Law Journals
A Treasure Trove of Legal Knowledge.

Journal of Constitutional Law and Jurisprudence
Volume 1, Issue 1
www.stmjournals.com

Structural Reforms for Overcoming Delays in Justice Delivery

Om Krishna[1]*, Sourav Karmakar[2], Anshul Saxena[2]
[1]Assistant Professor, Lloyd Law College, Knowledge Park II, Greater Noida, Uttar Pradesh, India
[2]Research Associate, Lloyd Law College, Knowledge Park II, Greater Noida, Uttar Pradesh, India

Abstract

"Everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice." Finnish constitution (Section 21, Protection under the law). In India, judicial delay is such a problem which is recognized in 20th century only, but making changes is yet to take place in 2017. Various committees have been set up in past for the recommendations to perform a judicial reform; various judgment has been propounded; and various enactments have been taken place; but the situation of justice delivery system remains the same in 2017 as it was in 20th century. Indian judiciary system has been suffering from corruption. This paper emphatically analyses some strongest reformation on the judicial system, which is based on the cardinal principles of fairness, transparency and human rights. These principles underlying criminal law, criminal justice system in India and it is utmost necessary to realize that it has failed in attainment of these objectives. The reason in failing to satisfy the basic principles of justice system does not lie in its purposes or objects, but in proper handling and managing. The problem is embedded in the ineffective mechanism and apathetic officials entrusted with its implementation. The main problem before judicial system is delayed disposal of cases; 'Justice delayed is denial of justice' is basic principle of criminal law and based on concept of fairness in criminal trial. This paper has categorically mentioned several judicial and statutory mechanisms regarding judicial delay and concern for speedy and fair trial. Speedy trial is essential to gain public confidence in criminal justice system. Researchers have paid due attention towards several facets of ADR and its application in Indian context. Researchers, at several parts of paper, have given analytical reviews based on case laws and decisions of federal courts and distinguished jurists. In State of Maharashtra v. Champalal Punjafishah, the court observed that: "The right to speedy trial is implicit in the right to fair trial which has been held to be part of the right to the life and liberty guaranteed by Art. 21 of the Constitution of India, 1950. A delayed trial is necessarily an unfair trial if nothing is shown". For coping with the problem of criminality and crime waves, it is desirable that guilty person should be punished without any delay. Apart from this interest of society, the question of life and death of accused lies, and in addition to this, the rights and interests of aggrieved person is no matter less important in criminal cases. For proper administration of justice and tackling the problem of criminality in the society, speedy disposal of cases is very crucial. In India, the right to speedy trial has now been recognized as fundamental right enshrined in Art. 21 of Constitution of India. Authors in this literature have paid much attention on practical facet of judicial administration as they have deliberated strongly with certain ideas like judgeship gap, case management, deregulating legal service market etc.

Keywords: *Fairness, justice denial, aggrieved, fundamental right, liberty, fundamental rights, speedy justice, judicial administration*

****Author for Correspondence*** E-mail: om.krishna04@gmail.com

INTRODUCTION

In the words of Dr. Cyrus Das "Justice is a consumer product and must therefore meet the test of confidence, reliability and dependability like any other product if it is to survive market scrutiny [1]. It exists for the citizenry, 'at whose service only the system of justice must work'. Judicial responsibility,

accountability and independence are in every sense inseparable. They are, and must be, embodied in the institution of the judiciary".

"Justice delay is justice denied", a famous quote of Martin K. Luther Jr. which is yet to be realized in contemporary Indian legal backdrop and its judicial institutions. However, the legal system of our nation ensures that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The challenge for Indian judiciary system to overcome with the delays is not a new problem that the people of our country faced; it is as older as the legal system in India.

"In an adjudicatory system, whether inquisitorial or adversarial, an expected life span of a case is an inherent part of the system. No one can expect a case to be decided overnight. However, difficulty arises, when the actual time taken for disposal of the case far exceeds its expected life span and that is when, the researchers emphasized on the delay in dispensation of justice. A scanning of the statistical data would show that despite efforts being made at various levels, the gap between the expected and actual pendency of the cases is only widening" [2]. Nowadays in India, especially criminal justice system is much affected by delayed disposal of cases. Public has now lost their faith in law, which has lost its deterrent effect over prospective criminals resulting into increase in criminality in society giving rise to crime waves and ultimately the common citizenry is fearing of crime victimization.

Even the Law Commission of India in its 77th report has observed [3]:
"Long delay in the disposal of cases has resulted in huge arrears and a heavy backlog of pending files in various courts in the country. A bare glance at the statements of the various types of cases pending in different courts and of the duration for which those cases have been pending is enough to show the enormity of the problem".

The speedy trial of offences has been the prime objective of the criminal justice delivery system. It is a desirable goal that long and inordinate delay may defeat the ends of justice. There are some common proverbs: 'delay defeats justice' and' justice hurried is justice buried'. Hence, the object of speedy justice should not be at the cost of legal justice. Thus, it is necessary to strike a reasonable balance between the considerations of speed and justice. The concept of speedy justice is *sine quo non* of criminal jurisprudence. It saves a person from evil consequences of incarceration. In past, several committees have been set up to achieve the target of speedy justice [4]. But none of them has shown a profound consequence at a grass root level of the judicial system in India.

CONSTITUTIONAL BASIS

Justice is a constitutional mandate [5]. The Constitution of India, 1950 mandated in its Preamble with a spirit and the vision "to secure to all the citizens of India: Justice: Social, economic and political" [6]. Access to prompt and quality justice is the key for realizing this vision. It is therefore the most important duty of a State to secure a social order in which, the legal system of the nation should promote justice on a basis of equal opportunity towards its citizens. Although the constitution of India provides justice in its preamble, but the real fabric of justice and equity can be traced down if we analyze the corresponding Article of the Indian constitution which includes Article 14 [7], Article 21 [8], Article 323A and Article 323B.

The Right to Equality under Article 14 of the Constitution of India

The constitution bench of the Supreme Court of India in the case of *Ajay Kumar Pandey v. State of Jammu Kashmir & Anthr.* has held that access to justice is a fundamental right guaranteed to citizens by the virtue of Article 14 and Article 21 of the constitution of India.

The five-judge bench comprised of former Chief Justice of India: T. S. Thakur, Justice Fakkir Mohd. Ibrahim Kalifulla, A. K. Sikri, R. Banumathi and S. A. Bobde who noticed and stated that:
"We have therefore no hesitation in holding that access to justice is indeed a facet of right to life guaranteed under Article 21 of the constitution. The citizen's inability to access

courts or any other adjudicatory mechanism provided for determination of rights and obligations is bound to result in denial of the guarantee contained in Article 14, both in relation to equality before law as well as equal protection of laws. Absence of any adjudicatory mechanism or the inadequacy of such mechanism is bound to prevent those looking for enforcement of their right to equality before laws and equal protection of the laws from constitution apart, access to justice can be said to be part of the guarantee contained in Article 14 as well".

Essence of Access to Justice

As per the bench constituting of five senior-most judges of Supreme Court, there are four main facets that constituted the essence of access to justice:

i. The need for adjudicatory mechanism.
ii. The mechanism must be conveniently accessible in terms of justice.
iii. The process of adjudication must be speedy.
iv. The process of adjudication must be affordable to the disputants.

The Right to Speedy Justice under Article 21 of the Constitution of India

Right to speedy justice and speedy trial is an integral part of the fundamental right to life and liberty. In case of *Hussainara Khatoon v. State of Bihar* [9] the Hon'ble Supreme Court of India has declared that speedy trial is an enshrined part of Article 21. It also pointed out that Article 39 A needs free legal services and inalienable element of the Indian judicial system [10].

The European Court of Human Rights (ECHR) decided in the case of *Delcourt v. Belgium* [11] that access to justice was a valuable human and fundamental right relatable to Article 21 of the constitution of India. The commission for the review of the constitution [12] has recommended that access to justice should be incorporated as an express fundamental right in South Africa. Access to justice is and has been recognized as a part and parcel of right to life in India and all civilized society along the globe [13].

Here the words of former Chief Justice of India, K. G. Balkrishnan come into a face where he stated that "the people's faith in the judicial system will begin to wane because justice that is delayed is forgotten, excluded and finally discharged [14].

Article 324 A, 323 B (Part-XIVA of the Constitution of India)

The 42nd constitutional amendment is the draconian constitutional act of the Indian parliament which leads to incorporate a mini constitution into entire fabric of our constitutionalism and its judicial feather. It includes a separate part to the constitution of India which is recognized and renowned as Part XIVA. This part stipulated and incorporated the new dimension to the judicial mechanism of Indian Justice Delivery System. This new dimension is the path of the tribunals, under which, parliament may by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints regarding to the subject concern can form administrative tribunals [15]. This ultimately leads to reduce the judicial stress and its complexities.

To establish justice delivery system in an improved way that India would practice, Government introduced many bills. But it failed to imply. Various proponents were introduced alternative judicial mechanisms e.g., ADR that the people are unaware with such phenomenon.

ADR (Alternative Dispute Resolution)

Introduction: Alternative dispute resolution is not a new phenomenon to introduce. This dispute resolving system is dealt outside of courts. What is new is the extensive promotion and proliferation of ADR models, wider use of court-connected ADR, and the increasing use of ADR as a tool to realize goals broader than the settlement of specific disputes [16]. The concept behind resolving a conflict between parties through ADR system is a 'non-adversarial mechanism' [17] in Indian Judiciary system. A dispute is basically *'lis inter partes'* and the justice dispensation system in India has found an alternative to adversarial litigation in the form of ADR mechanism.

Importance of ADR in Indian Judiciary System: To make a sustainable reformation in judiciary system, for overcoming the delays in justice delivery, people do not need betterment but its time to go for alternative. However, Sec. 89 of C.P.C. states about separate structure for judicial discussions [18].

India as a developing country with major economic reforms under way within the framework of the rule of law, strategies for swifter resolution of disputes for lessening the burden on [19] the courts and to provide means for expeditious resolution of disputes, there is no better option but to strive to develop alternative modes of dispute resolution (ADR), by establishing facilities for providing settlement of disputes through arbitration, conciliation, mediation, negotiation and Lok Adalat [20].

COMPARATIVE ANALYSIS WITH LEGAL PRACTICES

Reforms have already been recommended by many committees set up by government, but practical application of these reforms has always been in question. Therefore, Indian judicial system needs the recommendations that can be implemented and that are already been tested in another jurisdiction. Authors have focused below on the loopholes which are already filled in other jurisdictions which include reforms in procedural law, infrastructure development and set up of judicial institution.

Simplifying of Procedural Law in Minor Offences

Simplification of procedural laws may be the best suited option in today's scenario, where case starts formally after 90-day notice. If justice is delayed and it becomes part of the fabric of judicial system, then it is but obvious to assume that something or somehow cluster of things went wrong, and they are still practiced by our court foundation. In author's view, problem lies behind the procedural laws which are continue from 1908 [21] to year of development 2017. Time needs the changes, but these procedural laws have never gone through any major shift since the time of its inception.

In 2000, a committee was set up by the Indian government to check judicial delay and reforms. The committee was headed by justice V.S. Malimath, which has given its recommendation in 2003, March, but these recommendations have never seemed to be executed. Malimath committee [22] also recommended some reforms in procedural laws but country is still waiting for the same. In countries like *Netherland*, the judicial reforms in procedural law lead to major change which overcomes the issues of delay in justice delivery. In *Netherland*, the system of '*KortGeeding*' is evolved in an informal way. Kortgeeding is literally a short process, a kind of preliminary relief proceedings. Such proceedings are extremely simple: the claimant summons an alleged infringer before the district court of *The Hague*. At the hearing, the claimant explains its claim and discusses the evidence. The defendant puts up a defense. The judge renders a preliminary decision within a week or two. If the judge pronounces an injunction, this will be accompanied by a penalty sum (*astreinte*). Should the defendant act in violation of the injunction, it stands to lose a horrific amount of money per violation or per day [23]. This will lead to, fast proceedings of Netherland courts. In *Netherland*, pre-agreement for divorce has been evolved under which, 25% of the cases and disputes resolve before going to court. The same can be done in India also. Introduction of and disputes tribunals in *New Zealand* in 1986 leads to change the trend of judicial delay in New Zealand where procedural laws are officially relaxed. In New Zealand, cases are normally settled or adjudicated in a single hearing among the parties and the adjudicator, with 55% resolved by mediation (Cole 2001). *New Zealand's Tenancy and Disputes Tribunals* are both specialized courts, but procedural simplicity, not court specialization, is at the heart of the reform [24].

In countries like *Japan* and *Peru*, simplifying the procedural laws lead to solving the issue of judicial delay [25]. In Indian procedural laws, author has noticed some major fallouts such as:

I. Judicial reform in field of settlement to support Section 89 in real sense.

II. Need to broader the ambit of petty offence under Section 206 of C.P.C.
III. Investigating power of judiciary in summon case.
IV. Pre-marriage settlement in divorce and maintainability cases (125 C.R.P.C).

Judicial Reform in Field of Pre-Trial Settlement (Section 89)

Section 89 of Civil Procedure Code states about separate structure for judicial discussions, "Where it appears to the court that there exist elements of a settlement which may be acceptable to the parties, the court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties".

But the real of strength of section has not been recognized. Hon'ble Supreme in *Court Afcons Infrastructure Limited v. Cherian Varkey Construction Company Private Limited* [26] states the need of realizing power of section 89 of CPC. There the Hon'ble court while propounding judgment states that if Section 89 is implemented in real sense, then it built a sort of duty of judge to foresee any settlement if it can take place, and judge should always try to solve the matter under settlement. Section 89 of Civil Procedure code should be given priority and the system like ADR should be promoted. This may lead to reducing of judicial stress on delaying of cases.

Need to Broader the Ambit of Petty Offence

Section 206 of Code of Criminal Procedural Code deals with petty offence under which a matter can be disposed off if in the judge opinion, that the matter is too small to hear. '*Petty Offence'* means offence punishable only with fine not exceeding 1000 Rs. However, under sub-section (3), the State Government can specially empower the magistrate to exercise the power under sub-section (1) to any offence which is compoundable under Section 320 or any offence punishable with imprisonment not exceeding 3 months or with fine or with both, where the magistrate is of opinion that imposition of fine only would meet the ends of justice [27].

In all the above noted petty offences, accused can be called in judicial system to plead guilty and pay an amount of fine within the specified time through any means except cash; it may be cheque, it may be RTGS, or it may be demand draft. This method is easier, efficient and it requires least resources.

Investigating Power of Judiciary in Summon Case

Judiciary should be supported by the investigating team in summon cases, as in these cases judiciary has no power to search down the person who voluntarily absconded from judicial proceeding. This will provide teeth to Indian judiciary in the cases of unreasonable delay in summoned cases. Under Section 62 of code of Criminal Procedure Code, the court is required to send the summons through post, it may have had its relevance in 1908 but in global time, fax machines are available at every corner. The provisions can be embedded which include, if any endorsement is made by the postman that the summons has been "refused" should be deemed as sufficient service and warrant can be issued. As in civil cases, service through court official can also be provided and in case of summons to the accused, who is absconding, the summons can be served on any adult member of the family or affixed on a prominent place at his residence and the same shall be treated as sufficient service and in case of non-appearance, a warrant can be issued [28].

Pre-Marriage Settlement in Divorce and Maintainability Case (125 Cr.P.C)

Section 125 of Cr.P.C talks about the compensation in divorce cases and it constitutes a major part of judicial delay. Suits related to maintainability are pending as their procedure makes it difficult for settlement. There should be the system of pre-marriage agreement under which the issues related to divorce and settlement in divorce should be dealt in length so that no post-marriage court trial is needed, if courts find that agreement made is consistent with existing provisions of law. As stated above, in Netherland, pre-agreement for divorce has been evolved under

which, 25% of the cases and disputes resolve before going to court. The same can be done in India also. Introduction of Disputes Tribunals in New Zealand in 1986 lead to change the trend of judicial delay in New Zealand where procedural laws are officially relaxed. In New Zealand, cases are normally settled or adjudicated in a single hearing among the parties and the adjudicator, with 55% resolved by mediation [29].

JUDGESHIP GAP

In present time, India is suffering from shortage of judges in its judicial system. In India, biggest reason behind the delay in justice can be accredited to judgeship gap. The study surprisingly reveals that on a geographical average, one judge is available in a distance of 157 km, policing on the other hand is better placed in India with 61 km [30]. The existing court room infrastructure can accommodate 15,540 judicial officers at the magisterial/civil judge/district judge level; whereas, the All India sanctioned cadre is 20,558. This data can easily show or depict the need of judges India. This is one dimensional approach; now it is a time to explore the other approaches also. As per the other approach, judges strength can be discovered by rate of disposal method, and formula be followed for calculating judges and under that, as per Law Commission of India suggestions, an additional number of 348 and 11,834 judges were required, in the 14 states/UTs that were analyzed by it, at the subordinate court level to handle institution and clear backlog in one year, respectively [31]. Third approach to analyze the shortage is Nation case management system based unit system. There the committee suggests that, whenever the total "units" required to be disposed of annually y a court is greater than 150% of the disposal norm for a “Very Good Performance” by that court; a new court should be created. The report analyzed four courts each in Bihar and Maharashtra. It suggested 13 additional courts as against the four courts analyzed in Bihar. Similarly, it recommended seven additional courts as against the four courts analyzed in Maharashtra [32]. An analysis of data from National Crime Records Bureau shows that the present strength of judicial officers are only able to complete trial in approximately 13% of cases brought for trial under the Indian Penal Code, 1860 (IPC) during a year [33]

Judgeship Gap in Other Jurisdiction

With the Judge-Population ratio of 18 Judges per million, as on 31.12.2015, the Indian judiciary is under-staffed in comparison with other countries [34]. The US judiciary, at the state trial courts level alone, in 2011, had a Judge-Population ratio of approximately 102 per million [35] (2011 population 311.7 million). Australia with the population of 22.68 million in 2012 commanded a Judge-Population ratio of approximately 48 judges per million [36]. England and Wales, with 3,238 Judges [37] in their courts as on 01-04-2015 and a population of 57.4 million [38] in 2014 had a, Judge-Population ratio of 56 Judges per million. China can be the best suited neighbor to compare with in population index; in China, 1,360 million population in 2013, had nearly 2,00,000 judges in 2011 [39] commanding a Judge-Population ratio of 147 Judges per million.

This statistical data clearly indicates towards the need of the judges in Indian judiciary; and from this, judges’ strength may be explored at state-wise where more drastic situation is waiting for author.

ACCOUNTABILITY OF JUDGES

Judicial accountability may be ensured by thousands of ways, but everyone has to realize the line embarked by article 50 of the constitution of India that illustrates about the separation of power. Then the question arises, who is going to make judiciary and judges accountable; the answer lies in dimension of time. Making a positional calendar can be the best suited way to make judges accountable. Individual calendars appear to have more impact on judicial performance, by increasing accountability. A study of US metropolitan courts found that civil cases move significantly faster in courts with individual calendars where judges have assigned cases

and follow them from beginning to end than in courts with master calendars where many judges may work on different parts of a case at different times. The experience with delay-reduction programs in the United States suggests that because individual calendars allow problems on a case, such as excessive delay, to be traced to a single judge, they make judges work harder and manage cases more effectively. In the same model, Indian courts can be made accountable to time or calendar, a form of time.

It is not only the case of United States of America, some Latin America company showed the positive result on applying form of calendar to judgeship individually. In India if such a mechanism is formulated, then it will help to increase the efficiency of judges, as it leads to make them with their cases formally and more importantly, directly.

COMPETITION AMONG THE COURTS

In India, courts are working in a professional way but without the completion spirit which leads to make them less motivated, undirected and unspecified, therefore in author's view, generating competition among courts can lead to increase in efficiency of justice delivery system. Competition between different courts and between different bodies of law has been a guiding force behind legal innovation in Anglo-American law since medieval times [41]. In English legal system, there is beneficial completion among court of chancery, and this type of competition is in the structural reformation of English system which took place in medieval times. In United States of America, there is a some sort of competition among federal states courts.

In author's view, competition can be generated among the courts by making a role justice delivery in appointment of judges in Supreme Court. This will lead to make transparent system of appointment and correspondingly improve justice delivery. Author would like to clarify as it is never suggested as the sole criteria.

ACCOUNTABILITY OF EXECUTIVE BRANCH OF JUDICIARY

Lack of accountability is not only centric to judges but the administration staff of judiciary is also needs to pass from the conclave of reforms. The judges are still accountable by the sense of the rank they are holding, but the administration working under them covered themselves with corruption, inefficiency, irregularity and inadequacy. Author likes to quote the exact words of Justice of Allahabad High Court "Corruption lies under the carpet of administration of courts". It has been noticed many times that placing dates to the cases ultimately lies under the hand of court master and there the chances of unusual delay come forward. Therefore there should be online database for every court under which all the courts and its related case information is fielded and the same should be available to judges so that they can make their officials accountable toward themselves.

CASE MANAGEMENT

Some studies in Singapore, the United States, and Latin America suggest that case management reduces time to disposition. Case management is the soul of the body of the reforms of Lord Woolf blueprint on litigation reforms in Wales. One advantage of reforms that transfer control of cases to a particular judge, as individual calendars and case management do, is that they allow measurement of judicial performance.

This effect has been reported in Colombia, Guatemala, and the United States (Dakolias and Said 1999; Hendrix 2000; Neubauer and others 1981). More broadly, "legal culture" is a crucial determinant of whether delay is light or severe. A "soft" variable, legal culture is difficult to measure, but its existence can be verified because cases in state and federal courts in the same area take similar amounts of time even though the procedures differ substantially.

Therefore present situation can be changed if proper case management system is executed cautiously without backfiring the reform as it did with pretrial hearings in Japan (Hasebe 1999).

DEREGULATING LEGAL SERVICES MARKET

Attorneys' monopolies are good targets of judicial reform. Making lawyers compete with other professionals and facilitating self-representation by litigants can be fruitful strategies for making lawyers more accountable and increasing overall efficiency. Part of the success of the Japanese judicial system is attributed to the absence of lawyers in 90% of summary court cases, which account for more than 60% of civil litigation in Japan (Japan Ministry of Public Management 1999:762; Ogishi 1999). Similarly, high levels of efficiency and litigant satisfaction in lower-level courts in England are associated with low rates of involvement by lawyers. More than 80% of unrepresented small claims litigants surveyed in a recent study in that country said they would not have preferred representation (Baldwin 1997b:117).

Experiences in Netherland and Japan indicate about the positive reform that can be ensuring by the virtue of the same. In more or less, every case delayed due to irresponsive attitude of attorney's. Deregulating the market and open it to other officials will create competition among the advocates and other officials in simple case and will give rise to indirect accountability of advocates in Indian court.

DELAYED JUSTICE SHOULD BE EXPENSIVE JUSTICE FOR LITIGANTS

Delayed justice should be accountable to the advocates practicing and leading the case to unwanted delay. These practices become the part of judicial system which should be removal and removal of the same should be kept on the highest priority. One way to discourage long litigation is to increase the direct costs to one or both parties. In Singapore, where the first day of trial is free and court fees progressively increases for subsequent days, 80% of trials take a single day (Buscaglia and Dakolias 1996). This practice leads to build up a pressure on litigants to reduce the time period of case and under this practice, lawyers have to think before taking adjournments or date for their clients.

PRIORITIZING ON THE BASES OF ATTENDANCE

Conduct of the person in particular is adjudged by various means; but what is so common in all places that depicts conduct which include conduct in school, business, office and service. The common element is attendance and if the same is so relevant in all the fields, then why not in the field of judiciary. In Indian judicial system, mandatory provisions related to attendance vanish ironically as compared to other fields. If some sort of special treatment is provided to the cases where both the parties ensure their attendance, their priority can be set without being impartial towards other cases.

INCORPORATING DIGITAL INDIA IN JUDICIARY

In order to minimize the litigation in India attributable to Indian government, the Indian government formulated the national litigation policy of India. However, the policy is neither adequate nor implemented till now. The litigation policy must use both e-courts and online dispute resolution (ODR) for effective dispute resolutions in India. Computerization of courts has helped India in reducing the "Backlog of Cases" in the past. However, mere computerization of court would not serve any further purpose in the present times. We have to migrate from "Computerized Courts" to "Electronic Courts" as soon as possible. Indian Government has been discussing establishment of e-courts since 2003. However, till the month of August 2014, we are still waiting for the establishment of first e-court of India. All Indian Government has been able to achieve is establishment of few "Computerized Courts" and labeled them as e-courts.

CONCLUSION

The approach behind the structural reformation of justice delay is multi-faceted. It needs an awareness and participation not only from judicial body or from the law-makers of the country but also from all the stakeholders

in the system. It is truth that judiciary itself cannot get success overnight with its sole participation until the people of the country take part in justice delivery system for their rights. The researchers analytically illustrated various structural reformations which were already debated but still it never came into existence. The government and judicial system should be enlightened with preferable aspects.

REFERENCES

1. Quoted by Hon'ble Shri Balakrishnan KG, Hon'ble Chief Justice of India, in his Lordship's address at the Joint Conference of Chief Ministers and Chief Justices, at Vigyan Bhawan, New Delhi. 8th Apr 2007.
2. Sahharwal YK. Chief Justice of India, Delayed Justice. Lecture delivered on 25th July, 2006; published in SCJ 2006; 10–37p; at 11p.
3. Seventy Seventh Report. the Law Commission of India; 1978; 1p.
4. Sharma DP. Speedy Justice & Indian Criminal Justice System. XLV (199) *IJPA*, 365.
5. Justice Sinha SB. *Judicial Reform in Justice Delivery System*. (2004) 4 SCC (Jour) 35.
6. Article 39A of the Constitution of India, 1950.
7. Art.14- Equality before the Law and the equal protection of the laws.
8. Art.21- Right to speed justice.
9. *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81.
10. See the Case of *Anita Kushwaha v. Pushup Sudan.*
11. *Delcourt v. Belgium* 1970 ECHR 1.
12. See the Case of *Anita Kushwaha v. Pushup Sudan*. pg. no. 24,
13. Ibid. pg. no. 26,
14. Backlog of Cases causing concern. 'CJI' *The Hindu*. Aug 16, 2007.
15. Article 323A of the Constitution of India, 1950.
16. Alternative Dispute Resolution. *Practitioners' Guide*. Washington: Centre for Democracy and Governance; 1998.
17. Sujay Dixit. *ADR Mechanisms in India*. Jun 21, 2010.
18. See. Section.89 of Civil Procedure Code, 1908.
19. Civil Procedure Code, 1908, India.
20. Committee on Reforms of Criminal Justice System Government of India "Ministry of Home Affairs Report". Vol. I. India: Mar 2003.
21. Enforcements of Patents: Rambo Lawyers Cowboy Judges? Available at http://www.buildingipvalue.com
22. *The World Bank Research Observer*. Spring 2003; 18(1): 61–88p.
23. See Brandt 1995; Kelbie 1994; Kojima 1990; Mays 1995; Ogishi 1999.
24. 2010 (8) SCC 24.
25. Malimath Report on "Criminal Justice System". Mar 2003; 156
26. Ibid.
27. Cole 2001.
28. Data as on 01.01.2015. As per data provided by High courts.
29. 245th Report of Law commission of India, The Report made the calculations based on the following formula: ARD = [(D year A/J year A)+(D year B/J year B) + (D year C/J year C)]/3.
30. NCMS Report filed in Imtiyaz Ahmad vs. State of U.P. & Ors. Crl. Appeal Nos. 254–262 of 2012; 11–12p.
31. National Crime Records Bureau. *Crime in India 2014 Compendium*. Ministry of Home Affairs, Government of India.
32. Subordinate Courts of India: A Report on Access to Justice. New Delhi: Centre for Research & Planning, Supreme Court of India; 2016; 11p.
33. Ron Malega. State Court Organization, 2011. BJS (US Department of Justice, Nov 2013).
34. Brian Opeskin. The State of the Judicature: A Statistical Profile of Australian Courts and Judges. *Sydney Law Review*. 2013; 35: 489–494p.
35. Diversity Statistics. Judicial Office Statistics Bulletin, United Kingdom. 2015.
36. Annual Mid-year Population Estimates: 2014. Office for National Statistics, United Kingdom.
37. Stanley Lubman. *China's Exodus of Judges*. Available at: http://blogs.wsj.com/chinarealtime/2015/0

5/04/what-a-stubborn-exodus-of-judges-means-for-legalreform-in-china/
38. *The World Bank Research Observer*. Spring 2003; 18(1): 66p.
39. Ibid.
40. Ibid.
41. Electronic Delivery of Justice in India and Legal Enablement of ICT Systems in India. Available at www.electroniccourt.in (Last viewed on 13/11/17)

Cite this Article
Om Krishna, Sourav Karmakar, Anshul Saxena. Structural Reforms for Overcoming Delays in Justice Delivery. *Journal of Constitutional Law and Jurisprudence*. 2018; 1(1): 32–41p.