

Indian Justice Report: Vanishing Hope for Welfare State

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Abstract

“India’s Justice Report 2020” examines the structural potential of the national judicial system. Continuing the approach adopted in the 2019 report, it ranks states based on parameters defined in the four pillars of justice: justice, police, prisons, and legal aid. When ranking the states, the report did not compare one state with another. It only highlighted the strengths and weaknesses of each component of each state and encouraged internal evaluation to bring positive changes to the judicial administration. It forces the state to compete with itself to ensure the best justice for its people. The number of court cases is worrying. Although the number of reported cases has decreased significantly due to the pandemic. At the time of writing, the National Court Data Network cited more than 35.34 million outstanding cases in district courts across the country. Court, we must An extremely mysterious number-more than 40 million cases have been heard by courts across the country. The pandemic and subsequent closure (full and partial) prevented the judiciary from holding physical hearings. The unthinkable option is to close the court altogether. But technology came to the rescue, and the system evolved into a video conference. Unfortunately, lack of preparation has two First, due to the lack of a reliable system in place, hardware and software failures are inevitable, and almost everyone is not satisfied. One lawyer wore a vest to discuss the case, while another lawyer drove his car. During this year, some higher courts carefully reviewed this situation, but many people, including the Supreme Court, could not accept this change. The plaintiff in the district court suffered the most because of physical alienation. Few district courts provide videos. -Meeting room, although mandatory. Many district courts do not have the necessary capabilities or qualified staff, so the vast majority of applicants are in trouble. Your answers to the needs of litigants and lawyers. Information and communication technology is not only the courts, but all pillars of the judicial system can use the technology in the coming year and involve all relevant people: lawyers, court staff, trial lawyers, police and prison officials, and legal advisers. Lawyers, the adoption of business methods, wider and more targeted use of technology; Deadline; adequate training for employees at all levels; they are needed for every contribution. The Judicial and Police Academy can do many things to improve the image of our judiciary. Judicial reform is imperative. If war is not adopted, the problems that have arisen during the pandemic and for most of the past year will come at the expense of human rights, civil liberties, and true justice.

Keywords: Justice, Liberty, Government, Authority, NALSA.

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INTRODUCTION

The beginning of equal justice under the law was marked by the Carving in the 40th paragraph of the Magna Carta over seven centuries ago:

- To no one will we sell,
- To no one will we deny
- Or delay right or justice

Legal Aid is a vital aspect for assessing justice. It has always been regarded as essential for ensuring equality before law, right to counsel and

right to a fair trial by ensuring doorstep justice for all. Jurists like Mauro Cappelletti also argue that Legal Aid allows the legal enforcement of social, economic and cultural rights by providing individuals with access to justice.

In India, the principle of equal justice and free legal aid has been enshrined under Art.39A in Part IV of the Constitution of India.

The article emphasizes that free legal service is an integral part of fair, reasonable and just procedure and state has been entrusted to provide the same as it is a welfare provision by state to those people who can otherwise not afford the legal services. Legal aid developed with progressive principles in recent times, supported by those members of the legal community who felt that legal aid can be driven by what lawyers could offer to those who are not financially sound or marginalized and discriminated against.

Legal Aid programme was introduced by Justice P.N. Bhagwati for the first time under the Legal Aid Committee formed in 1971. He was of the view that Legal Aid should be available to the uneducated and poor so that their ignorance and poverty doesn't become an obstacle in their obtaining justice from the courts. In 1987 Legal Services Authorities Act was passed to give a statutory base to legal aid programmes all over the country on a consistent pattern.

A countrywide network has been instituted under the Act for making free legal aid available to all. The National Legal Services Authority (NALSA) constituted in 1995 is the apex body established to lay down principles and policies to make legal aid available under the provisions of the Act.

Every state constitutes a State Legal Services Authority to implement the policies initiated by the Central Authority, NALSA whereas every District has a District Legal Services Authority to give effect to the legal aid schemes. These above authorities at the National and Regional level are laying great deal of emphasis on legal literacy and awareness campaigns trying to reach out to the unheard voices.

At present, the legal aid in India is unorganized and infrequent. One factor that affects the legal aid in India is illiteracy which leads to absence of legal awareness which in turn gives rise to deprivation and exploitation of rights and benefits to the poor. Diversity within the system helps in widening the ambit and reach of the programmes. Unfortunately, the unavailability of diverse caste and religious figures in the legal panel has led to the isolation of many groups from seeking legal services.

The fewer no. of women as legal service providers also hinders the reach of the legal aid programmes to a section that has ever since faced socio-cultural barriers in availing legal services.

Some other factors may include poor utilization of central funds, lack of infrastructure and inability to effectively harness Lok Adalats to ease the burden of Judicial System.

Some of the top States who have managed to improve their capacity to deliver legal aid over the recent years are Maharashtra, Punjab, Haryana, Bihar etc.

Although lots of efforts have been made in the direction of promoting the provision of free legal aid, we still have a long way to go.

The movement has to go to the grassroots level and help to identify and discover the problems of the poor. Activities like spreading legal awareness and educating people about their rights should be initiated through the help of NGOs and members of legal profession. Thus, the need of the hour is to ensure the effective implementation of the already existing laws. It should be ensured that the

financial or social condition of a person does not become a hindrance to him in knocking the doors of the judiciary to demand justice.

There are some indispensable parameters that play a pivot role in effecting the Legal Service Institutions. We will discuss it one after one.

HUMAN RESOURCE

Human resource is commonly considered as a backbone on which our justice system rest. A human resource is a person (human) or employee that works for any organization or under anybody for any reckonable cause. It is just like using the skills of the humans as a resource for any change or for obtaining any profit. A change can be in any terms of economic, social, political or legal. States have a lot of capital which they use for the development. For this cause, human resource comes into picture.

In the field of legal aid- Retainer lawyers, paralegal volunteers act as a human resource for legal service institutions. They utilize the capital of the state by connecting local communities with legal system, providing legal education, providing counseling and assistance with legal documentation. This helps in spreading awareness to all the people.

Statistics

Let's have a look on some statistical data of human resource in the field of legal aid.

- Till March 2020, there were 669 District Legal Service Authorities (DLSA) in 2020 as compared to 664 DLSA in 2019 all over the India (Figure 1).
- The number of sanctioned posts of full-time secretaries [1] to DLSAs stood at 629 including a deficit of 40 (669-629).
- The number of full-time secretaries in place was 573 including a deficit of 96 (669-573).

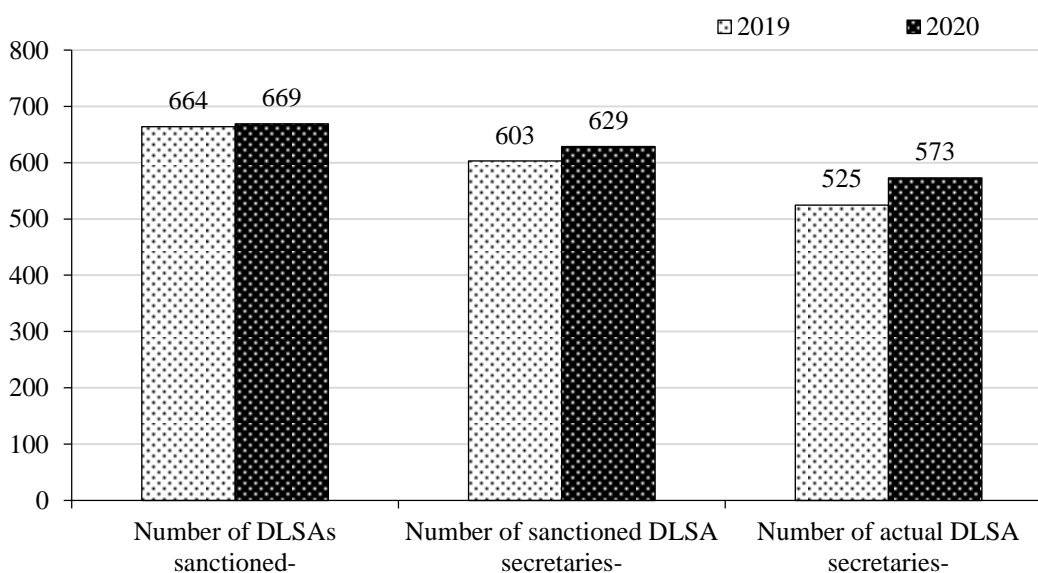


Figure 1. Indian Justice Report, 2020.

Seven union territories [2] are yet to sanction any full-time secretary post in their district.

1. There are some states that have sanctioned fewer DLSAs than the total no. of districts they have. Like:
 - Arunachal Pradesh (5/25) which has sanctioned only 5 DLSAs in comparison with the total districts 25 that it has.

- Uttar Pradesh (71/75) which has sanctioned 71 DLSAs in comparison with the total districts 75 that it has.
2. There are some states that have sanctioned more DLSAs than the total no. of districts they have. Like –
 - Assam (33/27) which has sanctioned 33 DLSAs in comparison with the total districts 27 that it has.
 - Telangana [3] (11/10) which have sanctioned 11 DLSAs in comparison with the total districts 10 that it has.
 3. Recently, 25 states/ Union Territories have reduced the use of paralegal volunteers. Their numbers have dropped 26% from previous year' figure. Like-
 - The total number of paralegal volunteers in Himachal Pradesh has been diminished from 5700 to 270. This state has gone to just 4 paralegals per lakh population from 84 paralegals in previous years.
 - Odisha has gone to just 5 paralegals per lakh population from 12 paralegals in previous years.
 4. In 2020, there were 14159 clinics for 600000 villages. On an average, there were 42 villages per clinic. This has been same since 2017.

Criticism

In recent years, all the states have tweaked in reducing the legal problem of the people at the district level. As per the above statistics, Arunachal Pradesh and Uttar Pradesh have sanctioned fewer DLSAs than the districts they have. One of the possible reasons for the above problem is shortage of judicial officers in small jurisdiction.

According to the data provided by the Ravi Shankar Prasad – The Indian courts have a problem of shortage of judges. Out of total 1080 sanctioned posts for judges in high courts as well as the supreme courts, there are as many as 419 posts are lying vacant. But in lower courts the situation is more strident. 4928 posts are lying vacant out of total 24247 posts that have been sanctioned. Uttar Pradesh has the most number of vacancies at 1053 out of 3634 sanctioned posts.

The major problem is that the numbers paralegal volunteers have been carved by large percent. Like –Odisha state has declined from 12 to 5 paralegal volunteers per lakh population. According to NALSA (paralegal volunteer scheme), DLSA must have 50 active paralegal volunteers. This means that in total 669 DLSAs, there must be 33450 paralegals volunteers. One of the major reasons of this problem is the remuneration of the paralegal volunteers. The salary of the paralegal volunteers is quite low. As per many people, paralegal volunteer job is futile as compared to the job of lawyers or any other job in the field of law.

The most basic problem of these paralegal volunteer that has been discerned is the lack of quality training. Some paralegal volunteers are ineptitude because of lack of training. Well- trained legal service providers are required for effective legal aid. Between April 2019 and March 2020.

Haryana, Punjab and Odisha were the only states [4] that provides training to all its lawyers at least once. On the other hand – Uttar Pradesh, west Bengal and Tripura have trained 10 or less than 10% of its lawyers on average in a year. Some states [5] have trained none of its lawyers.

Reforms

To tackle the problem of lack of human resources, there are some measures that have to be looked upon.

All the vacant posts of these judicial officers should be recruited or filled expeditiously. There should not be any retard in this process. If it is not done so, there can be many negative consequences in future.

NALSA must work actively and should come down heavily on those states that have lack of DLSAs as compared to their districts. NALSA should enact and implement a strict policy for this problem.

Every state should provide training to all their lawyers and legal service providers at least once, in order to make them more professional in their field. This policy will further help in providing justice at a rapid pace.

The most important or the basic problem of the legal service providers is their remuneration. We have seen a declining of Para legal volunteers in recent time. In order to avoid this problem, NALSA along with higher Law authority should work on the remuneration policy. There should be a reasonable remuneration for these service providers so that they should not work more freely. By implementing this policy, many people will get attracted for helping in this social cause.

DIVERSITY

Outreach and access of 'equity and equality' within the system is known as diversity. Official data discerned various types of diversity (caste, tribe, language, religion, and gender) at all levels in each institution, but this does not happen usually. Even the data gathering on religious diversity by the National Crime Records Bureau (NCRB) has been discontinued since 2013. Although in this modern era, gender equality is being promoted all over in India. But the reality of this diversity is quite strident. Gender parity in the justice system remains elusive as per our envisage.

The analysis of the diversity (caste and religious) of women is limited because the figures of caste and religious diversity for secretaries, paralegal and panel lawyers are still not available.

Statistics

1. Nationally [6], the share of the women for the post of panel lawyers has been remained constant at 18%. This itself envisages the reality of India.
2. Only the states such as – Goa, Meghalaya and Nagaland consist of 50% women and still they are working on it to improve.
3. Some states with their share(%) of women are given –
 - Kerala [7] – 40%
 - Karnataka – 28%
 - Maharashtra – 27%
 - Arunachal Pradesh – 19%.
4. Madhya Pradesh, Rajasthan and Uttar Pradesh have an only 1 women out of 10 panel lawyers.
5. The share of the women in the paralegal volunteers has been stagnated at about 35%.
6. Goa has the highest share of women (73%) in every five paralegals among all the states.
7. West Bengal has the lowest share of women with just 1 woman out of every 5 paralegals.

Criticism

- Many states are having a good number of shares of women for the panel lawyers and for the paralegals. But some state had showed the peril picture of women for all the post.
- One of the major reasons for this problem is a socio-cultural barrier for women in legal services.

Presently, the tradition of these barriers is also present in some states. As of March 2020, 145 DLSA secretaries were women i.e. 1 out of every 4 which is 28%. Tripura (66 per cent) and Andhra Pradesh (58 per cent) had the highest share of women amongst DLSA secretaries. The states in the Northeast, which do not have full-time secretaries, have women judicial officers. Ironically, Mizoram with no full-time secretaries had five female judicial officers in that post.

Reforms

To avoid the impartial diversity in India, we have to spread legal awareness more and more among people. By doing this we can spread the knowledge among all the people in the society and can make the people especially women to contribute their hard work in legal services.

They should be taught to break the chain of barriers and to participate in more and more numbers for this social cause. Government should motivate these women and give them a reward for participating and contributing their hard work.

BUDGET

The need of access to justice is increasing rapidly in such a large democracy like India. Institutions like National Legal Service Authority play a pivot role in providing legal aid services to the needy and the poor people.

The parliament had passed the Legal Service Authority Act 1995 [8] after a protracted and arduous struggle. The core idea of this act is to provide free legal services to all unprivileged citizens, poor people and contains the other provisions of expenses as well.

Legal aid services receive their contributions mainly by National Legal Service Authority (NALSA) and State's own budget. The fund received by NALSA are used for the legal activities such as – Representation, Lok Adalats services, counseling of the needy people, providing legal advice and spreading legal awareness in more areas.

This NALSA fund is very essential for improving the condition of the people and providing justice to all.

The other option of contributions for legal aid services is by state's own budget. The fund received by state is used for paying the salaries of the staffs, paralegal volunteers, petty office expenses and other infrastructure needs.

Statistics

- Seven states have increased their share to around 80% of the total budget allocated by their government respectively [9].
- According to Indian justice report 2019, only Andhra Pradesh, Gujarat and Uttar Pradesh had contributed to this percent as stated above.
- Nationally, utilization of NALSA fund has been improved from 70.7% to 94.25%.
- For large and mid-sized states has moved upward from 77.13% to 96.07%.
- Seven states [10] have utilized at least 90% for providing legal aid services to the people.
- Uttar Pradesh utilized its fund for nearly 100%.
- Meghalaya has used only one-fourth of its fund that has been allocated.
- According to Tata Trust Report, centre spends around 100 crores for the legal services.
- Since 1995, 1.5 crore people have received legal aid.

Criticism

No doubt that there has been a significant improvement in the capacity to utilize the funds which is provided by the National Legal Service Authority (NALSA) over the past 12 months but there is a drawback of this. NALSA has reduced its own budget from 150 crore for 2018-2019 to 100 crore for 2020-2021 [11].

This reduction is the impact of the falling economic growth of our country. The budget for these funds are not been given much consideration due to economic slowdown and covid pandemic.

Reforms

We have determined some parameters at which we have to work for tweaking the above problem irrespective of the fact that all the states had worked really good in the past few years. Most prior, NALSA and government should work unanimously in Budget policing and adequate allocations of funds. To provide legal help and awareness, every institution should have adequate funds but we have already seen above that NALSA has reduced its own budget this year. This has to be stopped and funds should be allocated reasonably to all the legal service providers.

Secondly, there should be a proper planning and full utilization of funds by all the states. Improper utilization of funds should be prevented by some states. Government should come forward in contributing more help towards legal aid.

INFRASTRUCTURE

A set of facilities and systems that help any organization, firms or anything to work sustainably is known as infrastructure. It cannot be repudiated that infrastructure is pivot for integrating various projects to be fulfilled. For spreading the legal awareness and to carry out various operations such as legal camps, a good infrastructure is very important for this.

Front offices and legal aid clinics are the part of infrastructure for carrying out the operations of legal awareness, educations and so other activities. Legal aid clinics can be considered as a 'single window facility [12]', because it provides the legal help to those people who are in need of justice. There should be one legal aid clinic which will serve not more than six villages [13]. Although, the number or geographical locations has not been specified yet, but as we know that it is our basic need to have good infrastructures(legal aid clinics) to set up for easy access.

Statistics

- In March 2020, 14159 legal aid clinics have been set up for 597617 villages. It means, on average there is only 1 legal aid clinic for 42 villages. But these legal aid clinics have not been spread across the entire geography of the country.
- In 2017-2019, there have been an improvement in setting legal aid clinics by 22 states but by March 2020, only three states have met the norms [14].
- Kerala on average has set up a 1 legal aid clinic for 2 villages which is considered to be best coverage among all the states.
- In 2020, Uttar Pradesh coverage has been reduced by 68%. In 2017, Uttar Pradesh has 1 legal aid clinic which covers 1603 villages. But in 2020, 1 legal aid clinic is covering 520 villages.
- In March 2020, seventeen states have met a norm of having a legal aid clinic for every jail which is prescribed under NALSA (Legal services clinic) regulations 2011, NALSA Standard Operating Procedures for Representation of Person in Custody 2016.
- Gujarat has the 49 legal aid clinics across 30 prisons which is considered to be the most among other states.
- Punjab has 26 legal aid clinics across 24 prisons.
- Nagaland has 13 front offices across 13 legal service institutions as same as Delhi have.
- Tamil Nadu has 184 front offices across 185 legal service institutions.

Criticism

- In 2019, front offices [15] are termed as a one stop centers for those people who are in need of legal help so that they can receive legal aid, advice and all the information of their cases easily. Four states /Uts had a front office in all their Legal service institutions [16]. No doubt some states have more front offices than required but overall, many states has a bad coverage of front offices which is a great concern.
- As per Indian justice report 2021, NALSA has not put up the information of the numbers of front offices which is linked to the State Legal Service Authority or the e-courts system.

Several states have an easily access of this system and this system is helping the people in large number. But some states [17] are in the process of setting up this system. Some states like Himachal Pradesh, Telangana, Odisha and Rajasthan are yet to set up this system or facility in their area. They have not started yet and this is also a great concern too.

- As we have seen that many states have done a great work by setting up the legal aid clinics expeditiously and their coverage is also good. But on the other part, legal aid service has been not reached in many geographical parts across our country. This problem has to be tackle out as if not done so; many people will get restrained from the justice which they are entitled to.

Reforms

For spreading legal awareness and knowledge or enabling easy access to legal services and knowledge, 'front offices' plays a vital role for such legal service providers. But statistics (above) shows that some states have bad coverage of these front offices. NALSA and government should set up more front offices so that many needy people can avail help from them.

Under article 39A of Indian constitution, free legal aid should be provided to the poor and weaker section of our society and to promote justice on the basis of equal opportunity. Due to the lack of infrastructure, legal aid service has been not reached in many geographical parts across our country which itself reveals a strident picture of our law system. At the district level, DLSA should take the help from law colleges and universities as they can reach out to needy people more frequently.

In every college, legal aid committee should be set up and must be active. Colleges and DLSA should collaborate with each other in order to provide legal help to each and every person of that district.

Every state should adopt e-courts system in order to execute their work more smoothly. It will reduce the time and make the people free from paper work. To implement this policy, NALSA and Government should provide training them.

Government along with NALSA should take care of establishing at least one legal service clinic for every jail so that every person in jail can get legal aid. Above data reveals that some states have not met this norm yet. This scenario must be improved by the help of NALSA and government.

WORKLOAD

In this topic, we will discuss about the concept of Permanent Lok Adalat and its functioning or its operations. Permanent Lok Adalat is the other type of Lok Adalat. Permanent Lok Adalat are basically set up for pre-litigation mechanism for conciliation and settlement of cases which includes Public utility services like- Transport, Postal, telegraph etc. This permanent body has some members that include Chairman and two members which manage all the operations of it.

As per the above act [18], it is mandatory by the law that every state has to establish Permanent Lok Adalat. The jurisdiction of these Permanent Lok Adalat is upto Rs. 1 crore.

These Permanent Lok Adalats are meant for settling the disputes expeditiously and protect the clients from reaching to the courts to burden them. These types of cases are known as Pre-litigation cases.

Statistics

- West Bengal is the only state which has no Permanent Lok Adalat.
- In 2019-2020, these Permanent Lok Adalat has settled 117850 cases as compared to over 1.24 lakh cases in 2017-2018.
- Two states are able to settle more number of cases through Permanent Lok Adalat.
 1. Punjab – 84%

2. Maharashtra – 83%

- There are thirteen states which have recorded no cases.
- State Legal Service Authority Lok Adalats has disposed less than 9% of 17.7 lakh cases.
- National Lok Adalats has disposed 52.8 lakh cases of which 52.7 percent were Pre-litigation cases.
- Bihar has a disposal rate of around 90% by disposing 2.51 lakh Pre-litigation cases out of total 2.8 lakh cases.

Criticism

- As from the above statistical data, many states have a good rate of settling the Pre-litigation cases by Permanent Lok Adalats. As these cases often create a lot of burden on the High Courts and the Supreme Courts which further results in the pending of lot of the cases. But some states have a different picture to present. These states have a very bad disposing rate of settling Pre-litigation cases. In 2019-2020, some states [19] are not able to dispose of even 10% of their cases that were filed in their area which is great concern for us and for all the courts.
- We already have the statistical data of the performance of Permanent Lok Adalats in the year 2019-2020. Their settling rate of the cases has receded from 1.24 lakh cases to 117850 cases only. This is a huge declining of numbers which have to be considered seriously. It shows that in the year 2019-2020, the capacity of giving justice to the unprivileged and the needy people is quite alarming. National Legal Service Authority and all the states have to take these data seriously if they want to work on the goal of “equal justice to all.”
- West Bengal has no permanent Lok Adalat till now. This is the most shocking and alarming data we have got. This is the only large and mid-sized state that does not have this facility. If this is a real scenario, then we can easily predict that what is the condition of the justice in this state and especially the Pre-litigation cases that have to be sorted out with full efficiency.
- Nine states [20] which have 50% settling rate of cases has seen a drop in this year. This has to consider seriously as their performance is deteriorating. There are still 13 states which have not recorded any case by their Permanent Lok Adalats yet.

Reforms

Permanent Lok Adalats are meant to settle the disputes of public utility. But some states have a very bad rate of settling these disputes which further causes burden on District court and High courts. To solve this issue, NALSA should adopt a strict policy for this issue in which government and Lok Adalats will be accountable for the negative consequence if they are not able to increase their settling rate of the disputes. NALSA should also take care of those states such as West Bengal that do not have any Permanent Lok Adalats yet. The person who is accountable for such situation should also be punished.

Government along with Permanent Lok Adalat should work on this issue expeditiously with proper planning and infrastructure.

SLSA sponsored Lok Adalats should increase the settling rate of these disputes. States which are performing well should also increase their pace of settling these issues in order to provide justice to all.

CONCLUSION

Not only modern people, but previous generations have been plagued by the speed and inefficiency of the judicial system; the criminal justice system has been reshaped and distorted due to hundreds of thousands of pending cases; and loudly opposed the poor or disadvantaged groups in society. There is justice, and it will take several years. This is also a sign of the lack of law. The Constitution of India grants all citizens certain basic rights, and violation of these rights may have legal consequences. Thousands of rape cases have never been reported. This is the case with the Indian judiciary. For

example, the rape case in Nirbhay, even after the entire country knows that 6 people are under investigation, because it may take 8 to 10 years for the court to resolve the issue. Was guilty of rape and deserved punishment; it took the court eight years to bring the victim to justice. The Mohamed Harris Narapada case in Bangalore was necessary because no charges were filed within 60 days. Due to political pressure, the evidence often changes, sometimes out of insensitivity, the necessary changes may not be implemented one day, but despite the many gaps and dead ends, if we work for them, they will definitely happen. Reform the Indian judicial system. Several measures may be affected by this change. The number of judges in both the High Court and the Supreme Court should be increased. Although we have highly qualified judges, their strength is not conducive to justice. As mentioned earlier, we are clearly lagging behind other developed countries in terms of appointment of judges. This is the main reason for inefficiency and inefficiency. A clear court should be established, and there is an urgent need to increase the number of courts, judicial and quasi-judicial institutions. Each court should be classified according to the specialization of its judges to reduce the burden on the court. Red tape or excessive delays due to paperwork creates a gap between social fields that need to be replaced by technological infrastructure. Electronic case management, electronic records and related case files should be kept online in order to quickly resolve cases. ... The power delegated to the judiciary requires substantial changes, and lawyers who demand unreasonable delays must be severely condemned. People need to understand alternative dispute resolution systems such as mediation, arbitration, and arbitration to ensure prompt justice in trivial cases and investigation of cases that require legal assistance. Justice is the fundamental goal of every civilization. Therefore, the judiciary must perform its duties with due diligence so that society can fight for peace. Article 39A of the Indian Constitution clarifies the concept of providing free legal aid to the poor. And the weakest part of society, but considering the current situation, the significance has not yet been realized. Judges are considered synonymous with God, so they are responsible for ensuring that no criminal escapes punishment. Since independence, the slow pace has dealt a heavy blow to us, but now it is time for India's judicial system to reform. "Delaying justice is negating justice" should be the primary goal of all judicial organs. This is not the case, so it does not matter how much we develop economically or technologically, because we will never become a developed country.

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