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Thank you all for your insights on the absolutism of section 41 of the Youth Justice and Criminal Evidence Act 1999. I concur with you on the premise that S.41 is not absolute, but it is rather subject to the operation of other applicable laws. For instance, Article 6 of the Human Rights Act 1998 provides for the right to a fair trial, which cannot be overridden by section 41 of YJCEA. The defendant is entitled to the right to a fair process of trial, which brings into picture why each case is examined individually to determine if the application of S. 41 of YJCEA violates the Human Rights Act 1998[[1]](#footnote-1). In R v a [2001], affirmed that the right to fair trial is absolute[[2]](#footnote-2). Any relevant evidence whose exclusion can result in an unfair decision by the court cannot be vetoed by S. 41 of the YJCEA.

However, before the defendant introduces evidence about the complainant's past relationship in the trial of a sexual offence such as rape, S. 41 of the YJCEA must be satisfied[[3]](#footnote-3). In satisfying this section, aspects of Article 6 of the Human Rights Act 1998 are considered. The relevance of evidence speaks to the need to satisfy the requirement that the trial should be free and fair.

1. Article 6 of the Human Rights Act 1998. [↑](#footnote-ref-1)
2. R v A [2001] UKHL 25; [2002] 1 AC 45 [↑](#footnote-ref-2)
3. section 41 of YJCEA. [↑](#footnote-ref-3)