

The Challenges Knocking Our Judicial System -- More than 2.5 Lakh Indians Are In Jail; Exposes the Flaws In Our Judicial System

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Introduction

Ironically in India there are more under trials than convicts in jails. 2.5 lakh people in India are currently in jail without having been proven guilty. In cramped prison cells which lack electricity, food, as well as hope, destinies of almost hundreds of thousands of Indians lay bound by the trials they await for years. They might be convicted or not, but the fact that they end up spending a sizeable portion of their lives in the gaol, just waiting for judgement is a matter that can't be put on the backburner anymore.

2.5 lakh people in India are currently in jail without having been proven guilty. This population comprises of men and women who are either presumed to be innocent in the eyes of the law or have served their punishment but wait for months or years for justice.

The majority of undertrials spend more time in jail during trials than the maximum sentence that can be imposed upon them. It is seen that near decades cross in undertrial & then the person convicted is found fair and not guilty. Thus for that person it's really a punishment imposed irrespective of any substance which is not a case in one of the largest democracy. The undertrials in the judicial system make easy way for heavy weight people, who can have the police at their side, to harass. Thus, a person character must be minutely examined before sending one for undertrial's, else it would be unfair, unjust.

Judiciary in India is one of the important limbs of the government and today it has come to enjoy enormous powers. There is an urgent need to fix the Indian legal system and make it friendly to the common people. There is no doubt that the judiciary is in urgent need of speedy and effective reforms.

According to NCRB Prison Statistics, 66% of prisoners in India are undertrials. An undertrial prisoner is someone who has been detained in prison during the period of investigation, inquiry or trial of the case, or has not been granted bail and is still in jail, or has been granted bail but is unable to provide surety or bail bonds.

The issue of undertrial prisoners is important for a variety of reasons, including, but not limited to overcrowded jails, slow trials, inefficient judiciary and excessive burden on state resources due to mismanagement. The undertrials receive inadequate legal aid which exacerbates the issue.

The law machinery prescribes Section 436 A in the Indian Penal Code for undertrials that spells out the much ignored tenure of sentence for undertrials. According to the same section, any undertrial who has finished half of the maximum sentence prescribed for the offence they are accused of, should be released on personal bond, with or without surety.

The present Chief Justice of India Shri. Rajendra Mal Lodha is known for Justice with wit, humour and sarcasm. Justice Lodha is known for his hard work and played an extensive role on speeding up the justice system, clearing off the backlog cases. His innovation in handling the Coalgate scam is a model for how cases regarding natural resources should be dealt with. When the CBI hemmed on the scam, he shamed it by calling it a "caged parrot". That was enough to strike the CBI into action. It is Justice Lodha who mandated in another judgment that the court had to complete the corruption trials of MPs and MLAs within a year. Thus such intervention's have a positive impact on the cumbersome judicial system and that's why legal mentors call Justice Lodha as a 'CJI with a difference'

There is no doubt that the judiciary is in urgent need of speedy and effective reforms following the TAR Transparency, Accountability & Reforms. A milestone Bill has been passed in the Houses of the Parliament – 'The Judicial Appointment Commission Bill' which will replace the collegium system of appointment of the High Court & The Supreme Court judges undoubtedly it's a bold step towards transparency which is a need of hour. But at the same time we must see that the Independence of Judiciary is not being constrained and if its being constrained it's a clear threat to our democracy as people have simply lost faith in executive and legislator.

Corruption in Judiciary

Corruption in the judiciary is a worrying phenomenon. A corrupt judge being doubly dangerous as he is the one to enforce the writ of the Constitution and ensure that no arm of governance violates laws. The judicial system is no less corrupt than any other institution of the government; it is well known to those who have had to deal with it. It's clear that one cannot even register an FIR against a judge taking bribes without the prior permission of the Chief Justice of India. The media & Press is also unwilling to talk about it because of the fear of contempt. Thus, the Indian judiciary has become opaque, which needs to be transparent in a democracy like India.

Undertrials & False Conviction's

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More than Crores of Cases Pending

'Justice delayed is justice denied' is a gray saying. This legal quote denotes if timely justice is not provided to the sufferer it loses its importance and violates the power of basic human rights. It is reported that more than 40 lakh's cases are pending for disposal in the High Courts and the number of cases pending in the subordinate courts has crossed two Crore's. Victims have to go through a huge time while seeking justice, we often hear about such justice being delivered either

after the death of the seeker or at that time when it has become redundant for seeker. This approach of justice delivery system brings forth a pathetic situation prevailing all around. International investors take this as one of the big hurdles of doing business in India as Courts are considered only as a last resort or as a means to harass the opposite party.

Removal of judges difficult

It is clear that a strong judiciary can protect our democracy and human rights but in order to protect us, it should be first transparent & accountable. Our Legal system lacks in its own cleaning mechanism. Because judges can't judge their own brothers objectively and in the unlikely event of any judge being found guilty. Calcutta high court judge Soumitra Sen is the only judge in India to have been ever impeached by any house of the parliament. In early nineties, Supreme Court judge V Ramaswami had faced similar proceedings in Parliament. But the Congress bailed him out by abstaining from supporting the impeachment motion. Hence, such cases should have so called – “0(Zero) Tolerance” irrespective of any favour as it's all in country's interest. In spite of judges appointing judges, Why can't a joint parliamentary committee should be set up and perform the process of removing a judge.

Shortage of Judges

Judiciary needs at least 40,000 judges to tackle the huge backlog of almost 3 crore cases. Over three crore cases are pending in various courts across the country and this unacceptable level can only be reduced by appointment of more judges. India to have 15 crore pending cases by 2040, report says if the condition continues to be the same. India has just 13 judges for every ten lakh people as against 35-40 in other developing nations and 50 in a developed country, a Parliamentary panel has said and urged the government to make all efforts to fill up the existing vacant posts of judges. The Primary Causes of Law Delays & Justice are quite evident. The Inadequate number of judges and courts in the country is clearly one of the major reasons for such delay. The Governments have not only failed to increase the numerical strength of judges and courts but have also been slack in filling up of vacancies. If India compares with USA, UK there's only 10 - 12 judges per 10 lacks of people in India while in U.S.A. & UK it is 65 - 75 judges per 10 lacks of people, 50 - 55 judges in U.K., even India's neighbour and far backward in every aspect has the rate much higher than that of India.

Judiciary in India is one of the important limbs of the government and today it has come to enjoy enormous powers. There is an urgent need to fix the Indian legal system and make it friendly to the common people. People turn to the judiciary for getting fair justice as people have simply lost faith in executive and legislature. Therefore, we hope that “Ache Din” will arrive soon under justice-ship of 42nd CJI Justice HL Dattu who is known for his Hardwork and Determination.