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CRITICAL STUDY OF RIGHT TO SPEEDY JUSTICE IN INDIA

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The 'Right to Speedy Justice' As part of the right to life and liberty, every citizen has the right to receive prompt justice. The importance of expeditious case resolution is highlighted, as it is recognised in various reports by the Indian Law Commission. The position of the case's disposition and the reasons for the delays in the courts are explored. Data on the filing of cases in the courts, the disposition of cases in the courts, the pendency of cases in the courts, and the vacancies of judges in all courts are gathered. The steps taken to ensure that justice is delivered quickly are discussed. In both practise and professional training, it would be beneficial for the legal system if the various techniques of dispute settlement could gain equal footing. A holistic approach that understands that there are numerous types of legal challenges for which varied ways of resolution are suitable and effective will serve justice better.

KEY WORDS: *Right to Speedy Justice, Indian Law Commission, legal challenges, Constitution.*

1.1 INTRODUCTION:

Any civilised society's foundation and purpose is justice. The pursuit of justice has been a goal for humanity for many millennia. The right to justice is enshrined in the Constitution. The Preamble of the Indian Constitution defines and declares the shared objective for its residents as "to secure to all citizens of India, social, economic, and political justice." Article 14 ensures equal protection under the law and equality before the law. Article 39A of the Constitution requires the state to ensure that the legal system operates in a manner that promotes equal opportunity for all citizens and that this opportunity is not denied to any citizen due to economic or other handicap. All people have equal rights, yet they cannot all enjoy them equally. The rights must be enforced through the courts, but the judicial process is difficult, expensive, and time-consuming, putting disadvantaged people at a disadvantage. The provision of judicial and non-judicial dispute-resolution procedures to which all people have equal access for the resolution of legal disputes and the enforcement of their basic and legal rights is one of the most important obligations of a welfare state[1].

At least three factors must be given for an efficient justice dispensation system: access to courts, effective decision-making by judges, and proper implementation of those judgements. Access to justice must be offered on an equal basis. It is not enough that the law treats all people equally, regardless of the existing inequities[2]. However, regardless of economic inequality, the law must function in such a way that all individuals have access to justice. The term "access to justice" refers to the legal system's two primary goals:

1. Everyone should be able to use the system equally.

[1]Justice S.B. Sinha, Judicial Reform in Justice Delivery System, (2004) 4 SCC (Jour) 35.

[2] Reform of Procedural Law for Enhancing Timely Justice: Analysis of Section 89 of the CPC.

2. It must result in results that are both personally and socially equitable.

1.2 RIGHT TO SPEEDY JUSTICE:

The objective of administration of justice is to ensure that the innocent are protected, the criminal are punished, and conflicts are satisfactorily resolved. An effective judicial system is one in which not only just but also timely outcomes are achieved. The ability of the judicial system to offer accessible, timely, and cost-effective justice to all people equally determines one's faith in it. Every individual has a fundamental right to prompt justice, which is also a prerequisite for good judicial administration. The right to prompt justice is enshrined in the Constitution's guarantee of life. In the United Kingdom and the United States, the right to a speedy trial is a crucial one[3].

Many countries' laws recognise the right to expedited justice in criminal proceedings. It was first included in the Virginia Declaration of Rights in 1776, and then in the United Declares Constitution's Sixth Amendment, which states that "the accused shall have the right to a prompt and public trial in all criminal cases." The Federal Act of 1974, known as the Speedy Trial Act, specifies a set of time constraints for all significant events in criminal trials, such as information, condemnation, and allegation. Another piece of legislation passed by the US Congress in 1990 requires each district court to develop and implement a civil expense and delay reduction plan. In Canada, there are similar provisions[4]. The right to a swift trial is recognised as a common law right arising from the Magna Carta in the United Kingdom, the United States, Canada, and New Zealand, however not in Australia. The importance of the right to a speedy trial has also been recognised by a number of international accords. This is stated in Article 14 of the 1966 International Covenant on Civil and Political Rights. It is referred to as a basic right in Article 3 of the European Convention on Human Rights, which states that "everyone arrested or detained must be entitled to a trial within a reasonable time or to release pending trial." It is necessary to adopt legislation that guarantees the right to prompt justice in civil matters[5].

1.3 IMPORTANCE OF RIGHT TO SPEEDY JUSTICE:

Although the necessity of timely disposition of cases was recognised by the Law Commission of India in its 14th Report as early as 1958, neither the Constitution nor any current laws or statutes in India expressly grant the accused the right to a quick trial. The Law Commission of India stated that in an ordered society, it is in the citizens' and state's interests for disputes to be resolved within a reasonable time in order to provide certainty and definiteness to rights and obligations. If a trial lasts an excessive amount of time, the possibilities of a miscarriage of justice and the cost of litigation both rise. When compared to civil situations, the problem is significantly more acute in criminal proceedings. The right to a speedy trial in a criminal case, which is seen as critical to the future of the right to a fair trial, has remained a distant reality. A method that does not allow for a timely trial and disposition cannot be considered just, fair, or reasonable. If the accused is acquitted after such a long period of time, one can only fathom the unjust anguish he endured. Witnesses are unable to testify accurately to events that may have faded from their recollection as a result of the delay, and are occasionally won over by the opponent[6].

After a few years, relief granted to an aggrieved party loses a lot of its value, and it can even become

[3] Law Commission of India, 2009, 222nd Report, para 1.5.
[4] Law Commission of India, 14th Report, 1958, Vol. 1, p. 129.

[5] Law Commission of India, 1978, 77th Report, para 8.10 p. 30.

[6] http://indiagovernance.gov.in/news.php?id=526, site visited on 20.1.2012.

completely useless. The case of Ansuyaben Kantilal Bhatt v. Rashiklal Manilal Shah is an excellent example of how delay thwarts the cause of justice. In this case, the landlord, who was 54 years old at the time, sought to evict his renter due to his personal need to run his own business[7]. Because of the protracted litigation, the bonafide requirement may not have existed at the time when the case ultimately reached the Supreme Court after 33 years. At the age of 87, the landlord was not supposed to start a new business. The adage "justice delayed is justice denied" is based on this principle.

In its 77th Report in 1978, the Law Commission of India proposed that conciliation boards be established in cases of petty disputes with a value of less than Rs. 5000/-. Before launching a suit for the stated sum, the parties should first approach conciliation boards, and if the matter is not resolved amicably within three months, they should resort to litigation. The implementation of a system of civil case conciliation, according to the Commission, is one of the solutions that might be established to relieve the courts of their enormous caseload. Settlement of cases by mutual compromise is frequently a better technique of terminating a civil dispute than pursuing the case to the bitter end by appealing the case from one court to the next[8].

While the Supreme Court has emphasised the importance of a right to fast justice and free legal assistance in a number of judgements, successive administrations have failed to translate the court's instructions into legislative Acts. "The government seeks to ensure that accessing justice is a right of each and every individual, irrespective of his or her caste, colour, creed, social and financial background," said Law Minister M Veerappa Moily. We plan to present the document to the Cabinet as soon as possible. While there are sections in the Constitution addressing the necessity for prompt justice, there is no specific clause reaffirming justice as a fundamental or constitutional right."

The Supreme Court's decision in Hussainara Khatoon v. State of Bihar, in which Justice Bhagwati stated, "No method that does not assure a reasonably speedy trial can be characterised as'reasonable, fair, or just,' and it would be in violation of Article 21 of the Constitution." There can be no question that a quick trial, by which we mean a trial that is conducted in a reasonable amount of time, is an inherent and necessary aspect of the fundamental right to life and liberty established in Article 21. The question that would arise, however, is what would happen if a person accused of a crime is denied a speedy trial and is sought to be deprived of his liberty by imprisonment for an extended period of time, and convicting him after such a trial would be a violation of his fundamental right under Article 21."

1.4 RESEARCH METHODOLOGY:

The current study employs both empirical and non-empirical research approaches. Because of the nature of the research, it must primarily be descriptive, analytical, and evaluative. An in-depth investigation is carried out to assess the legal provisions relating to Alternative Forums and to identify flaws and inconsistencies in substantive and procedural laws. The actual operation of the institutions is investigated. The conventional legal methods of literature survey, which are generally used in the positive analysis of traditional sources of law, are the basic research tools that the study has used in the inquiry, gathering, and analysis of data. Information was gathered from statutes, codes, case law, textbooks, and periodicals.

[7] AIR 1979 SC 1369.

[8] Speech delivered in China on 'Delay in Disposal of Cases' by Justice K.G. Balakrishnan Hon'ble Chief Justice of India on 6.11.2007 http://www.supremecourtofindia.nic.in/speeches/speeches_2007/delay_in_disposal_of_cases_in_china_on_6.11.2007.pdf

1.5 RESULTS AND DISCUSSION

JUSTICE DELAYED IN THE COURTS:

In the context of justice, 'delay' refers to the amount of time spent on a case that exceeds the amount of time that a case can fairly be expected to be determined by the Court. A case's predicted life span is an essential feature of every adjudicatory system, whether inquisitorial or adversarial. No one expects a matter to be resolved in a single day. However, a problem occurs when the actual time taken to resolve a matter much exceeds its predicted life span, and we refer to this as a delay in the administration of justice. A cursory examination of the numbers reveals that, despite efforts at many levels and a significant rise in the system's output, the difference between the expected and actual life spans of the cases is only expanding[9].

The judiciary is dealing with a massive backlog of cases, which in turn leads to denial of genuine access to the courts due to the delays that occur in the administration of justice in many situations. The issue of cases pending in the courts taking too long to be resolved is not a new occurrence. It has been a long time since the courts have dealt with it[10]. The Supreme Court stated emphatically that this situation must be addressed: "An independent and efficient judicial system is one of our constitution's core pillars." It is our constitutional duty to ensure that the case backlog is reduced and that efforts are made to increase case disposition." The backlog in case resolution has harmed not only regular cases, but also those that, by their very nature, require prompt resolution[11].

Several commissions and committees have looked at the issue and issued reports. Despite the fact that the recommendations had some effect when adopted, the problem has persisted. The legal system has been severely harmed as a result of this issue. It has also shattered the public's faith in the courts' ability to resolve their problems, to some extent. It is critical that the public's trust in the courts, as well as their status and respect, be maintained in order for them to effectively fulfil their tasks. Weakening the judicial system may have the consequence of eroding the democratic structure's foundations.

The most significant operational challenge that must be addressed on a war footing is the delay in justice administration. "The terrible truth is that we may be on our way to a society overrun by hordes of attorneys, ravenous as locusts, and bridges of judges in numbers never previously conceived," said Justice Warren Burger, former Chief Justice of the United States Supreme Court. It is incorrect to believe that ordinary people desire black-robed judges, well-dressed lawyers, and fine-paneled courtrooms to resolve their conflicts. Persons with legal issues, like people in pain, want relief as soon as feasible and as cheaply as possible."

The vast majority of our population is uneducated and lives in villages. These circumstances necessitate, it is claimed, "a judicial administration system adapted to our country's genius or an indigenous system." 'It cannot be denied that the rules of procedure and evidence which they (the British) framed to regulate the proceedings in court, were in some cases foreign to our genius and in many cases were made a convenient handle to defeat and delay justice,' the Uttar Pradesh Judicial Reforms Committee stated, though by a majority[12].

[9] All India Judges Association & Ors. v. Union of India & Ors. AIR 2002 SC 1752.

[10] Justice S.B. Sinha, Judicial Reform in Justice Delivery System, (2004) 4 SCC (Jour) 35.

[11] Supra Note 4 p. 24.

[12] Backlog of cases causing concern: CJI, The Hindu, Thursday, Aug. 16, 2007.

"... the people's faith in the judicial system will begin to weaken," says Hon'ble Chief Justice of India Justice K. G. Balakrishnan, "because justice that is delayed is forgotten, excluded, and finally discharged."

13 "A sense of confidence in the courts is essential to maintaining the fabric of ordered liberty for a free people," Chief Justice Burger added, "and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgement of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights."

"Unmanageable backlogs of cases, mounting arrears, and inordinate delay in the disposal of cases in courts at all levels- lowest to highest- coupled with exorbitant expenses- have attracted the attention of not only members of the Bar, consumers of justice (litigants), social activists, legal academics, and Parliament, but also the managers of the courts," the Law Commission of India wrote in its 114th Report. The Chief Justice of India has stated that the 'justice system as it exists in this nation is on the verge of collapsing[13].'

Anyone interested in legal change should pay attention to the frightening scenario that has been revealed. The previous Law Commissions offered numerous recommendations for bringing fundamental reforms to the legal system. Until then, the only thing that mattered was how to shorten the time it took to resolve cases, make the system more resilient by removing stratification, and make the system less formal and truly affordable, i.e. to make it accessible to the poor. The Law Commission's fourteenth, fifty-fourth, seventy-seventh, and seventy-ninth reports, among others, recommended several adjustments while maintaining the system's basic framework intact, but they were focused on peripheral improvements. We regret to report that the system's efficacy has deteriorated significantly as a result of these changes. As a result, the Law Commission chose to attack the issue from a previously unknown angle[14]."

"It gives me great pleasure that the general public continues to hold our judicial institutions in high regard, despite their flaws and limitations. However, there are severe issues regarding the justice delivery system's efficacy and ability to provide quick and economical justice. Due to rising case arrears, delays in disposition, the expensive cost of getting justice, and occasionally due to a lack of probity in some areas of the judiciary, questions about the judiciary's trustworthiness are being raised. Our court system is of high quality and effectiveness, and we should be proud of it. However, we cannot deny that it has severe flaws that necessitate quick action to improve its performance in order to provide prompt and low-cost service to its customers. If people lose faith in the justice they receive, the democratic system as a whole may fall apart. People's trust and confidence in the system's responsiveness and competency should be maintained by its ability to deliver rapid and economical justice."

The Law Commission's Fifty Fourth Report studied the Code of Civil Procedure, 1908, in depth in order to streamline the procedure and make it less formal, more simple, and more favourable to the speedy resolution of disputes and disagreements before the court. The Seventy-Seventh Report also made some recommendations in this regard, including shortening the time it takes for lawsuits to be

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[13] Law Commission of India, 1986, 114th Report, p. 7, para 3.1.

[14] Justice Y.K. Sabharwal, My Dream of an Ideal Justice Dispensation System, http://highcourtchd.gov.in/right_menu/articles/mydream.pdf, site visited on 10.2.2012.

heard in trial courts and marginalising arrears. "The people's faith in the judicial system will begin to weaken," said Hon'ble former Chief Justice of India K. G. Balakrishnan, "because justice that is delayed is forgotten, excluded, and finally discharged[15]."

1.6 CAUSES OF DELAY IN THE COURTS:

The Indian justice system is overburdened and on the verge of collapsing unless quick remedial steps are taken by the court, as well as the legislature and the executive. The public loses faith in the concept of justice as a result of the legal system's delays. The current court infrastructure in India is insufficient to resolve the mounting litigation in a timely manner. Despite their best efforts, a common man might become caught in litigation for a lifetime, and in some cases, litigation can even be passed on to the next generation. He may deplete his resources as a result of the process, in addition to being harassed. As a result, there is a chain reaction in the legal system, and civil cases may lead to criminal cases.

Delays in case resolution have resulted in a significant backlog of outstanding cases in various courts across the country. Delay may result in the denial of justice in some situations. If there is a delay, there is a risk of losing vital evidence due to fading memories or the death of witnesses. In such circumstances, even if a party has a solid case, it may lose the case due to the slow judicial process, which results in the disappearance of material evidence.

The Arrears Committee, chaired by Justice V. S. Mallimath, highlighted a number of factors that contribute to the buildup of case arrears in the High Courts. The following are some of the main reasons:

(i) Litigation explosion;
(ii) Accumulation of first appeal;
(iii) Inadequacy of staff attached to the High Court;
(iv) Inordinate concentration of work in the hands of some members of the Bar;
(v) Lack of punctuality among judges;
(vi) Granting of unnecessary adjournments;
(vii) Indiscriminate closure of Courts;
(viii) Indiscriminate resort to writ jurisdiction;
(ix) Inadequacy of classification and granting of cases;
(x) Inordinate delay in the supply of certified copies of judgments and orders etc.

1.7 INCREASE IN THE NUMBER OF INSTITUTION OF CASES:

The number of cases filed in the courts considerably outnumbers the number of cases that are resolved. The quality and amount of lawsuits have both changed in the new environment. Litigation in new and diverse sectors has emerged. The number of cases filed has increased in recent years as a result of several Acts passed by the federal and state governments.

Year after year, the number of cases filed increases dramatically, resulting in a "docket boom." Litigation against the government and government-like agencies has also increased significantly. Despite an expansion in the number of courts and tribunals across the country, no solution for early dispute resolution has been developed, not only in the traditional areas of civil and criminal litigation but also in other domains such as consumer protection, service concerns, and so on. However,

[15] Justice S.B. Sinha, Courts and Alternatives, http://www.delhimediationcentre.gov.in/articles.htm, site visited on 4.8.2011.

increasing the number of courts and tribunals is insufficient to deal with the exponential growth in litigation[16].

Despite a significant increase in the number of cases resolved in various courts, the institution has grown at a faster rate. As a result, there is a significant backlog of cases in all courts. The massive backlog of cases only makes justice more difficult to get. From 2017 through 2021, Table 1 displays the number of cases filed in all courts[17].

TABLE 1.1:

INSTITUTION OF CASES IN THE SUPREME COURT, HIGH COURTS AND DISTRICT ANDSUBORDINATE COURTS

Year	Supreme Court (Admission & Regular)	High Courts		District & subordinate Courts	
		Civil	Criminal	Civil	Criminal
2017	69,103	10,44,534	5,23,941	37,55,019	1,14,09,828
2018	70,352	11,05,380	5,63,326	40,51,705	1,23,58,512
2019	77,151	11,95,739	5,83,743	41,41,463	1,28,23,735
2020	78,280	12,50,351	6,14,624	42,45,397	1,37,58,914
2021	59,738*	6,39,763**	3,01,166**	21,59,937**	67,90,628**

The table illustrates that the number of cases filed in all courts has increased since 2017. The number of lawsuits instituted in the Supreme Court in 2020 is up 13.28 percent from 2017. The institution has grown by 19.70 percent in civil matters and 17.30 percent in criminal proceedings in the High Courts. The number of civil cases filed in the District and Subordinate Courts has climbed by 13.05 percent, while the number of criminal cases filed has increased by 20.58 percent.

1.8 PENDENCY OF CASES:

The increased number of lawsuits filed has resulted in a large backlog of cases in all courts. As on April 30, 2020, the Supreme Court had 60809 cases pending. As of April 30, 2020, Table 2 indicates the number of pending cases in the Supreme Court.

TABLE 1.2:

STATEMENT OF PENDING CASES IN THE SUPREME COURT AS ON 30TH APRIL,2020.

	Pending from the Previous Month	Institution during the month	Disposed of during the month	previous matters disposed & updatedthis month	Pending atthe end of themonth
	A	B	C	D	A+B-(C+D)

[16] Supra Note 6, para 1.5, p. 1.

[17] Arrears Committee, 1990.

Admission Matters	33353	5632	4542	459	33984
Regular Matters	26463	645	266	17	26825
Total	**59816**	**6277**	**4808**	**476**	**60809**

As of 30.6.2011, there were 43, 50,868 pending cases in all 21 High Courts (34, 34,666 civil and 9, 16,202 criminal cases). The situation is far worse in the lower courts. As of 30.6.2011, there were 78,34,130 civil cases and 1,98,36,287 criminal cases pending, totaling 2,76,70,417 cases.

1.9 STEPS TAKEN TO PROVIDE SPEEDY JUSTICE:

Since the days of the British Empire, lawmaking and the administration of justice have been non-participatory in nature, and they still are to a considerable extent today. Participation in the process of establishing and enforcing laws by large groups of people, or even by the interests directly impacted by it, was essentially unknown; unless, of course, we consider protest and civil disobedience to be kinds of group participation in law formation[18].

Delays in case resolution not only cause dissatisfaction among litigants, but they also jeopardise the system's ability to deliver justice in a timely and effective manner. Large arrears of cases have piled up in courts at all levels as a result of such flaws in the system, and ways and means must be developed promptly to bring them to a reasonable limit in order to maintain the faith of the ordinary man. 31 The justice delivery system should be responsive to the reasonable demands of the times, ensuring the elimination of delays, prompt clearance of arrears, and cost reductions in order to ensure quick and cost-effective case resolution without jeopardising the cardinal principle of fair and just decisions.

1.10 CONCLUSION

In its 54th Report in 1973, the Law Commission stated that "any system of procedure must serve the goals of justice." Procedure is a means to an end, not an end in itself. Citizens impacted have a real right to protest when the means take precedence over the final goal, and the goal is lost sight of or even defeated in the process. And it is the State's responsibility to ensure that its legal system does not allow for processes that are likely to obstruct or defeat justice.' However, it was also of the opinion that this did not necessitate a complete replacement of the present procedure system with a new one or a major revamp that would completely transform its appearance.

The length of time it takes for cases to be resolved has drawn the attention of successive governments and law commissions. Different law commissions have made various recommendations in their various findings from time to time. Governments have tried to address the issue by implementing some of these recommendations, yet the problem persists. Disposal, on the other hand, is not keeping up with the rate of institution, and arrears are gradually increasing in all types of courts.

It is an element of every citizen's right to life and personal liberty, guaranteed by Article 21, to get prompt justice and a prompt trial, which is also a fundamental requirement of good judicial administration. Arrears are escalating to alarming levels in the courts. This is especially true because the institution of cases entails considerably more than their disposition at all levels of the legal system. The aim of resolving disputes, for which people come to the courts, has been thwarted by the delay in

[18] R. D. Sharma, Justice Barred, the Tribune, Bathinda, dated, March 13, 2012, p. 9.

resolving cases in law courts. As a result, systems for delivering social justice to the destitute and needy who seek redress through the courts are required.

It is past time for people to decide their own situations rather than relying on a slow and ineffective process. Aside from improving the efficiency of the judiciary, there is a pressing need to supplement the existing infrastructure of courts with Alternative Dispute Resolution processes. The goal of alternative dispute resolution is to have disagreements resolved quickly and effectively in a venue of the parties' choosing. It is the perfect time to encourage the use of Alternative Dispute Resolutions. These steps are being used all around the world to resolve ongoing conflicts and to avoid going to court. In various countries around the world, these efforts have been a huge success.

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