

**Identify a Socio-legal Problem of your choice and
present a Research Design for a solution to this problem**

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Paper III –RESEARCH METHODOLOGY

SEMESTER-1

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Synopsis

of

RESEARCH DESIGN/RESEARCH PROPOSAL

TITLE: Justice delayed is justice denied:The Indian Nightmare of

Waiting for Justice – A Case Study of Goa

1. BACKGROUND OF THE STUDY

“Justice delayed is justice denied.” said the well-known British Statesman and Prime Minister William E. Gladstone (1868-1894). Martin Luther King, Jr., in his "Letter from Birmingham Jail", smuggled out of jail in 1963, used the same phrase in a modified form "justice too long delayed is justice denied".

"Justice delayed is justice denied" is a legal maxim meaning that if legal redress is available for a party that has suffered some injury, but is not forthcoming in a timely fashion, it is effectively the same as having no redress at all. This principle is the basis for the right to a speedy trial and similar rights which are meant to expedite the legal system, because it is unfair for the injured party to have to sustain the injury with little hope for resolution. The phrase has become a rallying cry for legal reformers who view courts or governments as acting too slowly in resolving legal issues either because the existing system is too complex or overburdened, or because the issue or party in question lacks political favour.

The then Chief Justice of the United States Warren E. Burger in an address to the American Bar Association in 1970 had said "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." Giorgio Del Vecchio has aptly stated that "Without Justice, life would not be possible and even if it were it would not be worth living"

In the Indian context, way back on March 19, 1955, while addressing the members of the Punjab High Court at the inauguration of its new building in Chandigarh, the then Indian Prime Minister Jawaharlal Nehru, had said, "Justice in India should be simple, speedy and cheap." He had aptly remarked that litigation was a disease and it could not be a good thing to allow any disease to spread and then go out in search of doctors. Referring to an adage that "Justice Delayed is Justice Denied", Nehru had forcefully stressed that disposal of cases must not be delayed.

Securing Justice, especially legal justice to all citizens is one of the key mandates of the Indian Constitution. This has been explicitly spelt out in Article 39 – A of the Constitution that directs the state "to secure equal justice and free legal aid for all its citizens." But the experience of last 67 years since independence shows that the country has failed to dispense quick, inexpensive justice to protect the rights of the poor and the vulnerable. Hon'ble Justice B.P. Singh, a former Judge of the Hon'ble Supreme Court, while speaking on the topic "Justice Delayed is Justice Denied: the Plight of Indian Poor" had said that "the situation today is so grim that if a poor is

able to reach to the stage of Hon'ble High Court, it should be considered as an achievement. It has merely become a court of the rich."

The justice delivery system is on the verge of collapse with more than 30 million cases clogging the Indian Judicial system. In 2011 there were 32 million (3.2 crore) cases pending in the Indian high courts and subordinate courts while 56,383 cases were pending in the Supreme Court and of these the Supreme Court of India had a total of 39,780 civil and criminal pending cases at the end of year 2011. In 2011 74% of the total 3.2 crore cases were less than five years old. Similarly, 20,334 out of the 56,383 pending cases in the Supreme Court were less than one year old. The establishment of the fast track courts and transfer of 39.23 lakh cases to them in 2011 most of which had been disposed of in good time has given some respite but the problem of delayed justice and the Indian Nightmare of waiting for justice continues unabated. More reforms are being done such as proposed computerisation of 12,000 courts by March 31, 2012 and 14,249 courts by March 2014. But the situation continues to be very grim as far as speedy justice is concerned.

There are cases that take so much time that even a generation is too short to get any type of redressal. Again a brief look at some of the judicial statistics would tell the true story of the state of delivery of justice in India today: -On an average, 50 lakh crimes are registered everyday, which are sought to be investigated by the police. The pendency of criminal cases in subordinate courts is in the region of 1.32 crores and the effective strength of judges is 12,177. The number of under – trials in criminal cases pending in the courts is 1.44 crores and of these over 2 lakh persons are in prison. On an average, Courts are able to dispose off 19% of pending cases every year. It is said that it will take more than 300 years to clear the backlog of cases in Indian courts

at the present slow rate if urgent reforms are not implemented. In this direction a committee was set up under Justice V S Malimath to examine changes and its report came at the time that justice was finally done in the Uphaar Cinema case and just before the fourth anniversary of the famous Jessica Lal's horrific murder. Both cases draw attention, in different ways, to the glaring flaws in our justice system including the undue long delay to get speedy justice.

The reasons for delay could be attributed to the fact that every case moves from the lowest to the highest level. Too many revisions, bails, applications make five cases of one. The Centre and the State Governments also contribute to the backlog. Not only is the Govt. the biggest litigant but also it creates fresh litigation because it doesn't honour judicial decisions. Another obstacle to speedy justice is adjournments. As far as the situation in Subordinate Courts is concerned, the infrastructure is non-existent and at times the judges have to write judgments with their own hands as they don't have stenographers. Every subordinate judge is caught between oppressive workload and hardly any time or facilities.

There is need to bring urgent reforms such as to establish more courts including fast-track courts and to increase number of judges according to population. While the population of the country and the number of cases has increased manifold, the judgment services appear to be understaffed. Same is the position of the courts, where number of courts are less in comparison to the need. As it is estimated that India has, only about 11 Judges per million population, which is among the lowest ratios in the world. Hence there is an urgent need to increase the number of judges specially at the local level for giving access to the ordinary people for speedy justice.

The situation in the state of Goa is not much different from that in the rest of the country. Though Goa is a very tiny state of India it too has its share of thousands of pending cases. As per

the news report by Times of India (Goa Edition dated 16 October 2013) Goa has a total of 41,427 cases pending in various courts.

Hence the problem of delayed justice and consequently expensive justice has become a serious socio-legal problem both in India and in Goa and hence merits study.

STATEMENT OF THE PROBLEM

Right to Justice as embodied in the Right to Judicial Remedy is a fundamental right under the Constitution of India, but the same stands defeated in view of the slow and inefficient justice delivery system in India and the same malaise is inflicting Goa as well. This is a serious socio-legal problem that potentially impacts every citizen of India and Goa. This serious socio-legal problem merits immediate attention and an urgent solution.

Given the fact that the socio-legal problem of delayed justice exists even in the state of Goa it becomes imperative to know what is the exact situation in Goa. The presently proposed study is intended to study the various problems encountered in delivering speedy justice in Goa. The presently proposed study intends to investigate/ through survey various kinds of socio-legal ramifications of this serious problem in Goa.

The study would also try to investigate whether the situation atleast in Goa can be remedied faster and whether Goa could serve as a model for the rest of the country in this regard. The study would entail making an inquiry into the entire gamut of issues involved in providing speedy justice and remedying the problem of delayed justice at least in the Goan context. The study would also involve looking at difficulties faced by the various stakeholders at different levels..

In short this study would try to highlight the status of pending cases, measures to clear them, success and failures as also the problems encountered in this task and try to bring to light the various failings and shortcomings of the existing justice delivery system in order to see how the nightmare scenario of delayed justice in Goa could be changed if at all.

REVIEW OF LITERATURE

Many researchers have studied the issue of delay in justice delivery and its socio-legal implications. Since the issue is of current nature in India and Goa the reference work is mostly based on Newspaper reports from 2009 to 2014 for getting statistics as also the Justice Malimath Committee Report.

Not much reporting is available on the scenario in Goa as regards the issue of delay in justice delivery and its socio-legal implications. Hence most of the study will be based on field work and data collected through RTI and newsreports.

OBJECTIVES OF THE STUDY

The proposed study intends:

- (1) To study the concept of speedy and delayed justice.
- (2) To study the causes for delay in justice delivery in general.
- (3) To study the causes for delay in justice delivery in India.
- (4) To study the causes for delay in justice delivery in Goa.

- (5) To study the statistics of pendency of cases in India and Goa.
- (6) To study the views of the stakeholders as regards the speedy and delayed justice.
- (7) To study the steps being taken to solve this problem in Goa.
- (8) To analyse the success of steps being taken to solve this problem in Goa.

HYPOTHESES OF THE STUDY

The following are the hypotheses of the study:

- .1. The Problem of delayed justice due to the pendency of cases in Goa is a serious socio-legal problem facing the citizens in Goa.
2. The steps being taken to solve this problem in Goa are grossly inadequate.
3. There is no Political Will to solve this problem of delayed justice in Goa

SCOPE AND LIMITATION OF THE STUDY

The present study is intended to study and analyse various aspects of delayed justice specifically in Goan context. To achieve this end a thorough study will be done mostly in North Goa district of Goa.

Thus the limitations of the study can be listed as below:

1. The study will be confined to only one specific North Goa district of Goa .
2. It will be confined to the lower courts, District Courts and High Court of Bombay at Goa.

METHODOLOGY

Research Approach

The study will involve collecting all statistical and other relevant data from the Courts in Goa and Law department of Goa Government. It will also involve conducting a survey of stakeholders especially the litigants and the lawyers with regard to delayed justice and pendency of cases. This survey will be conducted using survey questionnaire or Public Inventory. Also interviews of important judicial authorities will be done for their views. The research approach will be primarily explorative and documentary.

Data Collection Tools

The study will also involve gathering the views of the stakeholders. To achieve this end necessary interviews will be conducted to elicit deeper insights into various aspects of this serious socio-legal problem. This will be done through interview schedules developed for various respondents.

Sources of Data

The study would entail, primary sources of data collection i.e. field data through survey, questionnaire and interview method and secondary data through reference to library materials and reports, if any.

REPORT CONTENT

The Report will be a document with the following scheme (tentative)

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