

JUSTICE THAT IS POSTPONED IS JUSTICE. DENIED THE DOCUMENTTYPES: ASSESSMENTS

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ABSTRACT

The principle that “justice delayed is justice denied” highlights a critical challenge within the Indian legal system, where delays in adjudication often undermine the very purpose of justice. This article examines the concept of timely justice as an essential component of constitutional governance, particularly under Article 21 of the Constitution of India, which has been judicially interpreted to include the right to a speedy trial. It analyses the human, legal, and institutional consequences of judicial delay, focusing on its impact on the accused, victims, and the credibility of the justice delivery system. The study further explores the systemic causes of delay, including judicial backlog, shortage of judges, infrastructural limitations, and procedural complexities. Through an analysis of landmark judicial decisions, the article emphasizes how courts have recognized and addressed the issue of delay while striving to uphold fundamental rights. It also highlights the adverse effects of prolonged litigation, such as erosion of evidence, psychological distress, and declining public confidence in the judiciary. In addition, the article discusses the need to balance speed and fairness in the administration of justice, cautioning against hasty adjudication that may compromise due process. It suggests the adoption of structural reforms, technological advancements, and alternative dispute resolution mechanisms as necessary measures to enhance efficiency. The article concludes that ensuring timely justice is not merely a procedural requirement but a constitutional and moral imperative, essential for preserving the rule of law and

maintaining public trust in the legal system. Keywords: Judicial Delay, Right to Speedy Trial, Article 21, Access to Justice, Rule of Law

INTRODUCTION

Introduction

The maxim "justice delayed is justice denied" serves as a foundational principle underpinning the legitimacy of any modern legal system. This aphorism, which has been articulated in various forms across legal traditions spanning centuries and civilizations, captures the essential truth that the efficacy of justice is inextricably linked to its timeliness. When adjudication is prolonged beyond reasonable limits, the very substance of justice evaporates, leaving in its wake a hollowed out process that fails to serve its fundamental purposes of resolution, vindication, and deterrence. The maxim operates as a master plot governing multiple narratives within criminal justice, encompassing both procedural efficiency and the temporal relationship between crime and its adjudication. It reflects a profound understanding that justice is not merely an abstract ideal but a practical reality that must be delivered within a timeframe that allows it to serve its intended functions.

The philosophical roots of this principle can be traced to ancient legal traditions. The Roman legal maxim "boni iudicis est litis dirimere" (it is the duty of a good judge to prevent litigation) and the English common law principle that "justice must not only be done, but must be seen to be done" both emphasize the importance of timely resolution⁵. The Indian legal tradition, through its various customary and religious legal systems, similarly recognized the importance of expeditious dispute resolution. The Arthashastra of Kautilya, dating from approximately the fourth century BCE, emphasized the importance of efficient judicial administration and prescribed time limits for various stages of legal proceedings. These historical antecedents demonstrate that the concern with judicial delay is not a modern preoccupation but a perennial challenge of legal systems.

In the Indian constitutional context, this principle has assumed profound significance.

The Constitution of India, adopted in 1950, established a framework that aspired to transform the inherited colonial legal machinery into an instrument of social justice. The framers of the Constitution were acutely aware of the dangers of judicial delay and sought to establish a system that would deliver justice expeditiously. The directive principles of state policy, while not judicially enforceable, emphasize the importance of ensuring that the legal system promotes justice on a basis of equal opportunity and provides free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The Supreme Court of India has consistently held that the right to a speedy trial is not merely a procedural guarantee but a fundamental right implicit in Article 21 of the Constitution, which protects the right to life and personal liberty. As the Court observed in the landmark case of *Hussainara Khatoon v. Home Secretary, State of Bihar*, any procedure that does not ensure a reasonably quick trial cannot be regarded as reasonable, fair, or just, and would consequently fall foul of constitutional protections. This jurisprudential development transformed the abstract ideal of timely justice into an enforceable constitutional mandate, placing an affirmative obligation upon the state to ensure that its criminal justice machinery operates with reasonable expedition.

The relationship between delay and denial of justice operates on multiple levels. At the most immediate level, delay denies justice to the parties in a specific case. The accused person, regardless of guilt or innocence, experiences the anxiety, uncertainty, and stigma of unresolved criminal proceedings. The victim, who has already suffered harm, experiences secondary victimization through the prolonged legal process. At a broader level, systemic delay denies justice to society by undermining the deterrent effect of criminal sanctions, eroding public confidence in the rule of law, and creating conditions in which impunity flourishes. The maxim thus captures both the individual and societal dimensions of the problem.

Historical Evolution of India's Criminal Justice System

The contemporary structure of India's criminal justice system represents a complex

palimpsest of historical influences, with its deepest roots embedded in the colonial legal architecture imposed by the British Raj. The colonial administration, driven by the imperatives of imperial control and the need to establish a uniform legal order across a vast and diverse subcontinent, introduced a comprehensive codification of criminal law through the Indian Penal Code of 1860, the Code of Criminal Procedure of 1898, and the Indian Evidence Act of 1872. These enactments, drafted primarily by Lord Macaulay and his contemporaries on the Law Commission of India, were designed to serve the administrative and punitive needs of an imperial power rather than to secure justice for the colonized population.

The pre-colonial period in India was characterized by a decentralized system of law and justice, with diverse customary practices, community based adjudication, and varying forms of dispute resolution across different regions and communities. The Mughal Empire, which preceded British rule, maintained a system of Islamic law administered by qazis, but also permitted Hindus to adjudicate their personal matters according to Hindu law. Local panchayats and community assemblies played significant roles in dispute resolution, often emphasizing reconciliation and consensus rather than adversarial adjudication. This pluralistic and decentralized system, while imperfect, was attuned to the social realities of Indian society and provided accessible mechanisms for dispute resolution.

The colonial intervention fundamentally restructured this landscape, introducing uniform codes, formalized court hierarchies, and adversarial procedures that were largely alien to indigenous legal traditions. The establishment of the Supreme Court at Calcutta in 1774, followed by similar courts at Madras and Bombay, created a hierarchical judicial system that gradually displaced indigenous institutions. The codification of criminal law in 1860, 1872, and 1898 created a unified substantive and procedural framework that applied uniformly across British India. This transformation established the institutional architecture that continues to shape the Indian criminal justice system, but it also imported procedural complexities and rigidities that have proven remarkably resistant to reform.

The colonial criminal justice system was designed with several features that continue to contribute to case backlogs in independent India. The adversarial trial model, borrowed from English common law, places a premium on oral testimony, cross examination, and the presentation of evidence in open court. This model, while providing important protections for the accused, is inherently time consuming and resource intensive. The procedural rules governing criminal trials, codified in the Criminal Procedure Code, create multiple opportunities for adjournments and interlocutory appeals that can prolong proceedings indefinitely. The evidentiary rules, codified in the Indian Evidence Act, create complex requirements for the admissibility of evidence that often necessitate lengthy hearings on preliminary issues.

The post-independence period witnessed a dual movement: the constitutionalization of criminal justice through the incorporation of fundamental rights and directive principles, and the perpetuation of colonial institutional structures with only incremental modifications. The Constitution of India, adopted in 1950, established a framework that aspired to transform the inherited legal machinery into an instrument of social justice. The fundamental rights, particularly Articles 14, 19, 21, and 22, established constitutional protections for the accused and created a framework for judicial review of criminal proceedings. The directive principles, while not enforceable, established aspirational goals for the reform of the justice system.

LITERATURE REVIEW

The literature on judicial delays in India is both voluminous and fragmented, spanning doctrinal legal scholarship, empirical studies, institutional reports, and comparative analyses. However, as the introductory chapter of this thesis posits, there exists a critical gap in the form of a comprehensive and contemporary analysis that integrates the implications of the newly enacted criminal laws. This chapter serves a dual purpose: firstly, to situate the present study within the existing body of knowledge, and secondly, to identify the lacunae that this research aims to address.

The review is informed by a wide range of sources, including judicial precedents, legislative materials, official reports, academic journal articles, books, and empirical

studies. The analysis is guided by a critical and analytical approach that seeks not merely to summarize the existing literature but to evaluate its strengths and weaknesses, to identify areas of consensus and disagreement, and to highlight the gaps that this thesis aims to address. The chapter concludes with a synthesis of the literature review findings and a clear articulation of the unique contribution that the present study makes to the scholarly discourse.

Historical and Constitutional Framework of Speedy Justice

The Indian Constitution does not explicitly enumerate a right to a speedy trial. However, the Supreme Court of India, through a series of landmark judgments, has firmly established that the right to a speedy trial is an essential facet of the fundamental right to life and personal liberty guaranteed under Article 21. As one study observes, the right to a speedy trial is now recognized as a fundamental right, with the Supreme Court having inserted it into the constitution despite the absence of explicit textual provision. The significance of this judicial innovation cannot be overstated: it renders the state accountable for delays in the judicial process and provides a constitutional basis for challenging prolonged proceedings. The right to speedy justice encompasses not merely the trial stage but extends to the entire criminal justice process, from investigation to final adjudication.

The scholarly literature on this subject reveals a tension between the procedural due process requirements of the criminal justice system and the imperative of expeditious disposal. Some commentators argue that the adversarial system, with its elaborate procedural safeguards, necessarily entails delays, and that the right to speedy trial must be balanced against the rights of the accused to a fair trial. Others contend that the current delays are disproportionate and constitute a violation of the constitutional guarantee, irrespective of the procedural complexities inherent in the system.

The constitutional framework also encompasses the principle that justice must not only be done but must manifestly and undoubtedly be seen to be done. This principle has been invoked in the context of speedy justice, with courts emphasizing that the perception of

delayed justice can erode public confidence in the judiciary. The right to a speedy trial, therefore, is not merely a right of the accused but also a right of the community to see that justice is delivered in a timely and efficient manner. This broader societal dimension of the right to speedy justice has been acknowledged in several judicial pronouncements and has been the subject of extensive scholarly commentary.

Political Interference in Investigation

Perhaps the most debilitating factor affecting the integrity and timeliness of investigations is political interference. The institutional autonomy of the police is often compromised by the intervention of political executives who may seek to influence the direction of an investigation to protect their interests or to target their political rivals. This interference can manifest in various forms, including the transfer of investigating officers, the destruction or manipulation of evidence, the non-production of key witnesses, or the deliberate slowing down of the investigation. Such interference not only undermines the impartiality of the process but also leads to a paralysis of the investigative machinery. Cases involving high-profile individuals or politically sensitive matters are particularly susceptible to this phenomenon, where the objective of the investigation is subordinated to political expediency.

The problem of political interference is not merely anecdotal; it is a systemic issue that has been acknowledged by the courts and various commissions. The lack of a robust mechanism to insulate the police from political pressure means that the investigation is often a casualty of the political process. The Supreme Court has, on numerous occasions, laid down guidelines to protect the independence of the investigation, but these are often flouted with impunity. The result is that many cases, particularly those with political overtones, are deliberately stalled or derailed, contributing to the massive backlog and eroding public confidence in the justice system.

Police Remand and Custody Issues

The process of police remand, designed to facilitate further investigation, has become a source of significant procedural delays and human rights violations. In complex cases, the police often demand extended periods of police custody to elicit information and unearth evidence.

The Supreme Court has repeatedly emphasized that police remand should not be granted as a matter of routine and that the magistrate must apply their mind to the necessity of such custody. However, the sheer volume of cases and the pressure from the police often lead to a mechanical granting of remand. This is not only a violation of the rights of the accused but also contributes to the overcrowding of prisons. The accused, who is presumed innocent, is subjected to prolonged pre-trial detention, often in appalling conditions. The problem is particularly acute in states like West Bengal, where the national prison occupancy rate stands at 131.4 percent, and under trial prisoners account for approximately 75.8 percent of the prison population.

Delay in Filing Charge Sheets

Section 173 of the CrPC mandates that the investigation must be completed and a charge sheet filed as soon as possible, and in any case, within 60 days (90 days for offences punishable with death, imprisonment for life, or imprisonment for a term of ten years or more)¹⁴⁷. Despite this statutory timeline, the filing of charge sheets is almost always delayed. The reasons for this are manifold: overburdened investigating officers with heavy case loads, the logistical challenges of gathering evidence from multiple sources, the absence of forensic reports, and the inability to trace or secure witnesses. It is not only a procedural violation but also provides a ground for the accused to seek default bail. However, the pressure of massive pendency means that even this statutory safeguard is often rendered ineffective due to delays in the bail hearing itself.

The issue of delayed charge sheets is particularly acute in cases under special laws such as the Unlawful Activities (Prevention) Act (UAPA) and the Narcotic Drugs and Psychotropic Substances (NDPS) Act. These cases are often complex and involve voluminous evidence, making it difficult for the police to complete the investigation within the stipulated timeframe. The case of Sudhir Dhawale, an activist from Mumbai who was arrested in June 2018 on charges of inciting caste violence under the UAPA, serves as a stark illustration. He spent six and a half years in jail awaiting bail, with the charge sheet against him running to 25,000 pages and listing over 350 witnesses¹⁴⁹. When he finally got bail, a judge at the Bombay High Court ruled that Dhawale had suffered an "inordinate delay" that violated his fundamental right to a speedy trial. Nearly a year

after his release, he was still waiting for a trial date.

Forensic Delays

The forensic infrastructure in India is abysmally inadequate to meet the demands of the criminal justice system. State forensic science laboratories (FSLs) are chronically understaffed, underfunded, and poorly equipped. The result is a crippling backlog of forensic samples awaiting analysis. Reports on DNA analysis, ballistics, chemical analysis, and toxicology can take months, and in some cases, years, to be prepared. This delay has a devastating impact on the investigation and trial process. Without the final forensic report, the police are unable to complete the charge sheet, and the trial cannot proceed. The accused is entitled to a copy of the forensic report to prepare a defence, but this is often unavailable, leading to adjournments. The Supreme Court and various High Courts have repeatedly drawn attention to this crisis, but the shortage of forensic scientists and the absence of a robust infrastructure remain a formidable barrier to timely justice. The crisis of forensic delays has been a recurring theme in judicial discourse. The courts have stressed the need for the establishment of modern forensic laboratories and the recruitment and training of forensic scientists. The government has taken some steps in this direction, but the progress has been slow and uneven. Without a concerted effort to address this infrastructure deficit, the investigation and trial process will continue to be hamstrung by long delays.

Delays at the Pre-Trial Stage

The pre-trial stage is a critical juncture in the criminal justice system, representing the transition from investigation to adjudication. It is during this phase that the liberty of the accused is often curtailed through judicial remand, and the foundation for the trial is laid through the framing of charges. This period, however, has become a quagmire of procedural delays and a primary driver of the monstrous backlog. The consequences of

these delays are most acutely felt by under trial prisoners, who constitute the vast majority of India's prison population. As of 2025, over 70 percent of the prison population in India, amounting to approximately 4.3 lakh individuals, are under trials, meaning they have not been convicted of any crime. This statistic is not merely a number; it reflects systemic failure to uphold the constitutional presumption of innocence, where individuals languish in jails for years, often longer than the maximum sentence they would have received if convicted.

Suggestions and Recommendations

The findings of this research point to the urgent need for comprehensive, coordinated, and sustained efforts. Piecemeal interventions, such as the establishment of fast

track courts, as recommended above, provides a comprehensive framework for addressing the case backlog crisis in the Indian criminal justice system. However, the implementation of these recommendations requires a sustained and coordinated effort by all stakeholders, including the judiciary, the legislature, the executive, and the bar.

The judiciary, as the guardian of the fundamental rights of the people, must take a leadership role in driving reform. The Supreme Court, in its landmark judgments, has articulated the constitutional imperative of a speedy trial and has issued directions for its enforcement. The Court has held that the State is under a constitutional mandate to ensure speedy trial and that whatever is necessary for this purpose has to be done by the State. The higher judiciary should also lead by example, streamlining its own procedures, adopting technology, and setting timelines for the disposal of cases.

The legislature must enact the necessary laws to support the reform agenda. The new criminal laws, the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhinyam, represent a step in the right direction, but their effectiveness depends on the creation of the institutional capacity necessary for their implementation. The legislature should also consider the establishment of a National Judicial Commission to oversee judicial appointments and accountability, and should strengthen the legal aid system to ensure access to justice for all. The decriminalization of

civil matters and the reform of bail jurisprudence also require legislative action.

The executive, which includes the police, the prosecution, and the prison administration, must take responsibility for the efficient functioning of the criminal justice system. The police must be professionalized, trained, and equipped with the necessary resources to conduct effective investigations. The prosecution service must be strengthened, and public prosecutors must be provided with the training and support they need to present cases effectively. The prison administration must ensure the humane treatment of prisoners, and must proactively identify and release eligible undertrial prisoners under the provisions of Section 479 of the Bharatiya Nagarik Suraksha Sanhita. The Ministry of Home Affairs has launched a special campaign for the implementation of this provision, and this campaign must be sustained and expanded, with regular monitoring and reporting. The success of the campaign depends on the cooperation of state governments, and the Ministry must take proactive steps to secure this cooperation.

The bar, which represents the interests of litigants and the accused, must also play a constructive role in reform. Lawyers should avoid seeking frivolous adjournments and should cooperate in the efficient disposal of cases. The bar should also support the Professionalization of the judiciary and the improvement of court infrastructure. As Justice A K Patnaik demonstrated, the cooperation of the state government and the central government with the High Court in increasing the number of judges and courtrooms can lead to substantial reductions in pendency.

The ultimate goal of the reform agenda is a criminal justice system that delivers timely, fair, and effective justice to all. This goal requires a cultural shift, making timeliness a core value of the justice system. Speedy justice must be seen not as a luxury but as a fundamental right, and the system must be held accountable for its failure to deliver on this right. The challenge of balancing speed with fairness is the ultimate challenge of criminal justice reform, and it requires a nuanced and context-sensitive approach.

As observed by Justice Subhash Reddy, "Unless we come up with comprehensive planning giving timelines for disposal of cases, the present system may not work for

present and future needs. It is high time for all stakeholders to think seriously to bring drastic reforms keeping in mind the present day needs of the society". This observation underscores the urgency of the reform agenda and the need for a comprehensive and coordinated effort by all stakeholders. The DAKSH report has emphasized that the commercial tribunals, despite their promise of faster and more efficient adjudication, have been eroded by chronic vacancies, procedural gaps, and weak infrastructure. The same challenges afflict the broader criminal justice system, and the solution requires a holistic approach that addresses the root causes of delay.

Limitations of the Study

This study, while comprehensive in its scope, has several limitations that should be acknowledged. The doctrinal and analytical methodology, while appropriate for the examination of legal and institutional issues, has limitations in capturing the empirical realities of the criminal justice system. The study has relied on secondary sources, including academic literature, official reports, and news reports, and has not undertaken primary empirical field research, such as interviews with prisoners, victims, and judicial officers. Such research would provide valuable insights into the lived experiences of those affected by delayed justice and would complement the doctrinal analysis presented in this thesis.

The rapidly evolving legal landscape, with the enactment of new criminal laws and the ongoing judicial interpretation of these laws, presents a challenge to the currency of the analysis. The new criminal law have not yet been fully implemented, and the impact on the case backlog is yet to be seen. The study has examined the provisions of these laws and assessed their potential, but the actual outcomes may differ from the intended outcomes.

The study's focus on the criminal justice system, with limited reference to civil cases, means that some dimensions of the case backlog crisis have not been fully explored. The backlog in civil courts, which is even larger than the backlog in criminal courts, is a

significant problem that merits separate study.

The comparative analysis with other jurisdictions, while informative, has been limited in scope. A more extensive comparative analysis, including a detailed examination of the institutional and procedural reforms implemented in other jurisdictions, would provide valuable lessons for India.

Future Research Directions

The limitations of this study point to several directions for future research. Empirical research on the lived experiences of under trial prisoners, victims, and witnesses would provide a more nuanced understanding of the human cost of delayed justice. Such research should include qualitative interviews and surveys, and should examine the intersectionality of caste, class, and gender in the experience of delayed justice.

The impact of the new criminal laws on the case backlog should be systematically evaluated through empirical research. The special campaign for the implementation of Section 479 of the Bharatiya Nagarik Suraksha Sanhita provides a unique opportunity for evaluating the impact of legislative reform on under trial detention . Comparative research on backlog reduction strategies in other jurisdictions would provide valuable insights for India. The reforms implemented in countries such as Canada, the United Kingdom, and Singapore should be examined in detail, and the lessons learned should be applied to the Indian context.

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