

Critical Analysis on Right to a fair trial under Indian laws

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Abstract

According to the Latin phrase *Lex uno ore omnes alloquitur*, which translates to the law speaks to all in the same way, the fundamental idea that everyone is treated equally in the eyes of the law is an essential component of the foundation upon which legal proceedings are established in every region of the world. This idea, that the law respects all individuals in the same manner, is incorporated in a number of different clauses of the Indian Constitution. The Right to Equality is addressed one single time throughout the whole Indian Constitution in Article 14. The conduct of trials is an essential component of every procedure. The administration of impartial trials is a critical component of the legal system that assures equality for all parties. The right to what is known as a fair trial is not something that is just offered in our nation; rather, it is something that is protected by a variety of different laws all over the globe. Article 6 of the European Convention on Human Rights addresses the right to a trial that is conducted in accordance with established standards. According to this article, everyone has the right to a public hearing that is both fair and conducted within a reasonable amount of time. The trial must be presided over by a legal body that is both independent and impartial, and this body must be constituted by the law.

Key words: Fair trial, Indian criminal justice system and defence counsel.

Introduction

A trial whose primary purpose is to discover the truth has an obligation to be just and fair to all parties involved, including the accused, the victims, and society as a whole. In a legal proceeding involving criminal charges, everyone has the right to expect to be treated in an impartial manner. The denial of an accused person's right to a fair trial is unjust not only to the victim but also to society as a whole. An accused person has a right to a trial that is fair. The right to a fair trial is recognised as a core fundamental and human right that not only by our Constitution, but also by the international treaties and conventions that have been established. In addition to being a human right, the right to self-defense is also a basic right, and Article 21 of the Constitution of India guarantees that he is entitled to use that right. In accordance with the provisions of sub-section (2) of Section 243 of the Code of Criminal Procedure, 1973, the Parliament has acknowledged an individual's right to defend themselves and, for the purpose of doing so, to adduce evidence. A fair trial comprises all of the options that are fair and lawful according to the law for her to establish her innocence. "A significant right is the ability to provide evidence in favour of the defence. Denying this privilege in a criminal case is the same as denying the defendant a fair trial.

The primary purpose of the legal system is to provide everyone who is accused of a crime a hearing that is conducted in an impartial manner. The basic and universally acknowledged human right¹ is intrinsically tied to the idea of a trial that is fair. However, it is important to

emphasise that the fairness of a criminal trial is not something that should be evaluated using absolute standards.

The topic of whether or not a criminal trial is fair has to be assessed in light of the gravity of the accusation, the amount of time and money that society can reasonably afford to spend, the calibre of the resources that are at their disposal, the prevalent social values, and so on. In the following paragraphs, an effort will be made to present an overview of the usual components of a fair criminal trial.

The following features of fair trial are as follows

1. Adversary system
2. Independent, impartial and competent judge
3. Venue of the trial
4. Presumption of innocence
5. Right of accused person
6. Expeditious trial

Adversary System

The legal process in our nation is based on the principle of adversarial competition. According to this, any concern about the criminal responsibility of a person must be resolved by a criminal court after the individual in question has been given an opportunity to appear before the court in their particular cases in a manner that is both fair and appropriate. It gives a court that is both objective and knowledgeable the ability to have a good perspective on the subject, and it is an excellent instrument for obtaining the facts in a way that is fair. In situations like these, the state will act as an advocate for the victim and will bring criminal charges against the abuser.

Both spouses were given an equal amount of rights and opportunities as a result of this arrangement. In addition, the law mandates that the criminal court play a role that is both more active and productive than that of a mere mediator in the dispute that exists between the prosecutor-state and the person who is being accused of a crime. It is not the responsibility of the prosecution to draught the charges against the accused; rather, it is the responsibility of the court, which will do so after analysing the facts of the case. Additionally, the prosecutor is not permitted to withdraw from the case without the permission of the court.

Independent, impartial and competent Judge:

1. Separation of judiciary from the Executive:

By mandating the organisation of Judicial Magistrates and placing them all under the jurisdiction of the High Court in each State, the Code has successfully achieved the separation of the legal executive from the judiciary. This is expressly spelled out under the provisions of Sections 6 to 19 of the Criminal Procedure Code. As a direct consequence of the separation, not a single court official would have any connection whatsoever with anybody working for the prosecution. When the state is arraigning a party in a criminal case, it is very necessary that the legal executive be devoid of any question regarding the leader's influence or authority. This is a very important need.

2. Court to be open

According to Section 327, the court must always meet in an open courtroom so that members of the general public may see the proceedings. A public trial held in open court is an extraordinary instrument for fostering public confidence in the legitimacy, objectivity, and equity of the criminal justice system.

Presumption of innocence

The presumption of innocence in favour of the accused is established at the beginning of every criminal trial. The provisions of the code are organised in such a manner that a criminal trial should begin with and be governed by the main presumption throughout whole proceeding. However, it is well known that the prosecution is the party that is responsible for proving that the accused is guilty. Until the prosecution is able to exonerate themselves of this obligation, the court will not be able to enter a verdict of guilty for the accused.

Right of accused person

A trial is considered to be fair if it is fair to both the person who is being prosecuted and the one who is being tried. As a direct consequence of this, the code has acknowledged the following rights in favour of the accused in order to ensure that the accused will get an equitable trial.

Right to know of the accusation:

It is vital that the accused be notified of the charge that has been made against him in order to provide him with the opportunity to make preparations for his defence. When an accused person is brought before the court for trial, the specifics of the crime of which he is charged must be explained to him. This occurs when the accused person is presented before the court. In the event of a major crime, the judge is obligated to put formal charge in writing, which must then be read out to the accused person and thoroughly explained to them.

Right of accused to be tried in his presence:

If the accused were there during the whole trial, he would be in a better position to comprehend the proceedings as they took place in the courtroom. The clause that allows the court to dispense with the physical attendance of the accused in certain situation, it is suggested that the presence of the accused might be inferred from the provision. However, Section 317 creates an exemption, and it gives the court the authority to dismiss the attendance requirement for the accused individual. If the court determines that the presence of the accused person before it at any stage of the investigation or trial is not required because they are being represented by a pleader, the court may dispense with his presence and continue with the investigation or trial without him being present.

Evidence to be taken in presence of accused:

In accordance with the provisions of section 273, any and all evidence that is gathered throughout the course of the trial or any other action must be done so in the presence of the

accused, or, if his personal attendance is not required, in the presence of his pleader. However, according to section 279, if any evidence is offered in a language that the accused does not understand and he is present in court at the time of the hearing, then the evidence must be translated into a language that the accused does understand. In the event that any of the accused parties suffers from mental illness and is thus unable to comprehend what is going on in the hearing, specific provisions have been developed in sections 328-339 to address this predicament.

Right to cross-examine prosecution witness:

It is a significant right for the purpose of providing protection. A criminal proceeding that does not provide the accused individual the opportunity to question or challenge the credibility of witnesses called by the prosecution, has a shaky basis and cannot be said to be fair.

Expeditious trial

It is essential to have a speedy trial in order to regain the public's faith in the judicial system. A prolonged legal battle also undermines efforts to reintegrate criminals into society as productive members of society. When justice is delayed, it often results in needless harassment. The purpose of the directives provided in Section 309 is to assist the courts in conducting trials and making decisions in a timely manner. Although it is widely acknowledged that this characteristic is a component of a fair trial, the true challenge is in determining how to make it a reality in actual practise, where millions of cases are now awaiting disposal in subordinate courts. This court has stated that a rapid trial is an important component of a reasonable, just, and fair' process, which is protected by Article 21, and it is the constitutional role of the state to put up such a system as would ensure that the accused get a timely trial. State of Bihar By claiming that it lacks the resources, either financially or administratively, the state cannot get out of its constitutional responsibilities.

It is the constitutional responsibility of this court, in its role as the protector of the basic rights of the people, to give any necessary directives to the State for the purpose of the State taking effective action to accomplish this constitutional mandate. The notion of a fast trial is an essential component of Article 21 of the Constitution, as stated by the Supreme Court in its decision in the case of Motilal, in which it also provided an explanation of the meaning and application of the term speedy trial. The right to a speedy trial begins with the actual restraint that is imposed by arrest and the subsequent incarceration, and it continues at all stages so that any possible prejudice that may result from an unnecessary and avoidable delay from the time the offence was committed until its final disposition can be avoided. This is done to ensure that the accused is not unfairly treated in any way.

Venue of trial and public hearing

A public hearing held in an open court is also necessary for a fair trial. As one of the fundamental components of the general idea of a fair trial, the right to a public hearing is recognised as one of the basic rights protected by Article 14(1) of the ICCPR. In a society based on democracy, this is a right that does not just belong to the political parties but also to the entire populace. The right to a public hearing implies that the hearing must, as a general rule,

be held orally and in public, regardless of whether or not the parties specifically desire the hearing to be conducted in this manner.

The court is required to make information about the time and location of the public hearing readily accessible, as well as to provide suitable facilities for the attendance of interested members of the public, within the bounds of what might be considered to be a reasonable range. When a decision is regarded to have been made public, it may have been verbally delivered in court, it may have been published, or it may have been made public by a combination of the three aforementioned means. It is true that Section 327 of the Code allows for open courts for public hearings, but it also gives the presiding judge or magistrate the authority to deny access to the court to the general public or to a specific member of the public if he so chooses. This is because the judge or magistrate has the discretion to do so. The requirements regulating the venue or location of inquiry or trial may be found in Sections 177 to 189 of the Code. These parts cover the scope of the matter. As a matter of common practice, it is the responsibility of the court in whose local jurisdiction an offence was committed to investigate and prosecute any criminal act". If the trial were to take place at any other location farther away, it would likely be difficult for the parties to provide evidence, and it would also have a negative impact on the defense's ability to prepare. In the case of *Naresh Sridhar Mirajkar v. State of Maharashtra*, the apex court made the observation that public confidence in the administration of justice is of such great significance that there can be no two opinions on the broad proposition that in order to carry out their functions as judicial tribunals, courts must generally hear causes in open court and must permit public admission to the court. This was stated in the context of the observation that the public confidence in the administration of justice is of such great significance.

Role of Defence Counsel and Fair Trial

In the perspective of some individuals, the criminal defence attorney exemplifies all that is admirable about the field of law, but in the eyes of others, they exemplify everything that is repugnant about it. Or, we may argue that the defender is the last friend that an accused person has left in the world. Defense counsel is the final sanctuary that an innocent accuser has against the agony of wrongful conviction. In addition to this, the accuser relies on him almost exclusively to circumvent the law and get away with wrongdoing. In spite of the fact that it may seem ludicrous or to be in direct contradiction with itself, it is a truth that the defender is both the necessary condition for justice and the adversary of justice. When an advocate is doing his job well, there is only one person in the whole world that he is familiar with, and that person is his client. The first and only job that falls on his shoulders is to try to save that customer by whatever means and measures of convenience, as well as any risks and expenses that may be incurred by other people, including himself. Our Code's implementation of a criminal justice system puts the prosecution against the defence and calls for unwavering allegiance to one side or the other. Because the state's case will be presented by the prosecution, the defendant's only focus should be on the accused person's argument, which they should argue as persuasively as they can.

However, the degree of counsel's engagement in the pre-trial process, especially before the start of court screens, has been the centre of a heated debate in recent years. The administration of

criminal justice seeks to address the tension that exists between the rights of the individual and the desire of society for security, and this tension is likely to be more visible at this stage of the criminal process than at any other step in the process. It is important to note that, in contrast to the other stages of the criminal process, this initial period, which intervenes between the invocation of the process against a person and his production before a judicial officer, is marked by the absence of a disinterested third party to ensure fairness in procedure and justice as well as impartiality in decision making. This is one of the most important differences between this stage and the other stages of the criminal process. One of the most important safeguards for the accused against arbitrary and oppressive conduct is the fact that the duty of decision making is vested in an impartial judge, who also presides over and oversees the hearing. However, at this first stage, there is not at all a circumstance in which there are three parties involved. The police who are in charge of conducting investigations are the ones who are put under the most direct pressure to solve crimes and to bring criminals to justice, and as a result, their impartiality is put under the most strain. "It is possible that the presence of counsel will inspire confidence in the accused individual in this scenario. Second, when it comes to bail issues, an accused person who is free has the benefit of being able to prepare and arrange his defence in any manner he sees fit, including identifying witnesses and having conversations with them, as well as gathering evidence in his favour.

It is very necessary to have legal representation in order to post bail, and having a client who is free to assist with the preparation of the case is of equal value. It is possible that the effective involvement of counsel at the trial stage will considerably minimise the reduction in the number of convictions that transpired between the prosecution initiating the case and the trial itself. He has the ability to avoid a hasty and oppressive application of the criminal process against the innocent person, and he also has the ability to relieve the innocent person from the trouble, embarrassment, and cost that may arise from a lengthy and drawn-out trial. During the trial stage, the defence attorney has the duty to ensure that full disclosure is provided by the prosecutor; that all evidence bearing on the accused's case is disclosed or produced; that all legal issues bearing on the accused's case are fully explored and properly adjudicated; that, in particular, all evidence tendered by the prosecution was collected in accordance with constitutional standards; that all evidence supporting the accused's case is tendered at trial; that prosecutors present all evidence supporting their case; and that defence attorneys present. The defence attorney has a professional obligation to provide all of the arguments that are morally permissible on behalf of the accused. This is done to guarantee that the accused is only found guilty if the prosecution can adequately show their guilt. If the accused is found guilty on the basis of all of the evidence, it is the responsibility of the defence attorney to ensure that the punishment is proportionate to the seriousness of the crime and to the degree of culpability of the accused. The defence attorney may also, during the pre-sentence hearing, show those conditions that may assist the accused in reducing the severity of the punishment. The last option to dispute the procedures and policies of the administrators of criminal justice at the earlier stages, as well as the legitimacy and fairness of the judgement that was reached by them, is provided by the appeal process, which is created and structured to fulfil this purpose. There is a possibility of erroneous identification occurring as a result of the victim's and the witnesses'

eagerness to exact revenge. It's possible that the witnesses lied under oath, or that the police may have influenced them with their questions". Errors in the interpretation and implementation of the relevant provision of the law may also result in grave injustice. While these and other factual inaccuracies that are similar to them may point clearly to the innocence of the defendant, such errors can also result in grave injustice. The participation of the attorney at this level is required because it is important to bring before the appeal court all of the relevant information that is necessary to prove the mistakes in law or arbitrariness of the trial court.

Conclusion

The possibility of having one's case heard by an informed, impartial, and free court is guaranteed by Indian law, which is in line with international legal standards. Everyone should be treated in the same manner according to the law. Each will have the opportunity to present their case before a legal tribunal in an impartial manner. One essential component of a just and reasonable trial is one that leaps out as an obvious need straight immediately.

The right to a fast trial is guaranteed by Article 21 of the Constitution, and it encompasses all phases of the legal process, including examination, inquiry, rectification, trial, and retrial. It is impossible to get a conviction in a criminal proceeding on the basis of the evidence of witnesses whose credibility has been undermined as a result of their questioning. The evidence needs to be evaluated in a manner that is both objective and unbiased. In every criminal preliminary, the degree of probability of blame must be much higher, practically reaching confidence; and if there is even the tiniest reasonable or plausible prospect of the accused's innocence, the benefit should be granted to him. This is because the burden of proof in criminal preliminary hearings is much lower than the burden of proof in criminal trials.

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