



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2021 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## Delay in Justice Delivery System in India

Gurrashmeet Singh<sup>a</sup>

<sup>a</sup>Dr. BR Ambedkar National Law University, Sonapat, India

Received 30 July 2021; Accepted 26 August 2021; Published 31 August 2021

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*India, home to 1.3 billion people and it rises daily with thousands of litigations and cases getting filed in the Courts. If we talk about a case, in particular, it can take approximately 20 years to travel all the way from the lower court to the high court and then to the Apex Court. A case that takes this elongated period to resolve is indicative of a futile and ineffectual legal system; any 'justice' delivered after that period would be devoid of its true meaning. These twenty years mean generations of the plethora of litigations, mammoth cost, and frustration. The paper talks about the significant cases that got stuck in the dates of court and years that were passed to the death of the victim when justice was finally served to them. This particular paper draws attention to the real reasons behind this menace, which still prevails in our nation, even after 70 years of independence. This paper has tried to become the voice of billions of crying souls, who are waiting for Justice to be served. One of the primary aims of civilization is to deliver Natural and Instant Justice to all the people. For any society to continue its quest of amity, serenity, harmony, and growth, it is consequently critical for the court to do its job effectively. Despite its many accomplishments, the Indian judiciary has fundamental structural problems that make it difficult for it to function properly.*

*The paper put forward some suggestions for the reforms that are needed for the justice delivery system. The conclusive part highlighted the delivery of Instant Justice, the need of the hour. This Instant justice could play a pivotal role in bringing the confidence of the people, back into the Indian legal system. The sufferings and agony can never be put into words, so Justice needs to be served hand-in-hand to the struggling souls.*

**Keywords:** *justice, victim, litigation, rehabilitation.*

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## INTRODUCTION

Every country has its own set of laws and regulations for resolving conflicts and maintaining national peace and order. Justice is rightfully known as the protector of civil rights and the shield of innocence, as **Martin Luther King** said, "Injustice anywhere is threat to justice everywhere". Generally, people go to court in order to obtain justice. But, when justice is delayed, they lose hope, and justice is denied. Former British Prime Minister **William Edward Gladstone** cited the phrase "Justice Delayed is Justice Denied," which means that if justice is not served at the right time, then even if it is served later, it is not plausible justice, because there was a dearth of justice when the demand for justice was made.

The Indian judiciary, which is known for its long list of pending cases, has been battling to resolve a tremendous number of cases, estimated to be above 30 million. With only 17 judges per 1 million citizens, the ratio of judges to citizens is disturbingly low. Even after 70 years of freedom, India continues to be plagued with delayed decisions and systematic oppression. A person's fundamental right to speedy justice and a fair trial is regularly violated due to the length of time it takes to conclude a case. The victim, as well as the accused, spend a significant amount of time awaiting the court's decision. The bulk of cases pending in Indian courts have been unresolved for more than a decade, and more cases are being added to the pile every year, indicating that the courts are unable to deal with the volume of litigation filed. The rise in high-profile confrontations is linked to a decline in the rule of law and the prospect of lawlessness. It also reflects public scepticism of judicial systems as instruments of justice.

## CASE LAWS

*The Uphaar Cinema case*<sup>1</sup> is one of the most egregious examples of delayed justice. The court took 18 years to bring justice to the 59 individuals who died and over 100 people were hurt in a fire that broke out in the cinema on June 13, 1997. Gopal and Sushil Ansal were just fined Rs. 60

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<sup>1</sup> *Assn of Victims of Uphaar Tragedy v Union of India and Ors* (2003) ACC 114

crores and did not have to serve any jail time. The Uphaar cinema case is one of the most ill-famed epitomes of delay and disproportionate justice, amid protests, reduced compensation, and punishment equal to none.

*The Bhopal Gas Tragedy case*<sup>2</sup> is another horrific example of judicial inaction. More than 5 lakh people were displaced by the Union Carbide Factory disaster, and the aftermath continues to disturb the lives of those who live in that area, even today. The suit was dragged on for years in court, but only 7 of the company's employees were condemned to two years in prison, and the company avoided culpability by paying \$470 million in compensation. However, many victims have yet to get any remuneration for the irreversible harm that adversity has caused them.

The right to a fair trial is a fundamental right. However, in the **double murder case of Aarushi Talwar**<sup>3</sup>, this privilege is largely neglected. The court held that Aarushi's parents, Rajesh and Nupur Talwar, were guilty of the dual murders in spite of a dearth of proof and evidence, witness accounts, and even Narco-analysis. Since 2008, little progress has been made in the case, which is trapped in a Catch-22 predicament, causing an inextricable impediment in delivering justice for the victims. Similar has been showcased in the movie Talwar, where there are two narratives of two different investigation teams.

*The Pallavi Purkayastha murder case*<sup>4</sup> is another instance that has eluded justice. Instead of imposing a capital penalty on Sajjad Mogul, the Sessions Court followed the Supreme Court's instructions on "rarest of rare cases" and sentenced him to life in prison. After jumping his parole in February 2016, Mogul has yet to be found, and the police authorities are oblivious to his whereabouts. The perpetrator was able to elude prosecution due to a little lapse in following the specified regulations.

*The Nirbhaya gang rape case*<sup>5</sup> was one of the most horrible acts that shocked everyone. One of the six people found guilty escaped justice due to Juvenile Justice regulations, one of the culprits

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<sup>2</sup> *Union Carbide Corporation v Union of India* 1990 AIR 273

<sup>3</sup> *State of UP through CBI v Rajesh Talwar & Anr* RC No 1(S)/2008/SCR-III/CBI/NEW DELHI

<sup>4</sup> *State of Maharashtra v Sajjad Ahmed Abdul Aziz Mugal* CC No3700756/PW/2012

<sup>5</sup> *Union of India and Another v Akshay Kumar Singh and Ors* CrI MA 2478/2020

committed suicide in his detention cell, and for others the death warrants were issued on January 7, 2020, setting the execution order after a fortnight. But these convicts filed Mercy pleas, which were subsequently rejected. After that rejection, these convicts still found out some sort of loopholes in the verdict and after series of events and rejections of pleas, on March 4, 2020, a fourth death warrant was issued by the court with the execution date as March 20, 2020. After 8 long years, Jyoti Singh was brought to Justice. In the web series of Delhi Crime, it has been showcased the police investigation was so swift and were able to catch all the culprits in few days only but, still, the court failed to serve justice to the victim, when it was demanded.<sup>6</sup>

### REASONS FOR DELAY IN JUSTICE

We know, case pendency is a national issue. At the end of 2010, there were a total of 72.58 lakh cognizable criminal cases under the Indian Penal Code, 1890(IPC) and 48.54 lakh other matters pending trial, according to the *239th Law Commission Report*.<sup>7</sup> In that year, just 55.88 lakh (including IPC and other) trials were finished. While the conviction rate for serious crimes like attempted homicide and rape was 27.7% in 2010, the conviction rate for all cognizable offences under the IPC was 40.7 percent. In recent years, the situation has not significantly improved. According to the *National Crime Record Bureau Report 2018*, 33.15 lakh people were detained for offences under the IPC, and 8.64 lakh people were convicted (homicide and sexual assault conviction rates were 38.1 percent and 25.4 percent, respectively).<sup>8</sup>

According to the *India Justice Report 2019*, it fluctuates greatly from state to state, with the usual pendency in the district judiciary ranging from two to nine years. On a daily basis, we must address the issues that cause delays by strengthening the certainty of each hearing's outcome and avoiding burdening a judge in a way that favours adjournments. A district magistrate has to hear around 50-60 cases listed before him for a single day. Because hearing such a large

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<sup>6</sup> Pranchi Darji, 'Delayed Justice: The Captivity of Indian Judiciary' (*MyAdvo.in*, 2018)

<<https://www.myadvo.in/blog/delayed-justice-the-captivity-of-indian-judiciary/>> accessed 28 July 2021

<sup>7</sup> Law Commission, *Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities* (Law Com No 239, 2012)

<sup>8</sup> 'Crime Report 2018' (*Ncrb.gov.in*, 20)

<<https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%201.pdf>> accessed 29 July 2021

number of cases in a meaningful manner is impossible, at least 40 odd of these cases will be adjourned by the judge that too, without any major undertaking.<sup>9</sup> This occurs every day of the year in every court across the country. At the end of the year, there will inevitably be delays and backlogs. These day-to-day issues amplify with time, morphing into structural issues that stifle the institution's ability to function.

If a matter proceeds from the lower court to the higher court and finally to the Supreme Court, it can take approximately 20 years. A case that takes this long to resolve is indicative of an inefficient and ineffectual legal system; any 'justice' delivered after a 20-year period would be devoid of its genuine meaning. This approach causes a slew of problems, including numerous generations of litigants, exorbitant costs, and frustration. To begin with, judges, especially those in the superior courts, are dealing with cases from a decade ago rather than today's pressing issues. Second, the legal system as a whole is skewed in favour of one party's unlawful acts at the expense of the rights of the other. Furthermore, a protracted court struggle will encourage illegal behaviour not only by the parties involved but also by the general public, eroding people's faith in the ability to receive swift justice in the long run.

In a broader sense, judicial delays lead to uncertainty about laws and how they are applied – the Supreme Court's ongoing case concerning the application of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 and the fortitude of compensation has effectively halted land acquisition litigation in the country. These Land acquisition lawsuits in the lower courts, on average, take six years to conclude and are one of the most time-consuming categories of cases in court.<sup>10</sup>

## THE NEED FOR REFORMS

*So, what should be the mitigating measures need to be taken by courts in order to overcome this menace?*  
The first objective of Courts needs to be appropriately managed judicial time. To avoid wasting

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<sup>9</sup> 'Indian Justice Report 2019' (Tatatrusters.org, 2019) <<https://www.tatatrusters.org/upload/pdf/overall-report-single.pdf>> accessed 29 July 2021

<sup>10</sup> Harish Narasappa, 'Justice Delayed is Justice Denied' (Hindustan Times, 2019) <<https://www.hindustantimes.com/india-news/justice-delayed-is-justice-denied/story-dhIOSGMCpfRIFii8o6hQdM.html>> accessed 29 July 2021

court time on unnecessary adjournments and to guarantee that lawyers are prepared for their cases knowing that they will be heard with certainty, it is vital to specify an optimal number of cases to be heard on a routine basis. Courts must strengthen case management frameworks so that cases are accurately classified based on their stage and the amount of time they will take to be heard. Recently, Delhi High Court took the initiative and launched a pilot project in the district judicial courts and it resulted in a successful campaign as cases were decided promptly with better case and time management.

The appointment of a full-time court administration cadre is a fundamental reform that is required. Judicial management is seen as an adjunct to judges' work all over the world, and it is carried out by dedicated and specialised individuals to assist judges in carrying out their judicial tasks efficiently. The establishment of a dedicated and trained cadre to assist the judiciary with case management, budgeting, administrative responsibilities, and court infrastructure maintenance will go a long way toward freeing the judiciary to focus on the administration of justice. At present, judges are effectively in charge of judicial administration. This is not only unsustainable, but it is also unjust to judges, who have the major expertise and responsibility of deciding legal suits.

The most important credo is to embrace the benefits of technology, wholeheartedly, which could result in serving Instant justice and help in the revival of faith in the Indian Judiciary. Our Judiciary is still opting for the rules and practices that had have been prevalent from the nineteenth century and need to be overhauled because they are impeding the administration of justice. We should alter these procedures to reflect today's socioeconomic realities, particularly in terms of utilising technology to improve justice delivery. The Supreme Court, as well as each of the high courts, will need dedicated and full-time leadership to effectuate these reforms.<sup>11</sup>

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<sup>11</sup> Aalok Chauhan, 'Rise of Instant Justice as Faith in Justice Delivery System Fades Away' (*Leaflet*, 2020) <<https://www.theleaflet.in/rise-of-instant-justice-as-faith-in-justice-delivery-system-fades-away/>> accessed 28 July 2021

## CONCLUSION

Certainly, the victim receives justice through due process in the end, but is it worthwhile to achieve if the guilty person is convicted after such an elongated stretch of time? Impediment in doing so becomes a form of chastisement for the victims of the crime. As a result, people are becoming more attracted to 'Instant justice' than to 'due process of law' justice. This is not to argue that the want of concept of "Instant Justice" is becoming an only plausible form of delivery justice, but excessive delays in trial and prosecution (due process) lead to individuals opting for this approach. They are pleased with this type of justice since it does not involve delays, which they believe are common in courts.

Without a doubt, the Indian legal system, particularly at the district level, requires a significant increase in the number of judges and fast-track courts. Cases that have been outstanding for more than a decade must be resolved as soon as possible. To relieve the pressure on higher courts and handle difficult matters quickly, additional Lok Adalats and mobile courts are needed. The true reasons for the delay in dispensing justice are gaps in current rules and guiding principles, a deficit of information about fundamental rights, inadequate access to legal facilities, and inequity in the number of judges to deal with undecided lawsuits. It is necessary to have a technologically capable judiciary that can work transparently and react promptly in order to give justice to all people quickly and fairly.