

# NEED TO ADDRESS JUDICIAL DELAYS IN INDIA: CHALLENGES AND REFORMS

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The Preamble of the Indian Constitution provides for social, economic, and political justice which is effectuated through various constitutional articles.



The legal maxim of “Justice delayed is justice denied” which means justice is not served if there is a delay in resolving a case specifically fits the situation of the judiciary in India. Recently, the Supreme Court had expressed “shock” to learn that a murder case

accused's bail application was pending before the Allahabad High Court for the last four years.

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Such is the situation that the Indian judiciary currently faces, which impedes the timely delivery of justice. Such inefficiency and consequent judicial delay due to procedural complexities and a lack of technological integration incur substantial economic costs affecting litigants adversely.

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Thus, addressing these issues requires a comprehensive understanding of the constitutional mandate for speedy trials and the systemic challenges that undermine judicial efficiency including identifying challenges in providing speedy trials and legal aid, and discussing proposed reforms to mitigate these issues from a constitutional perspective.

The Preamble of the Indian Constitution provides for social, economic, and political justice which is effectuated through various constitutional articles. Article 14, which deals with equality before the law and equal protection of the law; Article 21, which protects life and personal liberty; and Article 323A which provides for the establishment of an administrative tribunal. Among these provisions, the right to a speedy trial is implicitly included within the ambit of the right to a fair trial, which forms part of the right to life and liberty guaranteed by Article 21. The judiciary is designed to be an independent organ, crucial for maintaining the rule of law and ensuring impartiality in legal proceedings.

The Indian Constitution places significant emphasis on the right to speedy justice. However, the prevalent culture of adjournments in Indian courts has resulted in delayed and prolonged trials, thereby creating substantial challenges in delivering efficient legal aid. The Indian judicial system is plagued by inefficiencies stemming from the high volume of cases filed daily and the significant number of vacancies in the lower judiciary.

Addressing these inefficiencies requires the recruitment of additional judicial personnel and the optimal allocation of resources to manage caseloads more effectively. Various other institutional and legal complexities and a lack of technological integration also contribute to judicial delays, causing immense loss of productivity and rising litigation costs.

The Law Commission of India, in its 77th report, had observed that “Long delay in the disposal of cases has resulted in huge arrears and a heavy backlog of pending files in various courts in the country. A bare glance at the statements of the various types of cases pending in different courts and the duration for which those cases have been pending is enough to show the enormity of the problem”.

In this background, the essence of access to justice could be understood to include four main facets that constitute the essence of access to justice including but not limited to the need for an adjudicatory mechanism; the mechanism must be conveniently accessible in

terms of justice; the process of adjudication must be speedy, and the process of adjudication must be affordable to the disputants.

These aspects were also emphasized in the case of *Hussainara Khatoon v. State of Bihar*, where the Hon'ble Supreme Court of India had declared that speedy trial is an enshrined part of Article 21. It also pointed out that Article 39 A, which guarantees free legal aid and equal justice to all citizens, is an inalienable part of ensuring speedy justice. This article was added to the Constitution through the Constitution (Forty-Second Amendment) Act 1976.

Despite the existing legal framework, the issue of judicial delays, primarily caused by unwarranted adjournments, remains a persistent challenge. These delays not only lead to substantial economic losses but also hinder access to justice.. Adopting modern technologies, increased use of alternative dispute resolution mechanisms, simplifying legal procedures, and implementing Active Case Management (ACM), where judges take a proactive role in managing cases by organizing pre-trial conferences and setting deadlines, will help reduce adjournments and improve the speed and quality of legal processes in ensuring access to justice.

The right to a speedy trial is recognized internationally as a fundamental human right enshrined in international human rights law. In Europe, the right to a speedy trial has been recognized by the European Court of Human Rights (ECHR) in the case of *Delcourt v. Belgium*, wherein it opined that access to justice was a valuable human and fundamental right which parallels Article 21 of the Indian Constitution. This right underscores the importance of timely adjudication as a critical component of the broader framework of justice.

In the Indian context, future litigation policies must integrate the advancements established during the COVID-19 pandemic, such as e-courts and online dispute resolution (ODR), to streamline dispute resolution mechanisms, as the computerization of courts has helped in reducing the "Backlog of Cases" in the past. However, mere computerization of court would not serve any further purpose in the present times, and there exists a need for electronic courts to facilitate the speedy disposal of cases.

Additionally, there is an urgent need to incentivize the prosecutors and government officials who handle cases to prevent delays in hearings, impacting the applicants who have to testify repeatedly before the court. The applicants experience social and economic issues in appearing before the judges repeatedly, violating the constitutional rights of speedy trial under Article 21.

Ultimately, upholding the right to a speedy trial is integral to the broader protection of the right to life and personal liberty envisioned by the framers of the Constitution. Only by safeguarding this right can the justice system effectively fulfil its role as a protector of individual rights and liberties, thereby fostering public confidence in the rule of law.

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