

“Justice Delayed is Justice Denied” Vis a Vis Right to Speedy Trial in India

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Abstract

There is a major issue involving the legal and judicial system's flaws, which is the only reason for long delays in case resolution, resulting into egregious failure to provide justice to inmates in India who are awaiting trial. The core of criminal justice system is expedited trials, and there is little question that each additional day of delay amounts to a denial of justice. Any delay in a system of any type causes collapse of justice system, and unquestionably, India is major victim of such issue. If changes are not made right now, whole foundation of law's criminal proceedings would be threatened. As they say, justice must be done as well as look to have been done. When one says, "I'm going to see you in court," in case of violation of someone's rights, it demonstrates people's faith in the legal system. Even if it has been an issue for a while, one of the major issues with the legal system is the problem of delays in resolution of cases that are pending before the Court. According to reports, a few sub-proceedings in several states were imprisoned for longer periods of time than the maximum sentence allowed. This kind of disturbing circumstance hasn't gone unnoticed. The high judiciary and media both have made critical comments on cases that have come to light. In this paper, we will talk about clauses in Indian Constitution that deal with swift justice.

Keywords: criminal justice system, speedy trial, violation, resolution of cases, swift justice.

INTRODUCTION

Justice administration includes fair and prompt trials as well as the conviction of the criminal and exoneration of the innocent. Everyone is aware of the urgent necessity for a quick trial. A swift trial is one of the fundamental human rights since justice cannot be claimed to have been served in the absence of a swift trial. It has received support from almost all international charters and treaties. In particular, the Civil and Political Rights Convention was ratified by India on April 10 of that year (ICCPR). In India, constitutional right to quick trial serves as a crucial safeguard against unjustified and oppressive pre-trial detention, public accusation-related anxiety, and possibility that a defendant's capacity to defend himself will be compromised by lengthy delays.

The Magna Carta, a key piece of English legal history, is where the right to a speedy trial is first mentioned. Although the constitutional doctrine known as the right to a speedy trial has been around for almost 25 years, the end goal is still a long way off. It is a concept that emphasizes swift case resolution in order to improve the efficiency of the legal system and deliver justice as soon as possible. According to Article 21, no one may be deprived of their life or personal liberty unless they follow the legal process.

Because of India's commitment to timely justice delivery under its international legal commitments, the Directive Principles of State Policy outlined in Indian Constitution also apply.¹ If a deadline has been set down in a statute, it is a "directory" deadline rather than a "required" deadline because no law currently in effect sets one forth specifically. Speedy trials are inherently guaranteed by Article 21 of the Constitution, the Supreme Court has noted in its numerous rulings.²

WHAT A SPEEDY TRIAL IS AND HOW IT BEGAN

When a defendant is tried for alleged crimes within a reasonable amount of time, following their capture, it is considered as a "speedy trial". Despite the fact, that many jurisdictions have laws defining length of a trial after charges are brought, whether or not a trial is "speedy" enough in terms of the law often depends on specifics of each case and causes of any delays. When a judge determines that a defendant suffered harm as a result of the unjustifiable delay between his or her arrest and trial, the case is completely dismissed in the most serious scenarios.

The right to a speedy trial guaranteed by the constitution is a crucial safeguard against disproportionate and oppressive pretrial detention, the stress that comes from being accused in public, and the risk that protracted delays will impair an accused person's ability to defend themselves.

The Magna Carta, a venerable codification of English law, first acknowledged the right to a prompt trial. Despite the fact that the right to a fast trial has been championed as a constitutional principle for roughly 25 years, the intended outcome is still many years away. It is an idea that has to do with speedily deciding cases in order to improve the effectiveness of the courts and deliver justice as soon as is practical.

FACTORS THAT CAUSE DELAY RESULTING IN PENDENCY OF CASE

Basically, there are two types of delays in cases, amount of time it takes from the moment a matter is admitted to the time it is heard in court and delay brought on by attorneys, advocates, and others. Other main factors include-

1. Delay in case disposal is the first and major issue. Owing to the lengthy backlog, matters that would typically be resolved in a matter of months now take years to do so which negate the genuine accessibility of justice for average person.
2. Population ratio used by the judge.
3. Lower courts' facilities are rather underwhelming. The lack of a convenient building or other physical amenities at the Courts causes cases to be resolved more slowly.
4. Because of independence of judiciary, some judges believe they are not answerable to anyone, which frequently leads judges to complacency, ignorance, etc., finally causing delay of cases.
5. Court's unjustifiably issued adjournments are the primary cause of the cases' delays.
6. Providing courts with a holiday period also causes cases to be delayed longer, especially in countries like India where there are a large number of unresolved issues.
7. Investigation agencies typically cause delays by frequently taking time preparing charge sheets for court, resulting in delays.³

¹ The Constitution of India, arts. 38(1), 39, 39A.

² Durga Das Basu, S. S. Subramani and Sunil Ambwani, *Commentary on the Constitution of India*, 9th edition (LexisNexis, Gurgaon, Haryana, India, 2017).

³ S. C. Sarkar, Sudipto Sarkar and V. R. Manohar, *The Code of Criminal Procedure*, Updated Tenth edition (Lexis Nexis Butterworths Wadhwa Nagpur, New Delhi, 2014).

CONSTITUTIONAL AND LEGISLATIVE PROVISIONS FOR SPEEDY TRIAL

Criminal prosecutions can drag on in India for years, even decades, and the situation in civil cases is appalling. A speedy trial is crucial to prevent injustice, unjust imprisonment, and oppressive treatment of prisoners. It also ensures the administration of justice by ensuring that all of its residents receive fair and just trials. After two decades of independence, courts were less concerned with how long an undertrial prisoner remained behind bars and more concerned with the prosecution's ability to support the undertrial's continuing detention. But, Apex Court after emergency realized how crucial it was preventing prisoners from languishing in jail or prison and developed a number of Basic Rights that weren't directly stated in Indian Constitution. This contained the Constitution's Basic Right to a Speedy Trial.⁴ Any accused person who is denied right to timely trial may file a petition with Supreme Court under Article 32 in order to have that right enforced. And as part of its constitutional duty, Court also has authority to direct State Governments and other relevant authorities to ensure that accused is given this right. Indian Constitution guarantees, that nobody be denied their right to life or freedom other than in line with law.⁵ Everyone has the right to a fast trial, as per principles of equity in the administration of justice.⁶

Both legislative and executive actions are subject to protection provided under it. Apex Court also ruled that "life" meant more than just animal existence.⁷ Justice Bhagwati noted that "Term 'personal liberty' has broadest scope and embraces number of rights, together making up a person's personal liberty; some of which elevated to level of independent basic rights and are protected by Article 19."⁸

If translated correctly, the phrase "Life and Liberty" includes a person's right to a quick trial. Everyone has unrestricted and healthy right to life. In victim's situation, seeking justice ultimately requires years of court appearances. The accused in this situation spends years in jail while awaiting trial. Everyone is aware that an accused person is innocent until proven guilty. Their right to life and to personal liberty is violated by the delay in the legal process, which also causes mental suffering which should be kept to a minimum.

In Criminal Procedure Code of India⁹, there are number of legislative rules (some already in place while others added through revisions) to guarantee a swift trial:

- Police officer receiving information about committing of offence is required to immediately transmit report about it to magistrate and go to the scene to conduct investigation.¹⁰
- All investigations ordered under chapter XII of the CrPC must be finished immediately as a matter of rule.¹¹
- The accused may obtain free copies¹² of police report recorded as a FIR, declaration made of all persons¹³, confession and the declaration¹⁴, any other document sent with police report to the magistrate.¹⁵

⁴ The Constitution of India, art. 21.

⁵ The Constitution of India, art. 21.

⁶ The Constitution of India, art. 16.

⁷ *Munn v. Illinois*, 94 U.S. 113 (1876)

⁸ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

⁹ The Code of Criminal Procedure, 1973 (Act 2 of 1974).

¹⁰ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 157(1).

¹¹ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 173(1).

¹² The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 207.

¹³ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 161(3).

- Chapter XXI of the Criminal Procedure Code allow for summary trials for some minor offences.¹⁶
- Three key principles of criminal procedure include: police custody, judicial custody and default bail which demonstrates the lawmakers' intention to protect the accused from wrongful long-term incarceration and harassment.¹⁷
- Rape inquiry must be finished within two months. The two-month window begins the day officer in charge of police station entered information.¹⁸
- The XXIA of Cr.P.C. contains provisions for plea bargaining with intention to provide fair resolution to criminal accusation more quickly than would be achievable with a full trial.¹⁹
- Avoid delays in trials and hearings must go daily until all witnesses have been questioned. Two provisions that address specific situations in which no adjournments shall be granted also have been inserted.²⁰

SPEEDY TRIAL: ROLE OF INDIAN JUDICIARY

The Indian judicial system has important role in defending citizens' rights, and has worked to make certain rights, such as right to timely and fair trial, constitutionally protected by bringing them under Constitution.²¹ By offering fair and just trials to all of its residents, the Indian judiciary has contributed significantly to the administration of justice. There are numerous Apex Court and High Court rulings on subject of trials in which Courts criticized holdups and exonerated defendants. In area of fundamental human rights, pre-emergency Apex Court's body of law wasn't particularly developed. But, after Emergency, it became engaged and aggressive in this area and also developed new system of basic rights not explicitly stated in Indian Constitution, such as right to fast trial, which has become stand-alone fundamental right.

- In a relevant case, Apex Court held that right to life and autonomy for oneself includes an implicit fundamental right known as "right to prompt trial." In its ruling, the court ordered expanded access to bail, more humane living conditions, and considerable reduction in amount of time between arrest and trial.²²
- In another ruling it was stated that court is entitled to consider whether delay was unintentional, brought on by overflowing court docket or understaffed prosecutors, and whether accused contributed fairly to time taken determining whether right to speedy trial has been denied.²³
- In a different decision, the court determined that the prosecution would be subject to being annulled if there was a delay for an invalid reason.²⁴
- Apex Court ruled in a case that all stages of investigation, enquiry, trial, appeal, revision, and retrial are subject to right to a quick trial.²⁵

¹⁴ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 164.

¹⁵ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 173(5).

¹⁶ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 260-265.

¹⁷ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 167(2)(a).

¹⁸ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 173(1A).

¹⁹ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 265A-265L.

²⁰ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s. 309(1).

²¹ The Constitution of India, art. 21.

²² *Hussainara Khatoon v. Home Secretary, State of Bihar*, 1979 SCR (3) 532.

²³ *State of Maharashtra v. Champalal Punjaji*, 1982 SCR (1) 299

²⁴ *Sheela Barsa v. Union of India*, 1986 SCR (3) 443.

- Apex Court ruled in another judgment that criminal court must release and acquit accused if trial of offence carrying sentence of up to three years in prison has been pending for more than three years without trial starting.²⁶

CONCLUSION AND SUGGESTIONS

As we all know that justice is denied when it is delayed, and when it is hastened, it is buried. Both are true, but how long can one hold out? One of the longest written constitutions in the world, the Indian constitution divides government authority into three pillars: the executive, legislative branch, and judicial branch. People in India, look at judiciary with tremendous respect and unwavering hope, as last resort for protection of justice and human rights and for administration of justice. This puts great deal of pressure on entire legal system to live up to expectations and preserve hallowed aura associated with it. As judiciary, Courts are held to a great deal of accountability. Dynamism and innovation in judicial system are crucial for country's growth. Hence, it is imperative to ensure that no justice is withheld, current issue is rectified as quickly as possible, and rapid trial begins. Right to swift trial is one of the most important human rights since, without it, justice can't be claimed to have been done. It has received support from almost all international charters and treaties. Despite public's increased reliance on courts, sizable segment of population is unable to access it because of problems including poverty, ignorance, and social and societal injustice. A large population, insufficient courts, judge strength that is disproportionate to the population, a lack of ministerial manpower, a lack of infrastructure, literacy, confidence in the system, accessibility, resources, influence of law, living standards, and new dimensions to relationships are among causes of extensive pendency and delay in disposal.

Some effective measures can be taken to avoid or prevent delay. Proper time scheduling will result in effective time management resulting in effective management of judicial system. To improve drafting, listening, and writing skills as well as ability to render accurate and timely judgements, judges should be given appropriate training and opportunities on frequent basis. Also, there should be more judges relative to population, which will aid in swift case resolution. Cases must be assigned in accordance with judges' areas of expertise. Arbitration should be used wherever possible, and be made mandatory in small and minor disputes to help courts save valuable time. Nyaya Panchayats must have ability to handle minor problems. A punishment should be imposed on individual who files application for adjournment on tenuous grounds, and adjournment procedure should be changed to minimize it to a minimum.

²⁵ *Abdul Rehman Antuley v. R.S. Nayak*, 1992 1 SCC 225

²⁶ *Rajiv Gupta v. State of Himachal Pradesh*, AIR 1997.