

**“CAUSES OF DELAY IN JUSTICE DELIVERY SYSTEM
AND
CORRECTIONAL REMEDIES”**

Since long we have been hearing about infamous delays in our courts which have put the justice delivery system into peril. It is commonly observed phenomenon in most of the Courts in India to find that the cases are dragged for many years. During this time evidence grows old, witnesses are dead, not found or not available, and if available, can't remember and testify on points. With the passing of the water for several seasons the parties to the litigation, on many occasions, have to finally decide to abandon their quest for justice. The apex court in *Antulay's case (1992(1) SCC 225)*, while dealing with the aspect of speedy trial observed,

“ Fair, just and reasonable procedure implicit in Article 221 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the social interest also, does not make it any the less the right for the accused.”

Though the right to speedy trial is held to be the fundamental right, the situation in the Courts is far worse than the year 1992 when this pronouncement was made. Periodically people at the helm of affairs, to appease themselves and others, come out with skin-deep ad-hoc measures, but the root is left to decay. The object of the research is to find out all the causes for the delay in justice delivery system and suggest the correctional remedies to overcome the problems.

Recently, '*Times of India*' put a question for public opinion asking the readers, whether State or the Justice system has to blame for the downfall of system. The majority of the readers opined that the Justice system itself is responsible for its downfall. In my opinion, this is the view expressed by the cross-section of the society out side the system. The person inside the system are having their own views regarding the drawbacks of the judicial system particularly regarding causes of the delay in Justice delivery system. *"The Indian justice system is now dysfunctional and awaits its decline and fall. Far too long has the truth of this lie been hidden from the people? To renovate, reform and transform the Indian judicial system is an urgent desideratum and for that purpose creative talent, not petrified mind-set is the need."* This is the opinion of Justice V.R.Krishna Iyer while dealing with the question of delay. If we want to find out correctional remedies to overcome this problem, we have to consider the views of outsiders & insiders of the system. Briefly, following can be said to the some of the major causes for the delay in justice delivery system:

- 1) *Archaic system of justice inherited from colonial rulers*
- 2) *Outdated procedural and substantive laws,*
- 3) *Existence of too many statutes,*
- 4) *Wide discretion to judges,*

- 5) *Non-availability of competent officials in crime investigative agency,*
- 6) *Improfessionalism of advocacy,*
- 7) *Non feeling of vacancies in all cadres, Heavy work load,*
- 10) *Delay to rip benefits by prosecution/defence,*
- 11) *Failure of correctional measures adopted up till now,*
- 12) *Failure of society to develop regulatory mechanisms to add alternative dimensions to the justice delivery system,*
- 13) *Failures to introduce appropriate measures to avoid the delays.*
- 15) *Reluctance of introspection by judges and advocate.*

Considering the restriction of words I will have to take up only selective causes for the discussion. Let us discuss in brief the selected causes and try to search out the remedies to nullify these causes.

Archaic system of justice and outdated laws:

We follow the common-law adversarial system of jurisprudence as against the inquisitorial system of jurisprudence followed by many continental countries. In the adversarial system the Judge is permitted to act only on the evidence produced and the pleadings averred. The pleadings are long winding, tedious and repetitive. This result in unnecessary additional work and bulking of paper. Such pleading prolong every stage of trial. Often the material substance of the matter is argued at the preliminary stages. Suits do not reach for final hearing for over 12 to 13 years because of the hurdle of interim hearings and appeals arising from interim orders.

When the primitive law has once been embodied in a code' Maine writes, 'there is an end to its spontaneous development.' These words are appropriately applicable in our case. Both procedural codes borrowed by us from colonial rulers provide ample opportunities for both parties to prolong the matter for years together. Provisions for appointment of commissioner to have a local inspection, for scientific investigations, hearing of parties under O.10 CPC even after a chance for filing pleading, opportunities for adducing evidence without any limitations, no limitations for submission of arguments are some of the provisions from the procedural codes, which give ample field to delay the matters for years together.

We shall have to seriously evolve a mixture of adversarial and inquisitorial jurisprudence to suit our circumstances. The procedural codes are required to be streamlined by shading the provisions responsible for delay. It is also need of the hour to cut down the number of statutes, when the purpose can be served by the existence of single statute.

Non-availability of Competent Officials:

It has been observed that inadequately educated and improperly trained Police Officials carry out the investigation of even serious crime. Such men neither can enforce detection of crime nor can collect legal evidence. Because of this, the prosecutor in order to prove his case has to take long adjournments in an attempt to some how procure and introduce the

evidence at the stage of trial. Such delays can be avoided if the proper persons are recruited and made available for investigation of crime.

Unprofessionalism of advocacy:

In the adversarial legal system advocate is treated to be the Officers of the Court assisting the court in imparting the justice. The role of the advocates in the present time is far from satisfactory. Senior lawyers keep the work accumulated with them, which make it impossible for them to give appearance in all the cases listed on a particular day before different courts. Ultimately most of the cases of the senior lawyers are required to be adjourned because of the non- availability of the lawyer. The advocates seek adjournments on the ground of unpreparedness, social engagements or personal work. All these factors disclose want of professionalism in the advocates. If the advocates work like true professionals planning their every minute to assist the court in the disposal of the cases, the heavy workloads can be easily brought down. It is the need of time that the Bar Councils should cultivate professionalism in the advocates.

Failure to introduce new measures to avoid the delays:

The system is yet to come out with reliable action plan to overcome the burden of delays. The judiciary tries to impose dead lines for the courts to dispose of the cases. Such unilateral act is not going to work. The system consists of the factors including Judges, Advocates, Litigants and the State. Unless all these factors put down their heads and hearts together to evolve a proper mechanism to avoid the delays and reduce the pendency, it is impossible for the courts alone to achieve the ends.

To conclude one can say that apart from correcting the systemic causes for delay by amending the laws and correcting the system, the advocates, litigants and society also have bring at changes in their approach, attitude and expectations to make the system efficient to speedy delivery of justice.
