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**ISSUES IN ACHIEVING SPEEDY JUSTICE AND MEASURES
TAKEN SO FAR**- Pallavee Prakriti¹**ABSTRACT**

Speedy justice, in general parlance, refers to the expedited redressal of grievances of a litigant who pursues a litigation pertaining to his rights or liberties in a court of law. Every person who approaches a court of law, irrespective of its status in the hierarchy of judicial institutions in the country, expects the forum to hear his issues and decide upon them as soon as possible. Such an expectation is not unreasonable, as ensuring such speedier dispute resolution is not only the fundamental right of an individual under Article 21 of the Constitution of India, but is also in the interest of the nation as it highlights the efficiency of the judicial infrastructure of the country in terms of the high rate of disposal of cases in a particular time period. Securing justice in a time-bound manner is not only a legitimate expectation of the litigants, but it is also the duty of the judicial infrastructure of a state as such a form of expedited justice is inherent, as well as intrinsic to the quality living of every individual, not just a current or prospective litigant. Further, the ability of a judicial plenipotentiary to ensure timely disposal of cases with respect to the incoming load of cases is a barometer of the robustness as well as the effectiveness and the efficiency of the judicial infrastructure of a country. Therefore, ensuring an efficient rate of case disposal is a desirable goal in the interest of the Indian courts as it will consolidate the faith of the masses in the judicial system of the country, as the speed at which the criminal cases are disposed have a major bearing on the law and order structure of a country rather than the mere quantum of punishment.

1. INTRODUCTION

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The Constitution secure to all its citizens Justice- social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and unity and integrity of the nation will not be perceived until and unless the justice delivery system reaches to the common people in a time bound manner and within a reasonable cost. Speedy trial is a part of right to life and liberty which is guaranteed under Article 21 of the Constitution. Therefore, delay in the disposal of cases is the denial of Right to life of the individuals.

Speedy justice has always been the sine qua non of criminal jurisprudence, indispensable to its very foundation. It is an important safeguard to prevent undue and oppressive incarceration². It minimises anxiety and concern accompanying the accusation and assures an accused that his/her right to defend himself/herself shall not be impaired. Ensuring speedy justice affects the society at large as it gives them the assurance that not only will their rights be secured by the courts; it shall be done in a manner which would make the justice relevant with respect to the remedy sought at the start of the litigation process.

Speedy justice can also be considered as a principle of judicial pronouncements wherein the judicial institutions of a country are required to ensure that the cases coming before them for their consideration are disposed in a speedy and time-bound manner, so as to render the judgement meaningful and relevant for the parties to the dispute. In the absence of such a guiding principle, the litigants would find it difficult to repose their faith in the judicial system as they would not have the assurance of securing a time-bound solution of their grievances, and any solution that would be provided to them would lose its significance, especially if such a solution was required on an urgent basis. Therefore, there must be a principle to guide the courts in the discharge of their function of providing timely justice to the deserving party to a dispute.

2. ISSUES HAMPERING THE DELIEVERY OF SPEEDY JUSTICE SYSTEM

The people of India are a litigious set of people with a significant number of fresh litigations reaching the courts every day, with the expectation of an expedited resolution to their disputes at the hands of the judiciary. Such an expectation is not unreasonable as the Hon'ble Supreme Court, in its various judgments, has held the right to speedy justice to be an

²D.P. Sharma, "Speedy Justice and Indian Criminal Justice System" 45(3) Indian Journal of Public Administration 356 (1999)

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essential component of every litigation. However, this right has become a casualty to the nonchalance of the institutions of the State, to the extent that a litigant has to himself crucify his right at the altar of the courts, should he be willing to enter the judicial arena for the redressal of his grievances. Delays are a long-standing issue that predates the law itself. The issue has grown to such enormous proportions that, unless it is quickly and successfully resolved, it may soon utterly topple the entire structure of our legal system.³

2.1 Pendency of cases

At the very outset, the ability of the courts in the country to effectively dispose the files is hampered by the mass influx of litigations presented before them every day. This influx, coupled with the already existing and ever-rising backlog of cases already present in the system has become a major hinderance in the direction of achieving the goal of dishing out litigations at a faster pace. This issue, commonly known as the issue of 'pendency of cases' has been a problem since the initial days of the judicial system of independent India, but has seen a steadfast increase since the last decade.

2.2. Procedural delay

The procedural complexity of the Indian legal system increases delays. It can take time to file cases, serve notices and schedule court hearings. Delays are compounded by the need for multiple appearances by lawyers, breaks for various reasons, and the time required for each stage of the case. In India, the appeals process can be lengthy and time-consuming. Parties dissatisfied with lower court decisions can appeal to a higher court, causing further delays. Each level of appeal requires the preparation and presentation of detailed arguments and documents, which can lead to months or even years between hearings.

2.3. ADVERSARIAL JUDICIAL SYSTEM

In adversarial system, advocates of both the parties represent their case in front of an impartial Judge, who decides the case as per the evidences submitted to him. The role of Judge is passive in nature. This system mandates the role of an advocate, or a legal counsel in all the formalities of a litigation, be it the fact-finding, evidence collection, examination, and cross-examinations of witnesses and so on. The judge in such a procedure does has a passive

³ C.L. Aggarwal, "Laws' Delay and Accumulations of Arrears in the High Courts." 7 The Journal of Bar Council of India 41 (1978).

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participation in all these activities and must give his judgement upon the facts and evidences presented before him by the counsels and cannot go beyond them.

The adversarial system is mostly founded on the idea of balancing public and private interests, with the public interest being to punish the wrongdoer and deter him from committing more crimes and the private interest being to avoid false convictions and safeguard his life and personal freedom. Adversary litigation involves several procedural steps, including pleadings, discovery, hearings, cross-examination of witnesses, and the presentation of evidence. Complex procedural requirements, such as drafting and exchanging pleadings, taking evidence and pleadings, can significantly lengthen the trial. Adherence to strict procedural rules can sometimes lead to procedural disputes and further delays. Adversary litigation consumes a lot of the court's time and resources.

In an adversarial system, the parties and their lawyers are primarily responsible for case management. The role of the court is often limited to resolving disputes and resolving issues raised by the parties. Without proactive case management on the part of the court, including setting strict deadlines, monitoring progress and meeting deadlines, cases can languish without clear direction, leading to delays and increased workload. Both the cumulative effect of delays in an adversarial system and the backlog of cases can contribute to a backlog.

One of the major problems with this system is that it is too focused on winning the case rather than finding out the truth and promoting justice.

2.4. Lack of sufficient number of judges, other support staff and infrastructure

There is an acute shortage of judges in India, resulting in a high backlog of cases for the existing judges. Court vacancies and slow appointment of judges add to delays. The lack of judges not only affects the time spent on hearings, but also affects the quality of justice⁴. Further, inadequate support staff such as court clerks, stenographers and registrars can create administrative bottlenecks. Limited resources and manpower delay case management, document processing and accurate record keeping. The lack of support staff affects the effectiveness of research.

⁴ David C. Steelman, "What Have We Learned About Court Delay, "Local Legal Culture," and Case flow Management Since the Late 1970s?" 19 Justice System Journal 145-166 (1997).

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There are many courts in rural area where there are no toilet facilities for ladies' judges and Judicial Magistrate have no chambers and, in some Courts, there is no fan and inverter.

2.5. Limited Use of Technology

Although there are attempts to introduce technology into the Indian legal system, its application is still limited. Many courts continue to rely on manual processes, paper documents and outdated accounting systems. Lack of widespread adoption of technology reduces efficiency and delays case processing, documents, and communication between parties and the court. Lack of awareness and legal aid: A significant part of the population, especially marginalized communities, are not aware of their legal rights and available remedies. The limited availability of affordable legal aid and representation further exacerbates the problem. Without proper guidance and support, individuals can effectively navigate the justice system, which can delay and hinder their access to justice.

3. MEASURES TAKEN TO TACKLE THE PROBLEM OF SPEEDY JUSTICE

Understanding the need of expediting individual litigations to provide both effective and meaningful justice to the litigants, the State, through its various organs, has come up with various solutions to tackle the issue of clearing the existing load of cases from the judicial records and conciliate the need of speedy justice and the principles of fair and natural justice.

3.1. Formation of Tribunals

Courts are established to deal with certain types of cases within their specialized jurisdiction. Courts are, for example, in matters of income tax, rights of intellectual property, environment, labour disputes, administrative matters, etc. By transferring these cases from regular courts to special courts, the workload of the regular legal system is reduced. This specialization allows courts to develop knowledge and expertise in dealing with certain areas of law, resulting in a more efficient and rapid resolution of cases.

The courts are designed to work with a simplified and faster procedure compared to ordinary courts. They often have their own rules and procedures tailored to the type of cases they handle. These simplified procedures and evidentiary rules and formalities enable faster disposal of cases. Courts focus on efficient resolution of cases without the procedural

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complexities that can cause delays in the work of ordinary courts. Tribunals consist of members with specialized knowledge and expertise in specific areas of the case. These members may include retired judges, experts in the relevant fields and professionals with subject-specific qualifications. Their expertise enables faster decision-making and more accurate handling of cases. They know the complexity of the subject so they can analyse things effectively and make decisions faster. Many courts have statutory provisions that set specific time limits for hearing cases. These statutory time limits oblige the court to expedite the resolution of cases within the prescribed time limits. For example, some courts must decide cases within a certain number of days or months. This ensures speedy processing of cases and avoids unnecessary delays.

*In L. Chandra Kumar v. Union of India*⁵, the Supreme Court upheld the constitutional validity of administrative courts and emphasized their role in ensuring speedy justice and reducing the backlog of cases. The court noted that special courts help speed up the processing of cases because they have expertise and knowledge in dealing with certain areas of law. He considered that the court is an integral part of the administration of justice.

*In S.P. Sampath Kumar v. Union of India*⁶, the Supreme Court emphasized the importance of courts in reducing backlog and ensuring speedy justice. The court found that the formation of arbitral tribunals ensures a speedy resolution of disputes, as they are not bound by the strict procedural requirements of ordinary courts. It noted that courts play a key role in easing the burden on ordinary courts and promoting the efficiency of the legal system.

3.2. Establishment of Specific Court

One of the most important steps taken in this direction has been the establishments of various alternative judicial courts such as Fast Track Courts, subject-matter based courts such as Family Courts, POCSO courts, Consumer courts and other quasi-judicial institutions such as Tribunals for matters related to administration, debt-recovery, motor accident claims among others.

Specific courts often have special case management systems that monitor and expedite the processing of cases. They set specific deadlines for filing appeals, releasing

⁵AIR 1995 SC 1151

⁶1987 SCR (1) 435

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evidence and scheduling hearings. In addition, they can use case management techniques such as pretrial conferences, case flow management, and efficient records management. These measures ensure that cases move quickly through the court system, reducing unnecessary delays and enabling speedy resolution.

Arbitral tribunals actively encourage the use of alternative dispute resolution methods such as mediation or arbitration. ADR offers parties the opportunity to negotiate and find mutually satisfactory solutions outside of traditional court proceedings. By promoting the process of out-of-court dispute resolution, subject-based courts help reduce burdens and reduce the burden on the legal system. Out-of-court dispute resolution processes are generally faster and more flexible than court proceedings, resulting in faster dispute resolution and less waiting time. Concerned courts may prioritize certain types of cases based on their urgency or importance. For example, family courts often prioritize cases involving child custody, domestic violence, or cases where the welfare of children is at risk. By prioritizing such cases, courts ensure that critical issues are resolved quickly and minimize the impact of delays on vulnerable individuals. This priority helps speed up the resolution of high-priority cases and reduce overall dependency by focusing on certain areas of law, sectoral courts can allocate their resources more efficiently and optimize their activities.

In *Salem Advocate Bar Association, Tamil Nadu v. Union of India*⁷, the Supreme Court emphasized the need to create special courts for speedy resolution of disputes. The court found that subject-specific courts with special skills and knowledge are essential for faster resolution. It noted that special courts help reduce the burden on regular courts, leading to efficient trial of cases and access to justice.

In *Orissa Administrative Tribunal Bar Association v. Union of India and Or's*⁸, the Supreme Court said that the creation of labour courts to settle labour disputes is a means of ensuring speedy justice to workers. The court emphasized that these specialized forums help reduce the settlement of labour cases and provide workers with timely assistance. It recognized the importance of sectoral courts in solving complex labour problems and protecting workers' rights.

⁷(2003) 1 SCC 49

⁸ Civil Appeal No 6805 of 2022

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These case statutes demonstrate how the judiciary understands the value of subject specific courts in hastening case resolution and providing prompt justice. In order to facilitate effective resolution and decrease pending cases, the courts have recognised the necessity for specialised forums to handle particular sorts of disputes. These cases highlight the importance of setting up subject-specific courts and tribunals to meet the particular difficulties presented by various legal disciplines and encourage the swift resolution of cases.

Further, with the establishment of the tribunals, the institutions of the state have shifted their focus on problem solving rather than ensuring procedural compliances. To that end, the rules of procedure have been watered down to a considerable extent and the time is utilized towards dispute adjudication.

3.3 Establishment of Alternative Dispute Resolution Mechanism (ADR)

Additionally, various mechanisms of Alternative Dispute Resolution (ADR) mainly Arbitration, Conciliation, Mediation and Lok Adalat have been established by the government to serve as an alternative to the conventional litigation mechanism. These modes of dispute resolution do not have the complex procedures as those in the courts and aim at achieving an amicable settlement of the dispute by facilitating a direct dialogue between the parties in a harmonious manner.

Disputes of civil nature, corporate matters, matrimonial disputes, and such other matters which can be resolved through negotiations form the subject matter of the ADR mechanism. While the ADR mechanism is not directly applicable to criminal matters, a reference to the mode of negotiation as an outside-court dispute settlement mechanism can be seen in the concept of compounding of offences as provided under Section 320 of the Code of Criminal Procedure, 1973, wherein such matters which come under the purview of the provision can be compounded by the parties, with or without the supervision of the court, as the case may be. Compounding here, refers to a settlement where the aggrieved party agrees to withdraw the charges upon a settlement involving money consideration. ADR mechanisms offer parties the opportunity to resolve disputes voluntarily outside the traditional court system. The parties have the opportunity to actively participate in the crisis resolution process, negotiate and reach mutually satisfactory solutions. By choosing ADR, parties can avoid time-consuming and often protracted litigation, reducing the number of cases and

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delay. ADR mechanisms are generally designed to facilitate dispute resolution compared to court proceedings.

ADR mechanisms often involve impartial third-party experts, such as arbitrators or mediators, who have specialized knowledge and experience on the subject of the dispute. These experts have the skills to understand the complexity of the issues involved and guide the parties to a resolution. Their expertise ensures quick and efficient resolution of disputes, which helps reduce dependency. ADR processes, especially mediation and conciliation, provide parties with a confidential and private environment to discuss and resolve disputes. This confidentiality encourages open and honest discussions, leading to faster resolution without fear of disclosure. Parties feel comfortable sharing information and exploring potential solutions, resulting in faster resolution and less dependency. Many courts around the world have established court-linked ADR programs where parties are encouraged or required to try ADR before going to court. These programs help divert cases from the court system, thus reducing the burden on the court system. Court-based ADR programs often have simplified procedures and dedicated ADR experts, further improved the efficiency of dispute resolution and reducing dependency. In many jurisdictions, decisions or agreements made through ADR mechanisms have the same legal enforceability as judgments. This encourages parties to use ADR knowing that the agreement reached is binding and enforceable.

The availability of enforceable ADR results further encourages the use of the ADR process and helps reduce the number of pending cases in the court system. By creating and promoting out-of-court dispute resolution mechanisms, the burden on the courts will be reduced, leading to a more efficient legal system and a reduction in the number of pending cases. ADR allows for voluntary and expedited resolution, procedural flexibility, access to expertise, confidentiality and enforceability of results. Together, these factors promote timely resolution of disputes and help ease the backlog of the judicial system.

In *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*⁹, the Supreme Court of India emphasized the importance of arbitration as an effective means of dispute resolution. The court said that the purpose of the Arbitration and Conciliation Act 1996 is to encourage parties to resolve disputes through arbitration thus reducing the burden

⁹Civil Appeal No.6000 of 2010

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on the courts. He noted that arbitration provides a quick and efficient mechanism for dispute resolution and helps reduce litigation.

*In Salem Advocate Bar Association, Tamil Nadu v. Union of India*¹⁰, the Supreme Court recognized the importance of mediation as an effective alternative to litigation. The court found that mediation can help reduce the backlog of cases and ease the burden on the courts. It emphasized the need to promote mediation as a viable dispute resolution option, especially in cases where parties can seek amicable solutions and avoid protracted litigation.

CONCLUSION

Over the years Supreme Court has taken some important initiative to allow the disposal of litigation at a faster pace. Pioneered by former Chief Justice of India, U.U.Lalit, he had disposed of over 10,000 cases during his 74 days tenure. As per reports¹¹, the Hon'ble Supreme Court disposed off over 1,000 miscellaneous matters and various other regular matters within one week. The incumbent CJI, Justice DY Chandrachud, has taken this initiative forward and has shown commitment towards the speedier disposal of cases. In the first 29 working days of his assuming the office, the Supreme Court disposed 6,844 cases of which 2,511 cases dealt with the issue of personal liberty of the litigants' concerned.

Such initiatives are helpful in reducing the burden of the courts to an extent and providing timely remedies to the aggrieved person. But while these measures may have had the effect of easing the pressure on the higher courts, the Subordinate Courts are still reeling under a back-breaking pendency of cases. The benefit of the measures taken so far has not trickled down till the Subordinate levels of the judicial infrastructure, as a result of which, these measures have not yielded the desired results.

Right to Speedy Trial is a basic Human Right and Fundamental Right of the people still no effective action was taken to enforce it on the ground. As *R. Dworkin* said that policies are for legislature but principles are for judiciary so in this case we can say that judiciary is giving judgements but still implementation of their orders and judgements are not enforced in ground level. When we look on the strength and structure of the judiciary and

¹⁰ Supra note

¹¹ 141 "Supreme Court Disposed of Over a 1,000 Cases in Past One Week: CJI U.U. Lalit", *The Hindu*, Sept. 03, 2022, available at: <https://www.thehindu.com/news/national/supreme-court-disposed-of-over-a-1000-cases-in-past-one-week-cji/article65842857.ece> (last visited on May 20, 2023). 142 Utkarsh Anand, "Quick Disposal, Personal Liberty Cases in Focus", *Hindustan Times*, Dec. 21, 2022.

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police, we find the lacunas regarding the strength and police is not accurate or near the Lum sum amount which is needed in a nation according to reports around 150.80 police personals per 1 lakh person in India and it should be 222 police personals per 1 lakh person according to United Nations. And when it comes to judges 21.03 judges per 10 lakhs person as mentioned by the law minister in the parliament which should be 50 per 10 lakhs person.

Speedy Justice is not being fully made available to the people in India, as the data of undertrial prisoners, pendency of cases of Civil and Criminal and even the offences of trivial nature confirm the same. ADR mechanism has not been used greatly to solve the dispute amicably at its initial stage. The Government of India, through various states and other machinery, has been able to renovate the infrastructure of the courts in all stages in order to best use of technology to speed up the disposal rate of cases. The Supreme Court and High Courts are also working hard to speed up the clearances of the cases. One of the examples is that CJI himself started sitting in early in the morning in order to optimise the time for greater cause, and it shall be acting on the subordinate courts to follow the same as what its master is doing now. India is the country with the largest population in the world , and it will take some more time to fully avail speedy justice to everyone at the earliest.

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