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## A CRITICAL REVIEW OF JUSTICE DELIVERY IN INDIA

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### ABSTRACT

This paper aims to explore these systemic issues, analyze their root causes, and question the relevance of the inherited colonial judicial framework in addressing the needs of modern Indian society. The Indian judicial system, once envisioned as the custodian of justice and protector of rights, now faces a multitude of systemic challenges. It further reflects on whether the existing conceptualization of justice truly aligns with the socio-cultural realities of contemporary Indian society. The judiciary is a cornerstone of democratic governance, ensuring that the rule of law prevails and civil liberties are protected. However, in India, widespread grievances against the judicial system highlight a growing disconnect between constitutional ideals and operational realities. Issues such as excessive delays, prohibitive litigation costs, and limited access for the marginalized have raised serious concerns about the efficacy and inclusiveness of justice delivery. Judicial delays in India have emerged as a critical concern impacting the efficiency, credibility, and integrity of the judicial system. With a rapidly growing population and an increasing volume of cases, systemic inefficiencies have hindered the judiciary's ability to deliver timely justice. These delays not only deny justice but also erode public confidence in the legal system.

**Keywords:** Delay in Justice delivery, Reforms and innovations, judicial Activism vs judicial Restraint.

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## 1. INTRODUCTION

The Indian Constitution law is to ensure the fair and timely dispensation of justice. The framers of the Indian Constitution accorded “justice” the highest significance, as reflected in the Preamble, which prioritizes justice over other foundational principles such as liberty, equality, and fraternity. The Constitution delineates the roles and responsibilities of the three branches of government—Legislative, Executive, and Judiciary—with the aim of upholding justice. The maxim “justice delayed is justice denied” underscores the notion that undue delay in the delivery of justice constitutes a grave miscarriage of justice<sup>1</sup>. The concept of speedy justice is fundamental to criminal jurisprudence. However, there exists no statutory provision mandating specific timelines between the commission of a crime and the initiation or conclusion of the trial process. The manner of delay not only discerns justice denied but is now envisioned as justice circumvented, justice mocked and the system of justice undermined<sup>2</sup>.

Timely resolution of legal disputes is essential to uphold the right to life and personal liberty, as guaranteed under Article 21 of the Constitution of India. Therefore, delay in the judicial process not only hampers the credibility of the justice system but also infringes upon the constitutional rights of individuals. In any adjudicatory system—whether inquisitorial or adversarial—the anticipated lifespan of a case is an inherent structural component. The real challenge arises when the actual duration taken for adjudication significantly exceeds the expected timeline. It is under such circumstances that the notion of delay in the dispensation of justice becomes evident. A review of statistical data reveals that, despite various institutional efforts and increased judicial output, the gap between the projected and actual lifespan of cases continues to widen.

The growing backlog in both trial and appellate courts, compounded by the increasing number of new filings—driven largely by heightened public awareness of legal rights, the proliferation of legislative enactments, and the expansion of socio-economic activities—has become a matter of grave concern. Rapid industrialization, increased trade and commerce, and

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<sup>1</sup> Mukharjee S.K and Gupata A Delay in the administration of criminal justice (India) Rome UNSDRI 1978 Delay in the administration of Criminal justice (1978); R.G. Grewal “speedy Trial : A fundamental Rights “XVI Indian Bar Rev. I (1987).

<sup>2</sup> Speech of Richard Nixon an ex-president of U.S.A delivered at the national conference of the judicial Williansbourg Virginia 11 march 1991 as quoted by Katz Litwin et.al. in justice is crime 35 (1972).

extensive regulatory interventions touching upon every aspect of citizens' lives have collectively contributed to an overwhelming burden on the judiciary. This systemic delay not only signifies justice denied, but also distorts the essence of justice itself—reducing it to a procedural formality, undermining public confidence in the judicial system, and ultimately mocking the very ideals it seeks to uphold. Prolonged delays foster uncertainty and perpetuate a sense of injustice among the litigants. The crisis of judicial delay has now reached such a critical point of notoriety that its adverse impact is nearly inescapable, create defense in various ways like alibi<sup>3</sup> etc.

A critical analysis reveals that the inefficacy of the judicial system partly stems from a historical reliance on colonial legal structures. The Indian legal framework was designed to serve colonial administrative interests, not the democratic aspirations of a diverse populace. Consequently, the inherited system often fails to resonate with the socio-cultural and economic realities of contemporary India. Justice, as conceptualized within the current framework, does not adequately account for the pluralistic nature of Indian society. It remains rooted in formalistic traditions that prioritize procedure over substance, thus alienating the very people it is meant to serve.

## 2. DELAY IN JUSTICE DELIVERY

Court delay represents a fundamental characteristic and a persistent challenge within the administration of justice across the globe. While some degree of delay is often perceived as inevitable, it is crucial to distinguish between three specific aspects of the judicial process that contribute to delays:

- The reasonable time required for the parties to adequately prepare their case for judicial consideration; on the court the situation in India is even worse<sup>4</sup>.
- The reasonable time necessary for the court to hear, deliberate, and adjudicate on the matters in dispute between the parties;
- The period during which neither of the above activities occurs, wherein parties await the occurrence of key events or the completion of critical activities essential for the progress of the case. Attention has also been diverted towards the caseloads<sup>5</sup>.

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<sup>3</sup> State of Maharashtra v. Champalal Punjli Shah A.I.R 1981 S.C 1675.

<sup>4</sup> Pande D.C and Baggav .Abridge trial procedure in Indian Law. Bomby: N.M Tripathy 1973.

<sup>5</sup> Bazeloan D.1"New goal for old ;efficient court in Democratic society "Law Rev.1971 4653-674(1971)

- It is the third category of delay that is deemed unreasonable, as it results in unnecessary prolongation from the initiation of proceedings to the final disposition of the case.

The procrastination of trials often results in grave injustice due to the protracted nature of legal proceedings. This issue is particularly pronounced in criminal cases when compared to civil disputes. The right to a speedy trial—an essential component of the right to a fair trial—remains more aspirational than real. A legal process that fails to ensure timely trial and resolution cannot be deemed just, fair, or reasonable. The detrimental impact of delay is most evident in the criminal justice system. The various stages—namely:

- (i) the investigative process,
- (ii) courtroom procedures,
- (iii) adversarial processes marked by procedural bottlenecks and technicalities,
- (iv) delivery of judgment,
- (v) the cumulative time consumed across these stages—contribute significantly to delays, resulting in systemic dissatisfaction.

In criminal cases, where the stakes involve not only the grievance of the victim but also the life and liberty of the accused, delays severely undermine the fundamental purpose of justice. The prevailing perceptions regarding the judiciary and the justice delivery system are deeply critical and, at times, outright condemnatory. Public grievances concerning the functioning of courts and the justice system are varied and multifaceted. Court proceedings are often marked by excessive delays and inefficiencies. The consistent increase in arrears and the resultant congestion in court schedules continue to exacerbate the crisis. The cost of litigation remains exorbitantly high, placing justice beyond the reach of the average citizen.

Consequently, case to courts has, in practical terms, become inaccessible to marginalized and economically weaker sections of society. This has led to a virtual denial of justice for many. This situation prompts a fundamental and urgent question:

How can we redesign and restructure the legal and justice delivery system to truly serve the needs and expectations of the people?

The effectiveness of any justice-dispensing mechanism is inextricably linked to our understanding of what justice entails. The structure and functioning of an efficient judicial system must align with the cultural and societal context within which it operates—because justice is inherently defined by the society it is meant to serve. Does our current conceptualization of justice align with the realities of Indian society? It is imperative to recognize that the colonial legacy continues to shape our understanding and delivery of justice in the Indian context<sup>6</sup>:

**a. Case Backlogs**

The volume of pending cases in Indian courts has increased significantly over the past few decades. The pendency of cases, particularly at the district and lower court levels, has reached alarming proportions. Recent estimates suggest that over 30 million cases are pending in Indian courts. The high number of cases per judge results in delays in hearings and the delivery of judgments, stretching judicial resources thin.

**b. Procedural Complexities and Inefficiencies**

The complex and outdated procedural requirements within the Indian judicial system significantly contribute to delays. The system follows a highly detailed and bureaucratic process, often necessitating multiple hearings before a final decision can be rendered. Additionally, the lack of digitization in court procedures further compounds these delays, resulting in widespread inefficiencies.

**c. Inadequate Judicial Infrastructure and Workforce**

The shortage of judges, courtrooms, and modern facilities exacerbates the problem. Given India's large population and increasing caseload, there is an urgent need for a substantial expansion of the judicial workforce, as well as improvements in infrastructure, to manage the rising number of cases effectively.

**d. Role of Litigation Culture and Frivolous Cases**

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<sup>6</sup> Gosh S.K in search of justice "Calcutta :Satichidananda prakashain (1976)

A prevalent culture of litigation, where individuals are increasingly inclined to initiate lawsuits even for minor grievances, leads to an overwhelming number of cases.

This culture contributes significantly to the burden on the judicial system, delaying the resolution of genuine disputes.

**e. Impact of Legislation and Policy Gaps**

Legislative and policy deficiencies significantly contribute to judicial delays. Many existing laws, such as the Code of Civil Procedure, are outdated and fail to meet the evolving demands of modern society. These legal frameworks often lack provisions for streamlining judicial processes, improving access to justice, and expediting the resolution of cases. Consequently, they exacerbate systemic inefficiencies and prolong the adjudication of disputes.

**2.1 Systemic Collapse**

The judicial system in India is approaching a critical threshold, with the volume of cases and operational inefficiencies pushing it to the verge of collapse.<sup>7</sup>

**a. Delays and Arrears**

Judicial proceedings are characterized by extreme tardiness. Courts face an overwhelming backlog of cases, resulting in significant delays in the delivery of justice. The accumulation of arrears severely undermines public confidence in the system.

**b. Mounting Pendency**

The backlog of cases continues to grow at an alarming rate. Despite various administrative reforms, courts remain unable to manage and clear the rising number of pending cases within reasonable timeframes.

**c. Congested Court Diaries**

The persistent congestion of court calendars leads to further postponements, exacerbating the already serious problem of judicial delays.

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<sup>7</sup> National judiciary academy reading material of training programme on "judicial Administration -strategic planning ,financial management and resource management for District Judges "from 16th to 18th Nov ,2007.

**d. High Costs of Litigation**

The costs associated with pursuing legal remedies have become prohibitively high, deterring the common citizen from seeking justice. The financial burden of litigation is particularly acute for economically weaker sections.

**e. Inaccessibility to the Marginalized**

The doors of justice remain closed to the indigent, the downtrodden, and the underprivileged. Structural barriers and economic inequalities lead to a virtual denial of justice for a substantial portion of the population.

**Reasons for Delay**

There exist numerous factors contributing to delays in the administration of justice. These factors are intricately interwoven, and addressing them in isolation from a singular perspective would be insufficient. The issue is deeply entrenched within the system of judicial administration itself.

At this juncture, it is pertinent to refer to the observations regarding delays in criminal case disposal, as succinctly articulated by **Justice Krishna Iyer in the case of Re: Special Courts Bill, 1976**,<sup>8</sup> as follows:

"It is a matter of common knowledge that, currently, criminal courts in our country operate at a markedly slow pace. The procedures are dilatory, case dockets are burdensome, and even the service of process suffers significant administrative inefficiencies substantially contribute to the overall delay. "A fundamental cause for the delay in the dispensation of justice in India is the poor judge-to-population ratio<sup>9</sup>.

**Delay and the Accused**

An expeditious trial is primarily in the interest of the accused and is a mandate under Article 21 of the Constitution. The prompt disposal of criminal cases serves the interests of both the prosecution and the accused.<sup>10</sup> The mental agony, financial burden,

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<sup>8</sup> (1979)1SCC 380 (AIR1979 SC 478)

<sup>9</sup> Law commission of India in its 120th Report on manpower planning in judiciary (Jul 1987)

<sup>10</sup> A.R. Antulay v. R.S. Nayak and Others, AIR 1987 SC 1140)

and emotional strain endured by an accused person under prolonged trial proceedings are immense. Delay, coupled with the adversities faced under criminal law, may severely impair the accused's ability to defend themselves adequately.

Extended periods of incarceration during trial—due to refusal of bail or lengthy proceedings—cause profound disruption. An accused person may suffer physically, mentally, and financially. Life circumstances often change dramatically during pending proceedings, affecting not only the individual but their dependents as well. In cases where the accused is the sole breadwinner, suspension of employment can have a cascading financial impact on the entire family. The suffering is not limited to the accused alone; other family members also bear the burden of the prolonged trial. Even if the accused is eventually acquitted, the unnecessary hardships caused by delays are difficult to undo.

Delay in the disposal of trials infringes upon the legal and constitutional rights of the accused. Failure to provide a timely trial results in significant prejudice, essentially punishing an individual before a finding of guilt has been determined. Such a situation is detrimental to the peace and development of any civilized society. Therefore, it is the obligation of the judiciary to ensure the expeditious progression of trials. Whether initiated by the state or the complainant, proceedings must move forward with reasonable promptness. A speedy trial is thus not only a right of the accused but also a necessity in the public interest.

### **3. REFORMING JUDICIAL PROCEDURES**

Simplifying and modernizing procedural mechanisms, alongside the widespread adoption of technology for record digitization and virtual hearings, can streamline judicial processes and enhance efficiency. Encouraging Alternative Dispute Resolution (ADR): Promoting the use of ADR mechanisms such as arbitration, mediation, and conciliation can expedite the resolution of disputes and reduce the caseload on courts.

#### **a. Legislative and Policy Reforms:**

Comprehensive legislative reforms are required to address the root causes of judicial delays. Policymakers must introduce new laws and update outdated statutes to



reflect the current needs of society, supported by a thorough review of existing legal policies.

**b. Public Awareness Campaigns:**

Promoting legal literacy and encouraging the use of ADR and out-of-court settlements can play a crucial role in reducing the number of frivolous cases filed, thereby easing pressure on the judicial system.

**Future reforms must aim at:**

- Accelerating case resolution through modern management practices and technology.
- Reducing litigation costs to make justice accessible to all.
- Simplifying procedures to align more closely with indigenous traditions of dispute resolution.
- Democratizing access to ensure that the marginalized are no longer excluded from the justice system.
- In rethinking justice for India, it is imperative to craft a system that is defined not by colonial legacies but by the lived realities of its people.

**Vision of Justice: Is It Guiding the Rule of Law?**

Justice represents the ultimate ideal that law seeks to realize. Law serves as a set of general rules designed to facilitate the administration of justice. Justice pertains to the cause at hand and is contingent upon the application of law to specific cases.

Jurisprudence — the philosophy underpinning law — posits that both jurisprudence and legal systems must ultimately be tested on the anvil of justice delivery. However, "law as it is" may sometimes fall short of "law as it ought to be" when striving to achieve complete justice in individual cases. This discrepancy between law and justice can be characterized as a domain governed by morality.

The very existence of this gap is acknowledged within the legal framework itself. Provisions recognizing the inherent powers of the courts, particularly those enshrined in the Code of Civil Procedure and the Code of Criminal Procedure, exemplify this

recognition. Furthermore, the Constitution of India empowers the Supreme Court with plenary authority to dispense complete justice in any cause or matter brought before it.

The judiciary's efforts to bridge the gap between the provisions of existing law and the imperatives of justice have led to the evolution of new dimensions of justice. Courts, by developing juristic principles within the established legal framework, endeavor to ensure that justice is administered in accordance with the evolving needs of society.

The interpretation of the Constitution and other legislative enactments by the judiciary has significantly contributed to the creation of new dimensions of justice. Particularly in India, the expansion of constitutional law has been substantial, as courts continue to adapt legal principles to meet the demands of a dynamic and progressive society.

### **Vision of Justice: Towards a New Dimension**

The vision of justice represents an evolving dimension aimed at ensuring reasonableness and fairness across all spheres of society. It seeks to uphold human dignity and societal trust through a balanced and equitable application of legal principles.

#### **The vision of justice may be articulated as follows:**

Justice entails imparting what is just, ensuring that the right course of action is delivered in every circumstance. Justice embodies the qualities of fairness, reasonableness, and justness.

#### **The pursuit of truth forms an essential component of dispensing justice.**

In the delivery of justice, judges must bring a humanistic approach, ensuring that their actions and decisions convey trust and reassurance to society, reinforcing the perception of the judiciary as a safe, reliable, and impartial institution. The vision of justice recognizes that judges are accountable not only to the litigants appearing before them but also to society at large. The highest form of common sense is justice that operates within the framework of constitutional limits, statutory boundaries, and established precedents. The foundations of justice rest upon equity, equality, good conscience, and fair play. These guiding principles are particularly vital when courts exercise equitable jurisdiction or

discretionary relief. Justice is inherently dynamic, evolving continually to meet the changing needs of society, and should never be seen as static or unchanging.

#### 4. JUDICIAL ACTIVISM VS JUDICIAL RESTRAINT

##### Judicial Activism

Judicial activism refers to the active role taken by the judiciary to enforce rights, fill gaps in legislation, and address issues where the executive or legislature has failed. It often involves judges making rulings based on their interpretation of laws and the Constitution in a way that aims to achieve justice, even if it means going beyond the strict letter of the law. In India, judicial activism has been visible through Public Interest Litigations (PILs), expanded interpretations of Fundamental Rights, and interventions in matters like environmental protection, human rights, and governance reforms.

In the criminal matters apart from the affronted party, the entire society has an interest in the discovery and penalization of the delinquents. Thus the rule of the equity, *vigilantibus et non dormientibus jura subvention* “The laws aid those who are vigilant, not those who sleep upon their rights”<sup>11</sup> does not apply to the state. However the crotchety application of the maxim *nullum tempus occurrit regi* “Time does not run against the king”<sup>12</sup> may result in grave nonchalance on the part of the investigation agencies, laps memory more over denial of right to fair and just trial to the accused. Examples:

Supreme Court laid down guidelines against sexual harassment at workplaces in the absence of specific legislation (Vishaka Guidelines)<sup>13</sup>. Expanded the interpretation of Article 21 (Right to Life and Personal Liberty) beyond mere physical survival to include dignity and rights<sup>14</sup>. A series of environmental protection cases where the Court actively issued orders to protect the environment<sup>15</sup>, e.g., Ganga pollution case.

##### Judicial Restraint

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<sup>11</sup> Black's Dictionary of Law, fourth Edition, P 1740

<sup>12</sup> Ibid, P1217

<sup>13</sup> Vishaka v. State of Rajasthan (1997)

<sup>14</sup> Maneka Gandhi v. Union of India (1978)

<sup>15</sup> MC Mehta v. Union of India (1986 onwards)

Judicial restraint means the judiciary limits its power by strictly interpreting laws and avoids interfering with the policy-making functions of the legislature and executive. Judges practicing restraint believe the courts should not create laws but only interpret and apply existing ones, respecting the separation of powers. This approach maintains the balance among the three branches of government and avoids judicial overreach. Examples:

Right to livelihood was interpreted as part of the Right to Life under Article 21<sup>16</sup>.

Courts refusing to intervene in matters purely political in nature Emphasizing that policy decisions (like budget allocation) are not subject to judicial review unless they violate fundamental rights.

#### Critical View

Judicial activism has been praised for defending the rights of the poor and marginalized and for correcting governmental failures. However, excessive activism may lead to judicial overreach, where courts are seen as encroaching upon legislative or executive powers, undermining democracy. Judicial restraint preserves constitutional balance but can be criticized when it results in inaction in the face of injustice.

Supreme Court warned against judicial overreach, stressing that courts should not interfere in administrative policy decisions<sup>17</sup>

### 4.1 The Seriousness of Delay and Its Impact on Criminal Proceedings

In the administration of criminal justice, delay is no longer seen as a mere procedural inconvenience; it strikes at the heart of fairness and the integrity of the system. Delays erode public confidence, burden victims, and compromise the ability of the accused to receive a fair trial. The right to a trial within a reasonable time, enshrined in many constitutional frameworks, acknowledges that justice deferred is often justice denied<sup>18</sup>.

Courts today adopt a stricter, less forgiving tone regarding delay. When considering sentencing or other case outcomes, judges are increasingly conscious that undue delay can

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<sup>16</sup> Olga Tellis v. Bombay Municipal Corporation (1985)

<sup>17</sup> Divisional Manager, Aravali Golf Club v. Chander Hass (2008)

<sup>18</sup> M.P. Jain, Indian Constitutional Law

mitigate the severity of a sentence — not as a reward for patience, but as recognition of the psychological toll and the potential dilution of evidence over time<sup>19</sup>.

In **Rakesh Saxena V. state**,<sup>40</sup> the proceedings were quashed on the ground that any further continuance of prosecution after a lapse of more than 6 years was uncalled for<sup>20</sup>.

The **Nirbhaya case 2012 Delhi gang rape** and murder is a major example of delayed justice despite its national urgency on the delay aspect<sup>21</sup>, finally executed on 20 Mar 2020 over 7 years after the crime.

**Talwar v. State of U.P ,2017 SCC Online All 2277**. Investigation flaws, conflicting theories and poor evidence led to massive delays<sup>22</sup>. In May 2008, 14-year-old Aarushi Talwar murdered in her home in Noida.

**Hashimpura Massacre Case (1987 incident, verdict in 2018)**<sup>23</sup> justice delivered after 31 years; many accused were acquitted earlier due to lack of evidence.

## 5. CONCLUSION

- No effective measures have been taken to replace century-old laws that are ill-suited to the needs of the contemporary legal system.
- The criminal justice system remains heavily biased in favor of the accused, often disregarding the rights and suffering of victims.
- The structural organization of courts in the country is overly complex, contributing to procedural delays.
- Subordinate criminal courts lack the inherent authority required to efficiently manage proceedings and enforce orders.
- Existing legislative frameworks have led to an increase in litigation, further burdening the judicial system.

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<sup>19</sup> H.M. Seervai, Constitutional Law of India

<sup>20</sup> AIR 1987 SC 740:1986 Supp SCC 505:1987 SCC (Cri) 156.

<sup>21</sup> Mukesh & Anr v. State (NCT of Delhi) (2020) 4 SCC 451.

<sup>22</sup> Aarushi Talwar Murder Case (2008)

<sup>23</sup> State v. Surender Pal & Ors.

- There is an absence of a robust and satisfactory witness protection law, undermining the effectiveness of criminal prosecutions.

Thus, it is evident that legislative shortcomings significantly contribute to delays in the delivery system, highlighting the urgent need for comprehensive legislative reforms to address these systemic issues.

The study further indicates a prevailing insensitivity among Advocates, Investigating Agencies, Prosecutors, and others responsible for maintaining the integrity of the criminal justice system, particularly concerning the rights of the accused and the victim.

Furthermore, the study reveals that the judiciary is not absolved of responsibility for delays in the dispensation of justice. Judicial inefficiencies, such as the failure to systematically and effectively manage the accumulation of arrears, the frequent granting of unwarranted and lengthy adjournments, and the inconsistent adherence to procedural laws in both letter and spirit, all contribute to the persistence of delays within the system.

## SUGGESTIONS

The analysis undertaken in this study reveals that frequent adjournments, particularly in summons cases instituted by private complaints, significantly contribute to delays. It is suggested that adjournments in such cases be limited to a maximum of three, thereby addressing the issue effectively.

Upon careful evaluation of the facts, it is evident that deficiencies on the part of the Government, Legislature, and Judiciary contribute substantially to delays in the delivery of justice. It is, therefore, imperative that these key institutions engage in a coordinated effort aimed at eliminating delays and enhancing the justice dispensation system.

To achieve a more effective and efficient justice delivery system, the researcher, upon thorough analysis and critical reflection on the topic, offers the following suggestions for consideration by the appropriate authorities. The analysis reveals that judicial delays in India are complex and multi-dimensional. The root causes can largely be traced to systemic inefficiencies, such as insufficient judicial infrastructure, outdated procedural frameworks, and an overwhelming volume of pending cases. These challenges are further aggravated by a

shortage of judges, inadequate courtroom facilities, and ineffective legislative policies. Increase in the Number of Judges and Courtrooms: Immediate measures are needed to recruit more judges and construct additional courtrooms to alleviate the burden of pending cases.