



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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LEGAL ARTICLE ON

JUSTICE DELAYED IS JUSTICE DENIED: PENDENCY OF CASES AS A VIOLATION OF FUNDAMENTAL RIGHTS UNDER THE INDIAN CONSTITUTION

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Abstract

The Indian judiciary has been one of the biggest working judicial systems, which remains an essential organ of the Indian democracy. The Indian judiciary is burdened with more than 5.25 crore pending cases, according to the IJ Report, 2025, whereas the judge- to-population has fallen to 15 per 10 Lakh persons. These numbers have been worsening, as the judicial institutions are not capable of keeping pace with the growing population. Whereas these huge numbers lead to the delay of more relevant and genuine cases, which get buried under their burden. The delay in hearing and trials straightaway violates the person's right to a free and fair trial under *Article 21*. The Article delves deeper into the same issue, statistically backing the causes, discusses the various aspects of the issue, how it violates fundamental rights of people, what is the root cause behind this problem, and how it can be resolved. This article studies the issue with an analytical and doctrinal research of the constitutional provisions and relevant institutional realities. This article aims to establish the legitimacy of the 'right to free trial', as held and expounded in the case of *Hussainara Khatoon, Abdul Rehman Antulay*, etc. It also focuses on the decisional delay not just as a mere administrative flaw of an institution, but as a violation of constitutional rights. The root causes behind the issue are both structural and procedural. This problem has been acknowledged by the judiciary, but the existing resolutions lack the capacity to meet present needs. The article

argues around the broader implications of the delay and pendency of the cases, which present a stark contrast to the protection and aspirations enshrined in the Constitution.

Keywords: Judicial Delay, Right to Speedy Trial, Pendency, undertrial prisoners, Access to Justice, Article 21.

Introduction

One of the most basic and rudimentary anticipatory presuppositions from the judiciary is the delivery of justice, but the maxim “Justice delayed is justice denied”, as quoted by *William Ewart Gladstone*, adds “time” as an important factor for justice, reinforcing time as an essential. Justice shouldn’t just be fair and impartial, but it should also be prompt and well-timed. In India, the judiciary is considered a “temple of justice”, as they are the ultimate abode of justice and fairness and the ultimate resolution platform. But the biggest shortcomings of the Indian Judiciary are the delay in the litigation process. According to the *National Judicial Data Grid (NJDG)*, as of 2025, there are an estimated 5.25 crore pending cases throughout the country.¹ of which 76% are still in the undertrial stage, and more than 12% of the total cases have been dragging on for more than a decade.² In the Honorable Supreme Court, the number of pending cases has increased to 94, 069 as of 2026.³ The *245th Report of the Law Commission*, published in 2014, headed by Justice A.P. Shah, titled “Arrears and Backlog: Creating Additional Judicial (wo)manpower,” also discussed the same issue and acknowledged the chronic backlog of cases as a tenacious logjam, disrupting the judicial capacity.⁴ In recent years, the judge-to-population ratio has been reduced to 15 per 10 lakh people; all these numbers present a worsening picture of the deteriorating judicial system.⁵ This flaw is acknowledged by the Indian judiciary itself, and as an attempt to resolve it, the court has expanded the scope of **Article 21** to include the right to speedy trial as a part of the right to life.⁶ There are many reasons behind this issue, both structural and theoretical, which include

¹ *National Judicial Data Grid*, eCourts Servs., <https://njdg.ecourts.gov.in> (last visited May 24, 2026)..

² Nat'l Crime Recs. Bureau, Ministry of Home Affairs, *Prison Statistics India 2023* (2024), Tata Trusts, *India Justice Report 2025* (2025), <https://indiajusticereport.org>

³ *Supreme Court National Judicial Data Grid*, <https://scdg.sci.gov.in/scnjdg> (last visited May 24, 2026).

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

⁵ Tata Trusts, *India Justice Report 2025* (2025), <https://indiajusticereport.org>.

⁶ *Hussainara Khatoun v. State of Bihar*, (1980) 1 SCC 81 (India)

administrative loopholes, structural defects, manpower, legal loopholes through which cases are dragged on for years, and so on. The list includes both practical and discretionary defects.

Looking at the statistics, the legal maxim practically doesn't stand true in the Indian setting, owing to the shortcomings of the Indian judicial system, which seems inconsistent. This article delves deeper into the issue of pendency of cases, how it hinders people's rights, and how this situation shall be handled with a more responsible and reformatory approach.

The Constitutional Framework

The Constitution of India, reflects the idea of justice very intricately in every thread of it. The **Preamble** establishes Justice as an underlying principle of the democracy India aspired to at the time of its independence. It aims to establish a fair, democratic, and republic Nation, which shall secure and provide all kinds of justice to its citizens, social, economic, and political. This is the moral foundation and baseline for the judiciary and its institutions.⁷ Apart from the Preamble, several other articles reflect the same spirit. The judiciary has also expanded the scope of several articles to give primacy to the idea of justice. All these reflections aren't just mere dead words, but they establish justice as a foundational and supreme goal of the judiciary.

Article 21 provides the right to life and personal liberty, which cannot be curtailed except by the procedure established by law.⁸ During the early years of the independent judiciary, the law was interpreted in the literal sense, which narrowed down its scope. As we have seen in judgments like ***A.K. Gopalan***, the law was strictly bound within the literal boundaries. It was repeatedly held by the court that "procedure established by law" would mean any procedure/ law established by the authorities.⁹ Later, the case of ***Maneka Gandhi v. Union of India, 1978***, brought a liberalistic interpretation to Article 21, where the Supreme Court significantly expanded the scope and held "due process of law" to be an integral part of Article 21. It also established that 'any law/ procedure, which deprives people of their rights, shouldn't be arbitrary, it must be reasonable, fair and just.' The Supreme Court has been extensively expanding the scope of ***Article 21***. It now covers all broad arenas of life and personal liberty.¹⁰

⁷ INDIA CONST. pmb1.

⁸ INDIA CONST. art. 21

⁹ *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

Article 14 provides that the State shall not deny equality before law or equal protection of the laws to any person within the Indian territory.¹¹ The Supreme Court in the case of *Anita Kushwaha v. Pushpa Sadan* held that Article 14 also includes “access to justice” as an essential part of it; without guaranteed access, “equality before law” isn’t fruitful, it’s just a mere promise.¹² Whereas these delays in hearing bring a lot of difficulties for the poor, who cannot have access to other remedies. This economic disadvantage then leads to challenges and poor support in the litigation processes. Hence, through those reasons, their right to equality is also breached.

Apart from fundamental rights, **Article 39A** mandates the State to direct policies towards providing “Equal justice and free legal aid”, by formulating legislation or schemes. No person shall be denied justice because of their economic or other disabilities.¹³ It was inserted after the *Hussainara Khatoon v. State of Bihar*, to operationalize the verdict.¹⁴ **Articles 32 and 226** provide the right to constitutional remedies. In breach of people’s rights, they are bestowed with the power to approach the court either to the Supreme Court under Article 32, or they can move to the High Court, through Article 226.¹⁵

These aren’t just sheer articles; they have been applied in real life, and courts have used these opportunities to expand the pursuit of justice. Through their verdicts, courts have delivered justice by applying these provisions into reality for the betterment of society.

Right to Speedy Trial as a Fundamental Right

As we discussed the expansion of articles and their scope, the most exemplary article that has been the most transformative is Article 21, which has been expanded to include almost all the facets of life and liberty. The discussion around trials aroused from the *Hussainara Khatoon v. State of Bihar 1979*, where these concerns were discussed. The Bihar Jails were full of thousands of undertrial prisoners, who have spent years in the withering prison, some have spent years often exceeding the maximum sentence for the alleged crimes. These prisoners didn’t have access to economic resources and legal support; hence, they couldn’t afford remedies. The Supreme Court

¹¹ INDIA CONST. art. 14

¹² *Anita Kushwaha v. Pushpa Sadan*, (2016) 8 SCC 509

¹³ INDIA CONST. art. 39A

¹⁴ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81

¹⁵ INDIA CONST. arts. 32, 226

took the PIL very seriously and even used this opportunity to expand the purview of Article 21. The court held that speedy trials are an important element of the Right to life and Liberty. The poor and economically disadvantaged cannot afford proper and efficient legal support, which is an implicit part of Article 21. This case also gave rise to reforms in the judicial and administrative systems. The verdict established '*right to speedy trial*' and '*right to free legal aid*' as a part of Article 21.¹⁶

Later, with the case of *Abdul Rehman Antulay v. R.S. Nayak, 1992*, the court expanded upon the 'right to speedy trial' as a fundamental right under Article 21. It held that a speedy trial must be applicable at all stages, even in criminal proceedings. It also expounded upon the factors for the breach of the same right, which are: length of delay, the accused's assertion, reason for delay, and prejudice against the accused. It concretized the right, providing a more practical and pragmatic framework.¹⁷

P. Ramachandra Rao v. State of Karnataka, 2002, it was held that to protect the accused's right to speedy trial, the court can devise, invent, or enact bars of limitation, if it is causing disproportionate or immoderate delay in the proceedings. This should be decided on a case-by-case basis, depending on the factual matrix rather than a blanket rule.¹⁸

Later, in *Imtiyaz Ahmad v. State of Uttar Pradesh, 2012*, the court reiterated its strict stance. It held that delay raises concerns for the public authorities, and it is the State's obligation to provide speedy justice. The court also acknowledged the urgency to increase the number and strength of judges.¹⁹ This marks the shift in the court's approach from individual rights to institutional reforms.

Now, the question arises, if the judiciary has been so focused on the right to speedy trial, why, in reality, has it not been enforced, and there still remains an enormous gap between the reality and theoretical stance of the court.²⁰

Root Causes of Judicial Delay

¹⁶ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81

¹⁷ *Abdul Rehman Antulay v. R.S. Nayak*, (1992) 1 SCC 225

¹⁸ *P. Ramachandra Rao v. State of Karnataka*, (2002) 4 SCC 578

¹⁹ *Imtiyaz Ahmad v. State of Uttar Pradesh*, (2012) 2 SCC 688

²⁰ Surya Deva, *The Right to a Speedy Trial in India: A Mirage or Reality?*, 47 J. Indian L. Inst. 394 (2005).

The reasons behind these delays and pendency of cases include both institutional loopholes and procedural complexities. Statistically, as of now, roughly 21 judges are adjudicating per million people in India, whereas in order to resolve the current pending cases and to keep pace with the current population. More than 25% posts are vacant in the high courts throughout the country. Apart from the litigation tactics used by the lawyers, the cases are also dragged out for years.²¹ Fake and frivolous cases clog the system, because of which the genuine cases are often delayed, and eventually they are buried under the burden. The power of ‘adjournment’, under **section 346 BNSS, 2023**, allows the courts to postpone hearings.²² This power is often invoked inappropriately, even for inconsequential and trifling matters. Although this is a statutory limitation for this, under **Order XVII CPC**, it allows a maximum of three adjournments for civil suits.²³ Even the judiciary tried to step in to prevent misuse of adjournments, it directed guidelines specifically for this issue in the case of **Salem Advocate Bar Association v. Union of India, 2005**.²⁴

There are also institutional and structural reasons. Most of the buildings and infrastructure where the judiciary operates were built in the colonial era; hence, it has space limitations. It isn’t proportionate according to the current population.²⁵ The internal management, which includes the staff, isn’t well-equipped with proper instructions. The judiciary is the only institution that is considered the last institution to adopt technology. The latest technological advancements have still not reached the threshold of these institutions; there is no proper record-keeping system, and it basically still runs on manual labor.²⁶

Some of these problems could be resolved within an acute period of time, whereas structural and institutional challenges can be addressed through gradual changes. In the eventuality, all these problems are solvable and can be resolved. One can overcome or skip these issues and delays, depending on the influence and other extra-judicial influences, or by hiring efficient legal support.

²¹ India Justice Report 2025

²² Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, § 346

²³ Code of Civil Procedure, No. 5 of 1908, Order XVII, Rule 1

²⁴ *Salem Advocate Bar Ass'n v. Union of India*, (2005) 6 SCC 344

²⁵ DAKSH India, *A Data-Driven Approach to Judicial Reforms* (2016)

²⁶ Ctr. for Research & Planning, Supreme Court of India, *State of the Judiciary: A Report on Infrastructure, Budgeting, Human Resources* (2023).

The poor and disadvantaged sections of society are the one who suffers the most, and they are often caught in this vicious cycle.²⁷

Reforms

This problem has been acknowledged by the State, and even many initiatives towards its resolution have been taken. After the gruesome and heinous Nirbhaya Case, many *Fast-Track Courts* were established, especially for POCSO and cases related to sexual offences.²⁸ It has actually made a difference in the numbers. *Lok Adalats*, as an alternative dispute resolution system, have been established for a more amicable settlement of disputes. Under the *Legal Services Authorities Act 1987*, it has also performed well, disposing of crores of cases; it mostly resolves pre-litigation matters.²⁹ *Alternative Dispute Resolution (ADR)* has recently gained a lot of popularity, mainly in the commercial sectors. People are shifting towards confidential and faster resolution, informally called 'out of court settlement'. Authorities such as Arbitration, Mediation, Negotiation, etc., too, have become quite relevant.³⁰ The Mediation Act, 2023, also encourages the same, while detaching the dispute resolution systems from the court.³¹

Apart from these existing reforms, more reformist policies need to be inculcated into the system. There needs to be a specific time frame, as a limitation for disposal of cases; these should be legislated regulations rather than moral responsibilities. There should be regular appointment checks. There needs to be a fixed structure and system ensuring the timely and prompt appointment of judges, rather than ad hoc appointments. The number of judges and infrastructure needs to be enlarged, and more judges shall be appointed to fasten judicial process. More specialized tribunals need to be brought to tackle cases dealing with technicalities. There needs to be a separation of cases; the older ones and the fresh cases need to be segregated and handled differently with different approaches. The judiciary needs to adopt technological advancements for the ease of

²⁷ Shubhankar Dam, *Judicial Delays and Access to Justice in India: An Analysis of Structural Causes*, 9 NUJS L. Rev. 23 (2016).

²⁸ *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1

²⁹ Legal Services Authorities Act, No. 39 of 1987 (India)

³⁰ Arbitration and Conciliation Act, No. 26 of 1996 (India)

³¹ Mediation Act, No. 32 of 2023 (India)

manual labour; it would help in record-keeping, scheduling, etc. It should be inculcated in the system for the ease of the existing burden.

These reforms shall be aimed at bringing more transparency and efficiency to the system. The system needs to be upgraded and shall be modified to meet the needs of the present generation.

Conclusion

The constitution has ensured the judiciary with the power to give justice, but all these shortcomings and vulnerabilities create huge obstacles against that promise of security of justice. Delay in judicial decisions is not just an administrative delay, but it is also a direct violation of people's right to life and liberty under Article 21. The poor and disadvantaged sections of society are the biggest sufferers of these problems, but they are caught in a vicious cycle of these shortcomings. Unfortunately, owing to these vulnerabilities in the system, people are losing faith in the judiciary as the guardian of people's rights. These are procedural, institutional, and structural loopholes, but they can be resolved through gradual changes, with the right direction and proper framework. Justice has been one of the very foundational principles of Indian democracy, as envisioned by the constitution framers, too. The judiciary needs to embrace reforms and upgrade itself to stay relevant in the present times.