



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Justice Delayed - The Ongoing Nightmare of Red Tapism in our Courts

Tanush BA^a

^aMS Ramaiah College of Law, Bengaluru, India

Received 02 December 2023; *Accepted* 27 December 2023; *Published* 30 December 2023

This article delves into the harsh realities of India's legal system, where delayed justice often leads to justice denied. Through real-life cases like the Nirbhaya case, the Safdar Hashmi attack and the Bhopal gas tragedy, we witness the profound impact of judicial failure on individuals, communities, and the nation as a whole. The cost of these delays goes beyond monetary terms, affecting human dignity, emotional well-being, and social harmony. The article raises a crucial question: Can a society truly thrive when justice remains out of reach? It emphasizes the need to expedite legal processes, simplify legal proceedings, and ensure that justice is accessible to all. Justice should be a beacon of hope, not a source of frustration. In reflecting on these real-life stories, we are reminded that the pursuit of justice is not merely a legal concern; it is a moral and societal imperative. The progress and prosperity of the nation are intricately linked to a legal system that upholds principles of fairness, efficiency, and accountability. The article calls for concerted efforts, reforms, and a collective commitment to the cause of justice, signaling that the time for change is now. It underscores the importance of raising voices for justice to ensure that the price of delayed justice is no longer paid in human suffering.

Keywords: *lengthy judgments, understaffed judiciary, red tape, digitalization, legal business.*

INTRODUCTION

In the heart of India, where justice is both a pursuit and a promise, a remarkable challenge has emerged. Just imagine a land where 1.3 billion people share their stories, dreams, and disputes under the watchful eye of the law. In this complex world of humanity, there exists a judicial system that is overburdened in the form of a heavy anchor on the ship of justice. Indian judicial system is flooded with tons of pending cases accompanied by a forever wait to dispose of the same. Thus, it will not be wrong to say that a backlog of cases is the graveyard of justice.

India's legal system finds itself entangled in a web of bureaucratic red tape, relentlessly testing the patience and resilience of its citizens. The pursuit of justice, which serves as the basis of a thriving democracy, has turned into a complicated journey with many complex procedures and never-ending legal disputes. As the world races ahead in the digital age, many people in India are still struggling with a legal system that seems stuck in the past where waiting for justice often takes a lifetime. 'Justice Delayed is Justice Denied' a quote by William E. Gladstone, resonates with chilling accuracy in the Indian context.¹ This article embarks on an exploration of the myriad obstacles, inherent in the system's procedural intricacies that hinder the timely delivery of justice, casting a shadow over the aspirations of a nation yearning for swifter, fairer resolutions to its grievances.

COURTS CRUSHED UNDER THE WEIGHT OF JUSTICE

India is grappling with a significant challenge in its judicial system, where the sanctioned strength of judges stands at 25,628. Despite this, there is an overwhelming backlog of over 4.7 crore cases as of May 2022. The burden is most pronounced in subordinate courts, which account for 87.4% of the pending cases, followed by High Courts with 12.4%. Alarming, almost 1,82,000 cases have lingered for over three decades. The surge in litigation, with more individuals and organizations resorting to legal recourse, is not met with a proportional increase in the number

¹ Samridhi Amrita Mishra 'Justice delayed is Justice denied' (*Legal Service India*)
<<https://www.legalserviceindia.com/legal/article-3313-justice-delayed-is-justice-denied.html>> accessed 02 November 2023

of judges. The inadequacy of infrastructure has strained the courts, leading to an extensive backlog and a pressing need for systemic improvements.²

The Rajya Sabha was informed on Thursday that over 5.02 crore cases were pending in various courts across the country, including the Supreme Court, the 25 high courts, and subordinate courts. According to Law Minister Arjun Ram Meghwal's written reply, the figure has crossed the five-crore mark. Additionally, data retrieved from the Integrated Case Management System (ICMIS) by the Supreme Court of India, as of July 1, indicates that there are 69,766 cases pending in the Supreme Court.³

THE AGONY OF LENGTHY LEGAL JUDGEMENTS

Have you ever wondered about the complex world of legal judgments, where even seasoned lawyers and scholars can find themselves lost in the tangled maze of words? In India, Article 141 of the Constitution proclaims that the law declared by the Supreme Court becomes the law of the land.⁴ However, here is the catch – it is not exactly a bedtime story for everyone.

In the pursuit of justice, judgments are meant to be the guiding light, a beacon of clarity for all. However, it has become somewhat of a fashion to deliver lengthy, complicated, and twisted judgments, especially in cases of constitutional significance. These legal tomes are often beyond the grasp of the common people.

Lengthy judgments raise a complicated difficulty within the judicial system, with delayed justice being a serious and consequential issue. For instance, the intricacy and breadth of these decisions make comprehension difficult for legal experts, researchers, and even the public. The

² Sumeda, 'The clogged state of the Indian judiciary' *The Hindu* (10 May 2022)

<<https://www.thehindu.com/news/national/indian-judiciary-pendency-data-courts-statistics-explain-judges-ramana-chief-justiceundertrials/article65378182.ece>> accessed 02 November 2023

³ 'Cases pending in Courts Cross 5-crore mark: Govt in Rajya Sabha' *The Economic Times* (20 July 2023)

<<https://economictimes.indiatimes.com/news/india/cases-pending-in-courts-cross-5-crore-mark-govt-in-rajya-sabha/articleshow/101993830.cms>> accessed 02 November 2023

⁴ Constitution of India 1950, art 141

rich legal terminology, sophisticated reasoning, and lengthy narratives can confuse, impeding the effective distribution and comprehension of legal ideas.

Lengthy judgments in the judicial system are a serious issue that contributes to delayed justice. The complexity of these judgments, marked by rich legal language and elaborate reasoning, presents a difficulty to both experts and the public in effectively grasping legal concepts. The time-consuming aspect of interpreting lengthy documents impedes speedy justice settlement, burdening both legal experts and clients. Long verdicts exacerbate delays in systems already dealing with case backlogs by requiring additional time for reading and interpretation. This increased term adds to the already overburdened legal system, impeding prompt outcomes. Furthermore, the trend toward excessively extensive decisions can lead to contradictions and uncertainty in case law, making it difficult for legal practitioners to extract unambiguous precedents. To ensure timely justice delivery, there is a need for concise, understandable, and easily available rulings that relieve the strain on an overworked judicial system and expedite the legal process necessary to guarantee the prompt delivery of justice.

Consider this; the purpose of a judgment is to explain the law as clearly as possible, not just to those involved in the legal battle but to the public as well. Good writing should be effortless to read and understand, but lately, this does not seem to be the case. The Supreme Court, as the highest authority in the land, carries the immense responsibility of laying down the law in crystal-clear terms. This clarity is not just a luxury but it is a necessity. It allows other courts to follow suit, ensuring consistency in the legal landscape.

The Supreme Court on Friday issued a notice on an appeal filed by Congress leader Rahul Gandhi against a Gujarat high court order that refused to put on hold his conviction and a two-year jail term in a criminal defamation case, fixing August 4 to hear his plea for staying the guilty verdict. During the brief hearing, the court expressed surprise over the high court's lengthy judgment on the point of staying the conviction. 'We don't understand a lengthy reply in a

matter like this. The Gujarat High Court penned down over 100-page judgment. It's peculiar of the high court to write such a lengthy judgment, observed the bench.⁵

To substantiate the point that recent judgments have become intricate and challenging to comprehend, one can examine specific examples from the Indian legal landscape. In the past, landmark cases like *Kesavananda Bharati* (1973) or *SP Gupta* (1981) produced lengthy judgments, often over 700 pages. Recently, the Supreme Court seems to have engaged in a competition, breaking its records in judgment length. The NJAC judgment (2015) weighed in at 1,042 pages, the Aadhaar judgment (2018) in the Puttaswamy case stretched to a whopping 1,448 pages, and the Ayodhya judgment ran to 1,045 pages.⁶

These examples show the difficulties that long judgments provide in terms of complexity, time commitment, and potential comprehension hurdles. They also serve as proof of the practical ramifications of lengthy decisions. These incidents highlight the necessity of brief and unambiguous legal rulings to guarantee efficient legal principle transmission and prompt administration of justice.

However, what's the real cost of these marathon judgments? The agony of lengthy legal battles, already a burden on many, is only compounded by these convoluted texts. Is it justifiable for the legal system, the supposed custodian of justice, to create such an obstacle course of words? In the pursuit of justice, shouldn't the path be clear, and the words understandable? The readers of these judgments, both legal experts and ordinary citizens, deserve better. The concern is not just about writing records; it is about making the law accessible, relatable, and just. It is about making sure that the law serves the people, not the other way around.

⁵ Utkarsh Anand, 'SC issues notice on Rahul Gandhi's appeal against no stay on conviction' *Hindustan Times* (21 July 2023) <<https://www.hindustantimes.com/india-news/supreme-court-fixes-august-4-to-hear-rahul-gandhi-s-plea-to-stay-conviction-in-defamation-case-101689921222305.html>> accessed 02 November 2023

⁶ Lokendra Malik and Prof Yogesh Pratap Singh, 'Lengthy judgments, unlimited arguments' *Bar and Bench* (29 July 2021) <<https://www.barandbench.com/columns/lengthy-judgments-unlimited-arguments>> accessed 02 November 2023

The question of who has the time and patience to read such lengthy court rulings emerges in the fast-paced world of today. It is a fact that our ability to delve into long documents, whether it has books, articles, or legal judgments, has significantly diminished in the modern era. Even those in the legal field, like lawyers, judges, professors, and law students, whose work revolves around in-depth reading, find it challenging to spare much time for comprehensive reading. Gone are the days when people would spend hours in libraries. Today, the disciples of Google prefer quick, concise, and easily digestible content. With this shift in reading habits, lengthy judgments lead to a superficial understanding, which is perilous for the legal profession.

It is important to recognize that lengthy judgments do not serve any practical purpose. Instead, they tend to create more confusion and introduce inconsistencies in case law. To illustrate, consider the Islamic Academy of Education case in 2003, which led to a five-judge bench attempting to decipher the 11-judge bench judgment of TMA Pai from the same year. The attempt did not yield clarity, and a seven-judge bench in PA Inamdar only resolved the matter in 2005.⁷

Now, the question arises: Why do judges write such lengthy opinions? The Constitution indeed allows each judge to express his or her views, whether concurring or dissenting. However, it is distressing that when judges concur, they often fail to critically engage with the perspectives of their colleagues. In most cases, it becomes challenging to extract the precise legal precedent from the cacophony of differing opinions; it seems as if all judges are saying the same thing.

This situation raises a concerning issue. If the purpose of judgments is to provide clarity and guidance, the current trend of lengthy and sometimes redundant opinions seems counterproductive. It not only complicates the reading process but also muddles the legal landscape. So, the real question remains: Can the legal system afford such a lack of conciseness, especially when the stakes are high and the need for clarity is paramount? This practice should be changed and judges should contribute meaningful understandable and easy judgements.

⁷ *Ibid*

EXAMINING DELAYS THROUGH STATISTICS AND CASE STUDIES

Around the world, people who engage with civil and criminal justice systems, particularly courts, often find themselves frustrated by the seemingly endless time it takes to resolve their legal matters. It's a common sentiment for those caught in the crossfire of lawyers' talks, mounting legal bills, and endless piles of court documents. From their perspective, it feels like their cases before the courts will never see an end. The definition of 'delayed justice' varies across different court systems. If you were to ask different court users about what they consider an excessive amount of time for the courts to resolve specific matters, you would receive a range of responses. The question of what constitutes excessive time remains subjective.

In India, the backlog of cases is quite concerning. A report titled 'Analysis of Causes for Pendency in High Courts and Subordinate Courts in Maharashtra' paints a grim picture of India's slow justice delivery system. In Maharashtra case, pendency has been alarmingly high in recent years, with an increasing trend in the pendency rate of cases since 2003. According to the report, the situation is not much different across India. A considerable number of cases filed in Indian courts remain unresolved for at least five years, a far cry from international best practices. The European Court of Human Rights, for example, rarely considers over five years as a reasonable duration for any court to handle a case. However, in India, thousands of cases have remained unresolved for decades.⁸

On average, among the cases filed in Indian courts, 9% remain unresolved for at least 10 years, 16% remain unresolved for 5 to 10 years, 16% remain unresolved for 2 to 5 years and only 26% are resolved within 2 years from the filing date. These numbers give us a horrific picture of delayed justice in Indian courts. These numbers have been steadily increasing over the years, reaching over 63 lakhs in 2018, up from 43 lakhs. Some Indian states, like Gujarat, Bihar, and Odisha, face particularly severe issues with case pendency. In Gujarat, a staggering 35% to 40%

⁸ Centre for Research & Planning, *Subordinate Courts of India: A Report on Access to Justice* (2016)

of cases remain unresolved for at least five years; these numbers are also reflected in Bihar and Odisha figures.⁹

THE NIRBHAYA GANG RAPE

On December 16, 2012, a 23-year-old woman, a physiotherapy intern, and her friend were brutally assaulted and raped in a moving bus in South Delhi. The incident shocked the nation and led to widespread protests and demands for justice. The victim, who came to be known as Nirbhaya (meaning 'fearless'), succumbed to her injuries on December 29, 2012. All the six men involved in the Nirbhaya rape case, including a juvenile, were convicted by the court. Ram Singh, the bus driver, committed suicide in Tihar Jail during the trial on March 11, 2013. The juvenile offender was tried separately in a juvenile court and received the maximum sentence of three years' imprisonment in a reform facility. In September 2013, the trial court awarded capital punishment to Mukesh, Akshay, Pawan, and Vinay. Subsequently, their review petitions were dismissed. The case saw numerous legal battles, including review petitions and mercy pleas. The delay in the execution of justice is evident from the following statistics. The legal proceedings began in December 2012, and the four convicts were awarded the death penalty in September 2013, almost a year after the heinous crime. The first death warrant for the execution of the convicts was issued on January 7, 2020, more than seven years after the crime took place. The execution was scheduled for March 3, 2020, but the convicts used every legal option available to them, resulting in multiple postponements. The Supreme Court upheld the sentencing verdict on March 20, 2020, marking a delay of over seven years from the date of the crime. The Nirbhaya case serves as a stark illustration of the extensive delay in the Indian legal system. While justice was ultimately served, the prolonged legal process, taking more than seven years to resolve, tested the patience and resilience of the victim's family and the nation at large. Despite the introduction of legal reforms and fast-track courts following the case, this protracted legal battle exposed the challenges and inefficiencies within the system. The

⁹ Dr. V.V.L.N. Sastry, *Justice Delayed and Denied in India* (Idea Publishing 2020)

Nirbhaya case remains a haunting reminder of the urgent need for reforms to ensure more timely and efficient access to justice for all in India.¹⁰

THE SAFDAR HASHMI ATTACK

The case of the brutal attack on theatre activist Safdar Hashmi during a street play in Jhandapur village near Delhi in 1989, and the subsequent trial and verdict, is a striking example of the challenges and delays in the Indian legal system. On January 1, 1989, Safdar Hashmi, a renowned theatre activist, was brutally attacked while performing a street play, 'Halla Bol' in Jhandapur village, near Delhi. The play was part of a campaign supporting Ramanand Jha, a Centre of Indian Trade Unions (CITU)-backed candidate in the Ghaziabad municipal elections. Mukesh Sharma, a Congress-backed 'independent' candidate, was allegedly unnerved by the impact of the play on local workers, leading to the attack. Safdar Hashmi sustained multiple fractures in his skull and brain hemorrhage, ultimately succumbing to his injuries the following day. The trial of the accused in the case spanned 14 years, finally concluding recently. The protracted legal proceedings and delayed verdict are notable. The incident occurred in 1989, and the trial concluded more than 14 years later. The delay in delivering justice is indicative of the challenges and inefficiencies within the Indian legal system. The attack on Safdar Hashmi and the subsequent delay in justice garnered widespread national attention and outrage. It exposed the use of muscle and money power by mainstream political parties to silence opposition. In a powerful act of defiance, the Jan Natya Manch, led by Safdar's widow, Moloyashree Hashmi, continued to perform 'Halla Bol' at the very spot where Safdar was attacked and later succumbed to his injuries. The case of Safdar Hashmi's attack and the delayed justice that followed underscores the urgent need for reforms in the Indian legal system. The verdict, though belated, was welcomed by various political figures and organizations. It serves as a victory for genuine, well-intended politics the pursuit of freedom of expression, and the preservation of

¹⁰ Arjun, 'Nirbhaya case history and Present' (*Legal Service India*) <<https://legalserviceindia.com/legal/article-1788-nirbhaya-case-history-and-present.html> > accessed 04 November 2023

India's pluralistic and composite culture, values that Safdar Hashmi tirelessly championed throughout his life.¹¹

COMPLEXITIES IN COURT PROCEDURES

The courts in India are subjected to a web of lengthy procedures in which a common man gets trapped and eventually becomes a victim of exploitation. While these procedures are established to uphold the rule of law and to ensure fairness, they often create complexities and act as a series of barriers in the path of individuals seeking justice, thereby significantly impeding their access to a timely and efficient resolution of their grievances. Procedural formalities introduce yet another layer of complexity, creating a convoluted network of bureaucratic red tape. Courts mandate precise procedures for filing documents, serving notices, and adhering to stringent deadlines. Those unacquainted with these intricacies may inadvertently miss a crucial step or fail to meet a deadline, resulting in case dismissals or frustrating delays. These complexities further result in the form of a huge financial burden on the parties. Legal procedures come accompanied by associated costs, including court fees, lawyer fees, and expenses related to documentation.¹² These financial burdens often deter individuals from seeking legal redress, leaving them ensnared in disputes without a clear path to justice. The lengthy and vigorous paperwork and voluminous documenting procedures can be quite challenging and thus a significant contributor to red tapism.¹³ As a result of this court delays can further compound the demerits of the judicial system. Further, Language barriers constitute another layer of complexity for those whose first language differs from the official language of the court. This

¹¹ V. Venkatesan, 'Delayed justice' *Frontline* (05 December 2003) <<https://frontline.thehindu.com/social-issues/article30220098.ece>> accessed 04 November 2023

¹² Harish Narasappa 'The long, Expensive Road to justice' *India Today* (09 May 2016) <https://www.indiatoday.in/magazine/cover-story/story/20160509-judicial-system-judiciary-cji-law-cases-the-long-expensive-road-to-justice-828810_2016-04-27> accessed 08 November 2023

¹³ 'Avoid red tape: Karnataka High Court raps officials over case-filing delay' *NDTV* (08 October 2022) <<https://www.ndtv.com/karnataka-news/avoid-red-tapism-hc-raps-authorities-over-delay-in-registration-of-case-3413461>> accessed 08 November 2023

linguistic divide can further hinder their comprehension of the proceedings, making their path to justice even more challenging.¹⁴

THE PLIGHT OF AN UNDERSTAFFED JUDICIARY

As we delve into the intricate connection between a robust judiciary and the rule of law, one thing becomes very clear that, *“A robust judiciary is the guardian of the rule of law; an understaffed one is a liability.”*

Our current system is consistently proving its inefficiency with every passing day, the number of vacant judges' posts in various high courts across the country has been on the rise, which has resulted in significant implications for the ever-mounting backlog of cases. What is particularly concerning is that more than one-third of the 1,079 sanctioned judges' positions in India's 25 high courts are currently vacant. Even the Supreme Court, 'which holds a sanctioned strength of 34 judges', is not immune to this issue, with four vacant posts. The Supreme Court Collegium, responsible for recommending appointments to fill these vacancies, has not made any recommendations since Chief Justice of India SA Bobde assumed office in November 2019. Before the pandemic, there was a marginal decrease in overall vacancies in high courts. However, post the Covid-induced lockdown, the vacancies began to climb again. In January last year, there were 400 vacant judges' positions in various high courts. Though there was a decline in May 2019, this number surged to 420 vacancies in November the same year. While it saw a slight decrease in May this year, with 380 vacancies, it has been on an upward trend since then, currently standing at 404. The primary reason for this increasing vacancy is the apparent delay by high courts in sending names to the Collegium for timely appointments. This delay is placing immense pressure on the justice delivery system, with at least 12 high courts operating with less than two-thirds of their sanctioned strength. Three high courts, namely Patna, Rajasthan, and Calcutta, are dealing with more than 50% vacancy, with the Patna High Court topping the list at a staggering 56.6% vacancy. Examining the data from January 2019 to October 2020, a disconcerting pattern emerges – vacancies in high courts start rising towards the end of a Chief

¹⁴ Anna Harley, 'Language as a Barrier to Justice' (2014) 8 UNSC Law Society
<<https://issuu.com/unswwlwsociety/docs/coc-2014-web-2>> accessed 08 November 2023

Justice of India's tenure, as the pace of judge appointments slows down. This situation not only raises serious concerns about the understaffed state of the judiciary but also poses questions about the efficiency and accessibility of justice for the citizens of India.¹⁵

CRUMBLING INFRASTRUCTURE: THE SILENT CULPRIT OF JUSTICE DELAYED

An extensive nationwide survey initiated by the Chief Justice of India's office aimed to assess the state of Judicial Infrastructure in Trial Courts. According to the survey findings, only 27% of courtrooms in the subordinate judiciary are equipped with computers on judges' dais, and 10% lack proper internet facilities. Additionally, 22% of trial court complexes lack toilet facilities for women, and 16% do not provide this amenity for men. Surprisingly, 620 court complexes still operate from rented premises, and only 54% of all complexes offer basic medical facilities. Despite approximately 24,280 judicial officers in trial courts, there are only 20,143 court halls. Regarding amenities, 55% of surveyed trial courts have a separate room for staff attached to judges, while 54% provide drinking water facilities. Notably, only 55% of courts have centralized filing centres, and 31% have meditation halls. Furthermore, a significant majority of court complexes lack a waiting area for litigants, with only 33% of buildings offering this facility.¹⁶

The Chief Justice of India has expressed that the prioritization of a robust judicial infrastructure for Indian courts has consistently taken a backseat, resulting in their operation within outdated facilities, hindering effective functioning. The infrastructure of the Indian judiciary has not kept pace with the substantial annual influx of lawsuits. This is evident in the statistics, with 24,280 authorized judicial officials nationwide but only 20,143 courtrooms, including 620 rented halls. Moreover, there are just 17,800 residential units for court officials, including 3,988 rentals.

¹⁵ Kanu Sarada, 'Understaffed judiciary: One-third of judges' posts in High Courts are lying vacant' *The New Indian Express* (09 November 2020) <<https://www.newindianexpress.com/nation/2020/nov/09/understaffed-judiciary-one-third-of-judges-posts-in-high-courts-are-lying-vacant-2221262.html>> accessed 04 November 2023

¹⁶ 'Judicial Infrastructure in India' (*ClearIAS*, 10 October 2023) <<https://www.clearias.com/judicial-infrastructure-in-india/#:~:text=Status%20of%20Judicial%20Infrastructure%20in%20India,-An%20all%20India&text=22%25%20of%20trial%20court%20complexes,complexes%20have%20basic%20medical%20facilities>> accessed 03 November 2023

The inadequacy extends to essential facilities, with 26% of court establishments lacking separate women's restrooms and 16% lacking facilities for men. Libraries are available in only 51% of court complexes, and only 32% of courtrooms have dedicated record rooms. Furthermore, a mere 5% of court complexes provide basic medical services. Despite the prevalence of a hybrid form of court hearings—combining physical and videoconferencing modes due to the pandemic—only 27% of courtrooms have computers with videoconferencing capabilities on the judge's dais.

An examination of infrastructure in 12 district courts in New Delhi and the National Capital Region (NCR) has unveiled significant deficiencies in basic amenities like restrooms, guide maps, and ramps for the physically disabled. This underscores the imperative for a more comprehensive discussion on the construction and maintenance of Indian courts. While discussions on access to justice commonly address political, social, and economic factors, considerations of physical access, encompassing comfort and convenience, are often overlooked. Regrettably, the Indian judiciary continues to under analyze the crucial matter of physical infrastructure.

CAN LEGAL AID BRIDGE THE GAP TO ACCESSIBLE JUSTICE?

‘The Poor man looks upon the law as an enemy, not as a friend. For him the law is always taking something away.’

- Attorney General Robert Kennedy, Law Day Speech, May 1, 1964.¹⁷

The efficacy of the legal aid system in India has been compromised for several reasons. Primarily, the National Legal Services Authorities struggle to provide meaningful legal aid due to widespread unawareness of its availability. Additionally, there exists a perception that free legal services compromise quality, and the insufficiency of lawyers provided by legal services

¹⁷ Sripriya T. ‘Legal aid and awareness in India: Issues and challenges’ (*Legal Service India*) <<https://www.legalserviceindia.com/legal/article-82-legal-aid-and-awareness-in-india-issues-and-challenges.html>> accessed 08 November 2023

authorities, combined with the general disinterest of lawyers due to financial constraints, further hampers the delivery of competent legal assistance.

Compounding these issues is the alarming lack of fidelity by lawyers assigned to offer legal aid, raising doubts about the credibility of the system meant to assist the marginalized. Some lawyers, compensated with public funds, engage in unscrupulous practices, including withholding clients' cases through delay tactics and extorting additional payments, contrary to the supposed funding by the legal aid committee. This situation may be exacerbated by the meagre remuneration provided to lawyers, which often fails to cover incidental expenses.

An additional impediment to the legal aid movement is the inefficiency of the delivery system. To address these challenges, it is crucial to encourage more lawyers to participate in providing free legal aid and launch a comprehensive awareness campaign about the existence of free legal assistance. Without public awareness of their legal rights, vulnerable populations remain susceptible to exploitation, denying them the rights and benefits afforded by law. Therefore, the success of the free legal aid system hinges on heightened awareness and more efficient delivery mechanisms.

For the legal aid movement to fulfil its objectives in India, the government must undertake a proactive campaign to educate the public about their entitlement to free legal aid. Additionally, implementing more streamlined processes, including increased compensation for legal aid lawyers, is essential. In the absence of such measures, the constitutional right to free legal aid remains ineffectual.¹⁸

THE URGENT NEED FOR REFORMS AND PROPOSED SOLUTIONS

In the world's largest democracy, the pursuit of justice is no mere legal process; it's a fundamental right enshrined in the soul of the nation. The Indian Constitution places 'justice – social, economic, and political' at the pinnacle of its principles. Yet, the reality on the ground tells a different story. Justice delayed, as the saying goes, is justice denied, and in India, the

¹⁸ *Ibid*

courts are grappling with a growing backlog that threatens to undermine the very essence of justice. As of September 15, 2021, a staggering 4.5 crore cases were pending across all Indian courts, with district and subordinate courts carrying the heaviest load. To put this into perspective, in just two years, India added 23 cases every minute to its backlog. Even the Supreme Court of India is not immune, with 71,411 cases pending as of August 2, 2022. Of these, 56,365 are civil matters and 15,076 are criminal matters. The situation is undeniably serious and concerning, and it demands immediate attention and action. A range of systemic issues that contribute to this backlog burdens the judiciary. These include the government itself is a significant litigant. Poorly drafted orders have led to contested tax revenues and projects stalled due to court injunctions. The government must step up in addressing this issue. The judiciary's budget receives a mere 0.08-0.09% of the GDP. This paltry allocation hampers the efficient functioning of the courts. India faces a severe shortage of judges, which contributes to delays. Even when judges are appointed, their competency and efficiency are often in question. Frequent adjournments, sought by advocates often without valid reasons, obstruct the judicial process. This habit leads to unnecessary delays.¹⁹

Courts suffer from a lack of support staff, further slowing down proceedings. Frequent legislative amendments complicate the legal landscape, creating more loopholes and increasing the burden on the judiciary. To combat the backlog and ensure swift justice, a series of reforms are essential. Government rules and regulations should be clear, thorough, and well drafted to minimize legal disputes. Given India's population, more courts and judges are necessary to address the increasing caseload. Excessive adjournments should be discouraged, and adjournments must only be granted for valid reasons. The judicial system's efficiency can be improved by addressing issues within lower courts. This includes providing better court facilities and increasing staff, encouraging and facilitating mediation and ADR to ease the burden on the courts and expedite case resolution. India's struggle with a backlog of court cases spanning six decades is a critical issue. It is not just a legal problem; it is a crisis that undermines public trust. Comprehensive reforms are urgently required to restore faith in the judiciary. The

¹⁹ 'Pendency and Vacancies in the judiciary' (PRS Legislative Research) <<https://prsindia.org/policy/vital-stats/pendency-and-vacancies-in-the-judiciary>> accessed 05 November 2023

establishment of fast-track courts for specific types of cases, like sexual offences, is a step in the right direction, but it's only one piece of the puzzle. Swift justice is a complex challenge that demands a multifaceted solution. The question remains: Can India's legal system evolve to deliver justice without delay and in a way that's comprehensible to every citizen? The answer must be found in a concerted effort to reform the system and ensure that justice prevails, not as a delayed promise, but as a swift reality.²⁰

In the grand theatre of justice, a script rewrite is overdue; let us explore some of the most feasible solutions -

Mitigating Government Litigation: One of the most important steps in expediting the legal system is addressing the large amount of government litigation. Through the promotion of order drafting precision, the reduction of disputed tax collections, and the prevention of project delays caused by court injunctions, the government may drastically minimize its legal footprint and speed case settlement.

Amplifying Judicial Budget: A strong financial foundation is essential to any functioning legal system. Increasing the funding allotted to the court is an investment in the quickness and effectiveness of the legal system, not just a financial one. More funding will enable the courts to modernize facilities, hire qualified support staff, and integrate technology, ushering in a new era of efficient court procedures.

Tackling Judge Shortage: The lack of judges is a severe problem that necessitates a multifaceted solution. As important as it is to have more judges, it is just as important to make sure they are competent and effective. High-quality appointments that meet strict standards would strengthen the judiciary and increase its efficacy as a tool of justice.

Curbing Excessive Adjournments: Time is of importance while pursuing justice. The practice of requesting adjournments without good cause has proven to be problematic. Strict policies

²⁰ Michael Owsley, 'Understaffed and overwhelmed: The impact of court staffing shortages' (*VIQ Solutions*, 17 August 2023) <<https://vigsolutions.com/media-center/understaffed-and-overwhelmed-the-impact-of-court-staffing-shortages/>> accessed 05 November 2023

that prohibit frequent adjournments are the answer. To ensure that cases go forward quickly, courts must take on the role of gatekeepers, permitting adjournments only for legitimate and compelling reasons.

Empowering Lower Courts: The strength of a system's subordinate courts is the cornerstone of its overall strength. We pave the way for a more effective and responsive legal hierarchy by strengthening the infrastructure of subordinate courts, adding additional support workers, and improving facilities.

Embracing Mediation and ADR: In the spirit of innovation, the broad use of alternative dispute resolution (ADR) procedures might be advantageous for the legal environment. Promoting mediation and other peaceful channels of dispute settlement can reduce the volume of cases the courts handle, freeing them up to handle more complex cases.

Crafting Clear Rules and Regulations: Ambiguity in laws and regulations sometimes lies at the core of legal conflicts. Legislative clarity is a need, not just a desirable goal. By giving top priority to the development of clear, thorough legal frameworks, the government may reduce uncertainty and the number of instances that result from ambiguous legislation.

The legal stage transforms as solutions take charge, promising a new era of swift and accessible justice. It is the end of delays, and justice steps into the spotlight.

THE PRICE OF DELAYED JUSTICE

In the landscape of judicial failure, these real-life cases paint a stark picture of the consequences of delayed justice, highlighting the suffering and frustration experienced by those caught in the web of legal complexities. The Bhopal Gas Tragedy's survivors waited for years for a semblance of compensation and closure and even after 37 years since the tragedy, the victims do not have justice while the third generation is suffering from the consequences of the disaster.²¹ The

²¹ Jamal Ayub, '37 Years on, Bhopal Gas Victims Wait for Justice' *The Times of India* (03 December 2021) <<https://timesofindia.indiatimes.com/city/bhopal/37-years-on-bhopal-gas-victims-wait-for-justice/articleshow/88062037.cms>> accessed 08 November 2023

Nirbhaya case exposed a system where justice for the heinous crime seemed distant, testing the patience of the victim's family and the nation.²² The Hashimpura Massacre and the 1984 Anti-Sikh Pogrom revealed a judiciary that struggled to hold perpetrators accountable, leaving survivors without a sense of justice.²³ Custodial deaths and anti-corruption cases exposed the challenges of bringing the powerful to account.²⁴ Environmental litigation and land disputes underscored the toll of delayed decisions on communities and the environment.²⁵ Child custody battles displayed the emotional turmoil that prolonged legal processes can inflict on the most vulnerable. These cases beg critical questions: How do we measure the true cost of delayed justice? What reforms are needed to expedite legal processes and provide swifter resolution? Can a legal system that allows such delays ever truly serve the cause of justice and the well-being of its citizens? As we delve into these real-life scenarios, the urgency for a more efficient and equitable legal system becomes all the more evident, reaffirming the need for change and the pursuit of a more just society.

THE LEGAL SYSTEM'S RELUCTANCE TO MODERNIZE

We are living in the 21st century, in an era of artificial intelligence and rapid digitalization but our legal system is still stuck in the 19th century. We are still relying on age-old practice of storing case information in the form of digital files, documents, records etc. When will this incompetent tradition change? The persistent reliance on physical files and paperwork within the Indian legal system is a concerning issue that continues to hinder the efficiency and effectiveness of the country's judiciary. As the rest of the world advances into the digital age, Indian courts grapple with inefficiencies, space constraints, and environmental implications associated with extensive

²² Soibam Rocky Singh, 'Nirbhaya Case: Delayed Execution of Convicts' *The Hindu* (16 March 2020) <<https://www.thehindu.com/news/cities/Delhi/delayed-execution/article31077434.ece>> accessed 08 November 2023

²³ Mahtab Alam, 'Hashimpura: Justice Denied 30 Years and Counting' *The Wire* (22 May 2017) <<https://thewire.in/communalism/hashimpura-justice-denied>> accessed 08 November 2023

²⁴ Sankar Sen et al., 'CUSTODIAN DEATHS IN INDIA - A RESEARCH STUDY' SVP National Police Academy <https://www.svpnpa.gov.in/images/npa/pdfs/CompletedResearchProject/14_custodiandeaths.pdf> accessed 08 November 2023

²⁵ Dr. Ashutosh Mishra and Dr. Prakash Tripathi, 'Environmental justice: A new challenge to the developing India' (2023) 18 Skybold Report <https://www.researchgate.net/publication/370022844_ENVIRONMENTAL_JUSTICE_A_NEW_CHALLENGE_TO_THE_DEVELOPING_INDIA> accessed 08 November 2023

paperwork. The sheer volume of case files not only burdens the system but also poses a significant challenge to the transparency and accessibility of legal proceedings.²⁶ Moreover, in an era marked by technological advancements, the failure to modernize document management practices is increasingly seen as a missed opportunity to expedite justice, reduce costs, and improve the overall legal experience. Embracing digital solutions in Indian courts is not just a matter of convenience but a crucial step toward a more efficient and transparent justice system. Is the generation gap that the current judges and senior advocates hold a reason for this reluctance? This divide, marked by differences in technological familiarity and approach, has created a reluctance to embrace contemporary digital solutions. While younger generations may be more capable of leveraging technology to streamline legal processes, many judges and senior advocates still adhere to traditional, paper-based practices. This disconnect can impede the adoption of modernization initiatives, hampering the legal system's efficiency and ability to keep pace with the digital era. Bridging this generation gap and fostering a culture of openness to technological advancements is crucial for the Indian legal system to evolve and meet the demands of the 21st century effectively.

FROM JUSTICE TO BUSINESS

This alarming transformation of law has been a great cause of concern, especially for the middle class of society. The legal profession, once revered as the vanguard of justice, is undergoing a profound transformation in India. In an era where the pursuit of justice intersects with profitability, the senior advocates, often referred to as 'class 1' seniors, are setting price tags on their services that stagger the imagination. For a single appearance in the Supreme Court, clients may be required to shell out between ₹5 lakh and ₹7 lakh, depending on the advocate of choice. The legal luminary Ram Jethmalani, though in his nineties, commanded exorbitant fees, with a case's price tag soaring to ₹25 lakh when his name was attached to it. However, it is crucial to note that Jethmalani, among others, takes on pro bono cases and appears selectively, often only handling a few cases each week. In this league of high-priced legal practitioners, the likes of

²⁶ Kem Choi, 'Common Legal Document Management Problems and Solutions' (*Record Nations*, 09 May 2023) <<https://www.recordnations.com/blog/legal-document-management-problems-solutions/>> accessed 08 November 2023

former finance minister P. Chidambaram, former Rajya Sabha member Fali S. Nariman, former law minister Kapil Sibal, Congress politician Abhishek Manu Singhvi, and Harish Salve, a London barrister, all feature prominently. Their fees, which can range between ₹6 lakh and ₹15 lakh, are not static but subject to variations influenced by factors such as case complexity, interest level, client relationships, and the day of the week a case is scheduled to be heard. This unfolding scenario underscores a concerning shift where the law has increasingly transformed into a profitable business, raising pertinent questions about accessibility to justice and the evolving ethos of legal practice.²⁷

WAY FORWARD

In light of the future, the paper suggests a concrete plan of action to deal with the difficulties brought about by the changing legal practice environment in India. Above all, it is imperative to make a determined effort to digitally alter legal procedures. Using contemporary technology may greatly improve productivity and cut down on delays in case management, document processing, and communication. Comprehensive training programs should be implemented alongside this shift towards digitalization to guarantee that all legal practitioners, regardless of seniority, have the requisite technology capabilities.

Standardized and clear fee structures are also desperately needed. Setting limits on legal fees can help create a more accessible and equal judicial system, particularly for well-known advocates. Alongside this, there should be a focus on pro bono work, encouraging seasoned advocates to lend their knowledge to causes that benefit the general public.

In addition, encouraging knowledge-sharing and mentorship programs can aid in bridging the age divide in the legal profession. Through collaboration, expertise and creativity are brought together to create a more innovative and well-rounded legal practice.

²⁷ Prachi Shrivastava, 'How much do Delhi's top advocates charge?' *Mint* (16 September 2015) <<https://www.livemint.com/Politics/BvOZE6z7Oyl6LiHZxWVlZL/How-much-do-Delhis-top-advocates-charge.html>> accessed 05 November 2023

The path forward essentially entails a calculated fusion of pro bono work, fee structure modifications, technology integration, and intergenerational cooperation. These actions will help the Indian legal system develop into a more ethically sound, effective, and approachable organization that better meets the demands of the country's varied population.

CONCLUSION

In India, the legal system is notorious for its lengthy proceedings, which pose serious obstacles and unfavourable outcomes. The cases we have studied, especially those involving the Nirbhaya case and the Bhopal Gas Tragedy, eloquently demonstrate the serious issues connected to postponed justice. In addition to causing great hardship, this drawn-out process undermines public confidence in the judicial system and increases people's sense of injustice and annoyance.

This raises an important question: Is it possible for a society to be just and flourish when the pursuit of justice takes an unduly long time? The effects of postponed justice go far beyond financial ones; they affect people's perceptions of their environment and social interactions on a fundamental level. It is critical to investigate ways to improve the speed, simplicity, and accessibility of the legal system for everybody. Justice ought to inspire hope and act as a catalyst for constructive social change rather than being a cause of frustration.

These real-life stories highlight the fact that justice is more than just following the law; it also involves wider ideas about morality and societal norms. A judicial system that places a high priority on justice, promptness, and responsibility to the people it serves is essential to the future prosperity of our country. The time is right for group action, demanding revolutionary reforms to guarantee that the wheels of justice spin quickly and fairly. Let this serve as a clear signal to start a reform journey so that everyone in our society may experience the pursuit of justice as a practical reality and as a common desire.

As we embark on this reform journey, we must never forget that justice is really about our shared commitment to a legal system that is a bastion of fairness and trust. Together, let us advocate for a future in which justice is a journey that empowers and elevates every member of our varied community rather than merely a destination.