

# ROLE OF JUDICIARY IN INDIA AND PENDING OF CASES: AN OVERALL VIEW

**AUTHOR:**

**BHAVIKA RATHI**, Advocate, High Court of Delhi

## INTRODUCTION

Instead of having just one factor, the increasing number of lawsuits is beyond the capacity of the present legal system to handle. Currently, courts place a higher priority on providing justice quickly and affordably, although procedural requirements frequently place past practices over efficiency.

In the near future, numerous additional instances are expected due to increased literacy rates. Because of this, the lower courts need to improve their managerial skills in order to deal with the present backlog and any potential future caseload growth.<sup>1</sup>

In this situation, it is critical to acknowledge the significance of contemporary management practices and technological advances, providing prospective ways to expedite judicial procedures. It is the duty of the government to guarantee that everyone has access to justice through the legal system, regardless of social, political, or economic constraints. In India's democratic system, the judiciary plays a crucial role in protecting and advancing citizens' rights along with the executive and legislature departments.

Courts are set up at every tier to protect citizens' rights and offer redress when those rights are violated. The Indian Constitution's Article 21 guarantees the basic right to a prompt trial, which has been emphasised by the Supreme Court.

Nonetheless, the public's faith in the judiciary's ability to resolve complaints in a timely and efficient manner is being undermined by the ongoing backlog

of cases that are pending in all Indian courts.<sup>2</sup>

India is the second most populated country throughout the world, hence the pressure on courts and judges is disproportionate. Taking this into consideration, the Supreme Court authorised the National Court Management System Scheme in 2012 to provide a structure for efficient case handling.

According to this plan, within the next thirty years, there will likely be a considerable spike in the number of fresh lawsuits filed yearly, which would need an enormous boost in the number of judges to handle the anticipated workload.

It is clear from examining the judiciary's role in Indian democracy and the problem of case backlogs at all judicial levels—the Supreme Court, High Courts, and Lower Courts—that structural modifications and effective case management are necessary in order to maintain the values of justice and preserve the public's confidence in the legal system.

## JUDICIARY AND ACCESS TO JUSTICE

In the Indian constitutional system, the judiciary is one of the powerful pillars with the legislature and executive institutions, and it plays a noteworthy and important function. It hears issues involving all facets of human life and relationships and is frequently seen as the keeper of the values of the constitution, an advocate for human rights, and a promoter of social peace. It serves as an essential check and balance between different branches of government.

The timely and easy access to justice is a sign of a healthy democracy. Postponed justice not merely

<sup>1</sup> Neelam Faizan, Need of the court management in the present scenario, Volume 4 Issue 6, South-Asian Journal of Multidisciplinary Studies 291.

<sup>2</sup> Chapter 4, The Judiciary in India, By Mamta Kachwaha, available at: <https://www.icj.org/wp-content/uploads/2013/06/India-judiciary-independence-CIJL-report-1998-eng.pdf> (last accessed on April 23, 2024)

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hinders individuals' ability to use the legal system but also fosters disenchantment among residents, both locally and globally.<sup>3</sup> The courts' administration of justice is made up of many elements. First and foremost, it demands that every member of society be treated equally and that laws provide complete equality free from prejudice.

It also requires that there be an easily accessible legal system and a capable, unbiased judiciary. Laws and court rulings being successfully implemented are further factors that support the administration of justice, as are a strong legal system and efficient courts. It is essential to have a system in place to handle complaints thoroughly and expeditiously administer justice.

Around the globe, there are differences in the extent of judiciary involvement in various legal systems. For instance, the judiciary's judicial review authority is restricted in Britain since the country does not have a codified constitution. Whereas the Constitution gives the judiciary in the United States the authority to review any possible abuses by the legislative and president. The Indian judiciary possesses broad jurisdiction for conducting judicial reviews.<sup>4</sup> The Supreme Court and High Courts protect and uphold peoples' basic rights against capricious state acts while mediating conflicts amongst the State and the Centre.

One of the unique characteristics of the Indian court is its ability to examine the legitimacy of constitutional modifications, a power not found in any other written constitution.

The Indian judiciary performs a wide range of duties, such as protecting the Constitution, enforcing the application of the law by issuing writs, overseeing subordinate courts to guarantee the administration of justice, and managing administrative duties like marriage registration.

### INDIA'S DAUNTING CASE BACKLOG

The primary factor contributing to the length of cases pending in the Indian legal system is definitely

delay, which eventually undermines the fundamental principles of justice. "Justice denied is justice delayed," as the saying goes. All court levels have seen a dramatic rise in the backlog of cases over the last ten years; between 2006 and 2019 alone, there was a rise of 22 percent in cases, or 64 lakh cases, in the backlog. Subordinate courts accounted for the majority of the backlog, accounting for over 87.3%, followed by High Courts at 12.5% and the Supreme Court at 0.2%. As of August 2019, the total number of cases still pending in the Supreme Court, High Courts, and subordinate courts exceeded 3.5 crore.<sup>5</sup>

The main cause of this massive backlog is the unequal increase in new case files in comparison to the pace of case disposal, which causes an increasing number of cases to remain pending. This problem highlights structural inadequacies that need to be fixed right now.

Examining the underlying reasons for delays, the Indian legal system has shortcomings that are made worse by procedural roadblocks, even if it is naturally susceptible to a certain level of delay. It is the burden of litigants to substantiate or refute facts, yet occasionally, judge neutrality might unintentionally drag out proceedings.<sup>6</sup> In addition, the increasing number of cases is a result of sociological variables like population growth, increased knowledge of individual rights, and the passing of new laws, particularly those related to tenancy and marital rights.

Increased industrialization and changing labour regulations are two components that exacerbate the problem by increasing the amount of lawsuits.

Delays can occur at several phases of the procedures in trial courts, where the majority of cases begin. There is a delay between filing and registration when court authorities review whether all the procedures were followed, and fees were paid. This happens when a plaint is filed. The procedure is further prolonged by administrative obstacles that affect summons issued to defendants. Delays are made worse in many courts by a lack of staff, which emphasizes how urgently complete change is

3 Swachh Bharat Abhiyan Essay, By Naveen Tyagi, available at: <https://www.indiacelebrating.com>

4 Omdutt, Role of Judiciary in Democratic System of India (Judicial Activism under the Supreme Court of India): Golden Research Thoughts, September; 2012, Vol.2, Issue 3.

5 Explaining the draft Bill on violence against healthcare professionals and clinical establishments, By Gayatri Mann, available at: <https://www.prsindia.org/theprsblog/examining-pendency-cases-judiciary>

6 <https://www.latestlaws.com>

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needed.

Higher courts, such as the Supreme Court and High Courts, have quite different problems than do lower courts. The two most important ones are the long wait times for vacancies in judiciary to be filled and the shortage of judges in comparison to caseloads.<sup>7</sup> These systemic flaws make it difficult to resolve cases quickly, which feeds the downward spiral of backlog building.

In addition to institutional ineffectiveness, there are many other reasons why delays occur, such as court-, government-, and litigant-induced delays. In order to effectively tackle these complex issues, a comprehensive strategy that includes both structural changes and manpower expansion is required.

In order to reduce the backlog of cases and improve the delivery of justice, the courts must be strengthened with the necessary facilities and staff. Promising initiatives to improve the problem include the implementation of Lok Adalats, fast-track courts, mobile courts, and modernising legal systems.<sup>8</sup> The problem of case backlogs can be lessened by creating a competitive legal environment supported by sufficient personnel, effective case management, and modernization programmes. This would provide fair access to justice for all societal groups, especially the underprivileged.

Case backlogs are a widespread and a long-running problem in the Indian judiciary, affecting both high courts and specialised tribunals. High courts are currently dealing with an astounding 5.8 million cases that are outstanding, even though between 2015 and 2019, they disposed of over 1.8 million cases yearly on a typical basis. Since more cases are being submitted than are being resolved, the queue of cases grows over time and prevents important legal concerns from being resolved in a timely manner.<sup>9</sup>

There are significant ramifications from this backlog, especially in the areas of the criminal justice system and constitutional laws. Many important matters pertaining to constitutional law, especially those that affect people's fundamental rights, are left unresolved for several years or even decades. Excessive delays in criminal proceedings cause great suffering; accused people, who are sometimes imprisoned, have to patiently wait years for judgements while living in ambiguity.

In addition, when enforcing agreements costs become unaffordable, economic activity suffers, which lowers India's standing in the World Bank's 2020 Ease of Doing Business rankings for contract enforcement, which place it at 163 out of 190 nations.

The problem of backlog affects specialised tribunals as well as the conventional court system, as the Indian economy became more liberalised in the 1990s. This difficulty is best shown by the National Company Law Tribunal (NCLT), which is charged with settling the country's financial problems. The NCLT's important mission is beset by serious infrastructural and operational inefficiencies that make it difficult for it to meet deadlines, especially those related to the Insolvency and Bankruptcy Code.<sup>10</sup>

The NCLT's shortcomings in operation and insufficient facilities have led to a significant accumulation of cases, so impeding the effectiveness of critical measures aimed at tackling India's economic difficulties. According to reports, in the 2020 fiscal year, the NCLT admitted around 480 cases on a quarterly basis. This means that, at the present rate of admission, it will require six years for it to eliminate the pile of cases.<sup>11</sup>

To sum up, the widespread problem of case backlogs in India's courts—which affect both regular courts and specialised tribunals—highlights the pressing necessity of thorough reforms aimed at improving effectiveness, facilities, and capability to operate. It is imperative to tackle these structural

7 All about the appointment of judges of the Supreme Court, By Ishita Rathor, available at: <https://blog.ipleaders.in/appointment-judges-supreme-court/>

8 Chapter 5, The Judiciary in India, By Mamta Kachwaha, available at: <https://www.icj.org/wp-content/uploads/2013/06/India-judiciary-independence-CIJL-report-1998-eng.pdf>

9 How to Start Resolving the Indian Judiciary's Long-Running Case Backlog, By Pratik Datta, Suyash Rai, available at: <https://carnegieendowment.org/2021/09/09/how-to-start-resolving-indian-judiciary-s-long-running-case-backlog-pub-85296>

10 Sharma, Yogender. (2023). A Study On The Pendency Of Cases In Indian Courts Vis-À-Vis Human Rights. *Russian Law Journal*. 11, available at: [https://www.researchgate.net/publication/371679025\\_A\\_STUDY\\_ON\\_THE\\_PENDENCY\\_OF\\_CASES\\_IN\\_INDIAN\\_COURTS\\_VIS-A-VIS\\_HUMAN\\_RIGHTS](https://www.researchgate.net/publication/371679025_A_STUDY_ON_THE_PENDENCY_OF_CASES_IN_INDIAN_COURTS_VIS-A-VIS_HUMAN_RIGHTS)

11 The Role of Judiciary in India and Pendency of Cases: An Overall View, By Akshay Sagar, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3798261](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3798261)

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shortcomings in order to maintain the prompt settlement of legal cases, protect constitutional rights, streamline the criminal justice system, and cultivate an atmosphere that is favourable for economic endeavours.<sup>12</sup>

### CAUSE OF DELAY IN JUSTICE

The citizens now have more legal rights and are more confident to use the legal system to pursue justice because of contemporary socioeconomic advancements. Nevertheless, due to a lack of financial support from both the central and state governments, India's current judicial system is unable to sufficiently address the country's growing need for judicial recourse. The obvious need for more courts and benches is made worse by the current court infrastructure' poor computerization and modernization.<sup>13</sup>

The lack of judges is a significant element in the backlog of cases. Even with continuous hearings, matters remain unresolved, frequently due to continual postponements.<sup>14</sup> In order to relieve the pressure on the court, activists stress that it is crucial to raise the number of judges per million population from the present 11 to at least 50.<sup>15</sup>

Furthermore, the problem is made worse by the improper use of Public Interest Litigation (PIL). The wide definition of PIL permits the filing of pointless lawsuits for private benefit as opposed to actual public interest. This overflows the Supreme Court and High Courts with pointless cases, underscoring the necessity for more stringent regulations to reduce pointless PIL petitions.<sup>16</sup>

The persistent flood of new cases combined with a slow case disposition rate highlights the

structural inadequacies that beset the lower courts. This situation is caused by a multitude of causes, such as the lack of judges, judge absence, lengthy trial stages, advocate strikes, and recurring judicial transfers. Government agencies contribute to approximately half of all ongoing cases, which frequently involve inter-agency conflicts weighing down the legal system. This contributes to the overcrowding of subordinate courts.<sup>17</sup>

Moreover, the perpetual modification of legislation presents a noteworthy obstacle to the prompt administration of justice. Regular changes to the law require cumbersome labour to understand and apply the updated legal framework, taking precious judicial time out of the resolution of cases.

Delays are made worse by weak case administration, which is made worse by a dearth of information technology systems for efficient handling of cases. Laws that apply uniformly to small and big situations do not take into consideration the unique circumstances of each case, which might result in drawn-out court cases. Furthermore exacerbating delays is the practice of assigning the exact same judges to both civil and criminal cases, as they must manage the intricacies of distinct legal fields.<sup>18</sup>

Extensive changes are required to deal with these structural problems. These improvements must include building out the court system, hiring more judges, enforcing tougher PIL filing requirements, and using information technology to process cases efficiently. In addition, the optimization of judicial allocation and the simplification of procedural procedures can improve the effectiveness and promptness of case settlement, so contributing to the overall objective of providing fair access to justice for everyone.<sup>19</sup>

### REMEDIES

It is imperative that swift action be taken to tackle the growing backlog of cases, beginning with the timely establishment of new posts to increase the judiciary's competence and the prompt filling of current vacant seats in the judiciary. It is critical that

12 Conference Proceedings of National Initiative to Reduce Pendency and Delay in Judicial System, available at: [https://main.sci.gov.in/pdf/PublicationOther/Proceeding\\_Book\\_SupremeCourt.pdf](https://main.sci.gov.in/pdf/PublicationOther/Proceeding_Book_SupremeCourt.pdf)

13 Gagan Gandhi, How to reduce the pendency in the courts, available at: <https://www.latestlaws.com> (last accessed on April 20, 2024)

14 Alex Andrews George, The problem of pending cases in Indian courts: how to tackle, available at: <https://www.clear-ies.com> (last accessed on April 23, 2024).

15 Ibid.

16 Sandeep Dangi, Causes for litigation pendency in India, available at: <https://www.legalserviceindia.com> (last accessed on April 25, 2024).

17 Ibid.

18 Supra note 10.

19 Vandana Ajay Kumar, Judicial delays in India: cause & remedies, Volume 3, Journal of Law 50 (2012).

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open positions of judge be filled as soon as possible in order to guarantee the courts' smooth operation and hasten the settlement of cases.

In order to ease the burden on the court system, efforts to decrease litigation have to be given top priority. Judges must use rigorous examination to separate meritorious claims from bogus ones, deterring the former from moving further. This preventative strategy can expedite the courtroom proceedings and drastically reduce the number of needless lawsuits that are filed.<sup>20</sup>

In order to strengthen the judiciary, case and court administration techniques must be prioritised. One practical way to reduce the length of time cases remain unresolved and speed up case settlement is to use alternative dispute resolution processes. Furthermore, the utilisation of technological advances can improve the effectiveness of legal processes by expediting the delivery of justice and mitigating delays.<sup>21</sup>

Obtaining professional guidance, such as from management consultants, can help with case preparation for accelerated trials, court resource optimisation, and settlement process acceleration. Furthermore, establishing firm deadlines for both case proceedings and decision-making procedures can promote transparency and hasten the resolution of cases.<sup>22</sup>

Constraints on adjournments, such as restricting them to exigencies and exceptional situations, can help avoid needless delays and guarantee the effective use of court resources. It is possible to speed case settlement and simplify court procedures by barring baseless adjournment petitions.<sup>23</sup>

In order to reduce the accumulation of cases and reinforce the capacity of the judiciary to deliver justice in the quickest way possible, a comprehensive approach that includes expeditious appointment of judges, rigorous case examination, efficient court administration, alternative dispute resolution mechanisms, the incorporation of technology, consulting with experts, and the implementation of time constraints and adjournment limitations is

necessary.<sup>24</sup>

Maintaining the judiciary's accessibility and responsiveness to the demands of all people, especially the marginalised, is crucial to upholding this confidence. In order to address the backlog of cases, serious efforts and dedication are needed. Some of these efforts include the creation of venues for competitive alternative dispute settlement, the training of judicial officials, and the prompt filling of vacancies in the Supreme Court and other High Courts.

In conclusion, notwithstanding the difficulties facing India's court, systematic changes, improved effectiveness, and fair access to justice must be prioritised. India can strengthen its legal system and promote democracy and justice for all by resolving institutional flaws, encouraging cooperation, and implementing creative solutions.

### CONCLUSION

In India, recent times have witnessed coordinated attempts to tackle the enduring problem of court system backlog and accelerate the settlement of cases. The country's leading judges met in 2015 to draft a National Vision Document for 2015–2020, with an emphasis on bolstering district and high court surveillance systems, increasing the judicial branch's budgetary independence and accelerating the adjudication of cases. Nevertheless, in spite of these efforts, the core factors that cause the issue frequently go unchecked, and the suggested fixes fall short. To properly monitor judicial operations, it is imperative that court administrators be appointed who possess the necessary qualifications, skills, and competence. Court management is a vital idea.

The government, judiciary, and bar must work together in order to strengthen the foundation of justice. However, the effectiveness of any plan, even the judiciary as a whole, comes down on the people who are charged with carrying it out. In the era of rapid advances in technology, people's increased understanding of their rights emphasises their ability to seek legal remedy when those rights are violated, as provided by Article 39 of the Constitution. In

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<sup>20</sup> Dipak Misra, National initiative to reduce pendency and delay in judicial system (2018) (The Indian Law Institution).

<sup>21</sup> Ibid.

<sup>22</sup> Supra note 15.

<sup>23</sup> Supra note 14.

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<sup>24</sup> Rashmi Sawant, Causes of pendency in judiciary of Pune district with special reference to regular civil suits, (2019) (Gokhale Institute of Politics and Economic).

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order to improve judicial coherence and speed case settlement, government intervention is required to provide fair treatment and access to free legal counsel.

To enable more efficient justice delivery and lessen the burden of the court, the government should aggressively support initiatives like Alternative Dispute Resolution, Lok Adalat, Fast Track Courts, and Gramme Nyayalay. In order to tackle the backlog of cases in court and facilitate the nation's economic rebound following the epidemic, India needs a comprehensive approach that tackles both current issues and ingrained institutional deficiencies. Harnessing the nation's financial potential calls for

tackling these institutional flaws, particularly in light of the legal system's escalation amid the public health emergency.

The Indian judiciary plays a crucial role in the country's democracy, with the Supreme Court acting as the highest authority and establishing the fundamental principles of the Constitution. The judiciary regularly evaluates the legality of legislative legislation and upholds safeguards and keeps a check on the other arms of the state in its capacity as the primary defender of the Constitution. Preserving people's rights and upholding constitutional values are of utmost importance; yet the courts should also use caution and avoid going beyond their authority.