

Ddelay in Justice

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INTRODUCTION

The delay in the delivery of justice is a significant issue plaguing judicial systems across the world, from developed nations to developing countries. Despite the fundamental principle that "justice delayed is justice denied," millions of people suffer the consequences of protracted legal proceedings. This phenomenon not only undermines faith in legal institutions but also leads to social, economic, and emotional hardships for those involved. Indian judiciary is one of the greatest judicial systems in the world for serving best results to the aggrieved. But as of now every person is aware of the fact that our judicial system is going towards wrong direction. It has now failed to go along with people's expectation. There's a well known saying "Justice Delayed Is Justice Denied." Having around 30 million cases pending in several courts of India and an average time span of 15 years to settle a dispute, it is clearly evident that justice delivery system has completely failed to run swiftly.¹

JUDICIAL DELAY

Delay in context of justice means the time taken by the court to resolve a case. Nobody is expected to get justice within a day or two. It takes time, it needs patience. Taking reasonable time for delivering justice is the quality of Judge for giving Judgement in favour of right person.

We need a clear mechanism, a clear strategy to dispose of the pending cases. Then an implementation scheme to work on it efficiently. Also, a check must be kept on such implementation by higher judiciary.

*J. Jayalalitha v. Union of India*²

¹ https://www.legalserviceindia.com/legal/article-10412-judicial-delay.html#google_vignette

² AIR 1999 SC 1912

³ <https://legodesk.com/legopedia/justice-delayed-is-justice-denied/>

The complaint against Jayalalitha that she had amassed assets beyond her known sources of income was filed in June, 1996. The first charge-sheet was filed a year later, in June 1997.

The final verdict was delivered by the Supreme Court in February, 2017 that is, twenty years after the charge sheet was filed. Jayalalitha was held guilty but by that time, as we all know, Jayalalitha had already died.³ (AIR 1999 SC 1912)

Human rights are the key controllers of the modern era and should not be violated. Every person, who is a firm believer in human rights, will agree with the fact justice if not given at the right time, serves no purpose and is rather a violation of human rights. Indian judiciary system has not adopted the technological changes yet, which still results in the pending a large number of cases. Quoting present Chief Justice of India, Ranjan Gogoi highlighted, over 1000 cases are pending in the court for 50 years and more than 2 lakh cases for 25 years. It was also mentioned that there is 90 lakh pending civil cases, amongst which 20 lakh are such where even summon has not been served yet.³

Hidden factors that slow our courts and delay justice:

1. Corruption in Indian Judiciary:

Is the Indian judicial system unethical? The corrupt judicial system may be one of the reasons for the delay of justice. The corrupt judges may deliberately don't announce their judgment or grant unfair adjournments to the party they favour. There may be personal bias or belief to sustain the judgment.

Indian judicial system is compared to cobweb where the small insects get caught and the big insect smashes⁴.

⁴ <https://blog.ipleaders.in/justice-delayed-justice-denied-can-deal-inefficiency-courts-fast-changing-society/>

2.Lack of Manpower:

In 2016 the then Chief Justice of India, Justice T.S. Thakur during an event started sobbing and lashed at the government “Therefore not only in the name of the litigant... the poor litigant (he pauses as his voice trembles with emotion) languishing in jail but also in the name of the country and progress, I beseech you to realise that it is not enough to criticise the judiciary You can’t shift the entire burden on the judiciary, Nothing has moved since 1987”

He referred to how the Law Commission in 1987 had recommended 40,000 judges in the country to tide over the problem of pendency of that time. Its report had said that there were only 10 judges to a million population when there should be at least 50 judges per 10 lakh population.

At the heart of the CJI’s address were four strands of arguments: that judges are overwhelmed by the load of litigation; judicial vacancies are not being filled up; the appointments procedure is getting stuck at the level of the government for obscure reasons; and that without the wheels of justice turning smoothly, the common man will suffer the most.

As of 1 January, 2016, according to Court News, a publication of the Supreme Court of India, there were 16119 judges in subordinate judiciary, 598 in High Court, and 26 in Supreme Court in 2016 there were 32 million pending cases.

“It’s deliberate negligence from governments that has pushed the judiciary into such a state of scarcity,” says eminent jurist Ram Jethmalani. “The judiciary accounts for just 0.5 percent of the budgetary allocation.”⁵

3.Overburdened court:

One of the primary reasons for delays is the sheer volume of cases pending before courts. Many legal systems, especially in populous countries, are inundated with a backlog of cases. Courts may have a disproportionate ratio of cases to judges, making it difficult to resolve disputes in a timely manner

4. Inefficient LegalProcedures:

The complex, bureaucratic nature of legal proceedings can significantly contribute to delays Procedural rules, which are often intended to ensure

fairness, can become a source of delay if they are not implemented efficiently. For example, frequent adjournments, excessive paperwork, and reliance on outdated manual systems slow the entire process

5.Shortage of judges or court staff:

A lack of adequately trained and available judges further exacerbates delays. In many countries, there are not enough judges to handle the increasing number of cases, leading to overwork and slower decision-making processes. Similarly, understaffed court clerks and administrative personnel contribute to the inefficiency

Lack of Modern Technology: In many judicial systems, there is an absence of modern technological infrastructure. Many courts still rely on manual record-keeping and communication, which not only consumes time but is prone to errors. The slow pace of digital transformation in the judiciary means that case management and hearings are still tied to outdated practices

Abuse of Legal Loopholes: Lawyers and litigants sometimes exploit legal loopholes to delay proceedings intentionally. Tactics such as filing unnecessary appeals, requesting adjournments, and manipulating procedural requirements can prolong cases for years

Consequences of Delay in Justice

1. EROSION OF PUBLIC TRUST:

When justice is delayed, people lose faith in the judicial system. This erodes confidence in the rule of law, leading to distrust in governmental and legal institutions

Denial of Justice: The famous legal maxim "justice delayed is justice denied" highlights the fact that a delay in delivering justice often equates to the denial of justice. Victims and affected parties suffer prolonged uncertainty, stress, and emotional trauma

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3. IMPACT ON THE ACCUSED:

Prolonged trials can lead to unfair consequences for the accused, particularly if they are innocent. Long pre-trial detentions, uncertainty about their future, and the stigma of an unresolved legal matter can have .devastating personal and professional consequences

4. INCREASED COST:

Delayed trials often lead to higher legal costs for all parties involved. The state must also bear the cost of prolonged court proceedings, increasing the burden on public resources. Longer trials increase the opportunity for tampering with evidence, witness intimidation, or corruption, further undermining the integrity of the judicial process.

5. OVERCROWDED PRISONERS:

In many cases, people awaiting trial are held in custody, leading to overcrowding in prisons. This strains the prison system and contributes to human rights violations for detainees held for long periods .without a conviction

SOME MEASURES TO IMPROVE JUDICIARY

,Categorisation of disputes under provident fund gratuity or industrial laws before passing them through the resolution can reduce the burden on .judicial organs

Thousands of cases and appeals are pending under various State and municipal laws. These laws can be simplified and should be made more clear with clear .rules and regulations

Retired Supreme Court judge should be employed specifically to opine on pending disputed issues and

.direct the departments to effect a fast resolution.⁶

To avoid this trap, legal systems should strive to find a balance between timeliness and thoroughness. One way to achieve this is by employing technology and other innovations to streamline the legal process. For example, digital case management systems can help courts to better manage their dockets and reduce delays. Similarly, tools like videoconferencing and electronic filing can help to reduce the need for in-person court appearances and streamline proceedings.

Another important step is to build Fastrack courts, set regulations for lawyers' fees, legislate the laws which would be able to work with justice peacefully, to invest in the legal system, providing it with the resources and staff it needs to function effectively. This can mean hiring more judges to population ratio, prosecutors, and support staff, as well as providing ongoing training to ensure that they are equipped to handle complex cases.⁷

Mrs. Sumanaparuchuri vs Jakka Vinod Kumar Reddy on 1 March, 2024⁸

It was held that given the delays in judicial proceedings, which are often due to the willful procrastination of one of the parties, videoconferencing will serve the purpose of safeguarding the interests of justice by preventing undue delay. The massive pendency of cases in India and issues related to access to justice will require a careful deployment of appropriate technologies".

IMPORTANT CASE LAWS

Asian Resurfacing of Road Agency v. Central Bureau of Investion⁹

The Supreme Court of India directed that in all pending cases before the High Courts where a stay in

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⁶<https://forumias.com/blog/answered-discuss-the-impact-of-slow-judiciary-and-delayed-justice-on-indian-economic-growth-give-some-solutions/#:~:text=A%20weak%20judiciary%20has%20a,infrastucture%20and%20higher%20crime%20rates.>

⁷ <https://blog.ipleaders.in/justice-delayed-justice-denied-can-deal-inefficiency-courts-fast-changing->

⁸ <https://indiankanoon.org/docfragment/3690664/?formInput=%20%20related%20to%20delay%20in%20justice%20doctypes%3A%20judgments>

⁹ (AIR 2018 SC 2039)

a civil or criminal trial is operating, the case must be decided within a maximum period of six months

¹⁰ J. Jayalalitha v. Union of India

The complaint against Jayalalitha that she had amassed assets beyond her known sources of income was filed in June, 1996. The first charge-sheet was filed a year later, in June 1997

The final verdict was delivered by the Supreme Court in February, 2017 that is, twenty years after the charge sheet was filed. Jayalalitha was held guilty but by that time, as we all know, Jayalalitha had already died

Nirbhaya Gangrape Case¹¹ -

The brutal gang-rape and murder of a 23-year-old medical student in Delhi in 2012 is one of the most infamous cases of violence against women in India. The trial for the case took more than seven years to complete, and it was only in 2020 that all four convicts were finally executed. The delay in justice for the victim led to widespread protests and criticism of the Indian legal system.

HASHIMAPURA MASSACRE CASE¹²

A case of a massacre where 42 Muslims were brutally killed in Hashimapur. This incident of 'target killing' took place in 1987 decided the fate of the victims only recently in 2018, i.e. 31 years after the incident. The case was decided by the Supreme Court after an appeal was preferred by the family members of the victims.

The charges were framed in 2006. The trial ended in 2015 where all the accused were acquitted. After appeal being heard by the Apex Court, the final verdict passed sentenced, i.e. life- imprisonment to 16 policemen of the UP Provincial Armed Constabulary charged under section 120B of IPC.

Safdar Hashmi murder case¹³

Safdar Hashmi and another politician were killed by political opponents while staging a street play. The accused were punished after 14 years, i.e. in 2003 by a court in Ghaziabad under section 302, IPC. Till the

time judgment was pronounced two of the accused, amongst 12, were already dead. The decision punished the accused to life imprisonment since it came after 14 years it was equal to justice being denied for the victim.

Pallavi Purkayastha murder case

For the murder of this advocate, the security guard was convicted in 2012. The verdict was passed in 2014. After escaping the Nashik jail in 2016 while being released on parole and was absconding but he never returned to report in the station. He was traced with the help of the Jammu and Kashmir recruited informers. The verdict, in this case, was also delayed, and justice was not even granted because the person who was required to serve the jail term ultimately escaped and is still absconding.

Afzal Guru Case¹⁴

Afzal Guru was a Kashmiri man who was convicted of conspiracy in the 2001 Indian Parliament attack. He was sentenced to death in 2004, and his appeal was rejected by the Indian Supreme Court in 2005. He was executed in 2013, just days after his mercy petition was rejected by the President of India. Many people, including human rights activists and some political parties, have criticized the hasty execution and raised questions about the fairness of the trial.

Role of courts in delayed justice: Article 21 violation

The Indian legal system is infamous for its backlog of cases, high pendency levels and delayed justice. As of November 2019, there were 59,867 cases pending in the Supreme Court, and 44.75 lakh cases in various high courts. At the district and subordinate court levels, the number of pending cases stand at a shocking 3.14 crore as reported by The Wire.

Inadequate judge-to-population ratio, piling up of decisions reserved and not delivered, granting of frequent adjournments, showcases the languorous nature of the judicial system in the country. It is also pertinent to note that the pandemic is not helping this cause either. With social distancing norms and virtual courts in place, only urgent matters were taken up by

¹⁰ AIR 1999 SC 1912)

¹¹(2017)6SCC 1

¹² (2016) 9 SCC 671

¹³ 1991 SCC (Cri) 143

¹⁴ (2013) 1 SCC 645

courts in the initial period of the lockdown to the .prejudice of the general public.

CONCLUSION

Thus, it can be concluded that prolonged delays can undermine the fairness of legal process. Witnesses may become unavailable, evidence can be lost or degraded and memories may fade. Impacting the accuracy of judicial proceedings. Delay can adversely effect the rights of accuses, including prolonged detention without trial, which can be a source of psychological and social distress. Justice delayed often leads to diminished confidence in legal system among victims and public.