Chapter III

Right to Speedy Justice

3.1 Introduction:

Justice is the foundation and object of any civilized society. The quest for justice has been an ideal which mankind has been aspiring for generations down the line. Justice is a constitutional mandate.¹ The Constitution of India has, in its Preamble, defined and declared the common goal for its citizens as, “to secure to all the citizens of India, Justice- social, economic and political.” Article 14 guarantees equality before the law and the equal protection of the laws. Article 39A of the Constitution mandates the State to secure that the operation of the legal system promotes justice on the basis of equal opportunity and ensure that the same is not denied to any citizen by reason of economic or other disabilities. All have equal rights, but unfortunately, all cannot enjoy the rights equally. Enforcement of the rights has to be through courts, but the judicial procedure is very complex, costly and tardy, putting the poor persons at a detachment. It is one of the most important duties of a welfare state to provide judicial and non-judicial dispute-resolution mechanisms to which all citizens have equal access for resolution of their legal disputes and enforcement of their fundamental and legal rights.²

For effective justice dispensation system at least three things are to be provided i.e. access to courts, effective decision-making by judges and the proper implementation of those decisions. Equal opportunity must be provided for access to

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justice. It is not sufficient that the law treats all persons equally, irrespective of the prevalent inequalities. But the law must function in such a way that all the people have access to justice in spite of economic disparities. The expression “access to justice” focuses on the following two basic purposes of the legal system:

1. The system must be equally accessible to all.
2. It must lead to results that are individually and socially just.³

### 3.2 Right to Speedy Justice:

The purpose of administration of justice is that the innocent must be protected, the guilty must be punished and that there must be satisfactory resolution of disputes. An effective judicial system is that where not only just results are reached but that they are reached swiftly. Faith in the judicial system is determined by its ability to provide accessible, speedy and cost effective justice to all equally. It is a fundamental right of every citizen to get speedy justice, which also is the basic requisite of good judicial administration. Right to speedy justice is extended under the right to life guaranteed by the Constitution. Right to speedy trial is an important right in the UK and US.

Right to speedy justice in criminal cases has been recognised by the laws of many countries. It found place in the Virginia Declaration of Rights of 1776 and after that into the Sixth Amendment to the Constitution of United States of America which states that, “In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial”. USA also has the Federal Act of 1974, Speedy Trial Act that establishes a set of time limits for all major events in the prosecution of criminal cases, including

³ Law Commission of India, 2009, 222nd Report, para 1.5.
information, condemnation and allegation. In 1990, the US Congress enacted another legislation that directs each district court to devise and adopt a civil expense and delay reduction plan. Similar provisions exist in Canada as well. The right to speedy trial is recognised as a common law right flowing from the Magna Carta in UK, USA, Canada and New Zealand, though this view is not accepted in Australia. Many international conventions have also approved the importance of the right to speedy trial. Article 14 of the International Convention on Civil and Political Rights, 1966 speaks for this. Article 3 of the European Convention on Human Rights refers to it as a basic right and provides that, “Every one arrested or detained shall be entitled to trial within a reasonable time or to release pending trial”. There is need to enact laws providing for right to speedy justice in civil matters.

3.3 Importance of Right to Speedy Justice:

Although the importance of speedy disposal of cases was recognised as early as in the year 1958 by the Law Commission of India in its 14th Report, in India, neither the Constitution nor any existing laws or statutes specifically confer the right to speedy trial on the accused. The Law Commission of India observed\(^4\) that in an organized society, it is in the interest of the citizens as well as the state that the disputes which go to the law courts for adjudication should be decided within a reasonable time, so as to give certainty and definiteness to rights and obligations. If the course of trial is inordinately long, the chances of miscarriage of justice and the expenses of litigation increase alike. The problem is much more acute in criminal cases, as compared to civil cases. Speedy trial of a criminal case considered to be an essential future of right of a fair trial has

remained a distant reality. A procedure which does not provide trial and disposal within a reasonable period cannot be said, to be just, fair and reasonable. If the accused is acquitted after such long delay one can imagine the unnecessary suffering he was subjected to. Delay results in witnesses being unable to testify correctly to events which may have faded in their memory and sometimes in their being won over by the opponent.

Relief granted to an aggrieved party after a lapse of years loses much of its value and sometimes becomes totally infructuous. Ansuyaben Kantilal Bhatt v. Rashiklal Manilal Shah⁵ is an exemplary case of as to how delay is defeating the cause of justice. In this case, the landlord, aged 54 years, sought to evict his tenant on the ground of his personal need to carry on his own business. When the matter finally reached the Supreme Court after a lapse of 33 years, in view of the protracted litigation bonafide requirement may not exist at that time. The landlord, at the age of 87 years, was not supposed to start a new business. Such is the basis of the ubiquity of the comment ‘Justice delayed is justice denied’.

The Law Commission of India in its 77th Report in 1978 recommended to set up conciliation boards in case of petty suits where the value of the suit is around Rs. 5000/-. The parties before filing a suit for recovery of money for the above amount should first approach conciliation boards and if it is not settled amicably within 3 months, then they should resort to litigation.⁶ The Commission observed that one of the methods which can be devised for relieving the courts of the heavy load of cases is the adoption of the system of conciliation of civil cases. Settlement of cases by mutual compromise is

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⁵ (1997) 5 SCC 457.
quite often a better method of ending the civil dispute than the alternative of fighting the case to the bitter end, by taking up the matter in appeal from one court to the other.

While the Supreme Court, in a number of rulings, has stressed the need for right to speedy justice and free legal aid, successive governments have failed to translate the court’s orders into legislative Acts. Law Minister M Veerappa Moily told, “The government intends to ensure that receiving justice is the right of each and every individual, irrespective of his or her caste, colour, creed, social and financial status. We intend to place the draft before the Cabinet soon. While the Constitution does have certain provisions regarding need for speedy justice, there is no specific provision confirming justice as either a fundamental right or constitutional right.”

The foundation of this right lies in the Supreme Court judgement in Hussainara Khatoon v. State of Bihar\(^8\) where Justice Bhagwati observed, “No procedure which does not ensure a reasonably quick trial can be regarded as ‘reasonable, fair or just’ and it would fall foul of Article 21 of the Constitution. There can, therefore, be no doubt that speedy trial and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long period of time and convicting him after such trial would constitute violation of his fundamental right under Article 21.”


\(^8\) AIR 1979 SC 1369.
3.4 Justice delayed in the Courts:

‘Delay’ in the context of justice denotes the time consumed in the disposal of case, in excess of the time within which a case can be reasonably expected to be decided by the Court. In an adjudicatory system, whether inquisitorial or adversarial, an expected life span of a case is an inherent part of the system. No one expects a case to be decided overnight. However, difficulty arises when the actual time taken for disposal of the case far exceeds its expected life span and that is when we say there is delay in dispensation of justice. A scanning of the figures would show that despite efforts being made at various levels and substantial increase in the output being given by the system, the gap between the expected and actual life span of the cases is only widening.⁹

The judiciary faces a large backlog of cases which in the end results in denial of real access to the courts on account of delay that takes place in many cases in dispensation of justice. The problem of delay in the disposal of cases pending in law courts is not a new incident. The courts are struggling with it since a long time. The Supreme Court made it clear that this state of affairs must be addressed: “An independent and efficient judicial system is one of the basic structures of our constitution. It is our constitutional obligation to ensure that the backlog of cases is decreased and efforts are made to increase the disposal of cases.”¹⁰ The delay in the disposal of cases has affected

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⁹ Speech delivered in China on ‘Delay in Disposal of Cases’ by Justice K.G. Balakrishnan Hon’ble Chief Justice of India on 6.11.2007

¹⁰ All India Judges Association & Ors. v. Union of India & Ors. AIR 2002 SC 1752.
not only the ordinary type of cases but also those which by their very nature, call for early relief.

A number of Commissions and Committees have dealt with the problem and given their Reports. Although the recommendations, when implemented, have had some effect, the problem has continued. This problem has subjected the judicial system to thorough damage. It has also shaken the confidence of the people, to some extent, in the competence of the courts to redress their grievances. For efficient discharge of the responsibilities of the courts, it is essential that the confidence which the people have in them, the prestige and the respect they have enjoyed should be maintained. Weakening of the judicial system may have the effect of undermining the foundations of the democratic structure.

Delay in justice administration is the biggest operational obstacle which has to be tackled on a war footing. As Justice Warren Burger, the former Chief Justice of the American Supreme Court observed in the American context, “The harsh truth is that we may be on our way to a society overrun by hordes of lawyers, hungry as locusts, and bridges of judges in numbers never before contemplated. The notion that ordinary people want black-robed judges, well-dressed lawyers, fine-paneled courtrooms as the setting to resolve their disputes is not correct. People with legal problems like people with pain, want relief and they want it as quickly and inexpensively as possible.”

Large masses of our population are illiterate and live in the villages. These conditions demand, it is said, ‘a system of judicial administration suited to the genius of our country or an indigenous system.’ Even the Uttar Pradesh Judicial Reforms

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Committee of 1950-1951 stated, though by a majority that ‘it can not be denied that the rules of procedure and evidence which they (the British) framed to regulate the proceedings in court, were in some cases foreign to our genius and in many cases were made a convenient handle to defeat and delay justice.\textsuperscript{12}

In the words of Justice K. G. Balakrishnan, Hon’ble Chief Justice of India, “... the people’s faith in the judicial system will begin to wane, because justice that is delayed is forgotten, excluded and finally discharged.”\textsuperscript{13} Chief Justice Burger also noted, “A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people and three things could destroy that confidence and do incalculable damage to society: that people come to believe that inefficiency and delay will drain even a just judgment of its value; that people who have long been exploited in the smaller transactions of daily life come to believe that courts cannot vindicate their legal rights from fraud and over-reaching; that people come to believe the law - in the larger sense - cannot fulfill its primary function to protect them and their families in their homes, at their work, and on the public streets.”\textsuperscript{14}

The Law Commission of India in its 114th Report observed, “Unmanageable backlog of cases, mounting arrears and inordinate delay in disposal of cases in courts at all levels- lowest to highest- coupled with exorbitant expenses- have attracted the attention of not only the members of the Bar, consumers of justice (litigants), social activists, legal academics and Parliament but also the managers of the

\textsuperscript{12} Supra Note 4 p. 24.
\textsuperscript{14}http://www.hinduonnet.com/thehindu/thscrip/print.pl?file=2003010700561000.htm&date=2003/01/07/&prd=th&
courts. The Chief Justice of India has gone on record saying that the ‘justice system as in
vogue in this country is about to collapse’.

The disturbing situation so disclosed attracts attention of anyone concerned with law reform. Numerous suggestions have been made by the earlier Law Commissions for introducing radical reforms in the system of administration of justice. The sole governing consideration till then was how to reduce the delay in disposal of cases, make the system resilient by removing its stratification, making the system less formal and truly inexpensive i.e. to bring it within the reach of the poor. The Fourteenth, Fifty-fourth, Seventy-seventh and Seventy-ninth amongst other reports of the Law Commission, recommending numerous changes keeping the system in its basic framework intact, were directed towards peripheral changes. The fallout of these changes, we observe with regret, has been further deterioration in the efficacy of the system. The Law Commission accordingly decided to approach the matter from a hitherto unexplored end.”

“It is a matter of satisfaction that the public at large continues to hold our judicial institutions in high esteem, despite their shortcomings and handicaps. Yet, there are serious concerns about the efficacy and ability of justice delivery system to dispense a speedy and affordable justice. Questions on the credibility of judiciary are being raised due to mounting arrears of cases, delays in disposal, high cost of obtaining justice and occasionally because of lack of probity in some sections of judiciary. We can rightly take pride for the quality and effectiveness of our judicial system. Yet, we cannot deny that it suffers from serious deficiencies, requiring immediate steps to improve its performance,

so as to render prompt and inexpensive service to its consumers. If people lose faith in the justice dispensed to them, the entire democratic setup may crumble down. To retain the trust and confidence of people in the responsiveness and ability of the system, it should be capable of delivering quick and inexpensive justice.”

The Fifty Fourth Report of the Law Commission exhaustively examined the Code of Civil Procedure, 1908, with a view to streamlining the procedure and to make it less formal, more simple and conducive to expeditious disposal of cases and controversies before the court. The Seventy-Seventh Report also made certain suggestions in this direction for reducing the delay in trial of suits before the trial courts and marginalizing the arrears. In the words of K. G. Balakrishnan, Hon’ble former Chief Justice of India, “.... the people’s faith in the judicial system will begin to wane, because justice that is delayed is forgotten, excluded and finally discharged.”

3.5 Causes of delay in the Courts:

Justice delivery system in India is bursting at the seams and may collapse unless immediate remedial measures are adopted not only by the judiciary but also by the legislature and the executive. The delay in the judicial system results in loss of public confidence on the concept of justice. The currently available infrastructure of courts in India is not adequate to settle the growing litigation within reasonable time. Despite the continual efforts, a common man may sometimes find himself entrapped in litigation for

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16 Justice Y.K. Sabharwal, My Dream of an Ideal Justice Dispensation System,

17 Supra Note 13.

18 Justice S.B. Sinha, Courts and Alternatives,
as long as a life time, and some times litigation carries on even on to the next generation. In the process, he may dry up his resources, apart from suffering harassment. Thus, there is a chain reaction of litigation process and civil cases may even give rise to criminal cases.\(^{19}\)

Delay in the disposal of cases has resulted in huge backlog of pending cases in various courts of the country. In some cases delay may result in denial of justice. If there is delay, there is possibility of loss of important evidence, because of the fading of the memory or death of witnesses. In such cases, a party even with a strong case may lose the case, not because of any fault of its own but because of the tardy judicial process entailing disappearance of material evidence.\(^{20}\)

The Arrears Committee\(^{21}\) headed by Justice V. S. Mallimath identified various causes of accumulation of arrears of cases in the High Courts. Some of the principal causes are:

(i) Litigation explosion;

(ii) Accumulation of first appeal;

(iii) Inadequacy of staff attached to the High Court;

(iv) Inordinate concentration of work in the hands of some members of the Bar;

(v) Lack of punctuality among judges;

(vi) Granting of unnecessary adjournments;

(vii) Indiscriminate closure of Courts;


\(^{20}\)Supra Note 6, para 1.5, p. 1.

\(^{21}\)Arrears Committee, 1990.
(viii) Indiscriminate resort to writ jurisdiction;
(ix) Inadequacy of classification and granting of cases;
(x) Inordinate delay in the supply of certified copies of judgments and orders etc.

3.5.1 Increase in the Number of Institution of Cases:

The institution of cases in the Courts far exceeds their disposal. In the new world change has become visible in the quality and quantity of litigation. New and diverse areas of litigation have emerged. There is increase in flow of cases in recent years due to multifarious Acts enacted by the Central and State Governments.

There is enormous increase in the number of institution of cases year by year, leading to ‘docket explosion’. Litigation against the State and the State-like bodies has also grown substantially. Despite an increase in the number of courts and tribunals all over the country not only in the traditional areas of civil and criminal litigation but also in other fields like consumer protection, service matters, etc., no solution for early resolution of dispute has been found out. But the increase in the number of courts and tribunals is not enough to deal with the increase in litigation by geometrical proportions.\(^{22}\)

Though there is a considerable increase in the disposal of cases in various courts, the institution has increased more rapidly. This has resulted in huge pendency of cases in all the courts. The huge backlog of cases only makes justice less accessible. Table 1 shows the institution of cases in all the courts from the year 2007 to 2011.

\(^{22}\) Supra Note 18.
The Table shows that from the year 2007 onwards institution of cases has increased in all the courts. In the Supreme Court institution of cases in 2010 has increased by 13.28% from that in 2007. In the High Courts the institution has increased by 19.70% in civil cases and 17.30% in criminal cases. In the District and Subordinate Courts institution of civil cases has increased by 13.05% and institution of criminal cases has increased by 20.58%.

### Table 1: Institution of cases in the Supreme Court, High Courts and District and Subordinate Courts

<table>
<thead>
<tr>
<th>Year</th>
<th>Supreme Court (Admission &amp; Regular)</th>
<th>High Courts</th>
<th>District &amp; subordinate Courts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Civil</td>
<td>Criminal</td>
<td>Civil</td>
</tr>
<tr>
<td>2007</td>
<td>69,103</td>
<td>10,44,534</td>
<td>5,23,941</td>
</tr>
<tr>
<td>2008</td>
<td>70,352</td>
<td>11,05,380</td>
<td>5,63,326</td>
</tr>
<tr>
<td>2009</td>
<td>77,151</td>
<td>11,95,739</td>
<td>5,83,743</td>
</tr>
<tr>
<td>2010</td>
<td>78,280</td>
<td>12,50,351</td>
<td>6,14,624</td>
</tr>
<tr>
<td>2011</td>
<td>59,738*</td>
<td>6,39,763**</td>
<td>3,01,166**</td>
</tr>
</tbody>
</table>

*Statistics as on 30.9.2011
**Statistics as on 30.6.2011

3.5.2 Pendency of Cases:

Increased number of institution of cases has resulted in huge pendency of cases in all the courts. There were 60809 cases pending in the Supreme Court as on April 30, 2012. Table 2 shows the number of pending cases in the Supreme Court as on 30th April, 2012.

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24 [http://www.supremecourtofindia.nic.in/pendingstat.htm](http://www.supremecourtofindia.nic.in/pendingstat.htm), site visited on 13.5.2012.
Table 2: Statement of Pending Cases in the Supreme Court as on 30th April, 2012

<table>
<thead>
<tr>
<th>pending from the previous month</th>
<th>Institution during the month</th>
<th>Disposed of during the month</th>
<th>previous matters disposed &amp; updated this month</th>
<th>pending at the end of the month</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>C</td>
<td>D</td>
<td>A+B-(C+D)</td>
</tr>
<tr>
<td>Admission Matters</td>
<td>33353</td>
<td>5632</td>
<td>4542</td>
<td>459</td>
</tr>
<tr>
<td>Regular Matters</td>
<td>26463</td>
<td>645</td>
<td>266</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>59816</td>
<td>6277</td>
<td>4808</td>
<td>476</td>
</tr>
</tbody>
</table>

The pending cases in all the 21 High Courts as on 30.6.2011 were 43, 50,868 (34, 34,666 civil and 9, 16,202 criminal cases). The position is worst at the subordinate courts. There were 78,34,130 civil cases and 1,98,36,287 criminal cases totaling 2,76,70,417 cases pending as on 30.6.2011. Table 3 shows the number of pending cases in all the High Courts and Subordinate Courts.

Table 3: List of State wise pending cases:

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>State/Union Territory</th>
<th>High Courts*</th>
<th>Lower Courts*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Uttar Pradesh</td>
<td>9,81,608</td>
<td>56,71,924</td>
</tr>
<tr>
<td>2</td>
<td>Andhra Pradesh</td>
<td>1,98,757</td>
<td>9,58,052</td>
</tr>
<tr>
<td>3</td>
<td>Maharashtra</td>
<td>3,55,977</td>
<td>36,67,600</td>
</tr>
<tr>
<td>4</td>
<td>Goa</td>
<td>BHC</td>
<td>29,310</td>
</tr>
<tr>
<td>5</td>
<td>Daman &amp; Diu</td>
<td>BHC</td>
<td>1,905</td>
</tr>
<tr>
<td>6</td>
<td>Dadra and Nagar Haveli</td>
<td>BHC</td>
<td>3,891</td>
</tr>
<tr>
<td>7</td>
<td>West Bengal</td>
<td>3,39,112</td>
<td>28,85,826</td>
</tr>
<tr>
<td>8</td>
<td>A &amp; N Islands</td>
<td>CHC</td>
<td>15,504</td>
</tr>
<tr>
<td>9</td>
<td>Chhattisgarh</td>
<td>57,304</td>
<td>2,70,484</td>
</tr>
<tr>
<td>10</td>
<td>Delhi</td>
<td>62,618</td>
<td>8,66,734</td>
</tr>
<tr>
<td>11</td>
<td>Gujarat</td>
<td>86,663</td>
<td>21,82,556</td>
</tr>
<tr>
<td>12</td>
<td>Assam</td>
<td>52,092</td>
<td>2,60,749</td>
</tr>
</tbody>
</table>

25 Court News July- September, 2011.
<table>
<thead>
<tr>
<th>No.</th>
<th>State</th>
<th>Court</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Nagaland</td>
<td>GHC</td>
<td>5,114</td>
</tr>
<tr>
<td>14</td>
<td>Meghalaya</td>
<td>GHC</td>
<td>3,161</td>
</tr>
<tr>
<td>15</td>
<td>Manipur</td>
<td>GHC</td>
<td>9,698</td>
</tr>
<tr>
<td>16</td>
<td>Tripura</td>
<td>GHC</td>
<td>55,666</td>
</tr>
<tr>
<td>17</td>
<td>Mizoram</td>
<td>GHC</td>
<td>4,078</td>
</tr>
<tr>
<td>18</td>
<td>Arunachal Pradesh</td>
<td>GHC</td>
<td>6,530</td>
</tr>
<tr>
<td>19</td>
<td>Himachal Pradesh</td>
<td>46,156</td>
<td>1,83,999</td>
</tr>
<tr>
<td>20</td>
<td>Jammu &amp; Kashmir</td>
<td>77,230</td>
<td>1,96,887</td>
</tr>
<tr>
<td>21</td>
<td>Jharkhand</td>
<td>61,414</td>
<td>2,99,214</td>
</tr>
<tr>
<td>22</td>
<td>Karnataka</td>
<td>2,46,248</td>
<td>11,46,911</td>
</tr>
<tr>
<td>23</td>
<td>Kerala</td>
<td>1,27,217</td>
<td>10,18,611</td>
</tr>
<tr>
<td>24</td>
<td>Lakshadweep</td>
<td>KHC</td>
<td>158</td>
</tr>
<tr>
<td>25</td>
<td>Madhya Pradesh</td>
<td>2,29,140</td>
<td>11,57,216</td>
</tr>
<tr>
<td>26</td>
<td>Tamil Nadu</td>
<td>4,65,239</td>
<td>11,91,267</td>
</tr>
<tr>
<td>27</td>
<td>Puducherry</td>
<td>MHC</td>
<td>25,052</td>
</tr>
<tr>
<td>28</td>
<td>Orissa</td>
<td>2,86,993</td>
<td>11,10,291</td>
</tr>
<tr>
<td>29</td>
<td>Bihar</td>
<td>1,23,158</td>
<td>15,68,864</td>
</tr>
<tr>
<td>30</td>
<td>Punjab</td>
<td>2,36,894</td>
<td>5,76,011</td>
</tr>
<tr>
<td>31</td>
<td>Haryana</td>
<td>P &amp; H HC</td>
<td>5,65,621</td>
</tr>
<tr>
<td>32</td>
<td>Chandigarh</td>
<td>P &amp; H HC</td>
<td>71,974</td>
</tr>
<tr>
<td>33</td>
<td>Rajasthan</td>
<td>3,01,412</td>
<td>15,09,032</td>
</tr>
<tr>
<td>34</td>
<td>Sikkim</td>
<td>61</td>
<td>1,240</td>
</tr>
<tr>
<td>35</td>
<td>Uttrakhand</td>
<td>19,175</td>
<td>1,49,287</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>43,50,868</strong></td>
</tr>
</tbody>
</table>

*Statistics as on 30th June, 2011.

BHC- Bombay High Court, GHC- Guwahati High Court, CHC- Calcutta High Court, KHC- Kerala High Court, P & H HC- Punjab & Haryana High Court

These statistics do not include the cases pending in various tribunals and other quasi-judicial bodies. If those were also added to the grand total, the arrears in lower courts would cross the figure of 3 crores, which is quite shocking.

**3.5.3 More Institution of Cases than Disposal:**

Though there is a considerable increase in the disposal of cases in various courts, the institution has increased more rapidly. This has resulted in huge pendency of cases in all the courts. The huge backlog of cases only makes justice less accessible. The
Table 4 shows the year wise number of institution and disposal of admission and regular cases in the Supreme Court:

**Table 4: Institution and Disposal of Cases in the Supreme Court**

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution (Admission &amp; Regular)</th>
<th>Disposal (Admission &amp; Regular)</th>
<th>Pendency as on 31st Dec.</th>
<th>Pendency Reduced/Enhanced</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>--</td>
<td>--</td>
<td>39,780</td>
<td>--</td>
</tr>
<tr>
<td>2007</td>
<td>69,103</td>
<td>61,957</td>
<td>46,926</td>
<td>7,146 (+)</td>
</tr>
<tr>
<td>2008</td>
<td>70,352</td>
<td>67,459</td>
<td>49,819</td>
<td>2,893 (+)</td>
</tr>
<tr>
<td>2009</td>
<td>77,151</td>
<td>71,179</td>
<td>55,791</td>
<td>5,972 (+)</td>
</tr>
<tr>
<td>2010</td>
<td>78,280</td>
<td>79,509</td>
<td>54,526</td>
<td>1,229 (-)</td>
</tr>
<tr>
<td>2011 (up to Sep.)</td>
<td>59,738</td>
<td>57,996</td>
<td>56,302</td>
<td>1,742 (+)</td>
</tr>
</tbody>
</table>

Source: Court News

The Institution of cases has increased consistently from the year 2007 to 2010. Disposal of cases has increased by 28.32% as against the institution percentage of 13.28. Yet the pendency has increased by 41.53% from 31.12.06 to 30.9.11. This is because disposal was less than the institution in all the years from 2007 to 2011 except in the year 2010.

**Table 5: Institution and Disposal of Civil Cases in all the High Courts**

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution</th>
<th>Disposal</th>
<th>Pendency as on 31st Dec.</th>
<th>Reduced/Enhanced</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>--</td>
<td>--</td>
<td>29,68,662</td>
<td>--</td>
</tr>
<tr>
<td>2007</td>
<td>10,44,534</td>
<td>9,60,593</td>
<td>30,30,549</td>
<td>67,887 (+)</td>
</tr>
<tr>
<td>2008</td>
<td>11,05,380</td>
<td>10,32,540</td>
<td>31,03,352</td>
<td>72,803 (+)</td>
</tr>
<tr>
<td>2009</td>
<td>11,95,739</td>
<td>10,61,713</td>
<td>32,35,058</td>
<td>1,31,706 (+)</td>
</tr>
<tr>
<td>2010</td>
<td>12,50,351</td>
<td>11,34,545</td>
<td>33,52,349</td>
<td>1,17,291 (+)</td>
</tr>
<tr>
<td>2011 (up to June)</td>
<td>6,39,763</td>
<td>5,67,624</td>
<td>34,34,666</td>
<td>82,317 (+)</td>
</tr>
</tbody>
</table>

Source: Supreme Court News

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26 A Quarterly newspaper published by the Supreme Court of India, New Delhi.
Table 6: Institution and Disposal of Criminal Cases in all the High Courts

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution</th>
<th>Disposal</th>
<th>Pendency as on 31st Dec.</th>
<th>Reduced/Enhanced</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>--</td>
<td>--</td>
<td>6,86,191</td>
<td>--</td>
</tr>
<tr>
<td>2007</td>
<td>5,23,941</td>
<td>4,90,403</td>
<td>7,12,511</td>
<td>26,320(+)</td>
</tr>
<tr>
<td>2008</td>
<td>5,63,326</td>
<td>4,99,381</td>
<td>7,70,738</td>
<td>88,227(+)</td>
</tr>
<tr>
<td>2009</td>
<td>5,83,743</td>
<td>5,31,656</td>
<td>8,25,651</td>
<td>54,913(+)</td>
</tr>
<tr>
<td>2010</td>
<td>6,14,624</td>
<td>5,43,318</td>
<td>8,96,995</td>
<td>71,344(+)</td>
</tr>
<tr>
<td>2011(up to June)</td>
<td>3,01,166</td>
<td>2,71,698</td>
<td>9,16,202</td>
<td>19,207(+)</td>
</tr>
</tbody>
</table>

Source: Supreme Court News

The figures of Table 5 and 6 would show that institution of civil cases in High Courts was 12,50,351 and disposal was 11,34,545 in the year 2010. Institution of criminal cases was 6,14,624 and disposal 5,43,318 during that period. Institution of civil and criminal cases is more than disposal of those cases in all the years raising the pendency (from 31.12.06 to 30.6.11) of civil cases from 29,68,662 to 34,34,666 and of criminal cases from 6,86,191 to 9,16,202. Though the disposal (from 2007 to 2010) of civil cases has increased by 18.10% and of criminal cases by 10.79% but the institution of civil and criminal cases during the same period has increased more rapidly by 19.70% and 17.30% respectively. By which the pendency (from 31.12.06 to 30.6.11) of civil cases has increased by 15.69% and of criminal cases by 33.51%.

Table 7: Institution and Disposal of Civil Cases in all the District and Subordinate Cases

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution</th>
<th>Disposal</th>
<th>Pendency as on 31st Dec.</th>
<th>Reduced/Enhanced</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>--</td>
<td>--</td>
<td>72,37,496</td>
<td>--</td>
</tr>
<tr>
<td>2007</td>
<td>37,55,019</td>
<td>37,59,378</td>
<td>72,97,175</td>
<td>59,679(+)</td>
</tr>
<tr>
<td>2008</td>
<td>40,51,705</td>
<td>38,57,736</td>
<td>75,39,848</td>
<td>2,42,673(+)</td>
</tr>
<tr>
<td>2009</td>
<td>41,41,463</td>
<td>39,65,611</td>
<td>77,16,881</td>
<td>1,77,033(+)</td>
</tr>
<tr>
<td>2010</td>
<td>42,45,397</td>
<td>41,48,609</td>
<td>78,13,193</td>
<td>96,312(+)</td>
</tr>
<tr>
<td>2011(up to June)</td>
<td>21,59,937</td>
<td>21,36,839</td>
<td>78,34,130</td>
<td>20,937(+)</td>
</tr>
</tbody>
</table>

Source: Supreme Court News
Table 8: Institution and Disposal of Criminal Cases in all the District and Subordinate Cases

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution</th>
<th>Disposal</th>
<th>Pendency as on 31st Dec.</th>
<th>Reduced/ Enhanced</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>--</td>
<td>--</td>
<td>1,78,42,122</td>
<td>--</td>
</tr>
<tr>
<td>2007</td>
<td>1,14,09,828</td>
<td>1,11,54,522</td>
<td>1,81,20,990</td>
<td>2,78,868(+)</td>
</tr>
<tr>
<td>2008</td>
<td>1,23,58,512</td>
<td>1,15,27,653</td>
<td>1,88,69,163</td>
<td>7,48,173(+)</td>
</tr>
<tr>
<td>2009</td>
<td>1,28,23,735</td>
<td>1,21,33,168</td>
<td>1,95,59,072</td>
<td>6,89,909(+)</td>
</tr>
<tr>
<td>2010</td>
<td>1,37,58,914</td>
<td>1,35,10,949</td>
<td>1,99,37,988</td>
<td>3,78,916(+)</td>
</tr>
<tr>
<td>2011(up to June)</td>
<td>67,90,628</td>
<td>68,83,557</td>
<td>1,98,36,287</td>
<td>1,01,701(-)</td>
</tr>
</tbody>
</table>

Source: Supreme Court News

The figures of Table 7 and 8 would show that institution and disposal of civil and criminal cases has increased from the year 2007 to 2010. But the institution of civil cases has increased more rapidly than the disposal of those cases. The discrepancy of data may be due to the revised statements submitted by the High Courts. The institution (from 2007 to 2010) of civil cases has increased by 13.05% and criminal cases by 20.58%. The disposal of civil cases during the same period has increased by 10.35% and of criminal cases by 21.12%. Though the disposal of criminal cases was less than the institution of cases upto 2010 but in the first two quarters of the year 2011 the disposal was more than the institution, which reduced the pendency by 1,01,701. But the pendency of criminal cases (from 31.12.06 to 30.6.11) has increased by 11.17% and of civil cases by 8.24% during the same period.

3.5.4 Vacancies in the Courts:

The sanctioned number of judges is inadequate to deal with the load of cases at all the levels of courts. Above that there are vacancies even in that number of judges in all the courts. This is also one of the major reasons for the delay. Successive Governments have not only failed to increase the numerical strength of judges and courts.
but have also failed in filling up of vacancies. There are 13.05 judges per 1 million people in India, as against Australia’s 58 per million, Canada’s 75, the UK 100 and the USA 130 per million.\textsuperscript{27} The law commission in its 120th report submitted in 1987, examined the problem of understaffing of judiciary and recommended 50 judges per million of population instead of that time number of 10.5. The existing strength is inadequate even to dispose of the annual institution. The backlog cannot be wiped out without additional strength, particularly when the institution is likely to increase and not come down in coming years. Table 9 is the statement showing the approved strength, working strength and vacancies of judges in the Supreme Court of India and the High Courts as on 01.02.2012.\textsuperscript{28}

**Table 9: Vacancy Positions:**

<table>
<thead>
<tr>
<th>Name of Court</th>
<th>Approved Strength</th>
<th>Working Strength</th>
<th>Vacancies as per Approved Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Supreme Court of India</strong></td>
<td>31</td>
<td>26</td>
<td>5</td>
</tr>
<tr>
<td><strong>High Court</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Allahabad</td>
<td>76</td>
<td>59</td>
<td>17</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>33</td>
<td>30</td>
<td>3</td>
</tr>
<tr>
<td>Bombay</td>
<td>48</td>
<td>46</td>
<td>2</td>
</tr>
<tr>
<td>Calcutta</td>
<td>45</td>
<td>37</td>
<td>8</td>
</tr>
<tr>
<td>Chhattisgarh</td>
<td>6</td>
<td>06</td>
<td>-</td>
</tr>
<tr>
<td>Delhi *</td>
<td>29</td>
<td>24</td>
<td>5</td>
</tr>
<tr>
<td>Guwahati</td>
<td>17</td>
<td>15</td>
<td>2</td>
</tr>
<tr>
<td>Gujarat *</td>
<td>29</td>
<td>20</td>
<td>9</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>8</td>
<td>07</td>
<td>1</td>
</tr>
<tr>
<td>Jammu &amp; Kashmir</td>
<td>9</td>
<td>06</td>
<td>3</td>
</tr>
</tbody>
</table>

\textsuperscript{27} R. D. Sharma, Justice Barred, the Tribune, Bathinda, dated, March 13, 2012, p. 9.

\textsuperscript{28} Department of Justice, Ministry of Law and Justice, http://doj.gov.in/?q=node/90, site visited on 11.2.2012.
3.5.5 **Strict and Lengthy Procedural Formalities:**

Courts have placed a great deal of significance on the application of defined procedures which is strict and lengthy. Procedures prescribed by law are often cumbersome and difficult. The formal procedure in criminal as well as civil cases takes a lot of time. There is an elaborate system of revisions and appeals from the order of the court of first instance. Delay could occur because a particular stage of procedure itself consumes excessive time. To get justice through courts one has to go through the complex and costly procedures involved in litigation.

3.5.6 **Government the Biggest Litigant:**

According to a survey conducted in Karnataka in 65% of civil cases the Government was a litigant and in 95% the appeals filed by it failed. Section 80 of CPC requires a prior notice of two months to government by a party who wish to sue the government. The purpose of this section is to give time to government to settle the matter with such party by taking proper and suitable action and in that way could avoid...
unwanted and unnecessary litigation. But the absolute failure of government officials in taking a quick, bold and suitable action inspite of giving time forces a person to file case.

In Salem Advocate Bar Association, Tamil Nadu v. Union of India\textsuperscript{29} the Supreme Court has observed, “In a large number of cases either the notice is not replied to or in the few cases where a reply is sent, it is generally vague and evasive. The result is that the object underlying Section 80 of the Code and similar provisions gets defeated. It not only gives rise to avoidable litigation but also results in heavy expenses and costs to the exchequer as well. A proper reply can result in reduction of litigation between the State and the citizens.”

All Governments and their instrumentalities should ensure that genuine cases are resolved at pre-litigation stage itself at their level so that poor and helpless citizens may not be compelled to unnecessarily knock the door of courts and in this manner sizeable number of cases by or against Governments and their instrumentalities can be reduced. Only those cases may be taken to courts where it is not possible to resolve the dispute because of legal intricacies.

3.6 Steps Taken to Provide Speedy Justice:

Since the British days law making and administration of justice both have remained non-participatory in character and continue to be so to a large extent till today. Participation by broad masses of people or even by the interests immediately affected by it, in the process of the making and implementation of laws was virtually unknown;

\textsuperscript{29} (2005) 6 SCC 344, para 38 and 39.
unless of course, we regard protest and disobedience as forms of group participation in law making.³⁰

Delay in disposal of cases, not only creates disillusionment amongst the litigants, but also undermines the capability of the system to impart justice in an efficient and effective manner. On account of such deficiencies in the system, huge arrears of cases have piled up in courts at all levels, and ways and means are required to be found out urgently, to bring them to a manageable limit, so as to sustain the faith of common man.³¹ The justice delivery system should be responsive to the reasonable demands of the times and it should secure elimination of delays, speedy clearance of arrears and reduction in costs so as to secure quick and economical disposal of cases without affecting the cardinal principle that decisions should be fair and just.

The Law Commission observed as early as in 1973 in its 54th Report that ‘any system of procedure must sub-serve the ends of justice. Procedure is a means and not an end. When the means assume undue prominence and the end is lost sight of or even sometimes apt to be defeated in the process, citizens affected have a legitimate right to complain. And it is the duty of the State to see that its legal system does not leave scope for processes which are likely to hinder or defeat justice.’ But it was also of the view that this does not mean that a total replacement of the existing system of procedure

by a new one or such a radical overhaul as would change its face entirely is necessarily required.\footnote{Law Commission of India, 54th Report, 1973, para 1.B.2 and 1.B.3.}

The delay in the disposal of cases has attracted the consideration of successive Governments and Law Commissions. Various suggestions have been given by different law commissions in their different reports time to time. Governments have tried to provide speedy justice by adopting some of these suggestions, but the problem persists. However disposal is not keeping pace with the rate of institution and arrears are steadily growing in all the categories of courts.

Specialized Tribunals have been established to take over the workload of the courts. The Constitution (42nd Amendment) Act 1976 inserted Part XIV-A to the Constitution of India consisting of Articles 323A and 323B. Article 323A provides for the establishment of Administrative Tribunals for adjudication or trial of disputes and complaints with respect to recruitment, conditions of service of persons appointed to public services and other allied matters. Article 323B makes provision for the creation of Tribunals for adjudication or trial of disputes, complaints or offences connected with tax, foreign exchange, industrial and labour disputes, land reforms, ceiling on urban property, election to Parliament and State Legislatures, etc.

Redressal mechanism is provided for better protection of the consumers, thus providing for the establishment of the District Consumer Disputes Redressal Forum at district level, State Consumer Disputes Redressal Commission at the State Level and National Consumer Disputes Redressal Commission at the National Level to adjudicate the Consumer Disputes/cases under the Consumer Protection Act, 1986. The Income-tax
Appellate Tribunals are empowered to hear appeals under Section 253 of the Income Tax Act, 1961, Central Excise and Gold Appellate Tribunal (now known as Central Excise and Service Tax Appellate Tribunal) is empowered to hear appeals under Section 35(b) of the Central Excise and Salt Act, 1944. The Debt Recovery Tribunals set up under the provisions of the Recovery of Debts due to Banks and Financial Institutions Act 1993 have been empowered to adjudicate cases relating to debts /loans of Commercial Banks and Financial Institutions. The tribunal system was evolved in our country to provide an alternative to the regular courts. The tribunals are presided over by the experts of the respective fields and the adjudication mechanism is cost effective, thus less costly in comparison to the regular courts and they are effectively resolving the disputes by taking much less time in comparison to the regular courts.

In order to achieve the objective enshrined in Article 39 A of the Constitution of India, the Legal Services Authorities Act, 1987 was enacted to provide free and competent legal service to the weaker sections of the society. Lok Adalats are being held under this Act, at various places in the country and a large number of cases are being disposed of with lesser costs. Lok Adalats are an innovative form of voluntary efforts for amicable settlement of disputes between the parties.

In February 2007, the Government has approved the implementation of a Project of computerization of District and Subordinate Courts in the country as also the upgradation of the ICT infrastructure of the Supreme Court and High Courts. All the 14249 courts in 3069 court complexes in the country will be covered under the Project. 12000 courts in 2100 court complexes were scheduled to be computerized by 31st march
2012 and the remaining 2249 courts in 969 court complexes by 31st March 2014.\textsuperscript{33} Implementation of the project would result into online access to legal and judicial resources and trends, access to cause lists to litigants, advocates, prosecution and law enforcement agencies, availability of digitally signed court orders, issue of certified copies of orders and judgements within 24 hours, status of pending as well as disposed of cases, services through Information kiosks at court complexes, e-filing of cases, Video Conferencing facilities at Courts.

The Gram Nyayalayas Act 2008 has been enacted to provide for the establishment of Gram Nyayalayas at the grass-root level for the purpose of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities. The Act came into force in all the States to which it applies, with effect from 2nd October 2009. Such State Governments are, therefore required to establish Gram Nyayalayas in terms of Section 3(1) of the Act on or after that date. These are the lowest courts of subordinate judiciary and provide easy access to justice to litigant through friendly procedures, use of local language and mobile courts wherever necessary. The Central Government has committed to fund the initial cost in terms of the non-recurring expenses for setting up these courts with an assistance limited to Rs.18.00 lakhs per Gram Nyayalaya as a one time measure and to bear 50% of the recurring expenses of these courts subject to a ceiling of Rs.3.2 lakhs per court per annum during the first three years. The first-ever rural court in Haryana came into existence on 18th April, 2010 which would cater to 91 panchayats of Shahbad block followed by the other at Rania in Sirsa

\textsuperscript{33} http://doj.gov.in/sites/default/files/userfiles/eCourt-Order.pdf.
district. The setting up of Gram Nyayalayas will prove to be an important measure to reduce arrears.

The Department of Justice, Ministry of Law and Justice, Government of India is implementing a project on ‘Access to Justice for Marginalized People’ with UNDP (United Nations Development Programme) support. The interventions under the Project are focused on strengthening access to justice for the poor, particularly women, Scheduled Castes, Scheduled Tribes, and minorities. The Project seeks, on the one hand, to improve the institutional capacities of key justice service providers to enable them to effectively serve the poor and disadvantaged. On the other hand, it aims to directly empower the poor and disadvantaged men and women to seek and demand justice services.34

A new Plan Scheme commenced in 2008-09 to meet the requirement of the Task Force on Judicial Impact Assessment, constituted by Government,35 to assess the feasibility of Judicial Impact Assessment and the projects commissioned by it. The objectives of Scheme are to facilitate reduction of pendency and backlog of cases in the Courts; making the justice delivery system affordable, accessible, cost effective and transparent and enhancing judicial productivity both quantitatively and qualitatively.

The Eleventh Finance Commission recommended a scheme for creation of 1734 Fast Track Courts (FTCs) in the country for disposal of long pending Sessions and other cases.36 The scheme was for a period of 5 years. The Finance Commission Division (FCD), Ministry of Finance released funds directly to the State Governments under the

scheme of Fast Track Courts. It was the primary responsibility of the State Governments to establish these courts in consultation with the concerned High Courts. The FTCs were established in the year 2001 to expeditiously dispose of long pending cases in the Sessions Courts and long pending cases of undertrial prisoners. The term of scheme on the Fast Track Courts which were recommended by the Eleventh Finance Commission ended on 31st March, 2005. The Supreme Court, which was monitoring the functioning of Fast Track Courts through the case of Brij Mohan Lal v. UOI & Ors.\(^\text{37}\) observed that the scheme of Fast Track Courts should not be disbanded all of a sudden and in its order dated 31st March, 2005, directed the Union of India to continue the Fast Track Courts. The Government accorded its approval for the continuation of 1562 Fast Track Courts that were operational as on 31.3.2005 for a further period of 5 years i.e. up to 31st March, 2010. The scheme of central assistance for Fast Track Courts was further extended for a period of one year i.e. up to 31.3.2011. After that the Centre stopped to release funds to the States. States are free to continue with the idea with their own resources. The Punjab Government had issued a notification extending the term of all fast-track courts in the State by three months, upto June 30, 2011.\(^\text{38}\) There were 15 fast-track courts functioning in the State of Punjab. As many as 46,347 cases had been disposed of till 30th March 2011.

The Thirteenth Finance Commission recommended grants-in-aid for improvement in justice delivery in the year 2010. These funds were earmarked for setting up of Morning/ Evening/ Shift Courts including other types of temporary/ special courts set up with the objective of clearing the backlog of cases. The amount was

\(^{37}\) AIR 2002 SC 2096.

\(^{38}\) The Tribune, Chandigarh, April 3, 2011, p. 5.
restricted to creation of temporary additional staff on contract for disposal of cases. The State of Gujarat has taken a lead in introducing shift system in subordinate courts w.e.f. 14-11-2006. As per the figures made available, the number of cases that were disposed of from 14-11-2006 to 31-3-2007 was 57,384, which is highly commendable.\textsuperscript{39} The Commission has recommended the setting up of ADR Centres in each judicial district. State Governments may set up ADR Centres as per actual requirement subject to the condition that the State has full ADR mechanism coverage. The State Governments may decide to set up more than one ADR centre in a judicial district or none on the basis of requirement, keeping in view full ADR mechanism coverage.\textsuperscript{40}

The legislature has been sensitive enough to provide speedy and efficacious justice in India by enactment of several provisions. To keep pace with the globalization of commerce the old Arbitration Act of 1940 was replaced by the new Arbitration and Conciliation Act, 1996. Settlement of matters concerning the family has been provided under Order XXXIIA of the Code of Civil Procedure, 1908 by amendment in 1976. Provisions for making efforts for reconciliation under Sections 23 (2) and 23 (3) of the Hindu Marriage Act, 1955 as also under Section 34 (3) of the Special Marriage Act, 1954 are made. Family Courts Act was enacted in 1984. Under Family Courts Act, 1984 it is the duty of family court to make efforts for settlement between the parties. A scheme of Central financial assistance was started in 2002-03 for setting of Family Courts. As per the scheme a Non-recurring grant @$\text{Rs. 10 lakh per court}$ is provided by the Department of Justice for setting up of Family Courts. The Parliamentary Committee on Empowerment of Women has recommended that Family Courts may be set up in each

\textsuperscript{39} Supra Note 31.

\textsuperscript{40} http://doj.gov.in/sites/default/files/userfiles/TFCflxi(1).pdf, site visited on 13.2.2012.
district. All the State Governments/UT Administrations have been requested to set up
Family Courts in each district. At present 212 Family Courts are reported functional
across the country.\textsuperscript{41}

Section 89 has been incorporated in the traditional Civil Procedure Code
(CPC) read with Order X Rules I-A, I-B, and I-C for settlement of disputes outside court.
Under Section 89, courts have been empowered to explore the possibilities of settlement
of disputes through the alternative means of resolution e.g. Lok Adalats, arbitration,
judicial settlement, mediation and conciliation.

3.7 Providing Speedy Justice through ADR:

In India the need to develop alternative mechanisms is being felt since
long. Reports of expert bodies have reiterated the need of restoration and strengthening of
traditional systems of dispute resolution.\textsuperscript{42} But speedy justice does not mean a hasty or
even a summary dispensation of justice by persons not qualified to administer it. What
has to be ensured is that the determination of facts in controversy and the application to
the facts so determined of the appropriate legal principles should not be duly delayed.
Applying these standards, there is great scope for improvement in the working of our
judicial machinery.

The Government of India considered it obligatory to provide a new forum
and procedure for resolving international and domestic disputes speedily. In a conference

\textsuperscript{41} http://doj.gov.in/?q=node/105, site visited on 11.2.2012.

\textsuperscript{42} Report of the Committee on Legal Aid (1971), Report of the Expert Committee on Legal Aid:
Processual Justice to the People, Government of India, Ministry of Law, Justice and Company
Justice and Company Affairs (1977)
held in New Delhi on 4th December 1993 under the chairmanship of Prime Minister of India and presided over by the Chief Justice of India the following Resolution was adopted, “The Chief Ministers and Chief Justices were of the opinion that Courts were not in a position to bear the entire burden of justice system and that a number of disputes lent themselves to resolution by alternative modes such as arbitration, mediation and negotiation. They emphasized the desirability of disputants taking advantage of alternative dispute resolution which provided procedural flexibility, saved valuable time and money and avoided the stress of a conventional trial.”

In 1995 the International Center for Alternative Dispute Resolution (ICADR) was inaugurated by Shri P.V. Narasimha Rao. The Prime Minister of India had observed, “While reforms in the judicial sector should be undertaken with necessary speed, it does not appear that courts and tribunals will be in a position to bear the entire burden of the justice system. It is incumbent on government to provide at reasonable cost as many modes of settlements of disputes as are necessary to cover the variety of disputes that arise. Litigants should be encouraged to resort to alternative dispute resolution so that the court system proper would be left with a smaller number of important disputes that demand judicial attention.”

Finance Minister, Mr Pranab Mukherjee himself expressed the dire need to resort to Alternative Dispute Resolution owing to the situation existing and has called upon a Legal framework wherein it can be successfully implemented. According to him “Delays in court rooms lead to corruption in government; lack of investment in vital economic spheres due to uncertain contract enforcement; higher transaction costs and a

43 http://icadr.nic.in/WhyADR.php.
44 http://slsagoa.nic.in/newsletter/goanya_is%202%20vol%20II.pdf.
general inflationary bias. The study estimates indicate that streamlining the judicial system will increase GDP growth rates by 2% per annum! This high payoff surely outweighs the costs of investing in improving the system.”

According to Justice V.R Krishna Iyer, while inaugurating ADR Centre in Kochi, he graciously conveyed that “legislation should be made wherein lawyers shall try to settle cases rather than take the parties to the court. The Courts should be the last resort and ADR the first resort. He said that there should be “a National Movement for ADR in India through Centres like ADR Centre”.

Since the inception of the economic liberalization policies in India and acceptance of law reforms world over, the legal opinion leaders have concluded that the application of vigorous mediation mechanisms to commercial and civil litigation is a critical solution to the profound problem of arrears of cases in Civil Courts in India. The former Chief Justice of Indian Supreme Court, Mr. Justice A.M. Ahmadi took a bold step forward by forming an Indo US study team which worked together, made a comprehensive study and made recommendations how reforms suitably adopted to Indian conditions can modernize the Indian justice system. The study team consisting of Indian scholars and experienced experts from United States sponsored by ISDLS made three

46http://www.rtiindia.org/forum/2385-nearly-30-million-cases-pending-courts.html
47Institute for Study and Development of Legal Systems (ISDLS) is a San Francisco based non-profit non governmental organization promoting law reforms world over.

In search of alternatives care is needed to be taken that such techniques are selected, which do away with the shortcomings of the formal legal system. At the same time care is to be taken that the basic principle on which the judicial system is founded is not lost.

3.8 To Sum Up:

It is a part of right to life and personal liberty, a fundamental right of every citizen under Article 21, to get speedy justice and speedy trial, which also is the fundamental requirement of good judicial administration. In the courts, arrears are growing to horrifying extent. This is particularly because institution of cases is much more than their disposal at all the levels of courts. Delay in disposal of cases in law courts, has defeated the purpose of resolution of disputes, for which the people come up to the courts. So, there is need to find out mechanisms to render social justice to the poor and needy who want their grievances redressed through law courts.

It is time for the people to take their own initiative to decide their cases rather than depend on a process which causes delay and is unsatisfactory. Apart from making the workings of the judiciary efficient, there is imminent need to supplement the existing infrastructure of courts by means of Alternative Dispute Resolution processes. The object of the alternative dispute resolution processes is to have expeditious and effective disposal of the disputes through forum of parties' choice. It is the best opportune
time for encouraging Alternative Dispute Resolutions. These measures are being taken all over the world for resolving pending disputes as well as at pre-litigation stage. These efforts have proved a great success in these countries of the world.