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Cause of pendency of cases in India: An analysis

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Abstract--In India, the pending of court cases and the consequence of deprivation of basic human rights is a question of quality and effectiveness in the country's judicial system. Indian courts have a huge backlog of litigation, which would take several years to clear if the system continues to operate at its current level of efficiency. One of the grey areas in which our justice delivery system has fallen short of the public's expectations is the judiciary's failure to provide justice quickly. One of the most significant issues facing the judiciary is the delay in the administration of justice. In this research paper, the author discusses the problems with the Indian judiciary and the need to strengthen court management in order to reduce case pending times.

Keywords--Pendency, Courts, Justice, Cases, Judiciary, Delay.

Introduction

We are also aware that the current justice system is incapable of dealing with the current level of litigation, and there is no particular explanation for this, but rather a number of them. Today, the courts' overarching goal is to provide justice to people as quickly as possible and at the lowest possible cost. One of the major expectations is that today's court procedures are more focused on customs than on job efficiency standards. With the rise in literacy, the number of new cases filed will increase in the coming years. As a result, the subordinate judiciary should develop management skills to deal not only with the existing backlog, but also with the possibility of a possible rise in the number of cases. We cannot neglect the importance of modern management techniques and technology in the current situation, which can be applied to the judicial system or its operation.¹

¹ Neelam Faizan, Need of the court management in the present scenario, Volume 4 Issue 6, *South-Asian Journal of Multidisciplinary Studies* 291.

The state has a responsibility to establish a social order in which the country's legal system offers justice to all people and access to justice regardless of social, economic, or political barriers. In India's democratic culture, the judiciary, in addition to the legislative and executive branches, plays an important role in securing and improving people's rights. Courts have been formed at all levels in the country to uphold citizens' rights and provide redress in the event that they are violated. Through its ruling, the Supreme Court confirmed that the right to a speedy trial is a fundamental right guaranteed by Article 21 of the Indian Constitution.²

Access to Justice

A vibrant democracy's main characteristic is "access to justice" and "fast dispensation of justice." As long as justice is deferred, it not only prohibits access to the system, but it also puts people both inside and outside the country in a psychedelic mindset. The administration of law by courts is what justice is all about. There are many elements of access to justice. First and foremost, all members of the polity's population should be treated equally. Second, the laws of the land must guarantee complete equality without discrimination. Third, a professional and impartial judiciary is required. Fourth, there is easy access to the judiciary. Fifth, a professional and fair legal profession, and Sixth, well run courts Seventh, the courts' laws and decisions are carried out effectively. Finally, an appropriate mechanism to address all types of complaints, as well as an effective mechanism to administer justice when it is required, rather than at its own peril.³

Review of Literature

1. The researcher *Rashmi Sawant* in his, research paper "Causes of pendency in judiciary of Pune district with special reference to regular civil suits" has observed that the issue of delays in the administration of justice has been discussed several times before. A number of recommendations have been made to address this issue, including the appointment of more judges, improvements in the distribution of business, amendments to the rules of procedure, and the abolition of delaying tactics. Various Law Commissions and other bodies have looked into this problem, which has become a source of concern even among legal professionals, but no solutions appear to exist.⁴
2. The researcher *Gagan Gandhi* in his, article "how to reduce the pendency in the courts" has observed that the need of the hour, according to Justice Chandrachud, is to think beyond the box in order to alleviate the issue of pendency. Our outdated methods of resolving cases have resulted in clogging of the system and overburdening of the judiciary with pendency.

² *Supra* note 1.

³ Tsn Sastry, Access to justice and judicial pendency: confluence of juristic crisis, available at: <https://www.researchgate.net> (last visited on May 10, 2021).

⁴ Rashmi Sawant, *Causes of pendency in judiciary of Pune district with special reference to regular civil suits*, (2019) (Gokhale Institute of Politics and Economic).

We must contemplate and must take urgent action to fix and overcome these issues so that citizens don't lose their confidence in the judiciary and its ability to impart justice.⁵

Cause of delay in Justice

Increased common man understanding of rights: Recent socioeconomic advancements, as well as the resulting awareness of legal rights, have given common citizens the confidence to approach courts of law for justice.⁶

There are not enough courts: There are inadequate courts in India due to a lack of funding in the judiciary. Both the federal government and the states are opposed to rising spending on the courts. More courts and benches are required in India. Not all courts have been modernised or computerised.⁷

Pendency rates rise due to a lack of judges: One of the causes of judicial backlog is a lack of judges. Cases continue to be heard, but no definitive decision is reached. Many people take advantage of the mechanism by using adjournments. According to activists, there is a pressing need to increase the number of judges per million people from the existing 11 to at least 50.⁸

Misuse of Public Interest Litigation: Since the definition of PIL is so wide that even a letter may be considered a PIL, many people misrepresent themselves as PILs and file them in the High Court for monetary gain. When the number of PILs rises, so does the number of cases filed in the High Court and Supreme Court. It is necessary to limit the filing of PILs that are not necessary by establishing guidelines for filing PILs.⁹

High rate of filing of cases and low rate of disposal of cases: The cornerstone of pending cases is the number of cases increasing day by day, and the disposal rate of subordinate courts is very poor, due to a lack of judges, absenteeism of judges, the phase of trial of a case, strike by advocates, and regular transfer of judges, among other factors in subordinate courts.¹⁰

From the government's hand, there is much too much litigation: In India, the government is the most active litigant, accounting for nearly half of all pending cases. Many of them are simply cases of one government agency suing another, with the courts deciding the outcome.¹¹

1.4.7 Constant amendment of laws: Another cause of delay is the constant amendment of laws. The majority of Indian laws have been changed many times. As a consequence, understanding and explaining the current legal rules takes time. It wastes precious court time.¹²

Lack of case management: Case management is lacking due to a lack of information technology applications for case management. Even for minor and minor cause of action cases, the same procedural law and procedure apply. Often

⁵ Gagan Gandhi, How to reduce the pendency in the courts, *available at*: <https://www.latestlaws.com> (last visited on May 10, 2021).

⁶ Alex Andrews George, The problem of pending cases in Indian courts: how to tackle, *available at*: <https://www.clearies.com> (last visited on May 10, 2021).

⁷ *Ibid.*

⁸ *Supra* note 1 at 294.

⁹ Sandeepdangi, Causes for litigation pendency in India, *available at*: <https://www.legalserviceindia.com> (last visited on May 10, 2021).

¹⁰ *Ibid.*

¹¹ *Supra* note 6.

¹² *Supra* note 1 at 296.

the court's valuable time is spent deciding cases that should be settled by other bodies. Normally, the same judges are assigned to both civil and criminal cases, resulting in a longer time to understand the facts and circumstances of the cases.¹³

Remedies

There is a pressing need to fill old vacancies and create new positions:

Vacancies for judges in courts must be filled as soon as possible.¹⁴

Litigation should be avoided at all costs: Another way to minimise the backlog is to reduce the number of cases that come before the courts. The judges should be extremely stringent right from the start. They can differentiate between frivolous and legitimate litigation, and frivolous litigation should be discouraged.¹⁵

Case and Court Management to Strengthen Judiciary: The way ahead.

Alternative Dispute Mechanism: A useful tool for minimising the length of time a case is pending.¹⁶

Use of Technology: Technology can be a viable option for addressing delays and delivering swift justice.¹⁷

Expert Advice: The court will enlist the assistance of management consultants to prepare cases for one-day hearings.

Setting a Time Limit: A time limit should be set for both hearing a case and making a decision.¹⁸

Restriction on Adjournments: Adjournments would be limited to emergencies and extraordinary circumstances. Every day, a well-known lawyer is likely to manage many cases that require his presence in various courts. This forces him to concentrate on one or two of them while seeking adjournments on the others.¹⁹

Conclusion

Various recent developments are taking place in India to investigate the issue of justice delays and to resolve cases as quickly as possible. In 2015, the country's top judges convened to draught a National Vision Document for 2015-2020, focusing on the judiciary's financial autonomy, case speeding, and the strengthening of the vigilance cell in district and high courts. The key issue is that no one wants to address the source of the issue. Even if problems are found, no appropriate solution is proposed. There is a need for court management to be recognised as a concept, as well as the inclusion of qualified, skilled, and competent court managers.

The bar, the bench, and the government must all work together to reinforce this cornerstone of justice. However, no scheme, even the legal system, can be better than the men who run it. People are becoming more aware of their rights in this technological age, and they are aware of the remedies available to them if their rights are violated. They are going to court; Article 39 of the Constitution guarantees them this right. All receives equal treatment and free legal assistance.

¹³ *Ibid.*

¹⁴ Vandana Ajay Kumar, Judicial delays in India: cause & remedies, Volume 3, *Journal of Law* 50 (2012).

¹⁵ *Ibid.*

¹⁶ Dipak Misra, *National initiative to reduce pendency and delay in judicial system* (2018) (The Indian Law Institution).

¹⁷ *Ibid.*

¹⁸ *Supra* note 14.

¹⁹ *Supra* Note 14.

The government should make the judiciary more compatible so that cases can be resolved as quickly as possible. Government should encourage solutions like Alternative Dispute Resolution, Lok Adalat, Fast Track Court, and Gram Nyayalay to provide justice more effectively and reduce the workload of the judiciary.

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