

Right to Fair Trial

Mains: *GS II - Judiciary*

Why in News?

As proceedings in the 2020 Delhi riots cases show, endless imprisonment without trial raises urgent questions about liberty and justice.

What is the right to fair trial?

- **Fair trial** - A fair trial refers to a judicial process where every accused person is provided an equal opportunity to defend themselves before an *independent, impartial and competent court*, following procedures established by law.
- It embodies the principles of natural justice, due process, equality before law and protection against arbitrary conviction.
- **Constitutional Provisions**
 - **Article 21** - Guarantees life and personal liberty except according to procedure established by law, which has been judicially interpreted to include fair, just and reasonable procedure.
 - **Article 20** - The article 20 guarantees:
 - Protection against self-incrimination.
 - Protection against double jeopardy.
 - **Article 22** - Safeguards against arbitrary arrest and detention.
 - **Article 39A** - Directs the State to provide free legal aid to ensure equal justice.
- **International Framework** - India's fair trial jurisprudence also derives strength from international human rights instruments:
 - **Article 14 of the International Covenant on Civil and Political Rights (ICCPR)** - It guarantees equality before courts, presumption of innocence, legal assistance, speedy trial and public hearing.
 - **Article 10 of the Universal Declaration of Human Rights (UDHR)** - It recognizes the right to a fair and public hearing before an independent tribunal.

*The **Right to Fair Trial** is one of the most fundamental pillars of a democratic society governed by the **Rule of Law**.*

It ensures that justice is not merely delivered but is also perceived to be delivered through an impartial, transparent and accountable judicial process.

What are the essential principles of fair trial?

- **Presumption of Innocence** - Every accused is presumed innocent until proven guilty beyond reasonable doubt.
- The burden ordinarily lies upon the prosecution.

Woolmington v. Director of Public Prosecutions (1935) established the "golden thread" that prosecution must prove guilt.

V.D. Jhingan v. State of Uttar Pradesh (1966) reaffirmed that benefit of reasonable doubt must go to the accused.

- **Independent and Impartial Judiciary** - Justice must be administered by judges free from political influence, prejudice and external pressure. Judicial independence strengthens constitutional democracy.
- **Knowledge of Accusation** - An accused has the right to know the precise charges in a language they understand to prepare an effective defence.
- **Right to Legal Representation** - Legal aid is indispensable for ensuring equality before law, particularly for economically weaker sections.
- **Open Court Trial** - Open justice promotes transparency, accountability and public confidence.
- **Protection against Self-Incrimination** - No individual can be compelled to become a witness against themselves.
- **Protection against Double Jeopardy** - No person can be prosecuted twice for the same offence after acquittal or conviction.
- **Right to Bail** - Bail protects the fundamental principle that liberty should not be unnecessarily curtailed before conviction.
- **Reverse Burden of Proof** - Although criminal law generally follows the principle that prosecution bears the burden of proof, certain statutes introduce a **reverse burden**, requiring the accused to explain particular circumstances.
 - **Examples include**, Prevention of Corruption Act, Narcotic Drugs and Psychotropic Substances (NDPS) Act, Negotiable Instruments Act, Unlawful Activities (Prevention) Act (UAPA)
- The Supreme Court has clarified that such provisions are constitutionally valid only after the prosecution establishes foundational facts.
- **Critical Observation** - While reverse burden provisions help combat organized crime and terrorism, excessive reliance may dilute the presumption of innocence and therefore requires strict judicial scrutiny.
- **Right to Speedy Trial** - The Supreme Court has consistently interpreted **speedy trial** as an essential component of Article 21.

What are the landmark judgments?

- **Hussainara Khaton v. Home Secretary, State of Bihar (1979)** - Recognised the right to a speedy trial as an essential part of Article 21, leading to the release of numerous undertrial prisoners.

- **M.H. Hoskot v. State of Maharashtra (1978)** - Established the State's duty to provide free legal aid to indigent accused persons, ensuring equal access to justice.
- **A.R. Antulay v. R.S. Nayak (1992)** - The Court framed guidelines for assessing unreasonable delays in criminal proceedings.
- **Zahira Habibulla H. Sheikh v. State of Gujarat (2004) (Best Bakery Case)** - Emphasised that fair trials require witness protection, impartial prosecutors, and freedom from intimidation, permitting retrials where justice is compromised.
- **Vinubhai Haribhai Malaviya v. State of Gujarat (2019)** - Affirmed that a fair trial begins with a fair investigation, allowing further investigation even after a chargesheet when necessary to protect justice and the rights of the innocent.

What about fair trial in terrorism cases?

- **Terrorism trials** - The *National Investigation Agency (NIA) Act, 2008* establishes Special Courts and mandates day-to-day trial for terrorism-related offences to reduce delays.
- **The Hague Memorandum** - It also recommends, continuous trials, effective case management, timely evidence disclosure, protection of witnesses, efficient judicial administration.
- These measures balance national security with constitutional guarantees.
- **Open Justice versus In Camera Proceedings** - The principle of Open Justice ensures transparency by allowing public scrutiny of judicial proceedings.
- Its objectives include accountability of judges, public confidence, media oversight and transparency in administration of justice.
- However, exceptions exist where public trials may prejudice justice.
- **In Camera Trials** - Proceedings may be conducted privately in cases involving sexual offences, protection of witnesses, national security and terrorism cases.
- Section 327 of the Criminal Procedure Code provides statutory recognition to both open courts and necessary exceptions.
- Similarly, Section 44 of UAPA permits witness identity protection and restricted publication where required.

What are the emerging challenges?

- Huge judicial backlog and case pendency.
- Undertrial prisoners languishing in prisons.
- Limited access to quality legal aid.
- Media trials influencing public perception.
- Misuse of preventive detention laws.
- Witness intimidation.
- Investigative deficiencies.
- Increasing use of reverse burden provisions.
- Subconscious judicial bias based on caste, religion, region or race.

What measures could be taken?

- Increase judicial infrastructure and vacancies.
- Expand digital courts and e-Courts Mission.

- Strengthen legal aid under Article 39A.
- Improve police investigation through forensic capacity.
- Enforce witness protection schemes effectively.
- Ensure strict judicial oversight over preventive detention.
- Frame clear media reporting guidelines during ongoing trials.
- Conduct periodic judicial training on implicit bias and ethics.
- Promote technology-driven case management to reduce pendency.

What is the ethical perspective?

- **The Presumption of Innocence** - It is morally reprehensible to punish an individual for a crime they have not been proven to commit.
- Society operates on the belief that it is worse to convict an innocent person than to acquit a guilty one.
- **Equality and the Right to Be Heard** - Justice must be blind. Every individual, regardless of social status or wealth, must have a meaningful opportunity to defend themselves.
- **Impartiality and Integrity** - The judiciary must serve as a neutral arbiter rather than an instrument of the State.
- Pre-trial investigations must also be conducted ethically without coercion or torture.

What lies ahead?

- The right to a fair trial represents the moral and constitutional foundation of India's criminal justice system.
- It harmonizes individual liberty with societal interests and reinforces the Rule of Law.
- While combating terrorism, corruption and organized crime remains imperative, constitutional guarantees cannot be sacrificed in the name of expediency.
- As **Justice Krishna Iyer** aptly observed, "*Procedure is the handmaid of justice, not its mistress.*"
- Strengthening fair trial protections through judicial reforms, technological modernization and institutional accountability will ensure that justice remains accessible, impartial and credible for every citizen.

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Reference

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