiciary in India has played a dynamic role in the dispensation of justice by providing fair and just trial to all its citizens.

There are catena of judgments of the Supreme Court of India and High Courts on the subject of trial wherein the Courts have questioned the delays and discharged the accused. As compare to United States of America, in India the most glaring malady which has afflicted the judicial concern is the tardy process and inordinate delay that takes place in the disposal of case. In India, the piling arrears and accumulated workload of different courts present a frightening scenario. Truly admitting, the whole system is crumbling down under the weight of pending cases which go on increasing every day. Justice V. R. Krishna Iyer, the dawn of Indian judiciary while dealing with the bail petition remarked that “our justice system even in grave cases, suffers from slow motion syndrome which is lethal to ‘fair trial’ whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings”.

Justice V. R. Krishna Iyer and Justice P.N. Bhagwati were aware of all these maladies. However, judicial delays in India are endemic. No person can hope to get justice in a fairly reasonable period. Proceedings in criminal cases go on for years.

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sometimes decades. Civil cases are delayed even longer. The Courts concern about problem of delay in trial finds reflection in number of judgments and now Courts have started issuing certain directions for effective enforcement of the right to speedy trials and prescribed time limits for completion of prosecution evidence etc. But in a recent case,\textsuperscript{34} the Supreme Court was apprehensive about fixing a time limit for completion of a criminal trial as it could be misused by intelligent criminals. The Court was of the view that it is a unique case in which the inordinate delay of 37 years has occurred. The court was of the opinion that “if we quash the proceedings, we may be sending a wrong signal, which may be used by an intelligent accused at a later date. The bench asked the trial court to complete it in the next three months by holding on a day-to-day basis refusing adjournment on any ground to the accused and the prosecution.”

In order to tackle the problem of law and order and crimes, State has made laws-substantive as well as procedural. However, the powerful battery of lawyers, which defends criminals, exploit legal point and loopholes to their advantage to the maximum possible extent. Delay in disposal of cases is a normal feature in the Country and a number of efforts have seen made to counter this evil practice but it seems that it will stay in the society. The recurrent conflict of interest between ‘delayed trial’ and ‘speedy trial’ has baffled the legal policy planners, legislators, researcher and the Courts in India.

V. Similarities and Differences between Indian and US Systems

A. Similarities between the Indian and the American systems

In the following pages the researcher would make an endeavour to find out the similarities in the Indian and the American systems of Concept of right to speedy trial.

\textsuperscript{34} Quoted in the \textit{Times of India}, 26 July, 2012(Decided on 17 August, 2012).
The United States constitution establishes a federal system of government similarly India is also a federal structure. US became a Federal Republic State by promulgating its constitution in the year 1789; whereas India became a Socialist, Sovereign, Secular, Democratic Republic by formally launching its constitution only in the year 1950. There by both countries had attained dominion status in which a number of smaller states had got affiliated forming a union with a strong central government that came to be called as Federal Government in the US and Central Government in India. Thus both states became Federal Republics.

Power in both the state and federal governments is separated in to three branches – the legislative, the executive and the judiciary.

The United States has dual court system consisting of the federal and state courts. The U.S. Constitution establishes the judicial branch of the federal government and specifies the authority of the federal courts. Federal courts have exclusive jurisdiction only over certain types of cases, such as cases involving federal laws, controversies between states, and cases involving foreign governments.

In certain other areas federal courts share jurisdiction with state courts. For example, both federal and state courts may decide cases involving parties who live in different states. State courts have exclusive jurisdiction over the vast majority of cases.

The U.S. Constitution establishes the United States Supreme Court and gives Congress the authority to establish the lower federal courts. Congress has established two levels of federal courts below the Supreme Court: The United States District Courts and the United States Circuit Courts of Appeals. While the India has a single integrated judiciary.

The US constitution has ensured the fundamental rights of its citizens like right to equality, freedom, right against exploitation, freedom of religion, cultural and educational rights, right to property, and right to constitutional remedies etc
through ‘The Bill of Rights’. They became part and parcel of the US constitution through first ten amendments that were carried out and adopted into the US constitution. The Indian constitution has guaranteed the fundamental rights of the people through articles 14 to 34 in Part III.

Both US and Indian constitutions have three basic divisions with regard to division of labor and power in their federal set up known as executive, legislature and judiciary with clear cut ‘Separation of Powers’ Each division has been entrusted with a separate power. The executive governs the country, the legislature enacts laws and the judiciary administers justice. President of US is the chief executive head of US, whereas the Union cabinet headed by the Prime Minister is the real chief executive body in India. Both US and India have a bicameral legislature.

B. Differences between the Indian and the American Systems

(1) Indian law dates from Anglo-Saxon times and is based on the common law tradition. This is a system of “judge made” law which was based on existing customary laws and continuously developed, according to changing social and economic needs, over an uninterrupted period of years through judges’ decisions in cases. These judicial precedents are an important source of law in the English legal system. Common law systems are different from the civil law systems of Western Europe and Latin America. In these countries the law has been codified. In India there has been more emphasis over the role of the precedent. While in the United States the position is different.

(2) The judicial system of the United States is more advanced while the system of India is not so advanced.

(3) While the right to speedy trial is a statutory right under the American constitution while in India there is no specific mention but it has been developed by the case law interpreting widely Article 14, 19 and 21.
(4) The structure of the court is different in both the jurisdictions i.e. India and the United States.

(5) There is a distinct difference in the two systems in the manner in which judges are selected and trained and in their legal education. India has a large number of the tribunals. These tribunals were set with the object of the speedy justice. While there is no large emphasis over the tribunals.

(6) The Indian legal system is centralized through a court structure.

U.S. has an Attorney-General in charge of the legal system in the Executive branch, and the Supreme Court and Federal courts serving in the balance of power structure of the U.S. Constitution Indian judges continue to have an important role in developing the common law (case law) and interpreting Acts of Parliament (statute law). The judges are independent of the government and the parties in the cases. This should ensure impartial decisions.

(7) Court procedure is accusatorial. Judges do not investigate the cases, they give a decision based on the evidence presented to them by the parties in the case. This is the adversarial system of justice. It can be compared to the inquisitorial procedure of some other European systems where the judges investigate the case and collect evidence.

In U.S. law, there are lawyers who may call themselves "trial lawyers"- they could be defense attorneys. Lawyers in civil cases, as well as prosecutors working for the government or state the balance of power development of the U.S. Constitution, which gives the Judiciary control over its own actions, and therefore is not (supposedly) subservient to the Executive or Legislative branches.

The U.S. court system is a dual system which runs independently of each other. The federal system is comprised of district courts, circuit courts of appeals, and the United Stated Supreme Court. The state system includes trial courts at the local and state levels, intermediate courts of appeal, and state
Supreme Court. The primary agents working together are the judge, prosecutor, and defense attorney.

(8) Trial by jury is different, as well. In the U.S., there is a jury composed of one's peers, and the jurors are chosen, not by the court or by the prosecution or defense per se, but by a willingness to agree on who shall serve and who shall be eliminated but while in India we have the Higher and the Lower Judiciary.

(9) The United States political system is based on a unified organization where power is shared between the federal government and state governments. This system guarantees the autonomy of each state while utilizing a centralized government while in Indian there is the unitary federal structure.

(10) The U.S. police forces developed under different circumstances. Each region developed its own security force and often these forces would operate autonomously. Cities developed their own police forces that were usually operated under the control of the city government. The US police forces are organized at local, state, and federal levels reflecting the federal system. Local policing duties are divided between local municipalities and counties. Cities, towns and villages have the ability to have their own police force and many do while others rely on county Sheriff’s department for enforcement and policing. The Federal Government’s police force is broken up into several different agencies. The Federal Bureau of Investigation, supposedly independent of any current administration, operates when federal laws have been broken, a crime is committed in more than one state, or the crime threatens national security (though this may have changed due to the creation of Homeland Security). The Drug Enforcement Agency polices illegal drug use, production, and importing. The Treasury Department has its T-men looking into crimes against the financial well-being of the country. The Alcohol, Tobacco, and Firearm agency police those crimes relating to alcohol, tobacco, and firearms. US Customs officials deal with border violations while the Immigration and
Naturalization Service deals with illegal aliens. While we have a different set of agencies under the control of central and state government.

(11) The United States system follows the principles of the Rule of Precedent. Fundamentally, each case resolved before serve as references and guides for the new one. Occasionally, a new aspect of law maybe discovered or determined and precedent is set. The U.S. system allows for presumption of innocence, plea bargaining, trial by jury, and the right to a speedy trial. These aspects make the U.S. justice system more flexible and easier to meet the needs of the people. While conceptually Indian system also possesses these features but unfortunately the objects underlying these systems have not been attained.

(12) The United States penal system is divided into federal and state and local levels. The prison system is supported by government funds. The largest penal systems are located in New York, California, and Arizona. Sentences in the U.S. justice system tend to be significantly longer than in India and many states have adopted the three strikes law which forces judges to sentence a defendant to life imprisonment for their third felony offense. Privatization of the prison systems is being adopted in many regions of the country as prisons are becoming more and more overcrowded. While we have most of the penal laws made during the British era and many of the laws are almost absolute.

Juvenile offenses and crimes in the US vary in each state and all are dependent on the age of the defendant. For example, in New York State, a juvenile status is considered if the individual is more than 7 but less than 16 year old, unless it is murder then the individual can be 13 or if charged with rape then the defendant can be as young as 14. In India there is law for juvenile justice, which is mostly governed by the Juvenile Justice Act, 1986. The Government of India enacted the Juvenile Justice Act in 1986, In 1989 the General Assembly of the United Nations adopted the Convention on the Rights of a Child. India ratified the UNCRC in 1992. In this act a child or
juvenile is defined as a person who has not completed his/her 18th year of age. It outlines two target groups: Children in need of care and protection and Juveniles in conflict with law. This act protects not only the rights of children, but a person's rights when he/she was a child. Meaning that if a crime or an incident took place while the person was a child, and then during the proceeding the juvenile ceased to be of age the case would continue as if the juvenile has not turned eighteen yet.

VI. Sum Up

It is revealed from the foregoing discussion that the right to speedy trial finds expression in the United States Constitution, State Constitutions, State and Federal Law, and State and Federal Case law. The United States is the first country in the world which has enacted the Federal Act of 1974 and is titled as the Speedy Trial Act of 1974. This Act prescribes a set of time limits for carrying out the major events in criminal proceedings such as the giving of information and indictment in the prosecution of Criminal Cases. The Speedy Trial Act of 1974 requires the trial of a defendant to commence within seventy days from the filing date of indictment or from the date on which defendant appears before a judicial officer of the court, whichever date is later. The Act provides that the indictment must be filed within 30 days from the date of arrest or service of summons. If a violation of the provisions of the Speedy Trial Act occurs, the indictment against the defendant must be dismissed. The study discloses that the District Courts in United States abused its discretion when it dismissed the indictment without prejudice in some cases and the higher Courts have remanded for recalculation of the total length of the delay and a redetermination, after consideration of all the statutory factors, whether the indictment should be dismissed with or without prejudice.

The study on the hand discloses that inordinate delay has become a common phenomena of Indian legal system. A number of Committees and the Law Commission of India in its various reports have made suggestions and
recommendations for elimination of delay. A number of steps have been formulated by the State but the object of speedy trial remains a myth and has not, so far, translated into reality. Similarly, it is also revealed from the foregoing study that judiciary has given additional acceleration to the object of speedy trials. The mechanism in order to serve the purpose at an appropriate time and in appropriate manner is lacking in India if we compare it with the United States of America.