

IMPERATIVE ACTION REQUIRED TO ATTENUATE THE PILE OF PENDING CASES

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“Justice delayed is justice denied, but in India, justice is often postponed forever.”

INTRODUCTION

The Right to Fair and Speedy trial is guaranteed as fundamental right under Article 21 (Right to life and personal liberty) of the Constitution of India, 1950¹, delay in justice delivery system infringe this right. Justice-seekers have a short window in which to get things done. It is through the court that the greatness of this country is tested. The Indian judicial system is often regarded as the world's most powerful. Judges are praised for their commitment to upholding people's constitutional rights, protecting society's most vulnerable members, and ensuring that everyone has access to the courts when they need it. India's courts are swamped, with more than 4.5 crore cases still waiting as of September 15². In India, there are projected to be just 13 judges per million people, compared to 50 in affluent countries.³ Consequently, there are many adjournments, judges exchanging cases, and ever-lengthening line-ups of people waiting outside courtrooms to see whether they will get their day in court. Delays in making decisions are as old as the law itself, according to the Law Commission. Delays of this magnitude can lead to errors in judgment and raise the overall cost of a lawsuit. A hasty dispensation of justice is never implied by a rapid trial or resolution of the case. In a few rare instances, the compensation provided for the delays is completely utterly futile. Data on the severity of this situation is not important, nor do I need to emphasize the possible consequences of a delay in justice since we are already aware of the magnitude of the problem. Here, in this article we'll have a look at different reasons for the colossal piling-up of cases and what are different solutions to attenuate the problem.

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¹ INDIA CONST. art 21.

² Teejesh N.S. Behl, *4.5 crore pending cases, 50% judges missing – Why justice in India takes so long*, Times of India (Oct. 22, 2021, 03:35 PM), <https://timesofindia.indiatimes.com/india/4-5-crore-pending-cases-50-judges-missing-why-justice-in-india-takes-so-long/articleshow/87203443.cms>.

³ *Only 13 judges for every ten-lakh people in India*, The Economic Times (May 09, 2013, 09:01 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/only-13-judges-for-every-ten-lakh-people-in-india/articleshow/19974028.cms?from=mdr>.

JUDICIAL VACANCIES

The prolonged process of filling judicial vacancies is one of the root causes of the high backlog. Vacancies of judges in courts have been a perennial problem. According to the Law Commission of India's Report No. 245, the problem of cases pending has become much worse. To deal with this situation and resolve the cases, the court will need a large number of resources. To deliver justice to society, the strength of judges in the courts must be increased.⁴ In July 2014, the 20th Law Commission determined that the 'rate of disposal' per judge per year is the appropriate metric for determining the number of additional judges necessary. While it is critical to fill vacancies in order to reduce the backlog, we must also consider the productivity of our nation's judges. The ratio of judges to case dispositions per year is used to determine a judge's productivity. In India, the productivity of judges is undeniably low. A single case can take years to resolve. Low productivity can be attributed to a variety of factors, including a lack of motivation and infrastructure, among others. Increasing the number of judges without addressing how to increase their efficiency is, at best, a band-aid solution. It may be helpful in reducing the number of pending cases but won't sort out the problem in long run. We need to simultaneously work on both filling up the vacancies as well as increasing the efficiency and productivity of judges.

CASES ARE BEING FILED AT A HIGH RATE, BUT THEY ARE NOT BEING RESOLVED QUICKLY

Owing to the deep trust that people in Indian judiciary, people approach courts for most of the issues. This leads to a high number of cases being filed. The rate of filing cases is increasing day by day. Simultaneously, due to a lack of judges, judges' absences, the length of trials, strikes by lawyers, and the frequent movement of judges in subordinate courts, pending cases are becoming more and more cumbersome and difficult to deal with, making it difficult for them to be resolved. This is one of the major reasons, because of which, pile of cases is increasing. Recently, Chief Justice of India N.V. Ramana said, "One of them is an Indian phenomenon called - 'luxurious litigation'. It is a specific type of litigation wherein parties with resources attempt to frustrate the judicial process and delay it by filing numerous proceedings across the judicial system. Undeniably, the prevailing pandemic has also contributed to our

⁴ Law Commission of India, Report No. 245, Arrears and Backlog: Creating Additional Judicial (wo) manpower, July 2014.

woes,"⁵This phenomenon is being widely used causing unnecessary delays in many cases. Even lawyers use such tactics to stretch a case and earn the most out of it.

NEEDLESS EXPLOITATION OF PUBLIC INTEREST LITIGATION

When a petitioner appears in court, the judge will inquire as to the petitioner's location *stadia*. In the case of public interest litigation (PIL), however, there is no locus requirement since it is done only for the public good. However, some individuals utilize it as a career and file unnecessary legal lawsuits. With more cases on hold, courts are overburdened. In a landmark decision, *Janata Dal v. H.S. Chowdhari*, Justice Bhagwati ruled that PILs cannot be filed for personal or political reasons.⁶ The phrase "Public Interest Litigation" refers to legal action taken on behalf of the general public. There is no need for a petitioner to establish his or her locus *stadia* in order to file a PIL; anybody may do so if there is a public interest in the subject. In other cases, the petitioner is required to show that he or she has a right to be heard. A good PIL is one that is filed for the benefit of society or a particular group of people; while, a bad PIL is one that is filed for political or economic gain. PILs play a vital part in an alarming number of cases now pending in India.

PIL is so wide-ranging that even a letter may be deemed a PIL. Many individuals abuse the PIL procedure by filing a lawsuit in the Supreme Court just to get financial gain. High Court and Supreme Court litigation increases when there is a rise in public interest litigation (PIL). People submit PILs in order to get attention from the public. Guidelines for the filing of PILs are needed to keep an eye on the number of cases that are being filed without any justification. In order to curb abuse of PIL, the courts must intervene. One of the first things a court should determine about the petitioner is if he or she is *bona fide*. whether or not he is interested in PIL. At the time of petition registration, the petitioner should be asked whether he or she is a person of colour. Genuine PILs should be considered by the court, but petitioners who file them just for political or monetary gain should be fined.

⁵ *Projected Pendency of 45mn cases uncharitable analysis: CJI Ramana*, Business Standard (July 18, 2021, 07:35 AM), https://www.business-standard.com/article/current-affairs/projected-pendency-of-45-mn-cases-uncharitable-analysis-cji-ramana-121071800057_1.html.

⁶ *Janata Dal v. H.S. Chowdhari*, AIR 1993 SC 892 (India).

EXHAUSTIVE NUMBER OF APPEALS AVAILABLE IN A CASE

A judge renders a decision, in which one side is declared the winner and the other the loser. If the losing side isn't happy with the verdict, they may appeal it to a higher court. A party's appeal rights are intended to ensure that justice is being served, but litigants have turned them into a way to profit off the parties' disputes. Every time a case is dismissed by a lower court, they file an appeal. As a result, the number of cases pending before state supreme courts is rising. Total appeals are determined by the court that rendered the verdict, which is then compared to the higher court. A notice of appeal, alerting the lower court that you intend to appeal, must be served to the lower court that issued the decision from which you want to appeal. If the lower court does not receive the notice of appeal within 30 days of the lower court issuing a decision, or within 10 days in a criminal case, the appellate court will not hear the matter. The lawyer might file a draft or petition of case in the higher court when the notice of appeal is given. Assuming the district court's decision is final, a criminal appeal will be heard by the session court according to Chapter 29 of the Code of Criminal Procedure 1973, and a civil appeal would be heard under the code's Section 96. That's where you go if you have grounds for appeal, and if you don't, you go to the Supreme Court under special permission to appeal (Article 227 of the Indian Constitution) (article 136 of the Indian constitution). Supreme court cases in India are final and cannot be appealed to any other court. There are 49 million outstanding cases at the Supreme Court, including 24 million civil appeals and 13 million criminal appeals. The remaining 19 million cases are writ petitions. If they win, it's great, but if they don't win, they'll appeal in higher court just for the money they'll get from the parties. Litigants make it a passion. The strain on the higher courts is growing as a result of these appeals. The court must rule that appeals may be granted only on the basis of good cause. It is estimated that about 7 out of every 10 appeals are denied for lack of merit. There should only be one right of appeal, and it should not be possible to make another one after that. Before allowing an appeal, the court's registrar should review the grounds for appeal.

TEDIOUS PROCESS OF LAW

Because of the amount of time, it takes to go through a court process, many people wait outside for years for justice to be served. In a case, there are a lot court hearings, many adjournments, and victims become tired of battling for justice. The defendants are abusing the legal system for their own profit. The time it takes to resolve a matter should be reduced by the government. It is possible that in certain circumstances, the Supreme Court of India sets time limits for lower

courts to complete a trial, and such cases are handled quickly, but not others. Cases that have been pending for more than 50 years are commonplace. A set of rules should be issued by the Supreme Court to expedite the resolution of these matters.

CONCLUSION

Our Judicial system is as strong as judicial systems of other nations. However, it is currently experiencing some difficulties, which is reducing its effectiveness. The public is losing faith in the judiciary because of the time it takes to process cases. People should not be afraid to take their cases to court if the judiciary is unable to overcome these obstacles. The government should work to improve the compatibility of the judiciary in order to expedite the resolution of cases. The delay is mainly due to factors such as insufficient judicial officers, inadequate ministerial staff, personal factors, defects in the procedure, lack of infrastructure, abuse of the process of law, etc. It is not uncommon for the workings of lower courts to be overlooked. It is here, however, that most Indians involved in court cases seek justice. Hearings and witnesses need to be better managed as well. Litigation can be eased by combining all of these strategies in novel ways. The government should promote alternative dispute resolution, Lok Adalat's, fast-track courts, and Gram Nyayalay to reduce the workload of the judiciary and deliver justice in an efficient manner. Gaps in the system must be filled urgently in order to keep the wheels of justice turning quickly.