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ANALYZING RIGHT TO SPEEDY JUSTICE UNDER INDIAN PROSPECTIVE FOR THE ATTAINMENT OF BASIC HUMAN RIGHTS

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ABSTRACT

This paper will be analyzing the right to speedy justice. In this paper, the author analyzes the right that has been affirmed to every individual taken birth as human to get Free, Fair and Speedy Justice. Under the Indian context how this right has been assured during a different period of time. Paper will be analyzing the various provisions give mention of Speedy Justice and the view taken by the Honorable Supreme Court for the assurance of this basic Human Rights. The paper will be analyzing the steps taken by the Government of India for assurance of Right to Speedy Justice. It will also analyze the impact and usage of Alternative Dispute Mechanism for speedy disposal of disputes.

Keywords: Speedy Justice, Human Rights, Alternative Dispute Mechanism, Constitution of India and Supreme Court of India.

INTRODUCTION

The basic Human Right is to seek Speedy Justice is a direct derivation from the Cardinal principle of Criminal Justice System such as:

JUSTICE DELAYED IS JUSTICE DENIED, JUSTICE WITHELD IS JUSTICE WITHDRAWN, and JUSTICE SHOULD NOT ONLY BE DONE BUT SHOULD ALSO APPEARR TO HAVE BEEN DONE.

The dispensation of justice has little meaning if it is not delivered in a reasonably short time, strictly speaking, a delayed justice, frustrating the cause thereof, is no justice at all. A good legal system should not only yield proper and just solutions but also these solutions must be had quickly had as infallibility as the human agency can guarantee. Delay is a great reproach, and the cry for speedy justice is heard from all quarters, slow justice would be futile, over speedy justice is undesirable, because the hurried justice implies buried justice, speedy disposal of cases should not be

constructed to mean that cases should be disposed of quickly to the determent of justice. While emphasizing the need for speedy justice, Justice Anand has rightly observed that[1]

"People want justice, pure, unpolluted, quick and inexpensive and they have every right to receive the same". But in reality, there are deplorably long delays in the Dispensation of Justice, the need for speedy justice cannot be gained because as said, "If Justice is not executed speedily men persuade themselves that there is no such thing as justice."[2]

CONCEPT OF JUSTICE

To better appreciate the need for "Speedy Justice" one has to first understand the concept of justice because the need is for the "Speedy Justice" not hurried disposal of cases. The term 'Justice' is of imponderable import[3] having varying meanings such as truth, morality, righteousness, equality, fairness, impartiality, fairness, impartiality, law, etc.

RIGHT TO SPEEDY JUSTICE:

The purpose of the administration of justice is that the innocent must be protected, the guilty must be punished and that there must be a 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.

The right to speedy justice in criminal cases has been recognised by the laws of many countries. It found a place in the Virginia Declaration of Rights of 1776 and after that into the Sixth Amendment to the Constitution of the United States of America which states that "In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial". The 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 information, condemnation and allegation. In 1990, the

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[1] Dr V.P. Ramiah, Customary Clogs In Justice Delivery System" AIR 2003 Journal, p - 336
[2] James Antony, "Short Studies on great Subject", (1818 – 94) "Calvinism" 1871
[3] S.N. Dhayani "Fundamental of Jurisprudence", 2002 ed. p - 192

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 a speedy trial is recognized 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 a 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 a need to enact laws providing for the right to speedy justice in civil matters.

The foundation of this right lies in the Supreme Court judgment in **Hussainara Khatoon v. State of Bihar**[4] 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 a 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 a violation of his fundamental right under Article 21.”

HISTORICAL DEVELOPMENT

Dispensing of “Justice” has little meaning, if it is not delivered in a reasonably short time strictly speaking a delayed justice, frustrating the cause thereof, is no justice at all. It is for this reason that the provisions of law and the mechanism provided for “administration of justice” aims to achieve the following two objectives;

1. Delivery of Justice,
2. Its speedy reach

[4] AIR 1979 SC 1367

India claims pride in being the 'largest democracy' in the world, where the "rule of law" prevails.[5] It is a vast country, with more than one hundred crore population, being the 'largest and the most ancient civilization' in the world, this sovereign, socialist, secular, democratic republic of India has by the very preamble of its constitution, secured to all its citizens:[6] JUSTICE; Social, Economical and Political.

ANCIENT INDIA

The concept has evolved over the years and has been used from the start of civilization. Though the basic idea has been the same, it has been in usage by various orders in accordance to their convenience, or what is best for their people, which may range from brutality to more subtle concepts, whichever may be the choice or idea.

"Dharma" is the concept that has ruled the Indian civilization, from ancient India to the Muslim regime, and the concept suddenly blown away, by the British Raj. The word's combination literally translating to uphold, sustain and nourish. Tatriya Upanishad combines 'satya' and 'dharma', and expects what is to speak the truth.

"Brahaspati" – a noted jurist of the smriti period refers to 'four' kinds of courts established as a means for 'Speedy Delivery' of justice.[7]

"The "Classical Literature" – Ramayana, Mahabharata, Dharamsasastra, Nitisasastra, Arihasastra, Smritis, Rig-Veda, seem to have had warned that culpable delay in dispensation of justice was in itself an act of injustice.[8]

MEDIEVAL PERIOD

The efforts for making the administration of justice speedier continued in an uninterrupted way.

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[5] Dr. Sobha Saxena, "Ailing Judicial System" CriLJ 2000 Journal, p - 33

[6] DC Mukherjee, "Legal education for the services to the poor" AIR 1982 Journal, p - 65

[7] Brahaspati – 1, by Aparacka, p –600.

1. Prathistita" (Established in a fixed place such as a town).
2. "Apratisthita" (not fixed in one place, but moving from place as on a circuit).
3. "Mudrita" (the court of a judge appointed by the king who is authorized to use the royal seal).
4. "Sasita" (the court in which the king himself presides).

[8] The works of P.V. Kane, Vol – 3, p – 243,28

The efforts during the Mughal Period are also noteworthy.

Getting deep in the heart of the Mughal era, the role was given to each and every person and if we look closely was defined. The many officers appointed had been for multitudes of affairs, though it was centrally controlled and under powers of the king. The various posts assigned were clearly defined as discussed. The chief departments of the State were:

a) The Imperial House-hold under the Khan-i-saman,
b) The Exchequer under the Deccan
c) The Military Pay & Accounts office under the Mir Bakshi
d) The Judiciary under Chief Qazi,
e) Religious Endowments and charities under the Chief Sadr or Sadr-us-Sudur, and
f) The Censorship of Public Morals under the Muhtasib.

BRITISH PERIOD

With the advent of 'British Rule' the "common law" got imported in India, slowly and gradually inasmuch as the establishments by the East India Company became "the nurseries of the English Law in India" which in course of time brought over tremendous influences over the laws and the system of administration of justice in the whole of this subcontinent.[26] In England, even as early as in the year1934 a 'Royal Commission' was appointed to examine the problem of delays and to recommend effective measure to ensure 'Speedy Disposal' of cases at Common Law.[9] The Introduction of the Indian Penal Code, The Evidence Law and The Criminal Procedure Code, bore the influence of Common Law solely on purposes of "administrative expediency" as well as to "prolong the duration of judicial proceedings".[10]

The British enactments undoubtedly contributed to the Indian Jurisprudence but too much 'emphasis' on the procedure resulted in the litigation getting delayed in the courts of law, therefore, fresh efforts were required to be made for cutting down the procedural lapses and the corrupt practices that have grown in our legal system during the British Period.

[9] CL Aggarwal, "Laws Delay and Accumulation of arrears in the high court's" The Journal in the Bar Council of India – Vol. 7(1) :1978, p - 41

[10] S.K. Mukherjee and A.K. Gupta 'Delay in the administration of criminal justice' (1978) at p – 6, 7, 8.

POST – INDEPENDENCE PERIOD

India after attaining independence, consciously opted to retain the 'British system' of law and government and some of the leading principles of western political and legal thoughts having found a place in its fundamental law, which includes the 'supremacy of law', notions of 'equality and liberty' as well as the system of 'checks and balances' to ensure separation of functions of three organs of government i.e. Legislature, Executive and Judiciary.[11]

The need for speedy disposal of trials wasn't the main focus of our judicial system for the initial years.

THE CONSTITUTION OF INDIA

The Constitutional Law, being the "basic and Fundamental law" of the land is a subject of paramount importance: The ultimate goal of every organ of the state is to serve in the people of India upholding the "letter of Spirit" of the Constitution. The Constitution of India has defined and declared the 'common goal' for all its instrumentalities, as to secure to all the citizens of India, Justice: Social, Economical and Political; Liberty; Equality and fraternity. The 'eternal value' of constitutionalism is the 'rule of law' which has three facets i.e. 'rule of law', 'rule under the law', and 'rule according to law.'[12]

As mentioned before, the Constitution of India does not explicitly or separately enshrine the right to speedy justice, yet it recognizes as an objective of the system.[13]

[11] Smt. Meneka Gandhi V Raj Narain – AIR 1975 SC 2299, at p - 2317

[12] PP Rao, "National Judicial Service Commission" Indian Bar Review, Vol. 15(1&2), 198, p – 2

[13] S.K. Sharma, "Right to Speedy Trial ; An imperative procedural piece of criminal justice" The Commercial law gazette, Apri; 10(1980), p – 15 says, The Constitution of India does not specifically guarantee to an accused person the right to speedy trial, yet the speedy disposal of cases is desired as an objective of rule of law in India. The ethics of distributive system also necessitate it. The very spirit and soul of Article 21 in conjunction with Article 14, 19, 38, 39 and 39 – A make it necessary concomitant of distributive Justice promised in the preamble of Constitution of India. Right to Speedy Trial being an internationally recognized "human right' is thus a part of our national grundnorm by virtue of Article 51" of the Constitution.

ARTICLE 14 STRIKES AT ARBITRARINESS

Equality before law. (Art. 14) —"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Article 14 strikes at arbitrariness. It ensures that the process of delivering justice goes on at an equal pace for any two people facing an equal situation, for example, facing the same charge. It, being a fundamental right of every citizen, cannot be curtailed.

Protection of life and personal liberty (Art. 21) — "No person shall be deprived of his life or personal liberty except according to the procedure established by law."

So, if a person is detained, there must be a fair application of the law providing for arrest and detention. The fair application is one that is just and reasonable. Further, the trial should be fairly conducted.[14]

EQUAL JUSTICE AND FREE LEGAL AID

Equal justice and free legal aid. (Art. 39A)—"The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.".

EXPANDING HORIZONS

Article. 21 - The Constitution makers did not explicitly mention the defendant's right to speedy proceedings. The first two decades of independence saw no special attention being paid towards the issue of the length of time in prison for the under trial.[15] The focus was elsewhere.

However, in the post-Emergency era, this scenario changed with **Hussainara Khatoon v. Home Ministry**[16] in which Justice Bhagwati established that the defendant had under Article 21 of the Indian Constitution, the defendant had the fundamental right to a speedy trial.

[14] For jurisdiction of Article-21, see Videocon Industries Ltd. V. Union of India and Anr. SCC16371 of 2008.
[15] Krishnan J. K. and Kumar C. R., Delay in process, denial of justice: the Indian Jurisprudence and emperics of speedy trial in comparative perspective, 2011, pp. 12.
[16] (1979)3S.C.R.169

The above case and the Maneka Gandhi case[17] led the apex court to conclude that the due process of trial is a fundamental aspect of personal liberty, and thus a fundamental right under Article- 21.

RIGHT TO SPEEDY JUSTICE AND INDIAN JUDICIARY

"There is no a better test of excellence of a government, than the efficiency of its judicial system, for nothing more merely touches the welfare and security of average citizen than his sense that he can rely on the certain and prompt administration of justice."…….Lord James Bryce.[18]

Justice is meant to be "simple, speedy, cheap, effected and substantial", yet it remains elusive to Indians and one of the major reasons is the delays in the dispersion of justice. The problem of delay in the disposal of cases is not a new problem for the Indian judicial system and has been in existence for a long time. However, it has now acquired terrifying proportions.

The recurrent conflict of interest between the delayed trial and speedy trial has baffled the legal policies planners, legislators, researchers and the courts. The courts are mere spectators.[19]

This article forms part of Part IV of the Constitution of India, which contains the Directive Principles of State Policy. Though not enforceable in the court of law, this article is indicative of the principles which are to be kept in mind by the State and the parliament while framing laws.

There have been many cases where the judges have made emphasis on the right to speedy justice:-

STATE OF MAHARASHTRA V. CHAMPA LAL[20], The court held that if the accused himself is responsible for the delay, he could not take advantage of this right. The court said that a delayed trial is not necessarily an unfair trial. Then, ***SUNIL BATRA V. DELHI ADMINISTRATION[21],*** The court held that the practice of keeping undertrials with convicts in jails offended the test of reasonableness in article 19 and fairness in article 21. Justice Krishna Iyer giving a major decision held that integrity of the physical person and his mental personality is an important right of the prisoner and must be protected from all kinds of atrocities. ***VAKIL PRASAD SINGH V. STATE***

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[17] ManekaGandhi v. Union of India, (1978)2S.C.R.621.
[18] Lord James Bryce (In Modern Democracies)
[19] Delhi Judicial Service Association V State of Gujarat AIR 1991 SC 2176
[20] 1981 AIR 1675, 1982 SCR(1) 299
[21] 1980 AIR 1579, 1980 SCR (2) 557

OF BIHA:*[22]*, the court has emphasized the need for speedy investigation and trial of constitutional protection enshrined in article 21 of the constitution.

THE PRE-MANEKA ERA:

It took years for our Indian judicial system to realize the importance of 'the right to speedy justice'. This concept had to be introduced now or later as in our justice system the slow-motion syndrome of carrying out the proceedings of a case was becoming a burden for the Indian legal system and was hindering the functioning of our Indian judiciary. Through many cases, the Supreme Court of India realized the importance of the 'the right to speedy justice' concept.

However, in the case of **A.K Gopalan V. State of Madras**, the validity of the Preventive Detention Act 1950 was challenged.[23] In this case, the procedure established by law was first questioned and interpreted by the apex court of India. The majority in this case held that the word law in article 21 could not be read as meaning rules of natural justice. These rules were vague and indefinite and the constitution could not be read as laying down a vague standard. Thus the expression *procedure established by law* would, therefore, mean the procedure as laid down in an enacted law. This view of the Supreme Court was highly criticized as this interpretation would lead to the delay in natural justice depriving a person of his personal liberty.

THE RIGHT TO SPEEDY JUSTICE: A MARCH FROM MANEKA ERA

The landmark case of the post-emergency period i.e. **Maneka Gandhi v. Union of India**[24] shows how liberal tendencies have influenced the Supreme Court in interpreting the fundamental rights especially article 21. The Maneka Gandhi case made a multidimensional impact on the development of the constitution of India. The court has re-interpreted article 21 and practically overruled the Gopalan case. In this particular case, the Supreme Court has given article 21 a much of a broader and broader interpretation so as to imply many more fundamental rights. According

[22] Criminal Appeal No. 138 of 2009

[23] In this case, the appellant on its behalf tried an attempt to persuade the Supreme Court to hold that the courts can adjudicate upon the reasonableness of the Preventive Detention Act 1950, or for that matter any law depriving the person his personal liberty. Since Article 21 lays down that no person shall be deprived of his life and personal liberty except according to procedure established by law.

[24] AIR 1978 SC597

to Bhagwati J. article 21 embodies a constitutional value of supreme importance in a democratic society.

As the article 21 has been revolutionized by the Hon'ble Supreme Court and the concept of life and personal liberty has been widened but the subordinate judiciary and executive could not be revolutionized. Another horizon that attracted the notice of the Hon'ble Supreme Court was the condition of the person under arrest on the suspicion of having committed an offense. The Supreme Court of India as the guardian of fundamental rights of the people has obligations as well as powers of wider amplitude to ensure a speedy trial for the accused, and as such while adopting an activist approach in **Hussainara Khatoon V State of Bihar.**[25]

In the Maneka Gandhi case, Bhagwati J. held that the procedure contemplated in article 21 could not be unfair and unreasonableness which was an as essential element of equality or non-arbitrariness, pervaded article 14 like a brooding omnipresence and procedure contemplated in article 21 must answer the test of reasonableness in order to be in conformity with article 14.

The case of Maneka Gandhi has improved the administration of criminal justice and prison administration and also environment protection.

Also, in the Olga Telis case, the Supreme Court has emphasized that the procedure established by law for the deprivation of rights conferred by article 21 must be fair, just and reasonable. It must conform to the norms of justice and fair play. What faith can these lost souls have in the judicial system which denies them even a bare trial for so many years and keeps them behind bars...?[26]

Another important case in the post-Maneka era is **Hussainara Khatoon V. State of Bihar.**[27] In this case, the apex court held that continued detention of undertrial prisoners could not be justified as they had already been in jail for a period longer than what they would have been sentenced to suffer if convicted.[28]

[25] Supra Note 31 at p - 598
[26] Ibid at p – 1362
[27] AIR 1979 SC 1367
[28] In this case Hon'ble justice Bhagwati observed that,
"These disclosed a shocking state of affairs and betray completed lack of concern for human values. It exposes the callousness of our legal and judicial system which can remain unattended by such enormous misery and suffering resulting from totally unjustified deprivation of personal liberty."

STEPS TAKEN TO PROVIDE SPEEDY JUSTICE:

Since the British day's law-making and administration of justice both have remained non-participatory in character and continue to be so to a large extent still 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; unless of course, we regard protest and disobedience as forms of group participation in law-making.[29]

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. The procedure is a means and not an end. But it was also of the view that this does not mean that a total replacement of the existing system of the procedure by a new one or such a radical overhaul as would change its face entirely is necessarily required.[30]
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. 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 effort 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 up-gradation of the ICT infrastructure of the Supreme Court and High 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

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The Supreme Court with utmost concern held that an accused should not be imprisoned for a period longer than the sentence pronounced by the apex court. An imprisonment for a longer period of time means deprivation of a prisoner's right to life and liberty as under article 21.
[29] Upendera Baxi, The Crisis of the Indian Legal System, Vikas Publishing House Pvt Ltd. Delhi, 1982, pp 44-45.
[30] Law Commission of India, 54th Report, 1973, para 1.B.2 and 1.B.3.

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 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 Eleventh Finance Commission recommended a scheme for the creation of 1734 Fast Track Courts (FTCs) in the country for disposal of long pending Sessions and other cases.[31] 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. The Thirteenth Finance Commission recommended grants-in-aid for improvement in justice delivery in the year 2010. 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 center in a judicial district or none on the basis of requirement, keeping in view full ADR mechanism coverage.[32]

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.

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 for restoration and strengthening of traditional systems of dispute resolution.[33] But speedy justice does not mean a hasty or even a summary dispensation of justice

[31] http://doj.gov.in/?q=node/107, site visited on 11.2.2019.
[32] http://doj.gov.in/sites/default/files/userfiles/TFCflxi(1).pdf, site visited on 13.2.2019.
[33] 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 Affairs (1973), Report on National Juridicare: Equal Justice – Social Justice, Ministry of Law, Justice and Company Affairs (1977)

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.

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 the 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 the 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."[34]

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 courtrooms lead to corruption in government; lack of investment in vital economic spheres due to uncertain contract enforcement; higher transaction costs and 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."[35]

CONCLUSION

Justice, in its literal as well as an abstract form, remains the very purpose of the law, and the very motive of the legal system. Justice is a universal and fundamental principle of law. It is inseparable from the law, as much as that law and justice seem synonymous. So, it becomes the responsibility of the legal system to provide its seeker's justice, in letter and in spirit, and that the delivery of justice should be reasonable, just.

[34] http://slsagoa.nic.in/newsletter/goanya_is%202%20vol%20II.pdf.

[35] Tackling delayed justice in an emerging India, http://theviewspaper.net/tackling-delayed- justice-in-an-emerging-India, site visited on 29.1.2012.

When we focus on India, we find a grave situation of the pending status of cases in Indian courts. The largest democracy has, not surprisingly, a dismal record in speedy delivery of justice. The causes of this are deep-rooted and vague. Though there have been many measures undertaken, little success has been met considering the sheer volume of pending cases. This mission of providing speedier justice will not be complete until the last person gets justice on time.

For most seekers of justice, approaching court is a process of pain and anguish in their hearts. They suffer physically, psychologically, and monetarily. These are not the people who will take the law in their hands. They seek justice with both hands unarmed, tired of the process; their eyes wrinkled from regular visits to the court, but still filled with hope and belief. It is this belief that makes an obligation for the courts to deliver quick and inexpensive justice to these people. However, quick justice should not affect the quality of justice. Justice should be timely, but never without quality.

When we say Quality of Justice, we mean Equality. Equality is the chief attribute of Justice. Justice without equality is no justice. It is equality in delivering justice which makes justice worth seeking. Therefore, this element can never be compromised.

The causes which hinder speedy delivering of justice in India, as mentioned before, are complex and deep-rooted. Sometimes, these reasons are more personal and particular than general. The delaying tactics of the advocates, the fault of the parties, and the provision of unlimited appeals are all responsible for it. The limitations of the measures taken to correct the system are also responsible. Many times, the executive ineffectiveness is at fault, other times the force of popular politics. There are faults within the judiciary, especially at the lower level. These causes are several and deep-rooted, and require courage of self-criticism and resolve to identify them and eradicate them. This needs to be done by everyone, the bench, the bar, the government, the lawmakers, the people, and the society as a whole.