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RUST IN THE WHEELS OF JUSTICE LEADING TO INJUSTICE

INTRODUCTION

The Indian constitution's preamble has elevated social, economic, and political justice above all other fundamental institutions. In a judicial sense, a delay of justice is an action in a process that has long-term, irreversible implications rather than just delaying an action for a while. Over time, justice is gradually and silently killed by this process.

Based on available data as of September 15, 2021, there were around 4.5 crore pending cases in India's courts, primarily in district and subordinate courts. With 3.3 crore files outstanding in 2019, India has added 23 new cases to its backlog every minute over the previous two years. As of August 2, 2022, there were 71411 cases pending in the Indian Supreme Court, of which 15,076 were criminal cases and 56365 were civil cases. Serious issues are being brought up by this. The issue at hand is how we will handle the growing backlog in our legal system while still providing prompt justice to the average person.¹

To settle conflicts and uphold national peace and order, each nation has its own set of laws. Just as Martin Luther King once stated, "Injustice anywhere is threat to justice everywhere," justice is appropriately referred to as the shield of innocence and the defender of civil rights.

¹ Kriti Gupta, Justice delays and the need for setting time limit limits for argument, PRIME LEGAL, (Mar,13.2024, 8:15 PM), <https://primelegal.in/2023/01/22/judicial-delays/>

In essence, people go to court to seek justice, but when that justice is delayed, people lose hope, and as a result, justice is denied. The former prime minister of England, William Edward Gladstone, used the expression "Justice Delayed is Justice Denied." This suggests that even if justice is served later, it is not true justice because there was not justice when it was demanded.

The Indian founding fathers envisioned ensuring justice for all citizens, and in keeping with this goal, the term JUSTICE appears in the preamble of the Indian constitution. Since India was a colonial nation and Indian rights had been suppressed for the previous 500 years, the Indian Constitution was amended to include Article 39A, which requires the state to ensure equal justice and free legal assistance for all residents.

However, the past 57 years of experience demonstrate that the state has completely failed to handle a few fundamental issues, such as ensuring the rights of the poor and vulnerable and delivering speedy, expensive justice. India's system is collapsing due to 30 million lawsuits that take so long to resolve that even a generation is not enough to receive any kind of redressal. This is because India is a vast country with a multitude of different religions, a great number of people, and an uneven distribution of courts and governmental offices.

Given the existing state of affairs in our nation, it will take 300 years to resolve the backlog of cases in Indian courts, which is evidence that our criminal justice system is seriously outdated and has to be completely redesigned.

Case Study: Upphar Cinema A committee headed by Justice V.S. Malimath was established a few years ago to look into modifications. When the committee's report was released, it took six years to establish that the criminal carelessness of the Delhi government and theater management resulted in the deaths of fifty-nine persons.

The Nirbhaya case, a three-judge bench trial presided over by Justice R Bahumathi and other judges Justice Bhushan and Justice A S Bopanna, is now an example of justice delayed. In this case, all four men were found guilty of the 2012 Nirbhaya gang-rape crime. Seven years after the horrific event, the Nirbhaya Gang rape and murder cases resulted in the ultimate hanging.

Similar to this, the Ayodhya verdict, which was delivered on November 9, 2019, resolved one of the oldest cases ever when the Chief Justice of India presided over a five-judge bench that also included Justices S. A. Bobde, Ashok Bhushan, D. Y. Chandrabhushan, and Abdul Nazeer. The bench announced that Ram Mandir would be built at the location of the former Babri Masjid in Ayodhya, putting an end to the long-standing disputes between Muslims and Hindus. The Supreme Court also ordered the central government to give Muslims a conspicuous and appropriate five-acre area in Ayodhya on which to build a mosque.²

HISTORY OF SPEEDY JUSTICE

The British constitution, known as the Magna Carta of 1215, is considered the mother of all constitutions. It is from this document that the right to prompt justice, its jurisprudence, and its development as a fundamental human right have grown. In this magnificent document, Section 40 says:

"We will never sell to anyone, and we will never withhold or impede their right to justice."

The statement's final four words have significant political implications for how human rights have developed.

Historically, "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public hearing" is another provision included in the United States of America's Constitution's Sixth Amendment.

The 1948 Universal Declaration of Human Rights and the Canadian Charter of Fundamental Rights on Human Rights both recognize and protect the right to a hearing within a reasonable time frame.

As a result of all these efforts, the right to justice within the allotted time is now recognized as a

² Samriddhi Amrita Mishra, Justice Delayed is Justice Denied, LEGAL SERVICE INDIA, (Mar,13.2024, 8:43 PM), <https://www.legalserviceindia.com/legal/article-3313-justice-delayed-is-justice-denied.html>

universal human right and is therefore at the forefront of the judicial and national objectives of every modern democracy.³

REASONS FOR DELAY IN JUSTICE

It is challenging to determine when a backlog of delayed cases in a certain jurisdiction and time frame develops, or where the delay in the justice delivery system starts. We must identify the problem's foundation in order to discover a solution. The following are some of the main problems that contribute to the judiciary's inefficiency:

- **The largest litigator is the government;** challenged tax collections amounting to 4.7% of GDP and continuing to rise as a result of badly formulated orders. Approximately 50,000 crores of rupees are committed to completed projects, while investments are declining. Both of these issues result from court-issued stay orders and injunctions, which are typically the result of erroneously written and reasoned rulings.
- **Reduced fiscal allocation:** the judiciary receives 0.08–0.09% of the GDP in budgetary allocation.
- **Low judge to population ratio:** The low judge to population ratio is one of the causes of the backlog of cases. The judicial delays are caused by the utterly insufficient number. Even judges who are appointed lack efficiency and competence.
- **Adjournment habit:** In the modern era, counsel frequently request adjournments. A rule allowing an adjournment for good reason ought to be established. Instances of aberrant behavior that tend to interfere with the legal system include requesting needless adjournments on fictitious grounds in order to delay the case's procedures. Because they tend to charge more for their services, they frequently put off cases.

³ ibid

- **Unnecessary case inflow:** The Indian legal system receives a large number of cases. People even file small-claims court cases.
- **Lack of a work culture:** judges lack the drive to perform to the best of their abilities. The Indian courts lack a work culture, which contributes to these delays.
- **Endless Amendments in Law:** In an attempt to maintain the laws current, the legislature continues to alter them endlessly, often failing to recognize that this causes delays in the system. Laws and cases always have potential weaknesses that could be exploited, adding to the judiciary's workload.
- **Inadequate personnel:** The courts are understaffed, which further slows down the proceedings.

Additional reasons

- Counting up initial appeals
- Court closures without cause
- Arbitrary use of writ jurisdiction
- Insufficiency in case awarding and classification
- Excessively long wait times for certified copies of court rulings and directives.

REMEDIES

1. Rapid corrective action is necessary in light of the concerning circumstances. These have to be useful and efficient. These changes ought to be able to give the average person access to quick, effective justice. It is imperative to undertake equally significant measures to ensure the independence and accountability of the judiciary. Numerous targeted and useful judicial reforms have been advocated for in a number of law commission studies. Nevertheless, not much has been done to address this escalating situation.

2. To begin with, everyone involved in the legal system the government, judges, attorneys, and litigants must have a strong desire to eradicate these evils.
3. **Shift System:** Undoubtedly, the establishment of new courts is not practical due to budgetary limitations. Any degree of court establishment is quite expensive. The government is unable to pay the significant ongoing costs associated with hiring full-time judges and administrative personnel for new courts and constructing infrastructure. There is a solution. It would greatly alleviate the situation and offer the litigants great relief if the current court could be configured to operate in two shifts with the same infrastructure, employing retired judges and judicial officers who are reputable for their ability and integrity and who are in good physical and mental health. The accrued arrears could be paid off swiftly and without incident.
4. **There is an urgent need to create new positions and fill existing ones:** Court judge vacancies need to be filled as soon as possible. The topic of understaffing the judiciary was investigated by the Law Commission in its 120th report, and the Supreme Court in its ruling suggested replacing the current 10.5 judges per million people with 50 judges. As of January 2008, the High Court had 877 sanctioned members and 593 active judges, leaving 284 vacancies. On January 14, 2008, there were 3393 vacancies due to the sanctioned strength of subordinate judges being 15917 and the working strength being 12524. A culture of zero or almost zero vacancies must be established. Therefore, it is imperative that new positions be created and the open positions be filled.
5. **One should not encourage litigation:** Reducing the number of cases that are brought before the courts is another way to clear the backlog. During the initial phase, the judges ought to exercise extreme caution. They ought to discourage frivolous litigation and make a distinction between it and real litigation.
6. **Professional Guidance:** Experts in management can assist the court in setting up cases for hearings within a single day.

7. **Setting a Time Limit:** There should be a deadline for both hearing cases and making decisions.
8. **Restriction on Adjournments:** Only extraordinary circumstances and emergencies will be excused from meetings. A well-known attorney frequently handles multiple cases each day that require him to appear in multiple courts. This compels him to put his attention on one or two and take breaks from the others.
9. **Forums for Alternative Dispute Resolution:** One should not undervalue the significance of referring the matter to an alternative dispute resolution mechanism, such as mediation, arbitration, or conciliation.⁴

The Case of Doshipura Graveyard: The longest running case in history in India

In India's history, this trial has lasted the longest. Compared to other periods, it has lasted more than a century, having begun in 1878. began in the 1870s, and even though a decision was made in 1981, it was never put into effect. The Doshipurans Sunnis and Shias were still requesting more explanations and submitting new grievance applications as late as 2014. The central dispute is nine plots in Doshipura that the Shias claim as their own, having been granted permission by the Maharaja of Varanasi to undertake religious ceremonies and recitations during Muharram, while the Sunnis maintain that a portion of the land served as their cemetery.

A mosque, a baradiri, and an imambara—all utilized by both sects—are among the contested lands. The region is always heavily patrolled by police, and this is especially true during Muharram. After much back and forth, courts have decided in favor of the Shia community, and the state government has been caught in the crossfire. The Supreme Court affirmed Shias' rights in 1981 as well. Later orders called for moving the two graves and erecting boundary walls around the disputed areas. The state administration used sectarian violence fear in 1986, and the court suspended its order for ten years in favor of a peaceful settlement.

⁴ Vandana Ajay Kumar, Judicial Delays in India: Causes & Remedies, CORE.AC.UK, (Mar,13.2024, 9:01 PM), <https://core.ac.uk/download/pdf/234649558.pdf>

The abeyance was prolonged by an additional ten years in 1996. In 2014, a bench made up of Justices RM Lodha, Kurian Joseph, and Justice Fali Nariman declared themselves "satisfied" that the two graves had been enclosed by a permanent masonry wall and as such "no further order needs to be passed." In 2013, the court had asked Advocate General Irshad Ahmad why the dispute had been allowed to linger. The applicants were nonetheless given permission by the bench to file a new application "narrating facts and the subsisting grievances of the applicants."

The McMartin Preschool Abuse Trial was the longest trial in the United States, lasting seven years and costing \$15 million for the investigation. The Jubilee Line Corruption Trial, in the United Kingdom, was the longest trial, lasting 21 months and costing £60 million.⁵

CONCLUSION

From the foregoing discussion, it is possible to deduce that the figures on the lengthy backlog of court cases that have been outstanding for the "last six decades" are another reflection of the nation's failing judicial system, which is losing the trust of the public. The extensive revisions are a long-term project, and judges must first authorize any major changes to their field of expertise. Nationwide, fast-track courts with a focus on sexual offense cases were established to address this punishment and the lack of trust. However, there are drawbacks to quick justice.⁶

⁵ Jannat, "Justice Delayed is Justice Denied": How can we deal with the inefficiency of courts in a fast changing society, IBLOG PLEADERS, (Mar,13.2024, 9:30 PM), <https://blog.ipleaders.in/justice-delayed-justice-denied-can-deal-inefficiency-courts-fast-changing-society/>

⁶ Kriti Gupta, Justice delays and the need for setting time limit limits for argument, PRIME LEGAL, (Mar,13.2024, 9:45 PM), <https://primelegal.in/2023/01/22/judicial-delays/>