

# RIGHT OF FAIR TRIAL

*Aditi Chauhan, 3rd Year, PSIT College*

## **INTRODUCTION:**

Every legal system must adhere to the core premise of a fair trial. Justice is ensured by the idea of a fair trial, to put it another way. A trial in criminal law is a judicial review or determination of the matters before the court to determine whether or not the accused is guilty of the crime. There is no complete concept of a fair trial, as the Supreme Court has noted in several occasions.

There is no analytical, comprehensive, or exhaustive definition of what constitutes a fair trial, and the question of whether a miscarriage of justice has occurred may need to be answered in a seemingly endless variety of real-world circumstances, depending on what was said or done before or during the trial.

## **Right to fair trial under Constitution of India**

The Indian Constitution is the supreme law of the nation. It offers a fundamental foundation for the administration of the criminal justice system.

**Article 20(1):** no one may be penalized for doing something that was lawful at the time it was done. Additionally, a person cannot receive a punishment that is larger than what might have been imposed under the legislation in effect at the time the offense was committed.

**Article 20(2):** no one may be tried and punished more than once for the same offense.

**Article 20(3):** no one accused of a crime should be forced to

testify against himself.

**Article 22(1):** no one may be kept in prison or arrested without first disclosing the reason for the arrest. The person must also be informed of all of his rights, including the right to seek legal advice and post bond, at the time of the arrest.

**Article 22(2):** A person who has been arrested must appear before the closest magistrate within 24 hours after his arrest.

**Article 39A:** state is required to offer legal help to those who cannot pay it.

### **Presumption of innocence**

In India, we have an adversarial system where the prosecution presents more evidence to establish the guilt of the accused. The accused is therefore assumed innocent unless the prosecution provides evidence to the contrary. The trial's judge is an unbiased individual who solely considers the evidence presented to him.

Therefore, with certain exceptions, the burden of proof in practically all criminal matters rests with the prosecution. In some situations, the accused must provide evidence to refute the presumption that he is innocent.

For instance, the accused is deemed guilty in several offenses under the Protection of Children from Sexual Offenses (POCSO) Act unless the opposite is demonstrated. These exclusions are made after taking into account the current social climate and the intended victims.

When defining the notion of innocence in the case of ***Babu v. State of Kerala***, the court noted that the right to an innocent presumption is a fundamental human right. It is a fundamental

principle of criminal law that can only be altered by means of specific statutory exceptions.

The nature, importance, and degree of the offense must all be taken into consideration by the court when dealing with such exclusions. The courts must be vigilant to ensure that no injustice or erroneous conviction results from the presumption alone being applied.

### **Right of accused to have a proper defence**

The accused's right to a fair trial and the chance to offer his defense is unalienable. At each stage of the trial, he will receive a fair hearing. He will be given the records he needs to put together his defense. The accused has a right to know the accusations made against him, and any supporting documentation from the prosecution must be provided to the accused. He is free to present evidence (papers, witnesses, etc.) to back up his claims. He is entitled to question, cross-question, and re-question the witnesses.

In *Jayendra Vishnu Thakur v. State of Maharashtra*, the court noted that the accused has both a natural and statutory right to cross-examine witnesses. A witness called to testify against him has the right to be subjected to cross examination by any party.

"An accused has not only a precious right to represent himself, he also has the right to be notified thereof," the court stated. If an exception is to be made, the legislation must either state so or let such an interpretation to be drawn by necessary inference.

### **Right to Legal aid**

A fundamental right is the right to legal representation. Any

individual, whether they are accused or not, has the right to legal representation at the state's cost if they are unable to afford it. According to the Cr.P.C., an accused individual must get legal assistance if he or she is unable to do it on their own.

A fair trial is one that is fair to the accused, the victim, and the community as a whole. It is necessary to build the public's confidence in the trial's fairness.

## **Conclusion**

The foundation of every legal system is unquestionably the idea of a fair trial. The accused, victim, and society at large must all be treated fairly during the trial. The most important rule to follow is the fair trial one, even though its branches and components change like any other part of the law.

The courts must be very careful to not ignore any of these criteria in the modern day, when media trials are more common than legal trials. The Court's officials must maintain their objectivity toward both internal and external pressures. Both the offender and the victim must be given every opportunity to submit their case.