



Pendency Of Cases In India And Its Impact On Fundamental Rights Of The Individual Under Article 21 – The Way Forward

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Abstract: The Judicial system of India, known for its constitutional strength, is facing a chronic concern of pending litigation. With more than 5 crore pending litigations across several courts, the delay in imparting justice not only burdens the system but also infringes on the fundamental rights of individuals provided under Article 21 of the Constitution of India, i.e., the Right to Life and Personal Liberty. One of the critical approaches of this right is the guarantee of a speedy trial, as highlighted in the landmark verdict of *Maneka Gandhi v. Union of India*,¹ in which the Hon'ble Supreme Court prolonged the interpretation of Article 21 & included the right to a speedy trial as a part of the fundamental right under Article 21 of the Indian Constitution. The complications of this judicial pendency are profound. The delays in legal proceedings for a long time often resulted in stretched incarcerations without having a trial, directly violating the principles of justice & fairness. For example, in April 2022, In Bihar, the court acquitted an accused for charges of murder after he had been in jail for 28 years awaiting trial. These instances not only pointed to the personal misfortunes of the accused but also reflected the failure on the part of the system which demoralized the confidence of the public in the judiciary. This paper tries to explore the consequences & causes of judicial delays, & their direct effect on Article 21, & tries to propose justifiable reforms as the way forward so that the faith of the public in the judicial system continues to exist. The author tries to explore the paper by adopting the Doctrinal Method of research while dealing with the concern of pending litigation under various Courts in the country.

Keywords: Article 21, Indian judiciary, judicial backlog, legal reforms, speedy trial.

Introduction

The principle of justice delayed is justice denied has been deeply rooted in the philosophy of those nations that have democratic governance. The judicial system of India, one of the oldest in the world, creates the foundation of the nation's democratic outline. The Courts have been tasked with the responsibility of analyzing & interpreting laws & delivering justice, they play a pivotal role in the upbringing of the constitutional norms of equality, fraternity & liberty. Article 21, one of the cornerstones of the Constitution of India, guarantees every person the Right to life and Personal Liberty. It provides that "no person shall be

¹ AIR 1978 SC 597

deprived of life or personal liberty except according to the procedure established by law.” This right from time to time has been interpreted & analyzed by the Hon’ble Supreme Court to include a broader perspective of liberties essential to a dignified life, such as the right to privacy, health, a clean environment, education, & notably, the right to a speedy trial. Moreover, undertrial prisoners, many of whom had been suffering in jails without a trial for years, serve as grim notices of the systemic failure to ensure & uphold the right to liberty. As per the data released by the National Crime Records Bureau (NCRB), about 75% of India’s prison population is of undertrial prisoners which many of whom had already been in prison for half of the maximum sentence for the offense alleged against them. This paper tries to critically establish the connecting link between judicial backlogs & the violation of fundamental rights, particularly guaranteed under Article 21. It also examines the historical background of the right to speedy justice & its evolution, identifies the procedural & structural reasons behind judicial pendency, & tries to analyze the broader ramifications for equity, justice, & democracy. This paper also tries to examine the reforms that have been adopted as an initiative to overcome the problem & try to provide suggestions & actionable solutions, aiming at restoring the public faith in the judiciary by ensuring that justice is not only just available but also prompt & accessible. However, issues like procedural delays, infrastructural deficits & systematic inefficiencies have led to a devastating judicial backlog, diluting the real essence & importance of Article 21 of the Constitution and affecting the rule of law in the country.

Article 21 of the Constitution reads as follows:

“No person shall be deprived of his life or personal liberty except according to the procedure established by law.”

Landmark judicial pronouncements, including in *Maneka Gandhi v. Union of India* (1978) & *Hussainara Khatoon v. State of Bihar* (1979), have paved the way to extend the scope of Article 21 & include the right to a speedy trial as a part of Article 21 as a fundamental right. This right, i.e., the right to a speedy trial, is now considered inherent to human dignity & fair justice.

Historical Perspective

Initially, the phrase used under Article 21, i.e., “procedure established by law,” has been interpreted in a literal & narrow sense. In the famous case of *A.K. Gopalan v. State of Madras*,² the Hon’ble Supreme Court observed that when the procedure has been established through valid legislation passed by the legislature, any form of deprivation of life & personal liberty is held to be constitutional even though it was unjust or arbitrary.

This narrow interpretation continued till the landmark verdict in *Maneka Gandhi v. Union of India*³ was pronounced by the Hon’ble SC. In this case, the court changed the understanding of Article 21 by upholding that the phrase “procedure established by law” must be fair, just & reasonable, by reading due process in the substantive form in the Constitution of India. This verdict successfully overturned the judgment passed in the *A.K. Gopalan* case & placed the basis for such an approach, i.e., rights-oriented to personal liberty.

Post-Maneka Gandhi, Article 21 of the Constitution of India has been analyzed & interpreted to cover a broader range of derived rights that are vital to an individual living a life with dignity. Some of these rights comprise:

- Right to live with human dignity
- Right to livelihood
- Right to shelter
- Right to education
- Right to privacy
- Right to health
- Right to legal aid
- Right to a clean environment

² AIR 1950 SC 27

³ 1978 AIR 597

- Right against custodial violence
- Right to die with dignity (including passive euthanasia)

Among such rights, the right to a speedy trial, particularly in the criminal jurisprudence context, has emerged in the form of a critical component. This right provides that any person isn't subjected to indefinite detention or endless legal uncertainty & detention for an indefinite period, by following this, they are trying to uphold both mental well-being & personal liberty.

Speedy Trial as Part of Article 21

The right to a speedy trial has been recognized as a fundamental right guaranteed under Article 21 of the Constitution of India in the landmark case of *Hussainara Khatoon v. State of Bihar*.⁴ This judgment has tried to expose the appalling situation of thousands of prisoners whose trial was awaited in Bihar & who have been in prison for several years without a trial. The Hon'ble Supreme Court in this case observed that such delays were unconstitutional & held that:

"This is implicit in the broad sweep & content of Article 21 that every accused who was denied his liberty had a right to a speedy trial as a part of the fundamental right."

Such interpretation paved an important footstep for making the criminal justice system humanized in India.

Procedural Safeguards & Article 21

Article 21 of the Constitution is not confined to criminal law; rather, it ensures that any form of deprivation of liberty, even under administrative or civil law, needs to follow reasonable, fair & non-arbitrary methods. It acts like a barricade against state power & procedural arbitrariness prevalent in any form, strengthening the concept of natural justice. Therefore, in civil cases, prolonged pendency can also be observed as an abuse of Article 21, particularly when it leads to financial ruin, denial of rightful claims like pension, child custody, or inheritance & emotional distress.

The judiciary, as the protector of fundamental rights, has the obligation, as declared by the Constitution, to guarantee that delays in the process of adjudication don't result in justice denial. A congested judicial system violates Article 21 indirectly by depriving the person of providing remedies, meaningful access to justice & effective relief within a fixed period.

Judicial Backlog in India – A Current Overview.

The concern of judicial backlog has reached a shocking scale in the country, resulting in a major blockage in the delivery system of justice. This reflects not only administrative inefficiency but also raises serious questions about access to justice within time, mainly considering the fundamental right of a speedy trial guaranteed under Article 21 of the Constitution.

According to the recent data provided by the National Judicial Data Grid (NJDG)⁵ & the Hon'ble Supreme Court of India (as of early 2024):

- Total number of pending litigations across all courts in India: More than 5 crore (50 million).
 - Supreme Court of India:
 - About 71,000 cases are still pending, including both criminal & civil matters.
 - Out of these litigations, over 10,000 are over 5 years old.

⁴ 1979 AIR 1369

⁵ https://njdg.ecourts.gov.in/njdg_v3/

- High Courts (25 in total):
 - Approx. 60 lakh (6 million) litigations are pending.
 - Approx 40% of these litigations are over 5 years old.
 - Vacancies in several High Courts vary from 25% to 40%, further intensifying delays.
- District & Subordinate Courts:
 - Nearly approx. 4.5 crore (45 million) litigations are pending.
 - This comprises over 1 crore criminal litigations pending for more than 3 years.
 - More than 40% of litigations involve property & land disputes, which are often highly prolonged & litigious.

BREAKDOWN AS PER THE CASE TYPES

- **Criminal Cases:** A considerable proportion of pending litigations (more than 70% in a few states) are criminal, in which no. of litigations involve undertrials. Delays in such types of cases not only distress victims but also infringe upon the accused's rights, also, several of whom persist in incarceration without conducting trial.
- **Civil Cases:** Land acquisition, matrimonial disputes, tenancy, compensation claims & service matters play an important part in the pendency of civil cases. Property-related cases alone create pendency in nearly 66% of all civil litigations in the subordinate judiciary.
- **Appeals & Revision:** Backlog is also heightened by the piling of appeals & review petitions in the higher judiciary, several of which arise from poorly adjudicated judgments in the lower judiciary, highlighting a recurring inefficiency.

Undertrial Prisoners: A Human Cost

As per the report revealed by the National Crime Records Bureau (NCRB) in 2023⁶:

- Approximately 77% prison population of India comprises undertrial prisoners.
- Several of them had already served more time in jail than the maximum punishment or sentence of the offense for which the person had been charged.
- Many people are detained because of a lack of access to proper legal representation or bail procedures & for minor offenses.

Such a situation poses a challenge that is direct in nature to the right to personal liberty, & additionally, to Article 21 of the Indian Constitution, as the detention without conducting a trial is effectively a denial of justice.

⁶[https://www.mha.gov.in/sites/default/files/AnnualreportEnglish_04102023.pdf#:~:text=1.4%20The%20Administration%20Division%20is%20responsibleforhandlingalladministrativeand%20vigilance,work%20among%20various%20Divisions%20of%20the%20Ministry.&text=1.8%20The%20International%20Cooperation%20\(IC\)%20wing%20of,and%20bilateral%20mutual%20legal%20assistance%20treaties%20\(MLATs\).](https://www.mha.gov.in/sites/default/files/AnnualreportEnglish_04102023.pdf#:~:text=1.4%20The%20Administration%20Division%20is%20responsibleforhandlingalladministrativeand%20vigilance,work%20among%20various%20Divisions%20of%20the%20Ministry.&text=1.8%20The%20International%20Cooperation%20(IC)%20wing%20of,and%20bilateral%20mutual%20legal%20assistance%20treaties%20(MLATs).)

Regional Disparities

Some of the states have been badly affected than other:

- Uttar Pradesh is leading in judicial backlog, with more than 1 crore litigations in the subordinate judiciary alone.
- Maharashtra, West Bengal, Bihar, & Rajasthan trail the UP.
- In a few states, the average disposal of cases had taken a prolonged time of 7–10 years, mainly in civil matters.

Major causes of Pendency

- **Judicial Vacancies & Inadequate Judge-to-Population Ratio**
 - India had the lowest judge-to-population ratios globally. Till 2024, there were approximately. 21 judges/million people, far-reaching the suggested ratio of 50/million by the Law Commission of India.⁷
 - Many sanctioned posts in the judiciary remain vacant for a long time because of delays in recruitment, appointment procedures & vetting, particularly in High Courts & District Courts.
 - With more than thousands of posts lying unfilled, the existing judges have been overburdened, which reduces both the quality & speed of imparting justice.
- **Procedural Delays:**
 - The Code of Civil Procedure (CPC) & the Bhartiya Nagarik Suraksha Sanhita, 2023, then the Code of Criminal Procedure (CrPC), amended from time to time, still had provisions that were rigid, lengthy, & open to manipulation.
 - Provisions for summons, frequent adjournments, & notice delays, examination of witnesses, framing of issues & cross-examination are often distorted by counsel or litigants to delay the trials.
 - Interim applications & stay orders often disrupt the momentum of the proceedings, sometimes delaying the cases for several years.
- **Frivolous Litigation & Abuse of Legal Process:**
 - Several litigants misuse the legal process by filing baseless, vexatious, or strategic cases to harass the opposite party & lead to delay.
 - In civil cases, particularly tenancy & property disputes, parties often take advantage of procedural loopholes to delay the enforcement of judgments or rights.
 - In criminal matters, politically motivated cases, false FIRs, or personal conflicts generally clog the judicial system, distracting attention from genuine litigations.
- **Inadequate Infrastructure & Technological Backwardness:**
 - Most of the courts function in dilapidated structures, generally missing even basic facilities such as washrooms, waiting areas for litigants, & electricity.
 - Deficiencies in courtrooms, support staff (clerks, bailiffs, stenographers), & storage facilities for records of the cases slow down the functions of the judiciary.
 - Though the project of E-Courts has made significant progress in a few years, the development of digitization remains inadequate & uneven, particularly in rural & semi-urban areas.
- **Use of Alternative Dispute Resolution (ADR) in Narrow Way:**
 - Methods like mediation, conciliation, arbitration, & Lok Adalats continue to be under-utilized despite being acknowledged as effective tools for reducing the burden on the judiciary.
 - Many litigants & lawyers are either reluctant or ignorant to participate in ADR procedures due to a lack of expertise, trust, or institutional support.

⁷ <https://sansad.in/getFile/loksabhaquestions/annex/1715/AU1335.pdf?source=pqals>

Acknowledging these complex causes demonstrates that addressing the backlog requires not only faster courts or more judges, but also a broader transformation in the judicial field, from filing to final judgment.

Impact on Article 21

1. **Violation of the right to a speedy trial:** The Accused languishes in prison for years without having a trial. The right to a speedy trial is an essential facet of Article 21, as declared in landmark cases like *Hussainara Khatoon v. State of Bihar*⁸ and *A.R. Antulay v. R.S. Nayak*⁹. Judicial backlogs, particularly in criminal cases, generally mean:
 - Pre-trial detention for accused for years, several of whom are eventually acquitted.
 - Loss of livelihood & social stigma for them under prolonged trial, irrespective of the result.
 - Mental & emotional trauma for both victims & accused, as they stay in protracted uncertainty.

When trials are prolonged for decades, justice seems to be defeated. The judicial system will not effectively provide punishment for individuals without due process, violating both the right to be tried within a reasonable time & presumption of innocence.

2. **Prolonged Detention of Undertrial Prisoners:** One of the most vital impacts of the judicial backlog is the mass confinement of undertrial prisoners, who make up more than 75% of the Indian prison population. Many of them-
 - Continue behind bars for a period of more than half of the punishment than the maximum prescribed sentence.
 - Are economically underprivileged, not able to afford bail & necessary legal representation.
 - Tolerating inhuman prison conditions, violating the rights to health, dignity, & rehabilitation.

Such a situation will amount to a direct violation of Article 21 because the right to liberty has been taken away disproportionately & arbitrarily.

3. **Judicial Backlogs & Faith of the public in the Constitution:** Beyond individual rights, the backlog crisis destabilizes public trust in:
 - The judiciary is the protector of the Indian Constitution.
 - The rule of law & Democratic Governance.
 - Enforcing fundamental rights guaranteed under the Constitution.

Whenever justice becomes inaccessible & uncertain, people begin to lose confidence & faith in constitutional remedies, pushed toward extra-legal & populist solutions, & weakening the institutions of democracy.

4. **Rights of Women, Children & Other Vulnerable Groups:** Pendency in custody litigations, domestic violence cases, child sexual abuse trials (POCSO), maintenance & disability-related claims indirectly affect the vulnerable group.
 - Children lost their valuable developmental years in long custody disputes.
 - Women had faced delayed maintenance, alimony, or protection from domestic violence.
 - Persons with especially abled & the elderly generally die before litigations are resolved.

Such a type of neglect leads to a denial of equality & the right to dignity. They are both a vital facet of Article 21.

Judicial Activism & Observations

The Indian judiciary had repeatedly recognized the malevolent effects of judicial backlogs on individual liberties & the rule of law. By way of landmark judgments, the Hon'ble Supreme Court and numerous High Courts had interpreted & analyzed Article 21 to include the right to a fair, effective & speedy trial, by expanding the scope & highlighting that "**justice delayed is indeed justice denied.**" Some landmark pronouncements have shaped the legal understanding of these concerns. In the leading case of *Hussainara*

⁸ 1979 AIR 1369

⁹ [1984] 2 S.C.R. 495 at 557

*Khatoon v. State of Bihar*¹⁰, the Hon'ble Supreme Court held that the right to a fair and speedy trial is part and parcel of fundamental rights & is mentioned under Article 21 of the Constitution. This case opened the eyes and became a turning point in the judicial system of India regarding its approach to judicial backlog. This case was related to undertrial prisoners in Bihar who have been languishing in prison for years without a trial. It provides that "procedure established by law" needs to be fair, reasonable & just to overcome future outcomes. In the case of *Common Cause v. Union of India*¹¹, the Hon'ble Court issued directions for the automatic release & discharge of those prisoners whose trial has been delayed excessively. The Court also laid down certain guidelines for releasing the prisoners & quashing the proceedings if their trial has not started within a fixed period. These rulings have attempted to rationalize pending criminal cases; however, later disparaged for encouraging the quashing of judgments on an indiscriminate basis. In the famous case of *Imtiyaz Ahmad v. State of Uttar Pradesh*¹², the Hon'ble Supreme Court analyzed the causes of backlog & ordered empirical data from several High Courts on the correlation between case disposal rates & Judges' strength. The court approved structural constraints & directed the judiciary & governments to cooperate on increasing infrastructure & filling vacancies. In another case, *Ratiram v. State of M.P.*¹³, the court held that delay defeats the ends of substantive justice & hampers the very notion of fair adjudication. It also highlighted that delayed justice affects both the right to a fair trial & the right to life & liberty, which are the foundation of criminal jurisprudence. In *Bhim Singh v. Union of India*,¹⁴ the court ordered urgent consideration of the rising number of undertrial prisoners, several of whom were in prison for petty offenses. The Court had directed all States & Union Territories to take the initiative to release prisoners who served half or more of the maximum sentence of the offense.

Concerning the delays in matters related to family law, the Hon'ble Supreme Court suggested the use of video conferencing and alternative dispute resolution (ADR) mechanisms & the use of video conferencing to expedite proceedings as held in the case of *Krishna Veni Nagam v. Harish Nagam*.¹⁵ In another significant step to reduce pendency & decongest prisons, the court issued a detailed set of guidelines on bail, arrest, & detention. The Court reaffirmed in this case that unnecessary delay leads to the violation of Article 21 of the Constitution, & directed for greater collaboration between the judiciary, prosecution & police as held by the court in *Satender Kumar Antil v. CBI*.¹⁶

SUGGESTIONS

- **Increasing Judicial Strength**
 - To complete the recruitment process for the vacant posts promptly.
 - To increase the sanctioned strength in proportion to the workload.
- **Judicial Reforms**
 - To implement case management systems within a fixed time.
 - To establish special benches & fast-track courts for priority matters.
- **Technology Integration**
 - E-courts, AI-based case tracking, video conferencing, & e-filing have been introduced.
 - For easy access & faster processing, digitalization is a must.
- **Alternative Dispute Resolution (ADR)**
 - Promotion of arbitration, mediation & Lok Adalats to reduce the burden on courts.
- **Legal Awareness & Simplification**
 - To simplify procedures & reduce dependence on legal jargon.
 - To promote legal education to reduce frivolous cases.

¹⁰ 1979 AIR 1369

¹¹ AIR 2018 SC 1665

¹² AIR 2012 SUPREME COURT 642

¹³ AIR 2012 SUPREME COURT 1485

¹⁴ (2015) 13 SCC 605

¹⁵ AIR 2017 SC 1345

¹⁶ (2022) 10 SCC 51

Conclusion

The backbone of a constitutional democracy is the efficient & robust judicial system. The stunning pendency of cases destabilizes the main core of Article 21 & hampers the way to accessing justice for thousands & millions. Advocating this concern needs a multi-pronged, sustained way involving legal, technological & administrative reforms. The objective is clear to ensure fair, timely & affordable justice for each citizen of India, by upholding Constitutional sanctity.

The Indian judiciary has been regarded as the custodian of constitutional freedoms, & now realizes itself at a critical stage. The rising judicial backlog, with a leg on each side for decades in some examples, has changed courts from temples of justice into venues of prolonged uncertainty. Such systemic backlogs undermine the principal core philosophy of Article 21 that every person is legally entitled to a dignified life, liberty, security & liberty under the law. Whenever justice is inaccessible, delayed, or denied, it has ceased to be justice at all.

The Indian judiciary has recognized from time to time that the right to a speedy trial is an essential part of Article 21 & it ensures reasonableness, non-arbitrariness & fairness. Yet, a lot of people continue to agonize, victims are awaiting closure, undertrial prisoners are suffering in overcrowded prisons, families are ruined by disputes relating to inheritance, & businesses are collapsing because of their contractual issues that were never resolved. The actual objective of constitutional justice has been diluted now, when these wheels of justice are moving too slowly.

Judicial backlog is not simply an administrative issue; rather, it has been a constitutional crisis. This affects the basic foundations of the principle of equality before the law (Article 14) & hampers the right to legal remedies (Article 32 & 226). The disproportionate effect upon the marginalized, the voiceless & the poor further extends the existing social disparities & the justice delivery system into a privilege rather than a right.

Several judicial pronouncements had recognized the need for reform. Infrastructural development, legislative overhaul, ADR mechanism, judicial accountability, filling of vacancies & digitalization must be considered as matters of national priority. It is also authoritative to sensitize the public, institutions & legal professionals about the constitutional & ethical obligations they have in imparting expeditious justice.

In spirit, delayed justice is denied justice, & denied justice leads to the denial of humanity. To honor the essence of the Indian Constitution & the objectives of Article 21, India needs to commit not only to the independence of the judiciary but to judicial equity, efficiency, and empathy.

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