BLOGS

Right to Fair Trial in India (Part 2)

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Introduction

This is the second part of the series on the Right to a Fair Trial in India. The Indian Constitution guarantees every person the right to a fair hearing. It is a critical component of the Indian legal system because it guarantees that justice is given impartially and without bias. Fair trial rights include the right to a quick prosecution, legal counsel, the right to stay quiet, and the right to cross-examine witnesses. A fair prosecution is essential because it shields the accused from random or prejudiced judgements, defends the rights of victims, and guarantees the legal system's trustworthiness and integrity.

Right to Fair Trial under the Code of Criminal Procedure

The Code of Criminal Procedure (CrPC) is a procedural law that governs the conduct of criminal trials in India. The CrPC ensures that the right to fair trial is upheld by laying down rules and procedures that protect the accused person's fundamental rights.

The following provisions of the CrPC help to safeguard the right to fair trial:

Section 50 of the CrPC provides that every person arrested without a warrant has the right to be informed of the grounds of their arrest. This means that the police must inform the arrested person about the reasons for their arrest, and they cannot be detained without a valid reason. This provision ensures that the arrested person is aware of the charges against them and can prepare for their defense accordingly.

Section 161 of the CrPC gives every person questioned by the police during an investigation the right to refuse to answer any questions that may incriminate them. This means that the accused person cannot be forced to provide self-incriminating evidence during the investigation. This

provision ensures that the accused person's right against self-incrimination is protected.

Section 164 of the CrPC provides that every person accused of a crime has the right to have their statement recorded before a magistrate. This means that the accused person can give a statement to the magistrate without the fear of coercion or intimidation. This provision ensures that the accused person's statement is recorded in a fair and impartial manner.

Section 207 of the CrPC gives every person accused of a crime the right to be provided with copies of all documents and statements recorded by the police during the investigation. This means that the accused person has access to all the evidence gathered against them, and they can prepare for their defense accordingly. This provision ensures that the accused person's right to access evidence is protected.

Section 227 of the CrPC gives every person accused of a crime the right to be discharged if the judge finds that there is no prima facie case against them. This means that if the judge finds that the evidence against the accused person is insufficient, the accused person can be discharged, and the trial will not proceed. This provision ensures that the accused person's right against arbitrary detention is protected.

Section 309 of the CrPC gives every person accused of a crime the right to a speedy trial. The trial should be completed within a reasonable time frame. This means that the accused person will not be kept in detention for an extended period before the trial concludes. This provision ensures that the accused person's right to a speedy trial is protected.

Right to Fair Trial under Indian Evidence Act

The Indian Evidence Act is one of the many laws that safeguard the right to fair trial by laying down the rules of evidence that can be admitted in court proceedings.

Section 24 of the Indian Evidence Act specifies that a confession made by an accused person is not admissible as evidence unless it is made voluntarily. This means that the confession must be made without any threat, inducement, or promise of reward. The section also provides that a confession made to a police officer or in police custody is not admissible as evidence unless it is made in the presence of a magistrate.

Section 45 of the Indian Evidence Act deals with the admissibility of expert opinion in court proceedings. It provides that the opinion of an expert is admissible as evidence only if the expert

is qualified to give an opinion. This means that the expert must have specialized knowledge, skill, or experience in the particular field in which they are giving their opinion. The section also provides that the expert must base their opinion on facts that are considered to be true.

Section 132 of the Indian Evidence Act allows a witness to be cross-examined on their previous statements made during the investigation. This means that the defense can question the witness about any discrepancies between their previous statements and their current testimony in court. This provision ensures that witnesses are held accountable for their statements and helps to prevent false or inconsistent statements from being admitted as evidence.

Section 165 of the Indian Evidence Act gives the court the power to ask any question that it deems fit to clarify any point in the case. This means that the court can ask any question to elicit information that may be relevant to the case. The section also provides that the court can ask leading questions to a witness during cross-examination.

Right to Fair Trial under other Indian laws

Apart from the above-mentioned laws, there are other laws in India that safeguard the Right to Fair Trial, such as:

1. The Juvenile Justice (Care and Protection of Children) Act, 2015: This law provides for the care, protection, and rehabilitation of children in conflict with the law. It ensures that children are tried in special juvenile courts and are given a fair and impartial trial.
2. The Prevention of Terrorism Act, 2002: This law provides for the prevention and control of terrorist activities in India. It contains provisions that safeguard the Right to Fair Trial of persons accused of terrorist activities.
3. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989: This law provides for the prevention of atrocities against members of Scheduled Castes and Scheduled Tribes. It ensures that persons accused of such atrocities are tried in special courts and are given a fair and impartial trial.

Conclusion

The Right to Fair Trial is a fundamental right guaranteed to every individual under the Indian Constitution. It is protected by various laws, such as the Constitution of India, the Code of Criminal Procedure, the Indian Evidence Act, and other related laws. These laws ensure that

every person accused of a crime is given a fair and impartial trial in a court of law. It is the duty of the State to ensure that this right is upheld and that justice is delivered to all.