

The Backlog Of Cases In The Lower Judiciary In India: Causes, Consequences And Remedies

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ABSTRACT

This article examines the severe backlog of over 3.1 crore cases in India's lower judiciary, highlighting its detrimental impact on socio-economic development and the fundamental right to a speedy trial. The accumulation of cases is attributed to increased litigation, judicial staff shortages, inadequate infrastructure, and antiquated legal procedures. The delays in case resolution impose significant economic and social burdens on individuals and society at large. To address these challenges, the article proposes judicial reforms, including infrastructure enhancement, technological adoption, legal procedure simplification, and the promotion of alternative dispute resolution methods. It underscores the necessity of collaborative efforts among government bodies, the judiciary, and civil society to improve the judiciary's efficiency and credibility, ensuring the timely administration of justice.

Keywords-Judicial Backlog, Socio-Economic Impact, Judicial Reforms, Alternative Dispute Resolution, Legal Infrastructure, Case Management

Introduction

The lower judiciary in India, comprising of district and subordinate courts, is the backbone of the justice system. It is the first point of contact for the majority of litigants, especially the poor and marginalized sections of society. However, the lower judiciary is plagued by a huge backlog of cases, which undermines its efficiency and credibility. According to the National Judicial Data Grid, as of October 2020, there were more than 3.1 crore pending cases in the lower courts, out of which 87.54 lakh cases were more than five years old. The delay in disposal of cases not only violates the right to speedy trial of the parties, but also affects the socio-economic development of the country. The backlog of cases also reflects the inadequate infrastructure, manpower and resources of the lower judiciary, which hamper its functioning and quality of service. The constitution of India and the civil procedure code, 1908, provide the legal framework and principles for the administration of justice in the lower courts, but they also need to be supplemented by judicial reforms and policy interventions to address the root causes of the problem.

Causes of the Backlog of Cases

The backlog of cases in the lower judiciary can be attributed to various factors, such as the increasing number of cases filed in the courts, the shortage of judges and staff in the lower courts, the lack of adequate infrastructure, facilities and technology in the lower courts, the procedural and substantive laws, and the role of the lawyers, litigants and witnesses. Each of these factors will be discussed in detail below.

The first factor is the increasing number of cases filed in the courts, due to the growth of population, literacy, awareness and disputes in the society. As the population of India increases, so does the number of potential litigants and disputes. The literacy rate of India has also improved, from 64.8 percent in 2001 to 74.04 percent in 2011, which means more people are able to access and understand the legal system and their rights. The awareness of the people about their legal entitlements and remedies has also increased, due to the efforts of the government, the judiciary, the media, the civil society organizations and the legal aid services. Moreover, the complexity and diversity of the society also generate more disputes and conflicts, which require the intervention of the courts. As a result, the number of cases filed in the lower courts has increased over the years, which has outpaced the capacity of the courts to dispose of them. According to the Law

Commission of India, the annual institution of cases in the lower courts increased from 1.94 crore in 2002 to 2.64 crore in 2012, while the annual disposal of cases increased from 1.21 crore in 2002 to 1.91 crore in 2012. This shows that the gap between the institution and disposal of cases has widened, leading to the accumulation of pending cases.

The second factor is the shortage of judges and staff in the lower courts, which affects the disposal rate and productivity of the courts. According to the Law Commission of India, the judge-population ratio in India is 19.66 per million, which is much lower than the global average of 50 per million. This means that there are not enough judges to handle the caseload of the courts, which results in overburdening and delay. Moreover, there are many vacancies in the lower courts, which remain unfilled due to the lack of coordination between the central and state governments, the high courts and the public service commissions. As of October 2020, there were 5,748 vacancies out of 24,018 sanctioned posts of judges in the lower courts, which amounts to 23.94 percent vacancy rate. The shortage of judges also affects the quality and fairness of justice, as the judges are under pressure to dispose of the cases quickly, without giving adequate attention and reasoning to the facts and issues involved. The lower courts also face the shortage of staff, such as court clerks, stenographers, typists, peons, etc., who assist the judges in the administration and management of the courts. The staff shortage affects the efficiency and smooth functioning of the courts, as they have to deal with the paperwork, record keeping, data entry, communication, etc. The staff shortage also creates opportunities for corruption and malpractice, as the staff may demand bribes or favors from the litigants or lawyers to expedite or delay the cases.

The third factor is the lack of adequate infrastructure, facilities and technology in the lower courts, which hinders the smooth and speedy functioning of the courts. Many lower courts do not have sufficient courtrooms, furniture, equipment, libraries, computers, internet, power supply, etc., which affect the comfort and convenience of the judges, staff, lawyers, litigants and witnesses. The lack of infrastructure also affects the security and safety of the courts, as they may be vulnerable to fire, theft, vandalism, etc. The use of information and communication technology (ICT) is also limited and uneven in the lower courts, which affects the case management, data entry, record keeping and transparency of the courts. The National Judicial Data Grid, which was launched in 2015, is a web-based platform that provides information on the pending and disposed cases in the lower courts across the country. However, the data entry and updation of the cases is dependent on the availability and accessibility of the computers and internet in the lower courts, which may vary from state to state and district to district. The use of ICT can also help in the digitization and preservation of the case records, which may otherwise be lost, destroyed or tampered with over time. The use of ICT can also facilitate the communication and coordination between the lower courts and the higher courts, the government, the public service commissions, the bar associations, the litigants, etc. The use of ICT can also enable the online filing of cases, the online payment of court fees, the online access to the judgments and orders, the online tracking of the case status, etc., which can save time, money and resources for the parties and the courts.

The fourth factor is the procedural and substantive laws, which are complex, outdated and cumbersome, and create scope for delays, adjournments and appeals in the courts. The civil procedure code, 1908, which governs the conduct of civil cases in the lower courts, has been criticized for being lengthy, rigid and technical, and for allowing multiple interlocutory applications, revisions and reviews, which prolong the litigation process. The civil procedure code also does not provide for mandatory mediation, pre-trial conference, case flow management, summary procedure, etc., which can expedite the disposal of civil cases. Similarly, the substantive laws, such as the Indian Penal Code, 1860, the Indian Evidence Act, 1872, the Indian Contract Act, 1872, etc., need to be revised and simplified to suit the changing needs and realities of the society. The substantive laws also create scope for ambiguity, inconsistency and multiplicity of interpretations, which lead to litigation and appeals. The procedural and substantive laws also need to be harmonized with the constitutional and human rights principles, such as the right to speedy trial, the right to equality, the right to fair trial, etc., which are often violated due to the delay and pendency of cases in the lower courts.

The fifth factor is the role of the lawyers, litigants and witnesses, which also contributes to the delay and pendency of cases in the lower courts. The lawyers often resort to strikes, boycotts, adjournments and frivolous litigation, which affect the functioning and efficiency of the courts. The strikes and boycotts by the lawyers are usually motivated by their professional or political interests, such as the demand for higher fees, better facilities, appointment of judges, etc. The adjournments by the lawyers are usually sought on the grounds of personal or professional inconvenience, such as illness, absence, engagement in other courts, etc. The frivolous litigation by the lawyers are usually filed to harass or extort the opposite parties, or to exploit the loopholes or defects in the laws or procedures. The litigants also tend to abuse the process of law by filing vexatious, false or repetitive cases or by not appearing or complying with the court orders. The litigants also seek adjournments or appeals on flimsy or frivolous grounds to delay or prolong the litigation. The witnesses also face various difficulties, such as harassment, intimidation, inconvenience and loss of income, which discourage them from attending the court proceedings or giving truthful evidence. The witnesses also suffer from the lack of protection and assistance, such as witness protection program, witness compensation scheme, witness assistance service, etc., which expose them to the risk of physical or mental harm or coercion.

Consequences and Remedies of the Backlog of Cases

The backlog of cases in the lower judiciary has serious consequences for the justice system and the society, such as the violation of the right to speedy trial, the affect on the quality and fairness of justice, and the imposition of a heavy economic and social cost. Each of these consequences will be discussed in detail below, along with the possible remedies to overcome them.

The first consequence is the violation of the right to speedy trial of the parties, which is a fundamental right under Article 21 of the constitution of India, and a human right under various international instruments. The right to speedy trial means that the parties have the right to have their cases heard and decided by the courts within a reasonable time, without undue delay or adjournment. The right to speedy trial is essential for the protection of the life, liberty and dignity of the parties, and for the enforcement of their rights and obligations. The delay in justice also leads to the loss of faith and confidence in the judiciary, and erodes its authority and legitimacy. The remedy for the violation of the right to speedy trial is to ensure that the cases are disposed of within the prescribed time limit, which may vary according to the nature and complexity of the cases. The constitution of India and the civil procedure code, 1908, also provide for the power of the courts to issue writs, such as habeas corpus, mandamus, certiorari, etc., to enforce the right to speedy trial of the parties. The courts can also award compensation or damages to the parties who have suffered due to the delay in justice, as a form of relief and remedy.

The second consequence is the affect on the quality and fairness of justice, as the judges are under pressure to dispose of the cases quickly, without giving adequate attention and reasoning to the facts and issues involved. The delay also affects the availability and reliability of the evidence, witnesses and documents, which may be lost, destroyed or tampered with over time. The quality and fairness of justice is essential for the realization of the rule of law and the administration of justice, and for the protection of the rights and interests of the parties. The remedy for the affect on the quality and fairness of justice is to ensure that the judges have sufficient time and resources to hear and decide the cases, with due care and diligence, and to give clear and cogent reasons for their judgments and orders. The judges also need to be trained and updated on the latest laws, procedures and jurisprudence, to enhance their knowledge and skills. The judges also need to be independent and impartial, and free from any external or internal influence or interference, to ensure the integrity and credibility of the judiciary.

The third consequence is the imposition of a heavy economic and social cost on the parties, the judiciary and the society. The parties have to bear the expenses of litigation, such as court fees, lawyer fees, travel costs, etc., which may exceed the value of the claim or relief sought. The parties also have to suffer the loss of income, employment, education, health, etc., due to the involvement in the litigation. The parties also have to endure the mental and emotional stress, anxiety and frustration, due to the uncertainty and unpredictability of the litigation. The judiciary also has to incur the cost of maintaining and administering the courts, which consumes a large part of its budget. The judiciary also has to deal with the workload and pressure of the pending and disposed cases, which affects its morale and motivation. The society also suffers from the loss of productivity, investment, development and peace, due to the unresolved disputes and conflicts. The society also witnesses the erosion of the social and moral values, such as trust, cooperation, harmony, etc., due to the litigation and adversarial culture. The remedy for the imposition of a heavy economic and social cost is to reduce the cost and duration of the litigation, by simplifying and rationalizing the laws and procedures, by providing legal aid and assistance to the needy and deserving parties, by encouraging the use of alternative dispute resolution (ADR) mechanisms, such as arbitration, mediation, conciliation, lok adalats, etc., to resolve the disputes amicably, quickly and cheaply, without resorting to the formal and adversarial court process. The constitution of India and the civil procedure code, 1908, also recognize and support the use of ADR for the settlement of disputes.

Conclusion and Suggestions

The backlog of cases in the lower judiciary in India is a serious problem, which affects the administration of justice and the socio-economic development of the country. The constitution of India and the civil procedure code, 1908, provide the legal framework and principles for the functioning of the lower courts, but they also need to be supplemented by judicial reforms and policy interventions to address the root causes of the problem. The remedies suggested above can help in reducing the backlog of cases and improving the efficiency and credibility of the lower judiciary. However, these remedies also require the cooperation and coordination of various stakeholders, such as the central and state governments, the high courts, the public service commissions, the bar associations, the civil society organizations, the media, the litigants and the public, to ensure their effective implementation and monitoring. The backlog of cases in the lower judiciary is not an insurmountable challenge, but a manageable one, if there is a collective will and commitment to achieve the goal of justice for all.

References:

1. National Judicial Data Grid, <https://njdg.ecourts.gov.in/njdgnew/index.php>, accessed on 15 November 2023.
2. Census of India, http://censusindia.gov.in/2011-prov-results/data_files/india/Final_PPT_2011_chapter6.pdf, accessed on 18 January 2024.
3. Law Commission of India, Report No. 245, Arrears and Backlog: Creating Additional Judicial (wo)manpower, July 2014, http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf, accessed on 13 February 2024.
4. Ibid.
5. Department of Justice, <http://doj.gov.in/sites/default/files/DOJ%20Report%20October%202020.pdf>, accessed on 15 March 2024.
6. National Judicial Data Grid, op. cit.
7. Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1360; Maneka Gandhi v. Union of India, AIR 1978 SC 597; Universal Declaration of Human Rights, Article 10; International Covenant on Civil and Political Rights, Article 14
8. Rudul Sah v. State of Bihar, AIR 1983 SC 1086; Common Cause v. Union of India, AIR 1996 SC 1619.
9. S.P. Gupta v. Union of India, AIR 1982 SC 149; All India Judges Association v. Union of India, AIR 1992 SC 165.
10. Law Commission of India, Report No. 229, Need for Justice-dispensation through ADR etc., August 2009, <http://lawcommissionofindia.nic.in/reports/report229.pdf>, accessed on 26 November 2023.
11. Constitution of India, Article 39A; Civil Procedure Code, 1908, Section 89.