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Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

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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



learning.

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

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PROBLEM OF DOCKET EXPLOSION IN INDIA

Authored By: Poushali Das

Abstract

The main focus of this paper is to bring out the issue of docket management in courts of India. In a democratic country like India where the number of people living is almost 136 crores , maintaining a proper proceeding and giving the right redressal becomes a crucial point of Indian Judiciary system. Docket Explosion is a significant concern in Developing countries like India , which is the world's largest democracy, with millions of court cases pending before various levels of the legal system. To combat this threat, some measures are required, as justice can only be served if it is delivered quickly and with minimal fuss. Alternative Dispute Resolution (ADR) is an effective redress tool for the administration of justice. Therefore, the main area of focus in this paper will be the problems of docket explosion in India and what legislative efforts has been taken to combat this issue.

Keywords

Docket, Explosion, Cases, Pending, Courts, Speedy Trial

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Introduction

In India, there are over 3 crore cases pending in various courts. Many of these lawsuits have been pending for over a decade. The number of cases pending in India's Supreme Court, High Courts, District and Subordinate Courts is listed below.

- In the Supreme Court, there are almost 60,000 cases pending.
- In the various High Courts, there are nearly 42 lakh cases pending.
- In District and Subordinate Courts, there are approximately 2.7 crore cases pending.

The litigant only has one life, but litigation has many lives to live. The role of a very well judicial system in achieving the aim of justice – social, economic, and political peace and stability, growth and development, as well as maintaining the rule of law is now widely acknowledged. Judges cannot be said to be helpless in their roles.¹ justice, people's hopes darken, and despair may turn into fear. Dread can easily convert into despair. Such desperation has the ability to turn into violent extremism. We will produce greater outcomes by making the legal system, judges, and justice services fully available to the have-nots. The Executive has power, and the Legislature is incapable of passing substantive legislation, but it has the confidence of the population who voted for its members. The judiciary has a bench to sit on and the Constitution to back it up. The Bar, an essential component of the adversarial method, is out of reach for the poor and destitute. The fines and formalities make the legislation prohibitively expensive for the poor. The hierarchy raises the price, the time it takes to reach a decision, and the uncertainty of the outcome. Appeals upon appeals prolong and increase the cost of justice. When society rejects by litigation.

The law becomes the last resort for those who have been wronged. It has no way of enforcing its decisions if its verdict is disregarded. The consistency of the judgments rendered and the hard work put in by our Indian judiciary have earned universal acclaim. This acknowledgement is something that our people should genuinely be proud of. Nonetheless, there is growing criticism of our courts' inability to adequately cope with and eradicate the enormous backlog of lawsuits, even from uninformed or ill-informed quarters. Nonetheless, several countries around the world are experiencing delays in the administration of justice, and the Indian judiciary is no exception. As a result, the Indian judicial system has a duty to provide timely and affordable justice to its people without sacrificing the standard of justice.

¹ legalservicesindia.com/article/1125/Docket-Explosion

What Is Docket Explosion?

There is no legal definition for docket explosion in India. But in general, it means :

The word "docket explosion" refers to the rate at which cases are filed (including litigation, felony cases, criminal complaints, and other applications) relative to the rate at which they are dismissed. In other words, there are more lawsuits being filed than there are cases being dismissed. As a result, there are a growing number of cases unresolved in the courts at any given time. The legal system is faced with a variety of concerns as the number of cases pending increases. Cases that take too long to be resolved: justice deferred is justice withheld. Many situations necessitate timely resolution in order to have some real-world significance. Most cases in India take more than a year (and often even longer) to be resolved. As a consequence of the delay, severe human rights violation is faced by the people every day.

Right To Speedy Trial

Every citizen has the right to a speedy trial. It is implied in Article 21, which enshrines the right to life and liberty, though it is not explicitly stated. No process that does not guarantee a relatively fast trial can be defined as 'reasonable, fair, or just,' but it would be considered unjust. There is no question that a fast trial by which we mean a fair expeditious trial is an important and necessary part of Article 21's constitutional right to life and liberty. People spend their entire lives in courtrooms. Cases often take more than a decade to resolve. On June 30, 2007, 2.5 crore cases were pending in lower courts and it's all going on.² Ordinary litigants suffer tremendous and, in some cases, fatal consequences as a result of judicial delays a disaster The constitution of India guarantees a timely trial which is a vital part of our Constitution that says no person shall be deprived of his life or personal liberty except according to the procedure laid by law under art 21 of Constitution to grant protection & avoid unjustified preceding detention to reduce the anxiety and to reduce the risk that lengthy delays will hinder a defendant's capacity to safeguard himself. The right to a speedy trial is first stated in the Magna Carta, England's most significant legal text. Though the constitutional philosophy of the right to a speedy trial has been around for almost two and a half decades, the aim to accomplish is still a long way off. It is a philosophy that deals with the expeditious disposition of cases in order to make the courts more successful and to provide justice as quickly as

² Published in Times of India on 30.11.2007

possible. The legislature is the body that sets the laws, and the government considers how well the laws are implemented, whereas the judiciary brings them into practise. The question is whether or not everyone is genuinely worried about these issues. The burden on the judiciary system is increasing as the technical, manufacturing, and population fields have expanded rapidly, requiring efficient and rapid resolution of ever-increasing cases, but the court's efficacy has been severely hampered.

In the case of *Babu Singh v. State of UP*,³ Justice Krishna Iye remarked

“Our justice system even in grave cases, suffers from slow motion syndrome which is lethal to 'fair trial' whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings.”

Factors For Pendency Of The Cases

The vision of justice and equality is inscribed in our minds when we hear the word judiciary, but when justice is delayed or there is no fair justice it leaves an enduring impact on our minds. Litigation pending in courts is one of the most widely debated issues of judicial reform. In India's current judicial system, the legal principle "Justice Delayed is Justice Denied" is well known.

There are numerous causes for the pendency of cases in India. But the most important factors that led to delay in Judiciary System are :

1. Indirect ratio of Judges and Citizen (lack of Sufficient no. of Judges) :

The key cause of the delay is a lack of judges in relation to the country's population. Another factor that contributes to delays is the smaller number of vacancies for the position of Judge . The Supreme Court (Number of Judges) Amendment Bill, 2019, was officially enacted by the Parliament, increasing the number of Supreme Court judges from 30 to 33. The nation's population has grown significantly since 1987, and the judge-to-citizen ratio is now about 10 million to 1. In a report from 1987, the Law Commission proposed a 50 million to one ratio. The approved number of High Court Judges is 1079, with 397 seats (roughly 37%) vacant in

³ 1978 AIR 527, 1978 SCR (2) 777 <https://indiankanoon.org/doc/1515744/>

approximately 25 High Courts across India.⁴

2. Less number of Courts than required :

In its 254th report, the Law Commission recommends the development of additional courts to expedite the resolution of cases. An insufficient number of courts is seen as a major issue. In the case of *Imtiyaz Ahmad v. State of Uttar Pradesh*,⁵ the Supreme Court also recommended the establishment of additional courts to the Law Commission.

3. Periodic Adjournments:

It is clearly mentioned in Civil Procedure Code, Order XVII, Rule 1 that adjournment in the court proceedings cannot be allowed for more than three times. But the Courts fail to act in accordance with the same and the result of which affects the litigation following which severe consequence has to be faced.

4. Transfer of judges:

Judges are transferred which causes delay in the pending cases. When judges are changed, the new judge can order a new trial, causing the procedures to be delayed. Another factor that obstructs timely resolution of issues is this.

5. Non-Compliance With The Provisions Of Section 89 And Non-Adherence To Order

Section 89 notes that if a conflict can be settled outside of court, the matter would be coordinated for ADR rather than proceeding with the normal procedure. This provision was introduced by the amendment Act to shorten the time it takes for civil disputes to be resolved outside of trial with both the parties' approval using procedures such as arbitration, conciliation, Lok Adalat, and mediation. Judges, on the other hand, often refuse to refer cases to ADR, which is yet another factor that slows down case resolution. In 77th Report, the Law Commission noted that it is important for the Judge to review the parties' submissions in detail

⁴ <https://blog.ipleaders.in/delay-in-civil-litigation/>

⁵ <https://indiankanoon.org/doc/44403361/>

and to be informed of each party's case, as only then can the concerns be appropriately interpreted to enable better use of Order X. Order X applies to the Court's review of individuals, and so non-compliance with this provision has an effect on the litigation.

6. Non-Appearance Of The Parties:

In some matters the parties fail to attend the court proceedings due to many reasons which is also one of the primary factor that leads to the delay of the cases. Many at times it happens that the advocates their prepare arguments but due to non-appearance of the client the proceedings get delay. Again, when a time and date for a hearing is set, the parties fail to show up on the date and time as the respondent is usually aware of the likelihood of a negative verdict, he attempts to obtain as many adjournments as possible to present his case. Furthermore, the parties' inability to appear for cross-examination adds to the delay.

7. Increase In Litigation

The statistics show that the number of lawsuits filed in the courts is rising every day, and that they are piling up. There are presently 3.5 crore cases pending in the Supreme Court, High Courts, and Lower Courts, of India . The truth is that the Courts are overburdened with litigation, and despite the fact that more Courts are being created, the number of cases reported is inadequate to match the increased number of cases. The number of cases pending has risen dramatically over the last decade, due to the fact that more cases are filed each year than are cleared of.

8. Lack Of Infrastructure :

One aspect that triggers more pending lawsuits by slowing down the trial process is court facilities. Mr. Dipak Mishra, India's former Chief Justice, in an interview, said that the main cause of the litigation backlog is a shortage of facilities for judges, litigants, and court workers. Basic amenities such as proper washrooms, canteens, parking, a library for advocates, seating areas for advocacy groups, and drinking water are all lacking in subordinate courts. The court rooms in district or subordinate courts are so limited that no more than 7-8 people can stand in them. The government must recognise that the infrastructure of the courts is the roadblock

preventing judges and court workers from performing their duties effectively. Indian administrative system should put money into the judiciary's growth. Both land and building should be made easily available for court building, more digitalised systems should be inculcated to boost court facilities, which is why the government intends to launch online connectivity. If the technology is in place, litigants will be able to monitor and check their cases online.

9. Lack Of Proper Education System:

Pending of litigation proceeding can be settled if the lawyers work diligently and do not spend time preparing for the case, resulting in a quick trial. If the court staff does their job well, the case can be heard easily as well. The educational system must prepare students for work rather than for money. In this new age, there is fierce competition among schools, colleges, and universities. The educational institutes nowadays are less concerned with the student's education; instead, they are concerned with fees and competition with each other. As a result, students are becoming less educated, and when they enter the workforce, they are unable to function. This is a serious issue which needs to be focused.

10. Abuse Of The Process Of Law:

The civil procedure code and the criminal procedure code are the key actions that characterise of the entire trial process in a case in India. In a criminal case, the trial begins with the framing of the charges against the accused, followed by the prosecutor's testimony, the defence's evidence, witness questioning by the prosecutor and by the suspect counsel, and finally statements submission by the prosecution and defendants, and then the verdict. The court will take up to 5 years to complete the process, but it can take up to 10 years. There is summons given to the witnesses in between the trials, which requires time as well. Sometimes the lawyers insist that the case be adjourned for their own benefit which is definitely a grey area in Indian Judicial System.

Position Prior To Amendment Acts

Previously there was no provision in the CPC for an out-of-court settlement. The Civil Procedure Code, which dates back to 1908, has been revised many times since its inception to ensure a timely trial and resolution of cases, but it still faces delays. In the years 1999 and 2002, the Code was significantly changed. A new Section 89 has been implemented to ensure that parties resolve conflicts in amicable terms through the Alternative Conflict Resolution process. There was no time limit for serving summons on the accused in the Code. It was not uncommon for the defendant's summons to respond the accusation before the Court and take a long time. People took advantage of this by avoiding the summons. Furthermore, the courts had broad authority to extend time without restriction, resulting in a delay in case resolution and an increasing backlog cases that remained unsettled.

Amendments Of 1992 And 2002

In the year 2002, the Code of Civil Procedure underwent major revisions. An amendment to the Code was also proposed in 1999, but it was never implemented. Both amendments went into effect on July 1, 2002. The primary aim of the update to the Code was to ensure that civil cases that came under the CPC were resolved quickly.

Case Law : In the case of *Salem Advocate Bar Association of India vs Union of India*,⁶ in which the Court held that the amendments are legitimate and that if any problems occur, they may be brought to the attention of the committee, which will consider the issues and make recommendations.

Legislative Framework To Combat The Issue

In India, the legislative sensitivity to ensuring timely and efficient justice is primarily expressed in two enactments: The first is the 1996 Arbitration and Conciliation Act, while the second is the addition of Section 89 to the standard Civil Procedure Code(CPC).⁷ India's liberalised economic policy, implemented in 1991, paved the way for India's economy with the global economy. As a result, the statute was passed. As India had to abide with the Arbitration and Conciliation Act, 1996, the legislature enacted the Arbitration and Conciliation Act, 1996

⁶ <https://indiankanoon.org/doc/342197/>

⁷ With effect from 2002 amendment

as the Indian laws has to abide by the international norms. It replaced the antiquated and inefficient Arbitration Act.

Role Of The Fast Track Court

The Eleventh Finance Commission proposed the formation of a fast-track court in 2005. It proposed establishing a 1734 fast track court in India to deal with pending cases. With the support of the concerned state's High Court, the ministry of finance allocates funds to state governments for the establishment and development of Fast Track courts. Fast Track Courts are only in effect for a five-year duration, after which it is up to the state to determine whether or not to proceed. If the state wants to keep it going, they must make it permanent.

Brij Mohan Lal vs. Union of India (2005) 3 SCR 103⁸ was a landmark case in this ground.

Conclusion

Justice Chandrachud said, "The need of the hour to mitigate the problem of pendency is to think out of the box" implying that our outdated methods of resolving cases have resulted in clogging of the mechanism and over burdening of the judiciary with pendency. We must think about these issues and take concrete measures to fix and resolve them so that people do not lose confidence in the judiciary and its ability to provide justice. This article has made an attempt to highlight challenges that our judiciary has been facing, as well as potential and realistic solutions that, if implemented, might fix these problems.

⁸ <https://indiankanoon.org/doc/1017222/>