

THE RIGHT TO FAIR TRIAL IN CRIMINAL PROCEEDINGS AND THE UNITED KINGDOM COURTS: LESSONS FROM THE PANDEMIC

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ABSTRACT

The COVID-19 pandemic has significantly impacted how the United Kingdom criminal justice system operates, necessitating a balance between the right to a fair trial and the need to protect public health. The study critically assesses the effect of the pandemic-induced changes to criminal procedures on criminal proceedings in the United Kingdom, focusing on the actual application of the guarantees of a fair trial in the United Kingdom's domestic law and under Article 6 of the European Convention on Human Rights. It reviews the historical and legal origins of the right to a fair trial, the emergency legislation during the COVID-19 pandemic, and the transformation of the operation of the criminal courts during the pandemic through remote hearings, hybrid processes, and the introduction of digital case management. It also considers the main problems which have emerged from these reforms: the difficulty for effective defendant participation, the access and availability to lawyers, open justice, equality of arms, examination of the witnesses, and the significant surge in the backlog of cases in the Crown Court – which reached more than 60,000 cases during the pandemic period. The research also includes an analysis of judicial reaction, drawing on key UK case law and guidance, which show that, in the face of unprecedented operational challenges, courts have consistently treated procedural fairness as a non-derogable constitutional principle. The results showed that digital technologies contributed to judicial continuity and resilience, but were not possible to completely replace the procedural protections afforded by traditional in-person courtroom interactions in more complex criminal cases. The paper suggests that the next generation of criminal justice reform should include technological advances, clear statutory protections, increased court capacity and an all-encompassing framework for emergency situations to safeguard constitutional rights in the event of a future national emergency. Lessons from the pandemic will be very relevant to building a more resilient, accessible and rights-based criminal justice system in the United Kingdom.

Keywords: Right to fair trial; Criminal proceedings; United Kingdom; COVID-19 pandemic; Article 6 ECHR; Remote hearings; Criminal justice reform.

INTRODUCTION

A fair trial is a key fundamental right of the criminal justice system in the United Kingdom, the legal process used to keep criminal cases legal and to ensure that people trust the system and the

judiciary. The principle is not only limited to the issue of guilt or innocence, but also covers procedural safeguards which contribute to equality before the law, fair and impartial adjudication, fair representation by lawyers, timely

application of proceedings, transparency of judicial proceedings and meaningful participation by the accused in all the stages of criminal proceedings (Kamber & Markić, 2021). In the UK these guarantees are based on the centuries of evolution of common law, and also on statutory and international legal commitments, including since the incorporation of the European Convention on Human Rights into national law through the Human Rights Act 1998. Article 6 of the Convention provides legally binding obligations, in particular to have a fair and public hearing, in an independent and impartial legal forum within a reasonable time for everyone who is charged with a criminal offence. The standards have had an impact on judicial practice, both within the jurisdiction of England and Wales, Scotland and Northern Ireland, on issues such as the rules of procedure in criminal investigations, pre-trial detention, disclosure requirements, admissibility of evidence, representation of those in custody, examination of witnesses, appellate review, and accountability of judges (Freer, 2023). Until 2020, enforcement of these guarantees was largely through the traditional mechanisms of physical court proceedings, face-to-face interactions between lawyers and defendants, open court access to hearings, and a body of well developed and time-tested court rules that ensured efficient procedures without sacrificing procedural justice. The advent of the COVID-19 pandemic, however, had brought an unprecedented challenge to the existing framework for courts, forcing them to adapt criminal procedures, which are steeped in tradition, in an extraordinary short period and to simultaneously fulfil their constitutional and legal obligations (Min, 2022). The operation of criminal courts was significantly impacted by public health restrictions imposed nationally and across the UK, such as national lockdowns, social distancing measures, restrictions on travel and public gatherings. It was no longer feasible to maintain the traditional courtroom processes in light of infection-control measures, and a quick judicial and administrative reaction was needed to preserve the continuity of the criminal process and the health of judges, court personnel, attorneys, defendants, witnesses,

jurors, and the general public (McConville & Marsh, 2022).

These modifications allowed for the prosecution of many criminal cases to proceed despite unprecedented operational limitations, and at the same time sparked much discussion about the circumstances under which the modifications were allowed and their implications for the principles of procedural justice. There was some questioning about the ability of defendants to follow the proceedings when they appeared remotely, communicate confidentially with their attorneys, evaluate the credibility of witnesses, challenge the prosecution's evidence, and enjoy the complete gamut of rights and procedures usually granted in an in-person criminal trial (Barbé, 2024). Similar issues were raised about maintaining open justice, transparency, access to the media, judicial independence, equality of arms between the prosecution and defense, and the right to be effective within a technologically enabled process. These process-oriented issues were compounded by systemic stressors that existed in the criminal justice system prior to 2020 that were exacerbated by the pandemic. The COVID-19 pandemic caused the temporary closure of courts, lowered capacities of courtrooms, the inability to hold trial during the early phases of the public health crisis, staffing shortages and limitations, resulting in significant criminal case backlogs, which impacted defendants, victims and witnesses. The length of delay posed numerous legal issues relating to the meaning of the requirement for criminal charges to be brought "within a reasonable time", and how limits on the procedural guarantees may not affect the essence of the right to a fair trial in extraordinary public health situations (McConville & Marsh, 2023).

The pandemic, therefore, should not be looked upon as a short-term challenge but rather as a health check of the current criminal justice system, its weaknesses, and strengths. An analysis of the jurisprudence of the United Kingdom courts, concerning the interpretation, protection and sometimes restriction of the right to a fair trial during this era offers important insights into the relationship between the emergency and the

judicial discretion, technological developments and fundamental rights (Munir, Khan, & Ahmed, 2020). Such analysis is crucial not only for understanding the legal and effectiveness of the criminal justice system in times of pandemic but also for shaping future legislative, judicial and institutional reforms to ensure that the right to a fair trial is fully respected during future public emergencies without jeopardizing the rule of law or the integrity of criminal proceedings (Kamber & Markić, 2021).

The Right to Fair Trial in the United Kingdom Historical Evolution of the Right to a Fair Trial

The right to a fair trial in the United Kingdom has developed over the centuries, and not in a single written constitution. It is widely attributed to the birth of the rule of law, and the restriction of the arbitrary exercise of governmental authority in the field of criminal law (Munir, Khan, & Ahmed, 2021). The idea of procedural fairness first emerged in the constitutional clause stating that 'No person shall be deprived of his or her liberty except by lawful judgment or regular proceedings' (Munir, 2018). This principle then evolved to ensure that accused persons were protected from arbitrary detention, secret trials, forced confession and politically-influenced prosecutions in general. By the nineteenth and twentieth centuries, the idea of the necessity of judicial independence, transparency and proceedings of the court, equality before the law and professional representation by lawyers was gaining increasing importance as key components of a legitimate criminal justice system (Vitkauskas & Dikov, 2012).

Criminal procedure was modernized, with standardized rules on evidence, appellate jurisdiction, disclosure and miscarriages of justice, along with the expansion of the procedural rights. These changes took place with the transformation of the notion of a fair trial from a broad constitutional aspiration to a detailed set of constitutional rules for all phases of a criminal trial. This was further enhanced by the introduction of the European Convention on Human Rights through the Human Rights Act 1998 which can be raised as a defense to legislation

where possible and allow individuals to have recourse to the law in their cases where there has been a lack of procedural fairness (Langford, 2009).

Legal Framework Governing Fair Trial Rights

Modern legal guarantees of the right to a fair trial in the United Kingdom are based on complementarity between national law, common law, precedent and international human rights law. The heart of the law is contained in article 6 of the European Convention on Human Rights, which guarantees that any person subjected to criminal proceedings has a fair and public hearing within a reasonable time before an independent and impartial tribunal organized by law (Munir & Noreen, 2020). These guarantees are not limited to the courtroom, but apply to the entire criminal process, from investigations to charging decisions, pre-trial proceedings, control of proceedings at trial, and appeals. The domestic criminal procedure, which is complementary to these principles, lays duties for police investigators, prosecutors, defense counsel and judiciary. The independence of the judiciary guarantees that anyone accused of a crime is held accountable for the crime according to what is in evidence and according to the law, free of any outside political or executive pressure (Munir, Cheema, & Riaz, 2020). Also of importance is the principle of open justice which states that criminal cases are normally heard in open court to ensure transparency and accountability and trust in the judiciary. The legal system also assumes that the defendant is innocent, placing the burden on the prosecution to demonstrate actual guilt with a standard higher than the one used by the criminal justice system, and safeguarding the defendant against being forced to prove their innocence (Cheesman, 2013).

Fundamental Components of a Fair Criminal Trial

A fair criminal trial relies on the proper functioning of a number of guarantees of procedure, none of which can exist alone. Judicial impartiality is the fundamental tenet of criminal adjudication because people's faith in the justice

system depends on judges' impartiality, lack of personal interest and influence in the case. Judicial independence is closely related to impartiality, and can be understood as the freedom of courts from interference by the executive, the legislature, the media or other outsiders that can affect judicial decisions (Munir, 2024). Equally important is "the principle of equality of arms," which guarantees that prosecution and defense receive a reasonable chance to present its case with significant equality. This principle entails that evidence relevant to the case be disclosed on time, legal advice shall be provided in sufficient quantities, opportunities to prepare legal arguments shall be provided, and meaningful participation during criminal proceedings. In recent times, participation has grown in importance in criminal justice, since it is not enough that the defendant appears physically in court, it is necessary that he appear in a way that the procedure is fair (Brandwood, 2017).

Persons accused of a crime should be able to hear and understand proceedings, communicate with legal counsel, listen to witnesses, challenge allegations, provide instructions to counsel and exercise procedural rights without undue difficulty due to language, disability, technological or detention factors. The principle of open justice also contributes to the legitimacy of the procedure insofar as it allows for the public to watch criminal proceedings, except when there are very narrowly drawn restrictions on the right that are needed to protect vulnerable parties, national security, or the administration of justice. Public hearings increase judicial accountability, and limit the potential for arbitrary decision-making. The need to have criminal proceedings completed within a reasonable time is another critical protective measure, as delays that are unnecessarily long may compromise both defense preparation and the reliability of the evidence, cause defendants and victims significant psychological distress and loss of faith in the administration of justice (Biral, 2014).

The Operation of Criminal Courts During the COVID-19 Pandemic

Emergency Judicial Response and Legislative Measures

In March 2020, COVID-19 was declared a global pandemic, forcing the criminal justice system of the United Kingdom to make unprecedented operational changes in a short space of time. Physical presence by the judges, advocates, defendants, jurors, witnesses, court personnel and the public at the criminal courts was greatly impacted by national lockdowns, social distancing measures and restrictions on public gatherings. The senior judiciary, Her Majesty's Courts and Tribunals Service (HMCTS) and the United Kingdom Government took emergency measures, to maintain the continuity of the criminal justice process while minimizing the risk of virus transmission. The main piece of legislation was the Coronavirus Act 2020, which provided legal powers for live audio and video links to be used for criminal proceedings, and more flexibility in the way in which criminal courts are run (Baldwin et al., 2020).

At the same time, the Coronavirus Act 2020 (Commencement No. 1) Regulations and a series of Criminal Practice Directions were issued to the courts regarding which hearings should go ahead remotely and which should take place in person. Initially, those issues of a criminal nature which had the highest priority, such as custody hearings, applications for bail, extradition proceedings and sentencing hearings of those detained, were given priority. In England and Wales, juries have been suspended since the end of March 2020 and restarted in May 2020 under certain health measures. Court buildings were holding significantly fewer people during this time, in order to meet the two-metre requirement for social distancing, and there were significant restrictions on the number of cases heard each day. Recognizing these working limitations, HMCTS quickly adopted digital infrastructure, launching the Cloud Video Platform (CVP) as the main technology to enable hearing delivery remotely in criminal, civil and family courts. Thousands of judicial officials, lawyers and admin staff were provided with speedy training in digital case

management, virtual hearings, and handling electronic documents(Viglione et al., 2023).

Remote Hearings, Hybrid Proceedings, and Digital Transformation

During the pandemic, the use of remote and hybrid hearings has become a hallmark of how criminal courts operate. The practice of live video in criminal cases was usually limited to specific procedural issues, such as the testimony of vulnerable witnesses, prison-based defendants or preliminary hearings, prior to 2020. This practice was vastly increased during the pandemic, becoming an integral part of judicial continuity with the use of remote technology. Selected preliminary hearings, plea and case management hearings, administrative reviews and appeals, and in some cases, youth court hearings, were increasingly held via secure video conferencing systems. Hybrid proceedings were held where proceedings in full were deemed inappropriate, involving a mixture of in-person courtroom attendance and remote attendance of legal representatives, witnesses, interpreters or defendants. At the same time, HMCTS rushed to the implementation of electronic filing systems, digital evidence management platforms, remote judicial conferencing and online scheduling procedures to minimize the use of paper and enhance administrative efficiency(Alkon, 2022a). Hundreds of thousands of remote hearings were held in courts and tribunals nationwide by the end of 2020, reflecting the highest level of technology in the justice system ever. The rise in the number of digital hearings greatly lowered the number of unnecessary physical hearings and allowed lawyers to attend from remote areas while maintaining access to judicial determination (Munir, 2025). However, there was a wide range of effectiveness in operation in terms of the complexity of the proceedings. Administrative hearings were generally able to be conducted virtually successfully, but criminal trials where the testimony of multiple witnesses, contested evidentiary issues, vulnerable participants, interpreters, and/or multiple defendants were involved were significantly more difficult. Sometimes, technical disruptions, unstable

internet connection, audio delay, video quality, digital literacy and access to secure communication facilities had an impact on quality of hearing and efficiency of the procedures. Some of the defendants even faced difficulties in maintaining confidential communication with their legal representative while the matter was under consideration from the remote location from where they were remanded in police custody or prison(Bošković & Nenadić, 2021).

Court Backlogs, Jury Trials, and Access to Criminal Justice

The COVID-19 pandemic has had one of its biggest operational repercussions on the significant rise in criminal case backlogs across the United Kingdom. Numerous public health orders and restrictions added to the temporary shift from jury trials to civil court hearings, reduced court occupancy, and fewer judges, significantly delayed the pace of criminal proceedings. In pre-pandemic times, there were around 39,000 outstanding Crown Court cases in England and Wales in early 2020. The backlog of outstanding cases was over 56,000 by the end of 2020 and over 60,000 by late 2021, with this being the highest number of outstanding cases in several decades. The Magistrates' courts also faced significant delays, even though they used more remote hearings for their procedures. In the case of serious offences, trials were often postponed for months, and in some cases for over a year, after the defendant was charged. These delays had a significant impact on victims, witnesses, prosecution, defense practitioners and the judicial resources, as well as legal issues concerning the duty to establish criminal charges within a reasonable time. To overcome these pressures, HMCTS set up special "Nightingale courts" in various conference centers, civic buildings, public places, and other facilities that could be used as court venues to conduct social distancing hearings. Over sixty temporary courts were set up in England and Wales to boost judicial capacity and in a steady process, restore the use of juries(Alkon, 2022b).

Existing court buildings were also modified with the installation of protective screens, improving air systems, improved sanitation measures,

designated circulation routes and court re-seating arrangements for the jurors and court participants. All these interventions did not yield a quick turnaround in operational recovery, however, due to the fact that criminal proceedings with juries needed to take place in physical courtrooms and required careful management of public health risks as well as courtroom space to ensure that the required public health and procedural safeguards were respected. The pandemic thus showed the importance of technological innovation to the ability to continue to maintain many of the processes of criminal justice but not replace the core processes of the courtroom such as the face-to-face nature of witness testimony, jury deliberation, evidentiary presentation, and the role of the public in criminal adjudication. Meanwhile, there were institutional learning outcomes from this time (Ariani et al., 2021).

Fair Trial Challenges Arising from Pandemic-Era Criminal Proceedings

Effective Participation of Defendants in Remote Criminal Proceedings

One of the most important issues in the courts over the pandemic's criminal prosecution was whether defendants could effectively attend court remotely or via hybrid platforms. An accused person's participation must be more than just physical and/or virtual; it involves being able to understand the trial, communicate privately with the lawyers, listen to the witnesses and the reasoning of the judges, and give instructions to the lawyers in time. A significant number of preliminary hearings, case management hearings, bail hearings and sentencings took place during the COVID-19 pandemic via the Cloud Video Platform (CVP) or other secure video-link system. While these technologies guaranteed continuity of criminal justice, they often had practical challenges (Draper, 2021).

The defendants coming out of prisons and police custody often lacked access to technology and the process of consultation between counsel and client was affected by time limits and the lack of a private communications channel in live proceedings. Occasionally hearings were disrupted by connectivity failures, audio delays, poor video

quality, and interruptions to internet services, causing hearings to adjourn or delay a judicial decision. These issues were especially prevalent for defendants who have cognitive impairments, mental health issues, learning disabilities, limited digital literacy, or a language barrier. The challenge was not only a technological one, but one of process as well, because courts had to decide if a remote presence was sufficient to give people the same amount of engagement into the process that they would experience if they were physically present (Rozi, 2021).

Delays, Case Backlogs, and the Right to Trial Within a Reasonable Time

The general closure of courts had an immediate impact on the entire criminal justice system which suffered from previously unparalleled delays, which in turn made the procedural right to speedy trial of criminal cases very difficult to meet. The workload burden on the Crown Court in England and Wales was already a growing issue prior to the pandemic when there were around 39,000 outstanding criminal cases at the start of 2020. Jury trials were suspended in March 2020 and the courtroom capacity was limited due to COVID-19 health precautions, leading to the backlog building up quickly. Cases in the Crown Court in December 2020 put the number of outstanding cases over 56,000, and by December 2021, that had climbed to more than 60,000 – the highest in decades. In some cases the defendants waited over a period of one year or two years before the trial began, especially in complex indictable cases that need to be decided by the jury (Dubuc, 2024).

Delays also caused emotional stress for the victims and witnesses, and resulted in less availability for witnesses and risks that memories would fade over time, impacting upon the reliability of oral evidence. This came to be known as a problem for defence practitioners to communicate with their clients at all times during lengthy pre-trial processes, particularly if the defendants were remanded in custody for trial. However, these were not enough to clear up the backlog of cases that had built up, further judicial capacity was established, court sitting days were extended and over sixty temporary Nightingale Courts were

opened. The excessive delay gave rise to significant constitutional issues of proportionality, fairness of the procedure, and the faith of the public in the criminal justice system(Nalungi, 2022).

Open Justice, Public Access, and Equality of Arms

The concept of open justice was put under a strain during the pandemic when public health measures inevitably impacted the presence of people in court premises. The traditional way of criminal courts is conducted in the open for transparency, accountability and confidence in judicial proceedings. When the country was in lockdown and social distancing was enforced, however, courtroom capacity was limited to minimize risk of infection. Journalists, researchers, family members and members of the public often used remote observation arrangements, and public galleries were allowed to operate at significantly reduced levels. While live audio and video technology maintained some level of openness, there was some doubt about how much of the openness of the traditional courtroom was being captured by virtual observation. At the same time it was becoming harder to defend the principle of equality of arms in some types of criminal proceedings. Prosecutors typically had an established digital infrastructure and resources within their institutional structures, while defense teams, especially smaller teams, doing publicly funded criminal work, sometimes found themselves in situations where their technological and financial resources were restricted in preparing their cases effectively. There was significant variation in access to electronic evidence, secure electronic documentation management, remote conferencing and communication facilities, among jurisdictions. The defendants in custodial institutions were also subjected to limitations on in-person meetings with lawyers due to the sharp drop in the number of visits during periods of increased public health restrictions(Paduch, 2023).

Witness Examination, Digital Evidence, and Procedural Fairness

The greater use of technology also impacted the presentation and evaluation of evidence in the criminal process. Cross-examination has always been considered one of the most important safeguards to ensure the reliability of witness testimony and to protect the defendant from wrongful convictions. In telephone conferences, however, issues with assessing witness demeanour, maintaining courtroom discipline, monitoring outside influences and assuring witness independence in giving evidence without permission of counsel arose occasionally. Because of the unstable Internet connections, delayed audio transmission, frozen video feeds, and technical problems, at times the continuity of cross-examination was interrupted, decreasing the natural progression of questions and impacting credibility assessments. Documentary, photographic, forensic and electronic evidence had to be presented digitally to the courts, which necessitated new technological processes to be taken on and the adoption of security and integrity measures(Sourdin et al., 2020).

Specific worries emerged about vulnerable witnesses, children and witnesses who needed an interpreter or intermediary assistance and in whose cases effective involvement was often dependent on a controlled environment in court, which was hard to achieve by means of a video transmission. Responding, judges used increased case management authority to decide whether remote hearings were suitable for individual cases based on judge discretion, for example, when witness credibility or evidentiary complexity or a defendant's vulnerability required traditional courtroom procedures. The experiences showed that, while digital innovation did greatly help institutional resilience in the face of a national emergency, procedural fairness is not necessarily best measured by operational efficiency. The pandemic showed that the legitimacy of the criminal adjudicative process still relies on the maintenance of basic protections, such as a fair and effective role for the accused, the lawyer, the witness, the public and the judge. This, too, is the main takeaway from criminal proceedings over the

past year during the pandemic; technological advancements should support, but never supplant, the procedural protections that form the foundation of the right to a fair trial (Tayal, 2024).

Judicial Responses and Key United Kingdom Case Law

Judicial Responses to Pandemic-Era Criminal Proceedings

For the first time in the history of the United Kingdom's judiciary, the government was faced with a constitutional issue answering to two challenges: to ensure that criminal justice is carried out during a period of public health crisis and to protect the public health. As opposed to giving emergency measures a free pass to lighten procedural requirements, senior courts have always taken the stance that fundamental fair trial guarantees are followed, but not necessarily in the same way, provided that such changes are lawful, necessary and proportionate. The Lord Chief Justice of England and Wales published a series of Coronavirus Messages and guidance for courts to hold criminal hearings from March 2020 onwards where they can do so "in keeping with the public health requirements. The judiciary separated between those cases which might be handled electronically and those, such as jury trials with significant witness testimony, which typically could not. This judicial stance was based on the idea that technology should aid, not limit, the principle of procedural fairness (Masood & Lineberger, 2020).

The legal bases for these judicial innovations were mainly those of the Coronavirus Act 2020 and a series of changes to the existing criminal procedure rules to extend the lawful use of live audio and video links. Courts had wide discretion on the matters of whether remote appearance would be prejudicial to either party or be a detriment to justice. Several factors were taken into account by judges before allowing for remote participation: the nature of the offences, the nature of the evidence, defendant's ability to participate effectively, confidential legal communication, the vulnerability of witnesses, and fairness of the proceedings. The utilization of remote hearings was therefore well accepted for

procedural applications, Plea and Trial Preparation hearings, bail applications, sentencing in appropriate cases, and appeals for legal arguments, with only a few exceptions, and it was considered acceptable to use the traditional courtroom setting for most criminal trials involving contested factual issues, wherever possible (Fairgrieve & Lichère, 2023).

The administration of justice during the pandemic was also dedicated to maintaining the principle of "open justice. Courts began to adapt the use of live-streaming and remote media access and/or controlled public observation arrangements to further ensure that public health protocols do not unduly impact upon the transparency of judicial proceedings. The introduction of physical attendance at court was significantly diminished due to social distancing measures but consistent judicial guidance was that measures introduced for court operations should not make criminal proceedings private judicial processes. To address this, the courts tried to preserve the public's trust in the system by guaranteeing access for media organizations to the most important cases on the approved media platforms as possible. The number of such cases is a good indicator of the problem facing the judiciary. At the time of Covid-19, the Crown Court had an average of about 39,000 cases pending before it. Although the rate of jury trials slowly began to rise, the backlog reached some 53,000 cases by October 2020 and 60,000 by mid-2021. To help deal with this ever-increasing caseload, the judiciary backed for extended court sitting days, more judges and more recorder appointments, and for more than sixty Nightingale Courts being set up throughout England and Wales (Mejia, 2021).

Key United Kingdom Case Law and the Protection of Fair Trial Rights

The courts of United Kingdom had to decide if the changes to the procedures were compatible with the guarantees enshrined in Article 6 of the European Convention on Human Rights and with domestic criminal law. While relatively few appellate decisions held that the procedures were illegal because of the pandemic, in this appeals court, there was an underlying argument and

reasoning that the lawfulness of the remote hearings is determined by whether the procedures allow for the effective participation, equality of arms, judicial independence, and fairness of the proceedings. A key judicial judgment which affected this period was *R (Detention Action) v First-tier Tribunal (Immigration and Asylum Chamber)* [2020] EWCA Civ 840. The Court of Appeal, though not criminal in nature, laid down general principles of constitutional importance on how the court conducts itself in a remote setting in the immigration context. The Court acknowledged that remote hearings could meet the requirements for procedural fairness, where parties could interact effectively with the hearing, communicate reasonably with their counsel and present their case without any material disadvantage. Concurrently, the judgment noted that distance-based processes were not suitable in all instances, and fairness "must be assessed on a case-by-case basis and not be inferred from technology. These principles were then later applied to the way criminal proceedings were run in England and Wales (Hanretty, 2020).

Finally, the Supreme Court case of *R (on the application of UNISON) v Lord Chancellor* [2017] UKSC 51, which was heard prior to the pandemic, but has gone on to provide a constitutional framework during this period. Again, the Court restated that access to justice is a key element of the rule of law and that real obstacles to meaningful access to court are not acceptable constitutional principles. In the COVID-19 context, the above logic was used to guide the court's analysis on whether such technical restrictions, excessive delays or lack of legal counsel may affect the exercise of fair trial rights. Judges began to appreciate that the access to justice is more than access to formal judicial institutions, and needs to be accessible in a way that guarantees real participation. The Supreme Court's ruling in *R v Adams* [2020] UKSC 19 also reaffirmed the importance of procedural legality in the context of an institution on its back foot (Sorabji, 2021).

The judgment also highlighted the need to adhere to high standards of law in criminal proceedings, even though it did not refer to COVID-19

measures; it reaffirmed that such procedural shortcomings should not be excused on administrative grounds. This more constitutional perspective has also permeated judicial decisions during the pandemic, prompting courts to apply constitutional review to the extent of balancing emergency procedures' operational necessity with traditional legal principles. Continuous monitoring of jury trial arrangements also was in the realm of judicial oversight. Although the judiciary sometimes did propose to supplant juries by trials before the judge himself, it invariably expressed the desire to restore the traditional jury trial as soon as the public health situation would allow. The changes in the layout of the courtrooms, the use of protective screens, improved ventilation, minimizing the occupancy of the courtrooms, and alternative courtrooms allowed for jurors to continue to play a pivotal role in the criminal justice process. This was in recognition by the judiciary of the fact that the trial by jury was not just a process, but an important constitutional safeguard which enhanced public confidence, legitimacy and democratic accountability in the criminal adjudication (Bowie et al., 2024).

Lessons from the Pandemic and Future Reform of Criminal Justice

Institutional Resilience and Digital Modernization

During the COVID-19 pandemic, the resilience of the United Kingdom's criminal justice system has been seen to rely on the system's ability to preserve constitutional safeguards and deal with unexpected operational challenges. Digital technology had been used to a relatively limited extent in the criminal process before 2020 and mainly for administrative case management and for some video-link appearances. Within months of the first national lockdown, however, the large-scale digital transformation was put in place by Her Majesty's Courts and Tribunals Service (HMCTS) via the Cloud Video Platform, electronic case files, online document management and virtual judicial conferences. In 2020, hundreds of thousands of remote hearings took place in courts and tribunals, without

interruption of critical criminal business activities due to the public health shut-downs(Powell et al., 2022). While not all proceedings were appropriate for virtual determination, the experience highlighted that proceedings such as procedural hearings, case management conferences, bail applications, and many other proceedings could be carried out efficiently and without compromising the integrity of the proceedings using secure digital platforms. Going forward, these technological innovations should be embedded in a system of institutionalizing them, with respect to investment in secure digital infrastructure, cyber security protection, high speed connection to all court premises and extensive digital training for the judiciary, advocates, court staff, and correctional institutions. Resilience will rely not on improvisation in the event of an emergency, but on the technology being always ready and the clear statutory protection being in place(Piquero, 2021).

Strengthening Fair Trial Guarantees During Public Emergencies

The most important constitutional take-away from the pandemic is that emergency situations do not justify the compromising of the guarantees of fair trial. The European Convention on Human Rights, Article 6, that governs the right to a fair trial, continued to apply during the public health emergency, and criminal proceedings in the difficult circumstances of the pandemic remained fair, impartial and accessible(Nelson & Segil, 2020). Future emergency laws should thus explicitly lay down statutory conditions and requirements under which remote criminal proceedings can be allowed, with the aim of ensuring that judges' discretion is still subject to objective legal criteria and not to mere administrative convenience. Any law establishing the grounds of approving virtual proceedings should take into account the gravity of the offence committed, the complexity of the evidence, the vulnerability of the witnesses, the reliability of the technology, the capacity of the defendant and the possibility of confidential legal consultation. Furthermore, for all defendants appearing remotely, there needs to be a provision for private

communication facilities between them and their lawyers, before and during proceedings. Judicial review procedures should be independent and be reviewed regularly to assess whether or not emergency procedures are still required and proportionate. Incorporating these measures into legislation would lessen the legal uncertainty and also provide constitutional guarantees that future crises would not impair constitutional safeguards or the public trust in the criminal justice system(Baker, 2020).

Reducing Court Backlogs and Improving Judicial Capacity

The pandemic highlighted long-standing deficiencies in the criminal justice system, such as judicial capacity and case management. At the start of 2020, approximately 39,000 cases were in Crown Court, and by 2021, the number of cases had grown to over 60,000, with many defendants waiting for trials for more than a year. These statistics showed that the criminal court was institutionally not able to withstand significant disruption. Therefore, investment in judicial infrastructure should be a priority for future reform, instead of emergency measures that take place here and there. Expanding court capacity, enhancing recruitment of Circuit Judges, Recorders, court staff, prosecutors, and criminal legal aid practitioners will greatly enhance the resiliency of the system. Digital Case Management Systems need to be connected to intelligent scheduling technologies that can prioritize cases, minimize adjournments and optimize courtroom usage. Administrative delay would also be reduced if more electronic disclosure systems and digital evidence platforms were used without impacting evidentiary standards. Importantly, during times of high demand such as the Nightingale Courts, flexible infrastructure was found to provide a useful supplement to existing court facilities. Contingency courtroom networks that can be quickly activated during emergencies, but can maintain normal proceedings and standards should therefore be included in future planning related to criminal justice(Jossie et al., 2022).

Building a Sustainable and Rights-Based Criminal Justice System

One thing that has been learned from the Covid-19 pandemic is that technological innovation should go hand-in-hand with constitutional rights and not against. The assessment of digital reform should not focus exclusively on efficiency or cost savings for administration and administration alone but also on the impact on procedural fairness and equality, judicial transparency and effective participation. Policy in the criminal justice system in the future should set uniform standards across the nation for work conducted remotely, handling of digital evidence, witness protection, cyber security, and public access to judicial proceedings (Miller & Blumstein, 2020). The impact of technological reforms should be periodically assessed by independent monitoring bodies using published benchmarks of performance and annual judicial reports, for the impact on defendants, victims, witnesses, lawyers and vulnerable users of the court. Investment should also go to prison video-link facilities, interpreter services and disability accommodations and digital literacy programs to make sure no participant is disadvantaged due to technological inequality. Moreover, the preparedness measures must be integrated into the permanent judicial administration, with regular simulations and development of contingency plans, and between the HMCTS, the judiciary, prosecution bodies, defense groups, correctional services and law enforcement bodies. The United Kingdom can establish a criminal justice system which is ready to meet the demands of the future in the event of a national emergency, whilst at the same time maintaining the rule of law, public confidence and the right to a fair trial in all circumstances (Viglione et al., 2023).

Conclusion

The COVID-19 pandemic has been one of the greatest constitutional and operational crises faced by the United Kingdom's criminal justice system in recent times. When a national public health emergency occurs, the need to continue criminal proceedings posed a balancing challenge to courts to balance the rights to public health with the right

to a fair trial. The study showed that the judiciary has become very flexible in its institutional practices, such as holding virtual hearings, hybrid courts, electronic case management system, and emergency procedures. These were measures which allowed for the maintenance of the judiciary system while many of the traditions of court operation became impractical. However, the pandemic also highlighted systemic flaws that had an impact on the realization of fair trial guarantees, such as a growing case backlog, access to legal representation, technology disparities, limitations on confidential lawyer-client communication, witness examination and open justice. The analysis also shows that the United Kingdom courts have always considered procedural fairness as an imperative, rather than an option, for the administration of the law. The principle that the procedures could be altered by the intervention of the judiciary or court directions but not the substantive rights guaranteed under the European Convention on Human Rights and the criminal law was reflected in judicial decisions and practice directions.

The return of jury trials, the judiciary's focus on the need to review remote trials and the persistence of meaningful participation demonstrate the judiciary's dedication to maintaining the integrity of criminal adjudication under unprecedented operating conditions. The lessons gleaned from the pandemic have created important lessons for future criminal justice reform. Technological innovation should be a fundamental part of judicial administration, but it should always be backed by clear statutory protections, judicial oversight, secure digital systems and good protections for vulnerable defendants. Another aspect of sustainable reform is enhancing judicial capacity, refurbishing court infrastructure, ensuring digital accessibility and developing comprehensive emergency preparedness plans, which can ensure continuity within the framework of the Constitution. Finally, the pandemic has demonstrated the importance of the criminal justice system's commitment to fairness, equality under the law, judicial independence and the rule of law, rather than on its speed or convenience. The principles outlined

above should remain the basis for the UK's criminal justice system in normal times and during the event of a national emergency.

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