

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

BENJAMIN CARDOZO'S PRAGMATIC PERSPECTIVE ON JUDICIAL REFORMS AND CASE PENDENCY IN INDIA.

AUTHORED BY: VISHWAS VINOD AWARI

ENROLLMENT ID: 2024M 046

SEMESTER - I

LLM, BATCH 2024-2024

MAHARASHTRA NATIONAL LAW UNIVERSITY, MUMBAI

Abstract

"This paper examines the impact of judicial reforms on case pendency in India through the lens of legal pragmatism, as articulated by Benjamin Cardozo. It analyzes various reform initiatives, their practical effects, and the persistent challenges in reducing the backlog of cases. By evaluating key legal decisions and reform measures, the study offers insights into the complex relationship between judicial changes and the goal of timely justice. The paper concludes with pragmatic recommendations for enhancing the effectiveness of reforms in addressing case pendency, emphasizing the need for a holistic, data-driven approach to judicial transformation in India."

1. Introduction

Imagine walking into an Indian courtroom. The air is thick with anticipation, files stacked high on every available surface, and faces etched with worry. This scene, replicated across thousands of courtrooms, tells a story of a judicial system buckling under the weight of millions of pending cases.

India's judiciary, one of the world's oldest legal systems, faces a modern-day Goliath: an overwhelming backlog of cases¹. This isn't just about numbers; it's about lives on hold, justice delayed, and a democracy grappling with the challenge of ensuring timely justice for its citizens.

¹ National Judicial Data Grid. (2021), Summary Report of India (NJDG, 2021) <https://njdg.ecourts.gov.in/njdgnew/index.php> accessed 15 October 2024.

In response to this crisis, India has embarked on a journey of judicial reforms. But how effective have these changes been? To answer this, we're going to look at the situation through the eyes of Benjamin Cardozo, a pragmatic American judge who believed that law should serve society's needs and produce practical results².

Our goal? To assess these reforms and their real-world impact on the Indian legal system. We'll dive into court cases, analyze reform measures, and try to untangle the complex web connecting case pendency, judicial changes, and the ultimate aim of justice for all.

2. The Reform Landscape: A Brief History

India's quest for judicial reform didn't start yesterday. It's a story that begins post-independence, gaining real momentum in the late 20th and early 21st centuries. Let's break down the main chapters of this reform story:

- 1. Structural Makeover:** Imagine specialized courts for environmental issues or corporate disputes. That's what structural reforms aimed to achieve, creating focused tribunals to handle specific case types more efficiently.
- 2. Procedural Streamlining:** Think of this as decluttering the legal process. Amendments to civil and criminal procedure codes aimed to cut through the red tape and speed things up.
- 3. Tech Revolution:** Picture lawyers filing cases from their laptops and judges accessing case files with a click. The e-Courts project, launched in 2007, brought the digital age to Indian Courtrooms.
- 4. Judicial Appointments and Infrastructure:** This involved rethinking how judges are appointed and ensuring courts have the resources they need. It's like ensuring a sports team has the best players and the right equipment.
- 5. Access to Justice:** Efforts like Legal Services Authorities Act, 1987, aimed to ensure that even the most marginalised could access legal help. It's about making sure the courtroom doors are open to everyone, not just those who can afford expensive lawyers.³

These reforms paint a picture of a system trying to reinvent itself. But as we'll see, the road to change is rarely smooth.

² Benjamin N Cardozo, *The Nature of the Judicial Process* (Yale University Press 1921).

³ The Legal Services Authority Act, 1987.

3. **The Pendency Problem: Numbers Tell a Story**

Now, let's talk numbers, and brace yourself – they're staggering. As of 2021, over 4.5 crore cases were pending across India's courts. That's not just a statistic; it's millions of lives and livelihoods hanging in the balance⁴.

Break it down, and the picture gets clearer:

- Supreme Court: Over 70,000 cases pending
- High Courts: About 57 lakh cases waiting for resolution
- District and Subordinate Courts: A whopping 3.8 crore cases.⁵

Why this mountain of pending cases? The reasons are many:

- Too few judges (India has about 20 judges per million people, compared to 107 in the US)⁶
- Courts struggling with inadequate infrastructure
- Complex procedures leading to frequent adjournments
- Not enough support staff
- More people becoming aware of their legal rights and approaching courts

The fallout? It's not pretty. Justice delayed often means justice denied. Public faith in the system erodes. The economy takes a hit from prolonged litigation. Prisons overflow with undertrials. Even foreign investors think twice before entering a market where contract enforcement can take years.

4. **Cardozo's Pragmatic Lens: A New Way of Seeing**

To make sense of these reforms and their impact, let's channel the spirit of Benjamin Cardozo. This American jurist was all about legal pragmatism – the idea that law should adapt to social needs and that judges should consider the real-world consequences of their decisions⁷.

If Cardozo were to look at India's judicial reforms, he'd likely ask:

- Are these changes serving the greater social good?

⁴ National Judicial Data Grid. (2021). Summary Report of India (n 1).

⁵ supra (n 3).

⁶ Law Commission of India. (2014). Report No. 245: Arrears and Backlog: Creating Additional (wo)manpower (Law Com No. 245, 2014).

⁷ Benjamin N Cardozo, *The Growth of the Law* (Yale University Press 1924).

- Is the law adapting to meet current challenges?
- Do they strike a balance between legal stability and necessary progress?
- Most importantly, what are their real-world consequences?⁸

This pragmatic lens gives us a unique way to evaluate the success (or failure) of India's judicial reforms.

5. Reform Impact: A Mixed Bag

Looking at key reforms through Cardozo's pragmatic lens reveals a complex picture:

1. **E-Courts Project:** While it has improved case management and information accessibility, its impact on reducing pendency has been limited. Its like having a shiny new car but still stuck in traffic.
2. **Alternative Dispute Resolution (ADR):** This aligns well with Cardozo's emphasis on social welfare and judicial creativity. Its shown promise in reducing court burdens, but its effectiveness varies widely. Think of it as a promising new recipe that tastes great in some kitchens but falls flat in others.
3. **Specialized Tribunals:** These courts for specific types of cases reflect Cardozo's idea of adapting law to specific social needs. However, they've faced own challenges, limiting their impact on overall pendency. Its like creating express lanes that still get clogged up.
4. **Procedural Reforms:** Changes to civil and criminal procedure codes have streamlined some processes, but inconsistent implementation has hampered their effectiveness.
5. **Judicial Appointments and Infrastructure:** Efforts to increase the number of judges and improve infrastructure align with Cardozo's emphasis on practical solutions. However, delays and resource constraints have limited their impact.

6. Case Studies: Pragmatism in Action

Let's look at a few court decisions that embody this pragmatic approach:

1. Hussain and Anr v. Union of India (2017)⁹

This case tackled the issue of undertrials languishing in jails, highlighting the need for speedy trials. It's a perfect example of Cardozo's principle of law serving social needs.

⁸ Richard A Posner, *Cardozo: A Study in Reputation* (University of Chicago Press 1990).

⁹ *Hussain and Anr vs. Union of India*, (2017) 5 SCC 702

The Court recognized that justice delayed is more than an inconvenience – it's a violation of human rights.

2. Swapnil Tripathi v. Supreme Court of India (2018)¹⁰

This judgment allowed live-streaming of court proceedings, embracing technology to enhance transparency. It's like opening the courtroom doors to the entire nation, aligning with Cardozo's emphasis on law adapting to changing social conditions.

These cases show Indian courts sometimes embracing a pragmatic approach, particularly in leveraging technology and addressing social issues. However, the persistent problem of case pendency suggests that a more comprehensive and consistently pragmatic approach is needed.

7. The Way Forward: Pragmatic Recommendations

Drawing from Cardozo's approach, here are some suggestions for more effective reforms:

- 1. Embrace data:** Adopt a data-driven approach to implementing and evaluating reforms. Its about making decisions based on evidence, not hunches.
- 2. Think holistically:** Develop a comprehensive strategy that addresses all aspects of the judicial system simultaneously. Its like treating the whole patient, not just the symptoms.
- 3. Strengthen ADR:** Make Alternative Dispute Resolution Mechanisms more accessible and effective across all regions. Think of it as creating multiple paths to justice, not just a single highway.
- 4. Couple Tech with Training:** Pair technological reforms with extensive training for all stakeholders. Its not just about having new tools, but knowing how to use them effectively.
- 5. Balance Perfomance Metrics:** Implement balanced performance metrics for judges that consider both quantity and quality of work. Its about measuring what matters, and not what is easy to count.
- 6. Collaborate for change:** Engage all stakeholders in the reform process, keeping in mind that justice is a team sport.
- 7. Review and Adapt:** Establish a mechanism for regular review and adaptation of trforms based on their practical outcomes. Its about being flexible and responsive to

¹⁰ Swapnil Tripathi vs. Supreme Court of India, (2018) 10 SCC 639.

real-world results.

8. Conclusion

India's journey of judicial reforms, viewed through Cardozo's pragmatic lens, reveals a landscape of well-intentioned initiatives that have yet to fully realize their potential. While reforms have shown adaptability to changing conditions, their practical impact has often been limited by implementation challenges and systemic inertia.

The persistent problem of case pendency suggests that a more comprehensive and consistently pragmatic approach is needed. By adopting a data-driven, holistic, and adaptable approach to judicial reforms, India can move closer to realizing the goal of timely justice for all its citizens. As India continues on this path, it would do well to remember Cardozo's wisdom: "The law has outgrown its primitive stage of formalism when the precise word was the sovereign talisman, and every slip was fatal. It takes a broader view today." This broader view, grounded in pragmatism and focused on real-world outcomes, offers the best path forward in addressing the challenge of case pendency and ensuring a more efficient and effective judicial system for India.

The road ahead may be long, but with a pragmatic approach that balances tradition with innovation, India can work towards a judicial system that truly delivers justice – not just in theory, but in practice, for every citizen.

IJLRA