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 Khatoon 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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