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THE HUMAN COST OF DELAYED JUSTICE IN INDIA

- Prabhleen Kaur

INTRODUCTION

The phrase "Justice delayed is justice denied" is often attributed to Chief Justice Warren Burger of the United States Supreme Court. Although spoken in a different context, the sentiment resonates strongly with the challenges facing the Indian judicial system today. After decades, what is even more concerning is the growing judicial backlog in India. Of the more than five crore pending cases, the vast majority were pending before district and subordinate courts, while lakhs of cases remained unresolved in the High Courts and the Supreme Court.[1] This is not a number, it means something. The number means a person. A person is waiting, worrying, and most often, paying a price they did not agree to.

THE SCALE OF THE PROBLEM

Let's put the pending cases in the Indian judiciary in context. Of the five crore pending cases, roughly, 1.82 lakh were with the Supreme Court, more than 62 lakhs were in the different High Courts, and the rest, the majority of them, were in the district and the subordinate courts.[2] Many

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[1] National Judicial Data Grid, *Pending Cases Statistics* (Dec. 2023)*, https://njdg.ecourts.gov.in*

[2] Supreme Court of India, *Annual Report 2022–23 (2023); National Judicial Data Grid,* supra note 1.

of these cases have been in the courts for over a decade. The National Judicial Data Grid shows that close to 1.7 crore cases have been in courts for more than five years.[3] For the average person, this wait does not just mean that they lose money, it can mean a lost family, a whole life ruined, and is totally irreparable.

There are several and many complex reasons for this growing judiciary pendency. India has about 21 judges per 10 lakh citizens and has one of the most disadvantaged judge-to-population ratios in the world.[4] The Law Commission of India recommended a judge-to-population ratio of 50 judges per 10 lakh citizens in 1987.[5] The recommended ratio has yet to be achieved. In combination with unnecessary delays and an inefficient system that prolongs cases rather than resolving them, we can start to understand why simple cases can take several years to resolve.

WHO REALLY PAYS THE PRICE?

The human stories behind the delays in resolving cases are often neglected. Among those most affected by judicial delays are undertrial prisoners. According to the Prison Statistics India 2022, undertrial prisoners represented approximately 75.8% of the total number of prisoners.[6] Many have been in custody for so long that they have effectively served sentences for crimes they were never convicted of. They lose years of their lives, and suffer the dissolution of their families and the loss of their jobs, all because the system has failed to find the time to resolve their case.

The Supreme Court in Hussainara Khatoon v. State of Bihar[7], regarded the right to a speedy trial as being a fundamental right that is guaranteed by Article 21 of the Constitution. The court's

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[3]. *National Judicial Data Grid,* supra note 1 (cases pending over five years).

[4] Law Commission of India, *Arrears and Backlog: Creating Additional Judicial (wo) manpower,* Report No. 245, at 3 (2014).

[5] Law Commission of India, *Manpower Planning in Judiciary: A Blueprint, Report No.* 120, at 7 (1987).

[6] Nat'l Crime Records Bureau, *Prison Statistics India 2022*, at 38 (Ministry of Home Affairs 2023).

[7] *Hussainara Khatoon v. State of Bihar,* (1980) 1 SCC 81

observations were indeed powerful. Yet, in the several decades that have passed, the position on the ground has remained almost unchanged. Undertrial prisoners who are unable to procure bail or a competent lawyer are condemned to a perpetual cycle of remand and postponement.

The situation for civil litigants is different, but the negative effects are also equally significant. The protracted resolution of land disputes prevents families from selling land, accessing credit, and making decisions regarding the use of land. Prolonged disputes erode confidence in business. Delays in matrimonial disputes may prolong situations of economic, emotional, or domestic hardship.The psychological cost of anxiety, frustration and uncertainty mean the right to a timely resolution is illusory. Courts can do nothing to mitigate these costs when they finally reach a conclusion.

WHAT HAS BEEN DONE — AND WHAT HASN'T

The state has attempted to solve the issues. Fast Track Courts and Lok Adalats were introduced to expedite dispute resolution and reduce case backlogs. The eCourts Mission Mode Project is an attempt at sincerely reducing the backlog of cases.[8] The enactment of the Gram Nyayalayas Act, 2008, appears to take justice to the rural population. In the Code of Civil Procedure, 1908, diversion of cases to mediation and arbitration in Section 89 demonstrates an effort to reduce the burden on courts.

The efforts that have been made are inadequate. Gram Nyayalayas, which were intended to bring justice closer to rural communities, have largely remained ineffective in practice. Mediation is a misunderstood and underdeveloped area. Vacancies in the courts remain unfilled for years. The All India Judges' Association v. Union of India[9] case has been a landmark case as the Supreme Court was to compel the government to fill judicial vacancies, however, persistent vacancies continue to pose a challenge despite judicial directions. It appears that the lack of a solution is the least of the problems facing the state.

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[8] Ministry of Law and Justice, *eCourts Mission Mode Project: Phase III Policy & Action Plan* (2023).

[9] *All India Judges' Ass'n v. Union of India,* (2002) 4 SCC 247 (India).

A STUDENT'S PERSPECTIVE

As I reflect on my three years in law school studying case law, critique, and constitutional theory, one principle stands above the rest: enforcement gives the law meaning. A legally correct and well-reasoned judgment may be timely and correct from the perspective of the law, but it may still let down the person in the greatest need of enforcement.

The existence of a court is not equivalent to justice. Courts' ability to serve the litigants defines the existence of justice. When courts do not exist and a widow is not awarded access to her late husband's estate for fifteen years, or when a first-time entrepreneur's business deteriorates while awaiting a decision from the Court of Commerce, the law is not just; it has failed.

This is more than just a good will effort; we need to fill the vacancies of the judiciary and have a real commitment to invest in the courts with better infrastructure, technology, and a real shift away from a culture of giving adjournments. Right now, adjournments are effectively done with no accountability. The case management systems of some countries, like Singapore, with well-defined time limits offer the potential for more justice.

CONCLUSION

Justice delayed is justice denied; in addition, it serves as a mockery to the person meant to be protected by the law. Some of the most advanced legal theories and jurisprudence can be traced back to the Indian Judiciary. We cannot ask a group of people to wait years for a decision from the courts and regard the only other option - abandoning the case - as the only resolution. This can not be the rule of law. This is the erosion of the rule of law. The reforms exist on paper. Now, we must prepare the means to implement these reforms.