

Delay in Criminal Justice System in India - The Way Forward

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Abstract

It is crucial to first comprehend the nature of crime and, more crucially, penal laws because criminal law is dependent on penal laws, in order to comprehend the delay in the criminal justice system. The primary query is that why are criminal laws created. Personal security, freedom, and property security are of the utmost importance to every person. In any civilization, peace and order must be upheld if people are to live in peace without fear for their lives, limbs, or property. Only in states with efficient penal laws that are robust enough to deal with lawbreakers is this feasible. Any state must have an effective system of penal laws in order to fulfil its principal duty of maintaining law and order in the country, regardless of its philosophy or form of government, in order to be recognised as a state. The country's penal code is unquestionably the government's primary tool for enforcing this important task.

Keywords: *Criminal Cases, Criminal Justice System, Indian Criminal Justice System, Justice Delivery Mechanism*


Introduction

*Denial of 'timely justice' amounts to a denial of 'justice' itself. Two are integral to each other. Timely disposal of cases is essential for maintaining the rule of law and providing access to justice which is a guaranteed fundamental right.*¹

The Indian Constitution's Part III contains a declaration of fundamental rights. Article 21 of Part III of the Constitution protects the right to life. One of the many facets of this right, which covers a wide spectrum, is the right to a prompt trial. Trials must be finished as soon as possible for prisoners.² But a number of variables make it difficult to resolve criminal cases

¹ Law Commission of India (Report No. 245)

² *India Needs a Stringent Law for Wrongful Imprisonment – A Study*, Know Law (18 December, 2022; 04:29PM), <https://knowlaw.in/index.php/2022/03/28/india-needs-a-stringent-law-for-wrongful-imprisonment/>

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quickly, and as a result, they languish in the courts for years. Many people who are awaiting trial pass away in prison.

One of the parts of government that is most respected is the judiciary. Yet why? Most likely because many think that the legal system is the only place where they will be able to state their case freely and, more significantly, where justice will ultimately be served. Although the courts do justice, it's crucial to understand when it was done. Will this justice do anything now that a person has passed away or the crucial moment for the parties has passed? For them, at least, it doesn't matter anymore whether justice was achieved since justice delayed is justice denied.

The story is not over yet; the judiciary's slowness in handling criminal cases impedes the nation's economic growth and undermines its goal of providing quick and affordable justice to the poor, or, to put it another way, undermines its effort to uphold the principles of social and economic justice outlined in the Indian Constitution. It also has an impact on a nation's economy. According to the Economic Survey, in order to create a better business climate and ensure the nation's economic development, India must minimise red tape and the number of criminal cases that are pending.³

Present situation of Justice System in India


According to PRS Legislative Research, there were 4.5 crore cases pending in all Indian courts as of September 15, 2021, including the Supreme Court, High Courts, and subordinate courts. This represents an increase of 23 cases every minute over the previous two years. In 2019, there were 3.3 crore pending cases.⁴

The High Courts of states like Rajasthan, Madras, and Punjab & Haryana, according to data, have a substantially greater pendency rate than the High Courts of Patna and Calcutta (which have a higher population than the former states). This is important because courts in jurisdictions with greater populations typically have more cases pending. In the midst of the nation's mountain of unresolved conflicts, there is a sliver of hope provided by the drop in the number of cases that are still pending in the high courts of Allahabad, Odisha, Ladakh, and Jammu & Kashmir.

There are now 32 judges on the Supreme Court, including the Chief Justice of India, and two vacancies among the other courts. In the High Courts, there were 465 sanctioned judge vacancies, or 42% of the total 1098 sanctioned judicial vacancies (as of September 1, 2021). There were more than 50% of vacancies in five High Courts, including those in Rajasthan,

³ Economic Survey (2017-18), Ministry of Finance, Government of India

⁴ Tejeesh NS Behl, *4.5 crore pending cases, 50% judges missing - Why justice in India takes so long*, Times of India (18 December, 2022; 04:50PM), <https://timesofindia.indiatimes.com/india/4-5-crore-pending-cases-50-judges-missing-why-justice-in-india-takes-so-long/articleshow/87203443.cms>

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Delhi, Odisha, Telangana, Patna, and Rajasthan. Meghalaya and Manipur are the only two High Courts in India's 25 High Courts that are now vacant. Even the courts set up to address this issue and provide swift justice, like fast track or family courts, are adding to the judiciary's workload due to the high number of open positions and pending cases.

Reasons Underlying the Delay in Criminal Cases

The key topic is why there is such a backlog of criminal cases in India. Is the legal system flawed in some way? Could it be the sizable population? Or is it a callous disregard for pointless lawsuits? Following are some factors that contribute to the threat of pending cases and delays in Indian courts to the nation's social and economic development:

- *Luxurious Litigation*: Speaking to the audience at the Indo-Singapore Mediation Summit in 2021, CJI NV Ramana noted that there is a phenomenon in India known as luxurious litigation, which refers to parties who have the financial means to attempt to obstruct and delay the judicial process by filing numerous lawsuits throughout the judicial system. Therefore, according to the CJI, this is one aspect that contributes to the backlog of cases because when a person files multiple cases in different courts, it increases the workload of the judicial system and adds to the backlog of litigation in each of those courts. Many people bring frivolous lawsuits to court that could be resolved amicably, through mediation, etc., and those lawsuits can go on for years.
- *Lack of Infrastructure in Subordinate Courts*: The authorised number of judicial officers in India is 24,280, yet there are only about 20,143 courtrooms nationwide, including 620 rented halls.⁵ Where and how exactly will the judges conduct hearings? Additionally, if the judges were unable to hold hearings on schedule, this would cause the court's business to be delayed even more. Therefore, a lack of infrastructure in lower courts cause a delay in the court's ability to resolve lawsuits.
- *Inefficiencies*: A research by the Vidhi Centre for Legal Policy at the Delhi High Court found that delays were more common than usual instances in terms of inefficiencies. And these inefficiencies were more pronounced on the part of the attorneys than in the courtroom. Cases that have been resolved within two years are considered normal cases. Now, "inefficiencies" in court orders refers to several forms of inefficient behaviour. These

⁵ Soibam Rocky Singh, *Judicial infrastructure, a neglected case*, The Hindu (18 December, 2022; 04:51PM), https://www-thehindu-com.cdn.ampproject.org/v/s/www.thehindu.com/news/cities/Delhi/judicial-infrastructure-a-neglected-case/article37859686.ece/amp/?amp_js_v=a6&_gsa=1&usqp=mq331AQKKAFQArABIIACAw%3D%3D#ah=16419914613459&referrer=https%3A%2F%2Fwww.google.com&_tf=From%20%251%24s&share=htps%3A%2F%2Fwww.thehindu.com%2Fnews%2Fcities%2FDelhi%2Fjudicial-infrastructure-a-neglected-case%2Farticle37859686.ece

could come from either side of the court, such as the court's lack of time to hear a case and the judge's absence, etc., or from the side of the counsel, such as the counsel's absence, the counsel's request for adjudication or restoration, etc. These factors are referred to as inefficiencies because they affect how well the courts or the judicial process function.

- *Pending Cases per Judge:* In comparison to Rajasthan High Court, which has 19,374 cases that are still pending for each judge, Sikkim High Court has 78 cases that are still waiting for each judge, according to a study titled Estimating Time to Clear Pendency of Cases in High Courts in India Using Linear Regression. This illustrates how a judge in the RHC has 250 times more duty than a judge in the SHC and the high quantity of cases pending per judge. Furthermore, data shows that each high court judge in India will need to decide 6908 cases on average in order to lower the number of cases that are pending to zero, provided no new cases are brought. These numbers, using the example of two states, show the severe strain on judges and the stark discrepancies between this workload in various states. Because it is extremely challenging for judges to handle such a large volume of cases, matters are left unresolved in courts for a long time. When he was Chief Justice of India, Justice TS Thakur once sobbed in a meeting and said, "You can't place the entire guilt onto judges." Judges from India do far better than those from other nations when compared, in my opinion. 81 cases are decided by the nine members of the US Supreme Court sitting together each year. However, 2,600 cases are decided annually by an Indian judge, a munsif, or a Supreme Court judge. In addition, working longer hours can have a lot of negative effects on your health, including missed deadlines, a lack of creativity, and inaccurate work, according to Managing Corporate Fatigue.
- *Time Consumption of Cases:* The courts take a long time to hear a case and make a decision. It is essential to make the most of this period. With its limited resources, wouldn't it be useless for the court to take on pointless litigation? As a result, frivolous lawsuits eat up a lot of court time that could be used to hear urgent cases or try defendants who have languished in jail for a long time but are likely innocent of the charges against them.
- *Pandemic Effect:* The pandemic that has engulfed the entire world is well known to all people. The epidemic has a devastating impact on everyone and has spared no one, nation, or industry. The pandemic increased the backlog of criminal cases in India, which was already at record levels before it, which has increased the leniency of the country's judiciary. District courts in India concluded more than 12 lakh cases between March and August, according to Justice DY Chandrachud. In India, lower courts resolved over 1,234,071 cases every month in 2018, according to data from 2019. 3,67,962 instances on average are reported each month this year, a drastic 70% decrease. The situation with High

Courts is comparable.⁶ This exemplifies how the pandemic has exacerbated the case backlog and delays in the Indian judicial system. It has been and continues to be a major setback for the courts.

Needs for Judicial Reforms

The constitution of India, the largest democracy in the world, is based on what is known as "The Three Pillars of Democracy." They are the legislative, executive, and judicial branches. The Indian parliament ratified the constitution on behalf of the nation, but regrettably, the public is gradually losing faith in the legal system. As the nation moves from being a developing economy to one that is developed, the victims feel overlooked and are pleading for justice. It is imperative to build the groundwork for judicial changes so that citizens receive justice promptly.

"We must alter our aversion to using any kind of communication. Using discourse, which is so pervasive in society today, we may connect with our citizens. We will quickly lose the game, which is already underway, unless we get rid of this fear of modern communication, warns Justice D.Y. Chandrachud, who describes himself as a "confessed geek on technology," referring to the widespread resistance that judicial institutions have to using any and all forms of communication.⁷


The Indian judiciary is now dealing with a number of difficulties and problems, including delays in the administration of justice. In the context of justice, postponement refers to the period of time needed to dismiss a case and the period of time needed for the court to reach a decision on the topic. In India, "justice delayed is justice denied." The organisation of courts exceeds their mien, which is one of the basic justifications for why justice is delayed.

Second, communication is crucial if the court is to become an integral part of society in every nation. The interaction of the judicial system with society should become routine. Since English is the official language in Indian courts, people should feel at ease dealing with the legal system there even though it can often be difficult for the average person to understand the language.

The state of the judiciary is another problem. The overwhelming case backlog is without a doubt the judiciary's main problem; failing to provide "timely justice" is equivalent to failing to provide "justice" at all. The rule of law must be upheld and access to justice must be provided, both of which the current court system fails to do.

⁶ Yash Agarwal, *What does data on pendency of cases in Indian courts tell us?*, The Leaflet (18 December, 2022; 04:53PM), <https://theleaflet.in/what-does-data-on-pendency-of-cases-in-indian-courts-tell-us/>

⁷ Dr. Vivek Singh, *India Need Judicial Reforms*, Outlook India (18 December, 2022; 04:58PM), <https://www.outlookindia.com/business-spotlight/india-needs-judicial-reforms--news-230803>

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Thirdly, the use of technology has also changed how the legal system operates. We are currently in the third decade of the twenty-first century, and when it comes to the court, technology has yet to significantly improve judicial efficiency. We have witnessed the significance of ICT during the Covid-19 period. There are numerous additional problems as well, including those with communication, litigation, judicial infrastructure, judges' capacity, and much more. To overcome these challenges, we have proposed the astounding reforms listed below:⁸

- The judiciary should establish a timeline for the resolution of cases and adhere to the concept of time frames.
- People shouldn't be hindered by the legal system. a commitment to successfully delivering social justice for the victims, a mission of constitutional fulfilment through a dynamic rule of law fitted to democratic values, and a vision of fair, swift, and affordable justice for India's millions of citizens.
- In order to ensure transparency, the High Court justices should be chosen via a transparent and open process that allows for the selection of the best candidate to serve on the constitutional courts.
- PIL stands for public interest litigation, which shows that socially disadvantaged parties can use the legal system. The only way to protect those with hidden objectives who have dishonestly filed a bogus PIL is to telecast it live.
- We are all aware of the continuing influence of the British on India. Every lawyer should be required to dress in a black coat or robe over a white shirt with a neckband. The aforementioned Dress Code needs to be changed to reflect the climate in India and the practises from Ancient Bharat.
- It is a known truth that the absence of judges slows down the administration of justice; therefore, additional courts should be established in district courts to expedite case resolution.
- Revenue courts especially deal with issues involving land revenue where the victims are struggling farmers. So that they can operate successfully and efficiently, the state should give these the resources and infrastructure they need to be regulated.
- Senior Advocates are required to take on at least 20% of the cases pro gratis for those in need and the underprivileged. The State Legal Authority should compile a list with the names of the attorneys and the cases they should be given.
- The Corona era encouraged the Indian judiciary to adopt a more modern operating method. With cases and hearings taking place over virtual conferencing, courts are increasingly going

⁸ *ibid*

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virtual. As it will be highly helpful in reducing corruption and in lowering the costs produced in Courts, the courts should soon be permanently transformed to virtual mode. Those who are far away will find it to be of great assistance.

Conclusion

Finally, it may be argued that pending cases and court delays pose a threat to a nation because they, among other things, have an impact on its citizens, social and economic development, and system for administering justice. Despite the legal adage "innocent until proven guilty," many innocent persons are imprisoned alongside those who are guilty while they wait for justice or, more often, for their case to be heard in court.

Evidence and data demonstrate how litigation pending has impacted the populace and the nation as it has hung over the Indian judiciary for many years. There are numerous strategies that have been put out by various commissions, attorneys, and researchers to address this issue, but they all depend on the support of the judiciary and the general populace of the country. To give prompt redress to the harmed and maintain the judiciary's reputation as the most dependable branch of government and the nation's supplier of justice, we should take all necessary steps to address its shortcomings.