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**ACCESS TO JUSTICE AND JUDICIAL PENDENCY**

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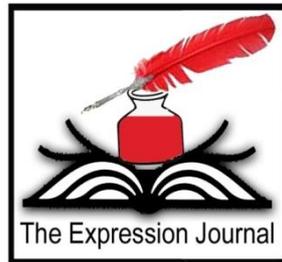
**Abstract**

Following liberal economic policies, India's progress in science and technology over the previous half a minute to three decades has resulted in massive growth compared to its peers that either acquired democracy simultaneously or later. Based on its premise of social fairness, Indian democracy must uplift diverse parts of society in various methods to overcome challenges. As a result, as one of the most significant institutions for addressing social justice problems, the judiciary has been given adequate respect and freedom to solve societal challenges. The restricted idea of "victim and individual lawsuit" is becoming outdated in certain jurisdictions due to its autonomous breadth in fulfilling the constitutional duty, particularly in handling the complicated issue of delays in resolving massive backlogs of cases. Is. As a result, since the inception of "Social Action Litigation," it has been far ahead of its contemporaries in delivering justice without fear or favor; it seems that justice is done with good conscience and righteousness. The relevance of the legal and judicial systems has risen dramatically, particularly in assisting those from impoverished backgrounds. People's faith in the judiciary grew, and they began to trust it more than the legislative and executive branches of government. The nation's numerous triumphs led to it being recognized as the future economic powerhouse, and it began to embrace us in a love-hate relationship. Despite incredible gains in every subject, one critical issue that has long been discussed and remains a hot problem today is "till access, justice & judicial pendency." Unless such a critical issue is handled to the people's satisfaction, the advancements in numerous sectors across all spheres of growth, particularly in the economy, are undoubtedly frightening. There will be outcomes; as a result, the paper examines the notion of "till access, justice & judicial pendency" and offers different solutions to the long-standing issue of court backlog.

**Keywords**

Access to Justice, Clinical Legal Education, Pendency, Article 39 A, Pendency, Justice Delivery.

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### **Introduction**

Today, access to justice and judicial pendency in the courts is still scorching. Apart from the scientific and sociological analysis of the problem, it is often the result of unending battles between the court and the government over pending judicial cases. Delay in the judicial system is not only crippling but also prevents the parties from exercising their rights freely. As a result, investors from other countries are hesitant to come to India because they believe that their legal disputes will not be resolved quickly if they get into conflict.

Apart from a few prerequisites, a vigorous democracy must have 'access to justice and a quick justice system.' As long as justice is delayed, it prevents access to the system and keeps individuals within and outside the nation in a hallucinogenic mindset. The administration of law by the courts is what justice is. 'Justice is a persistent and permanent desire to offer everybody what it deserves,' Justinian's corpus juris civilis (taken from the Roman jurist Ulpian) states. Justice, according to Cicero, is "the disposition of the human intellect to award to everybody what it deserves." The legislation is constantly changing. It does not function in a vacuum. As a dynamic social tool, the law must advance in all directions to solve societal issues following evolving demands. As a result, a suitable interaction mechanism built by society in statute to balance the goals of developing human connections is harmonic adjustment by removing social tensions and disputes. "The law does not stand still; it moves on and on," Lord Dunning famously stated. If that is the goal, Institutional analyses with role-costar remedial procedures for measures that weaken the judiciary are more significant than in past years. In the hallways of legal entanglements for justice, judicial pendency helps to ensure the seamless delivery of justice. It saves the millions of our brothers and sisters who wish to exercise their fundamental rights. The basic right of "access to justice" is denied for reasons best known to the rulers, with many populations arriving calmly at their graveyards each year without

knowing where to seek guidance and redressal! The exercise of fundamental rights (especially equality before the law and life and liberty) is hampered by judicial delay, as is the denial of the basic concept of unfettered access to justice.

In India, the judiciary is better than many of its peers. People still have trust in the court, despite the numerous challenges that surround it; thus, they knock on its doors in the hopes of receiving justice, despite the lack of money, judges, and courts. These challenges slow down the administration of justice. Still, they also diminish citizens' chances of access to justice, which is critical for enjoying human and fundamental rights.

### **The Effect of Delays on Access to Justice**

The Directive Principles of Policy are crucial because they indicate that our objective is economic democracy. Therefore, we did not want a parliamentary form of government to be developed through the Constitution's process.

We have purposefully included the Directive Principles of State Policy into our Constitution about our economic objectives or what our social system should be.<sup>1</sup>

The Constituent Assembly, which wants to send a strong statement, explains the philosophical motivations underlying the inclusion and separation of instruction Principles of Fundamental Rights. However, the message is plain and regressive, and Dr. Ambedkar's appointment is unquestionably risky to remember and practice the rules to have unrestricted access to justice.

### **The Following is the Statement.**

Of course, the purpose of this part is not to portray these concepts as a sacred pronouncement. The House aims for the legislature and administration in the future to talk about these principles and makes them the foundation of all legislative and executive activities. The country's governance,<sup>2</sup> As expressed in the Preamble and many clauses, the Constitution's philosophy is useless since it does not grant political freedom to the population until socio-economic fairness is realized.

Article 38,<sup>3</sup> It is plainly required for all institutions in the country to make efforts to accomplish the dominant notion of access to justice woven around the construction of the Constitution, with a particular focus on establishing the concept of "Sarvodaya" at all times.<sup>4</sup>

### **Without Fear or Favour, Mahatma Gandhi**

The Indian Constitution has placed its faith in the judiciary as an essential component of the State. To keep an eye on and aid the public in realizing the constitutional values of justice, liberty, equality, and fraternity and advise and warn the legislature and administration in any situation. More can be found in Arts 32, 226, 141, and 142. Since the promulgation of the Constitution, the judiciary has been required to do its best. As former Chief Justice of India TS Takhur LJ correctly pointed out, courts are more than just institutions for resolving disputes between litigants; they must also establish standard principles to satisfy the rule of law and justice requirements. The judiciary has generally adopted this idea, and the State has been directed to eliminate inequities between socio-economic groups. It has taken many actions to deliver justice to thousands of residents who have suffered due to the State's passive attitude and to satisfy the changing times' needs.

The court, particularly the Supreme Court of India, has consistently reacted to the needs of the country's poor, who cannot access justice for various reasons. It is well-known for its pioneering work in assisting the disadvantaged and other marginalized groups in gaining significant constitutional rights. It has injected the philosophical ideas of *Gideon vs. Venu*

Wright propounded by the Supreme Court of the United States into the conventional theory of 'locus standi' of the parties to a dispute to reach millions of individuals across the country.<sup>5</sup> Hussainara Khatoon V State of Bihar, in response to the letter petition of<sup>6</sup> Kapil Hingorani (the first female lawyer to get the attention of the court. In light of its responsibilities and the constitutional philosophy of over 4000 people imprisoned under the PIL), According to the court, "We invariably end up with 'law for the poor' instead of 'law for the poor.' Allow the law to govern them. Some see it as strange and prohibited as if it is always taking something away from them, rather than as a beneficial and constructive social instrument for changing the socio-economic system and improving people's lives and situations by offering them rights and advantages. As a result, we must incorporate equal justice in our definition of legitimacy."<sup>7</sup>

### **The Supreme Court Remarkd in SP Gupta vs. Union of India When Describing the Judiciary's Role as an Institution**

"Where a breach of any constitutional or legal right results in a legal wrong or a legal injury to a person or a specified class of persons... and such person or a specified class of persons suffers from poverty, helplessness, disability, or social or economic hardship," any member of the public may apply for an Appropriate instruction, order, or writ. The court supported the extension as necessary to uphold the rule of law.<sup>8</sup>

The court stated that the legal theatre is fast-changing and that the poor's worries are becoming more prominent. In this circumstance, the court will have to establish new procedures and tactics to ensure that people have access to justice.

*M/s Devkala Consultancy Service and Others vs. Indian Banks Association, Bombay and Others,*<sup>9</sup> The court may judge it necessary to look into the condition of circumstances in the advancement of public interest "in a proper instance when the petitioner has petitioned a court in his interest and for a redress of personal grievance." a legal case involving the pursuit of justice. As a result, a private situation might be considered a public concern subject.

According to various studies and estimates by various authorities, there are more than 30 lakh cases outstanding across the country. With an average of 1350 pending cases per judge and a monthly disposal rate of 43 cases, India has one judge for every 73,000 inhabitants, the lowest ratio among developed countries. Compared to the national average, Delhi has the poorest ratio of judges, with each judge overseeing 5,000 individuals. Smaller states and union territories (UTs) like Chandigarh, Goa, the Andaman and Nicobar Islands, Sikkim, Haryana, and Himachal Pradesh, on the other hand, have at least twice as many judges per capita as the national average. Both Maharashtra and Uttar Pradesh are at their highest levels. Maharashtra has over 100,000 cases, while Uttar Pradesh has a monthly backlog of over 44 cases and 500 outstanding cases. Every month, Karnataka resolves roughly 34,000 outstanding cases. On average, there are two pending criminal cases for every pending civil case in the United States. Bihar, Uttarakhand, and Jharkhand each have over five times the amount of civil and criminal cases outstanding. Tamil Nadu, Andhra Pradesh, Manipur, Himachal Pradesh, Karnataka, and Punjab, on the other side, have a very low proportion.<sup>10</sup>

The foregoing scenario of pending litigation is problematic for the judiciary, but it also fails to offer constitutionally mandated access to justice. As a key idea of the rule of law, timely access to justice must be realized on all fronts, not only to handle the conflict mechanism but also to eliminate economic, social, and cultural imbalances among the population. It will take more than the judiciary's and judges' persistence to achieve this. The entire community must

support the judiciary, and other institutions, particularly the legislature and the executive branch, must take remedial action.

The Law Commission made numerous recommendations in its report to constrain the judicial system from the lower courts to the Supreme Court. It essentially recommended reaffirming its prior blueprint report on judicial manpower planning, raising the number of judges from the existing ratio of 10.5 to at least 50 judges per million people, and other structural requirements of the institution of justice, among other things. Due to the massive backlog of cases, the Commission was unable to provide a precise definition of the notion of arrears, leaving it to the judiciary and the State to consider the conditions in which it might be construed according to the facts.<sup>11</sup>

### **A New Approach to Addressing the Problems of Judicial Pendency and Access to Justice: A Pragmatic Approach**

If the rule of law, access to justice, and equality are all for everyone, then the legal system of justice should be done quickly and without delay. Delay not only undermines equity but also prevents equal access to justice. Litigation lingering for decades has tarnished the advanced advertising industry of social action litigation. Due to the sizeable pending litigation, all of its workmanship had slowed. As former Chief Justice Thakur, LJ correctly pointed out, and the judiciary cannot be held solely responsible for the delays in case resolution.

"The guarantee of equal justice is poignant because it encompasses disputes not only between state institutions and citizens but also with different bodies of citizens, often with large income and resource inequalities. Standing against each other as well as seeking to make decisions based on economic or commercial considerations, pushing the court's competence beyond their limits."

Though the people are proud and believe that they are still on board with the best artisans of the court and judges, there is no magic wand in their hands to change things around. All institutions and the general people have a responsibility to solve issues around access to justice, and they must step forward with a determined commitment to recall the widely circulating carrot-apple cart constitutionally. It was impossible.<sup>12</sup>

Because this article is about access to justice and judicial pendency, the ideas made here are limited to the subject of discussion and not to other elements of access to justice. Whatever scholars, intergovernmental, governmental, non-governmental institutions, voluntary organizations, and political think tanks think, "effective access to justice can be viewed as the most basic requirement - the most basic human right of a system that guarantees legal rights," according to Cappelletti's philosophical overtones.<sup>13</sup> The recommendations aim to improve the judiciary's ability to provide quick justice and to strengthen the constitutional requirement of easy access to justice. Apart from advocating for financial autonomy, manpower for effective judiciary functioning, and structural features, there are concerns about establishing its credibility as a competent institution for the Apart from this, many suggestions have already been made in this area, but I will present very few constructive suggestions which can help the State. Furthermore, without delving into the process for appointing judges in the courts, which has strained relations between the administration and the judiciary at times, I believe that the viewpoints presented here are suggestive, with practical implications, on which a bright concept is necessary. Not just the judiciary, but the whole legal system, including the legal profession, should be expanded.

At all levels, pedagogy function is in strengthening the entirely crystallize proper professional position of the justice delivery system.

➤ After the ruling of these courts, there should be no right of appeal to the Supreme Court of India. The Supreme Court of India's number of judges cannot be limited to fewer than 7 or 9 judges who can hear constitutional cases or other significant problems that require the attention of the court. The Supreme Court of India will continue to be led by the Chief Justice of India. Litigation involving social action can also be delegated to the Supreme Court. The Supreme Court has complete power.

➤ It can be linked to the Indian Constitutional Court. It may even be called the Court of the Republic of India to avoid confusion with the other two proposed courts and to leave the colonial heritage behind.

➤ According to the Indian Constitution, the Chief Justice of India would have complete administrative control over the three proposed Supreme Courts.

➤ The other two Supreme Courts can be established outside of Delhi. Apart from lessening the burden on the capital and the cost for the people of the county to run in the capital, these suggested courts should not have their seat of power in Delhi because they deal with regular civil and criminal problems. Outside of the six metro cities, these two can also be constructed. They are already overburdened, and this will exacerbate the situation. One of them might be located in Bhopal or Nagpur, while the other could be in the country's south.

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