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**EXPEDITIOUS RESOLUTION OF DISPUTES - CONSTITUTIONAL  
VISION, TRENDS AND SOLUTIONS**

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**Abstract**

*The paper is about the need for expeditious resolution of disputes in India that is lagging behind. The work expresses the vision of the Constitution of India in regard to speedy trial and the trends of delaying court proceedings and the solutions that are to be applied to reach the goal of expeditious resolutions of disputes to impart justice for 'justice delayed is justice denied'. The constitutional goal can be achieved only by being part of Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR) which are recent trends in judiciary especially in western countries.*

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**Introduction**

The Judiciary being the definitive guardian of human rights and the final alternative for dispensation of justice, the citizens of India look up to this institution with great respect and endless hope. The philosophy of Right to Speedy trial has grown in ages and right to a speedy trial was originally mentioned in that landmark manuscript of English law, the Magna Carta but its goals are yet unforeseen. It is a concept which deals with disposal of cases as soon as possible so as to make the Judiciary more efficient and trustworthy. The main aim of Right to Speedy trial is to promote Justice in the society. The very basic purpose for which every state machinery sets up the court system is to award justice to the victims. The constitution of India enforces heavy duty on the judicial system for providing legal mechanism to deal with problem relating to imparting Justice. The setting up an independent judiciary, inclusion of fundamental rights and directive principles of state policies further shows the commitment of our constitution makers in making the judicial system an effectual organ of state machinery on which people can rely with trust and hope of justice. The visionaries of Indian constitution kept judiciary separated from the clutches of executives except through parliament to preserve and maintain the true ideals of democracy (A G Noorani 1976)

**Expeditious Resolution of Disputes: Vision of Indian Constitution**

The Preamble of the Indian Constitution enjoins the State to secure social, economic and political justice to all its citizens. Article 38(1) provides that the State should strive for a social

order in which such justice shall notify all the institutions of national life. Article 21 declares that "no person shall be deprived of his life or personal liberty except according to the procedure laid by law." Justice Krishna Iyer while dealing with the bail petition in Babu Singh v. State of UP (AIR 1978 SC527) remarked, "Our justice system even in grave cases, suffers from slow motion syndrome which is lethal to 'fair trial' whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings" (S.N.Sharma - 1996).

Right to speedy trial is a concept gaining recognition and importance day by day. Speedy trial is a fundamental right implied in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution and any accused who is denied this right of speedy trial is entitled to approach Supreme Court under Article 32 for the purpose of enforcing fundamental right. An innocent should not suffer unduly for a long period is the vision of the constitution (S N Sharma 1996). It is well established in the case Kartar Singh v. State of Punjab (1994) 3 SCC569) in it the court declared that right to speedy trial is an essential part of fundamental right to life and liberty. Fundamental rights are not teasing illusions but are destined to be enforced effectively.

**Factors For Pendency Of Cases**

According to the Law Commission of India's 245<sup>th</sup> Report on Arrears and Backlogs,

‘pendency’ means ‘*all cases instituted but not disposed of, regardless of when the case was instituted*’, the term ‘delay’ means ‘*a case that has been in the Court/judicial system for longer than the normal time that it should take for a case of that type to be disposed of*’ (Alok Prasanna Kumar 2020)

The reasons for dragging of cases can be enumerated as follows:

**Huge Pendency of Cases:** The number of unsolved litigations continues to rise gradually and now it has reached 3.59 crore and if it is divided as civil it comes around 9984487 and 36776979 criminal cases are pending in our courts. Pendency of cases again drags the system and so the accessibility of justice in true terms is furthering away from common man.

**Judge Population Ratio:** Judge Population Ratio is very important to expeditious resolution of disputes but as per the data prepared in March 2018 for the discussion in the Parliament of India, the judge population ratio is 19.49 per million (10 lakh) people (The Hindu, Business Line 2018). The capacity and efficiency of a Judicial System is judged by the time taken for the disposal of a case. In an efficient Judicial structure, a case is judged and disposed off very quickly. Though this is not an easy job, but to achieve appropriate social justice it is necessary.

**The infrastructure of the lower courts:** The crowded and inconvenient building and physical facilities that is availed in lower courts are another reason for pendency of cases. Some of the lower courts may be compared to a very crowded class room without proper sitting facilities or even adequate ventilation. For the betterment of speedy disposal of cases good library and sufficient staff is essential.

**Proper Judicial Accountancy of Disposal of Cases:** There should be judicial accountancy regarding the disposal of cases especially for lower courts. Due to independency of judiciary some judges act as if they are not accountable to any one once they are in the chair and it drives into comfort zone of ignorance which ultimately results in delay of cases.

**Provision of adjournment:** The cases in the courts are not technically arranged and the availability of the counsel is not looked while posting a case. There may be number of cases coincident to an advocate on the same day and so there won't be any other option but to adjourn. It is a loophole for unnecessary adjournment of cases.

**Long Vacation of the Court:** Long Vacation of the Courts is also another reason for pendency of

cases. In most of the countries such as U.S. and France there is no such provision. It should be noted that the courts in India enjoys an average of 160 days off on account of vacations, weekends and national holidays. The Supreme Court has more holidays than the High Courts and lower courts, with 188 sitting days in 2018 though it is scheduled to be 193 working days for Supreme Court, 210 for High Courts and 245 days for trial Courts in spite there is the Apex Court rules specify that there should be a minimum of 225 working days in Supreme Court (Harish V Nair 2018).

**Dragging of Investigating agencies:** The investigating agencies such as police also play role in pendency of Cases. The police ratio in India is 198 for 10,000. It should be noted that India's police to population ratio lags far behind most countries and the United Nation's recommended ratio is 222.

#### **Measures For Expeditious Resolution Of Cases**

**Effective management of the courts:** It is essential to implement adequate and proper training, monitoring and vocations on a regular basis to improvise there drafting, hearing and writing skills along with the skill of taking correct and fast judgment. Moreover, the ratio of judges to population should be enhanced which will support in disposal of cases very fast. Cases must be allocated according to specialized area of judges. The bar council of India very recently made an exhortation, “strongly in favour of a 3-year minimum experience at the Bar to be prescribed for being considered eligible to sit for a Judicial Service Exam” (Bar Council of India 2021)

#### **Compulsory Alternative Dispute Resolution (ADR) Mechanism:**

Alternative Dispute Resolution (ADR) is a recent trend and becoming very popular by and large considered a more efficient procedure than litigation because it is quicker, less expensive, and provides greater flexibility of process and procedure. Arbitration or negotiation or mediation which are alternative dispute resolutions should be used wherever and wherever possible and in particular small and petty cases, arbitration should be made compulsory which would save the precious time of the courts.

#### **Technological Courts – On Line Dispute Resolution (ODR)**

The transfer of knowledge, skills and solutions in the science and technology fields can have an insightful and lasting impact on the development

paths of nations and peoples. In last two decades, Information technology has brought many beneficial changes into our lives. The COVID-19 pandemic has underscored the pressing need for countries to focus more on elevating science, technology and innovation (STI) in both policy and practical terms. COVID-19 has disrupted not only the health sector but also justice systems. Courts around the world have had to respond quickly to the challenges presented by the pandemic and the associated social distancing restrictions with Online Dispute Resolutions (ODR). The rapid shift from traditional court processes to an online mode has further assisted the public, lawyers and experts to access the justice system from anywhere in the world.

### Conclusion

William Edward Gladstone, former Prime Minister of England said, "Justice delayed is justice denied" is a legal maxim meaning that if legal redress is available for a party that has suffered some injury, but is not forthcoming in a timely fashion, it is effectively the same as having no redress at all. This principle is the basis for the right to a speedy trial and similar rights which are meant to expedite the legal system, because it is unfair for the injured party to have to uphold the injury with little hope for resolution. The framers of Indian constitution were of high caliber to separate it from the executive to have expeditious trial without any intervention. Once we accept the proposition that in a democratic society the court system plays a vital role in seeing that neither license nor absolutism becomes dominant, the difficult tasks of the court vividly stare us in the face. The Indian judicial system as well as the society should adapt ADR and ODR which has taken a popular face in western countries for expeditious resolution of disputes.

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