An Analytical Study of Delay in Disposal of Cases from Lower Judiciary with Special Reference to Sangli and Kolhapur Districts

DR. SWATI PRITHVIRAJ GAVADE

Assistant Professor
Shahaji Law College, Kolhapur

SHAHAJI LAW COLLEGE, KOLHAPUR PUBLICATION SERIES

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Publisher:

Shahaji Law College, Kolhapur
1090 ‘E’ ward shahupuri, kolhapur – 416 001
www.shahajilawcollege.com
swatigavade9990@gmail.com
call: 8007459990

ISBN: 978-81-972236-7-9

INDEX

TABLES AND FIGURES

ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
AIR	-	All India Reporter
ICCPR	-	International Covenant on Civil and Political Rights
SC	-	Supreme Court
SCC	-	Supreme Court Cases
UDHR	-	Universal Declaration of Human Rights
USA	-	United States of America
UK	-	United Kingdom
FIR	-	First Information Report
Cr.P.C.	-	Code of Criminal Procedure, 1973
C.P.C	-	Civil Procedure Code
IPC	-	Indian Penal Code
ICT	–	Information Communication Technology
Vol.	-	Volume
V	-	Versus
Hon'ble	-	Honourable
Sec	–	Section
CrLJ	-	Criminal Law Journal
UOI	-	Union of India
NJDG	-	National Judicial Data Grid

CHAPTER - I
INTRODUCTION

1.1 Introduction

"Delay in justice is injustice"[1]said by British writer Walter Savage Landor (30 Jan. 1775- 17 Sept. 1864) in an "Imaginary Conversation between Peter Leopold and President Du Paty" published before 1846.

Indian judiciary is set in an hierarchical pattern. The highest court of appeal is Supreme Court under which is High Court in every state. There is a system of subordinate civil and criminal courts under the High Court in every state. Lot of judicial work is done by the subordinate judicature. These courts come in close contact with the general public and thus their proper and effective function is very important. "The Courts are the final course of action, to protect the rights and to secure decency in public life."[2]

Today, frequent pendency and bulky backlog in courts is the important issue to be settled for judicial reform. Our trial courts are full of pending cases. This problem is more crucial in criminal courts where accused has to wait in jail for disposal of his case. The period may be for months or may be for years. It may take a generation in some property cases or in severe criminal cases. The accused has to wait for such a longer period even in cases of small petty offences.

Delay not only causes injustice but also violates human right. The case which should be disposed in 1 to 2 years will take10 to 15 years for disposal. Then instead of establishing his right, he loses it automatically. He will take then law in his hand, due to procedural and practical inefficiency in administration of justice. Such distrust will create chaos in society which is not good for social health.

According to Justice Giorgio Del Vecchio "**Without justice, life would not be possible and even if it were it would not be worth living**"[3]

The judiciary is one of the organisations on which the noble structure of democracy and rule of law lies. The Constitution has given the judiciary the

1 www.quoteiston.com. accessed on 30 october 2017 at 04.00 p.m.
2 Dr. Kesari U.P.D (2008), Administrative Law, Central Law Publications, p.402.
3 www.goodreads.com. accessed on 16 November 2017 at 02.00 p.m.

power to check every organ of the state within the limits. Judiciary is the vault of public faith. People trust judicial system. Judiciary is the final resort to get justice when one fails to get his grievance redressed. It is the only temple worshipped by every citizen in the country irrespective of any kind of distinction based on religion, caste, creed or place of birth.[4]Justice is totally a secular process.

Justice K. G. Balakrishnan views on February 2009, while inaugurating a conference on Alternative dispute resolution in Chandigarh expressed, "People want orders from courts not the display of English talent of judges. People want justice not order running into several pages. A case should not be pending for more than 2 years."[5] The delay in disposal of cases is one of the biggest flaws of our Indian judicial system. In High Court, Supreme Court as well as in lower courts a large number of cases both civil and criminal are pending. Small suits take 7 to 10 years for disposal. As we know, "**Justice delayed is justice denied**." Public faith hampers due to delay in the disposal of cases and appeals in the course of administration of justice. This leads to irreparable loss to the litigant and the justice falls into disrepute. It is very unfortunate for a democratic society where people completely depend law and for protection of their rights. The economic progress of the country is affected by the laws delay.[6]So law affects social and economic status of our nation.

As per recent data from the National Judicial Data Grid 22.76 lakh cases are pending for more than 10 years, amongst which the 2.54 crore cases are pending in about 17,000 subordinate courts in India. [7]Though it is not easy to dispose the cases in India which has a population of more than 1,30,00,00,000. It is very crucial to maintain law and order in country.

Justice and Rule of Law for the millions residing in the rural areas of our countries remains painful illusion. Today the judicial system is not able to

4 Dr. Jena K.C. (2012), Judicial Independence and Accountability: A Critique, Indian Bar Review, Vol. XXXIX (4), p.9.
5 www.wikipedia.com.accessed on 28 November 2017 at 01.00 p.m.
6 Jain M. P.(1996), Outline of Indian Legal History, Allahabad Law Publisher.
7 www.soolegal.com.accessed on 19 December 2017 at 03.15 p.m.

provide speedy and inexpensive justice to the people residing in rural areas who is having poor economic condition.[8]

More than 2,30,00,000 cases are pending nationwide across the District Judiciary in India. It includes more than 1,50,00,000 criminal and 72,00,000 civil cases. Maharashtra has the second highest number of pending cases across country, after Utter Pradesh. More than 31,00,000 cases are pending in Maharashtra. The number of pendency includes 20,00,000 criminal, 11,00,000 civil cases. Total cases are pending for less than 2 years are 43%. [9]

In Hussainara Khatoon v Home Secretary State of Bihar a writ petition of Habeas Corpus was filed by under trial prisoners who were in jails in state of Bihar. For many years they were waiting for their trial. In this case the Supreme Court observed that, right to speedy trial as a fundamental right which is provided under Article 21 of constitution. Speedy trial is the very important aspect of criminal justice system. Under the United States constitution speedy trial is one of the constitutional guaranteed rights. Justice Bhagwati has rightly said that although, unlike American constitution speedy trial is not specifically given as a fundamental right, it is indirect part of Article 21 of Constitution.[10]

Thus, problem of law delays has been a perennial problem in the Indian judicial system. The problem has caught the attention of Government from time to time, various attempts have been made to solve it but, the efforts are insufficient.

The Indian judiciary is remarkably considered as protector of rights of citizens. But it is carrying with itself a stigma of mounting arrears of cases. The ratio of filing cases and disposal of cases is inappropriate. Huge numbers of cases are pending in the subordinate courts in India. Article 21 of the Constitution guarantees right to speedy trial to litigant and also Article 39 provides free legal aid. But in many cases these rights have been violated. Many a times number of attempts has been made by the government of India and also by judiciary but it has failed every time.

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8 Dr. Singh K. J., Singh V., Choudhary V. (2012), The Gram Nyayalaya Act 2008: Key to Reviving Grassroot Justice for Common People, Indian Journal of Law and Justice, ISSN no. 0976-3570, p.1.

9 www.Hindustantimes.com accessed on 9 February 2018 at 05.00 p.m.

10 Pandey J.N.(2008), The Constitution Law of India,45th ed., Cetral Law Agency, Allahabad,p.259.

The primary reason for such pending litigation is the non-availability of number of judiciaries. As the ratio of judges compared to population of country is abysmally low. In the lower courts this problem is becoming very crucial. A Judge has to face 50-60 cases every day. But out of these cases only few of them may be heard by judges which can be counted on the fingers. As it is virtually impossible to go through all these cases. This automatically leads to increase in number of pending cases. It takes more than 20 years to dispose one litigation which goes from lower courts to Superior Courts. It is not worth also to have justice after such long wait.[11]

1.2. Statement of Problem

There are many flaws in the Indian judicial system. In addition to that it suffers from pending litigation as a serious flaw. The Law commission has characterized the existing judicial system as, "stratified, costly, not accessible, orthodox, protracted and dilatory." The system is "a preserve of the rich people and well to do." And "poor people are unable to afford the expenses of litigation."[12]

Also, Justice is not available to a weaker and poor people due to economic and other disabilities. A right to free legal aid and advice is provided in Indian Constitution. XIV report of The Law commission of India states that, "It is the state obligation to provide free legal aid to poor people. For this purpose, the state should make necessary funds."[13] The commission further referred Article 14, preamble of the constitution and mention that equal justice is part and parcel of justice delivery system. But opportunity to approach to the courts depends on excessive court fees and assistance of skilled lawyers. If litigant fails to do so he is denied access to court. If access to court is decline, the main object of Indian courts to provide legal aid to poor may not be achieved. It indirectly creates a discrimination. Thus providing a legal aid to the poor litigant is not a small issue of procedural law but a problem of rudimentary nature."

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11 www.hindustantimes.com, Article Justice delayed is justice denied by Harish Narasappa, accessed on 13 November 2019 at 01.52p.m.

12 Khosala G.D. (1986) ,Our Judicial System,University Book Agency,p.223.

13 Law Commission Report No. 14, Reforms of the Judicial Administration,Vol.1

Also, the court fee which is imposed on litigant is not reasonable. The court fee structure is described in list II, entry 3, schedule VII of the constitution. Every state is having an authority to impose the court fee. But that also should be according to the service provided by them. **In state of Madras v Zenith lamps**.[14] The court held that court fee is not "Taxes" but fees. It should not to meet the governments other expenditure but to meet the administration of justice. This creates a hurdle for poor or weaker section in reaching courts.

The above situation of pendency issue is not only crucial in civil but also in criminal justice as well. A person who is accused of crime has to wait for a long period, even before his trial begins. The situation is more dangerous in case of under trial prisoners. This is only because the number of criminal courts in the state is not in proportion of population of country.

India is not an exception for the problem of pending litigation. It is crucial problem all around the world. Our Indian judiciary is overburden with work and it leads to delay of disposal of cases.

All the states in the country are facing the problem of delayed justice. Maharashtra has the maximum number of pending cases across states in India. Total 31 lakh cases are pending in Maharashtra, including civil and criminal cases.

Among the three organs of the state i.e., executive, legislative and judiciary, the judiciary performs important function of imparting justice. People keep faith on judicial system and wait for the decision. There is limit to patience of litigant. When justice is not provide within reasonable time then what is the use of imparting that justice? Therefore, **Justice delayed is equal to Justice denied'** is common saying now a days. It diminishes the trust of citizens on judiciary. And if this trust diminished wholly then it became difficult to maintain law and order in the country.

According to report of Law Commission dated 14thJuly 2014 and the Article in the Indian Express newspaper dated 15th January 2017 about 2.8 million cases, are pending before judiciary. Many people are waiting for justice which is in the hands of court system with highest hope. People trust judiciary, but unfortunately our court system is overburdened with pending cases.

14 AIR 1973 SC 724.

Backlog has increased in courts because legislation has given additional job to judicial officer therefore the work has increased instead of their strength. Also State governments apathy to establish necessary number of courts is another reason for pendency.

75 years have passed since Indian independence. As India is the worlds highly populated country, today 3.9 crore cases are pending in subordinate courts all over in Indian courts. The number of judges in these courts is less as compared to the population of that state[15]

There is a discrepancy between the filing of cases and the disposal of cases. Every year there is a huge increase in number of pending cases. There are number of reasons for such a huge pendency. The time consumed by judges to deliver the judgment, absence of witness, procedural technicalities, lengthy trials are some of the reasons behind it. We can see that courts are overburdened with cases but judiciary is less in proportion to the population. Also, judiciary is overburdened with administrative work. Delay affects the memory of witnesses and results in loss of evidence. This also adds to the pending litigation issue. Many a times a single judge in a court handle both civil and criminal cases which affect the rate of disposal of cases. Appointment of judges for non-judicial works like inquiry, commission etc. affect the working of judiciary. Lawyers too are contributing factor for delay in trials. Due to lawyers strike pendency has increased. Various committees, commissions are appointed to solve the issues of pending litigation. There is need to tackle the problem of delayed justice but we do not want to dispose of cases by any means. Because '**Justice Hurried is equal to Justice Buried'**. Thus, fair and equitable justice is the need of hour.

1.3. Significance of the Study

In India millions of cases are pending in apex and subordinate courts. This problem has been studied by the Indian Law Commission many times. The main reason is the infrastructural deficiency. There are other reasons too contributing to it. **Delay in justice causes injustice** has become a common saying. If this situation remains then peoples faith in judiciary may be lost.

15 Srinivasan Ramani, Justice Delayed: Crores of Cases Pending Across India, The Hindu, dated Nov.20, 2018.

So, situation in the country clearly demands for the 'Judicial Reforms'. Such reform can be made only when such pendency issues are tackled effectively. As we want India to be a welfare state, the dream will only come true if major and effective steps are taken. The government efforts have failed every time, even after 75 years of our independence. The situation is now getting from bad to worst. So, prompt steps must be taken. It is not that government is not taking any actions or any steps for that. But we are still unable to overcome this issue which underlines that the actions, efforts taken by government are not sufficient, there is need to change and additions in them.

This research may help to find out causes of the delay in disposal of cases with the help of various reports and analytical studies. It may help the judicial administration to bring reforms in its day today working.

The lawyers, police department will definitely get guidelines to reduce the rate of pendency of cases.

It will also be helpful to some extent to provide innovative solution to the problems of pendency of cases. It will be more helpful to ordinary people as they are the real victims of delay in getting justice. Above all to maintain law and order by providing justice within specified time is the important aspect of this research work.

1.4 Selection of the topic with reasoning

Large number of civil and criminal cases are pending in various courts. Delayed justice is the biggest problem of our country. Litigants are waiting for the disposal of cases. Justice must be given within the specified time, if not its value will be diminished.

It has shaken the confidence of public in the administration of justice. Many solutions were tried and implemented to reduce the pendency in the court. But they failed miserably every time. Now our judiciary is overburdened with pendency of cases. The issue of pending and unsolved cases affecting health of our law system. People are getting disappointed due to lengthy and confusing process of justice. That is why most of the time common civilian avoid to step up toward the courts and it shows their disbelief in our law system. Maharashtra has the maximum number of pending cases across the states in India. This

research may help to provide innovative solution to the problem of pending litigation.

1.5. Aims and objectives of the study

Access to justice or courts is matter of serious concerned for poor, down trodden, BPL, disadvantaged strata of the society. The basic objective of the research is to identify the obstacles in respect of judicial services in relation of delay in disposal of cases. In order to analyse and examine the identified research problems, the research work intends to achieve the following objectives,

The aim of research work is to

1) To study the causes for delay in disposal of cases.
2) To analyse the working of judicial staff.
3) To search innovative solutions to reduce delays in judicial proceeding.
4) To provide the suggestions to the judicial system, lawyers while discharging their duties.
5) To give suggestions based on the findings.

1.6. Review of Relevant Literature

The random literature concerning the topic is available in the books and journals mentioned in the bibliography. However, there is no concrete literature directly bearing on the research problem in question is available. The primary literature therefore for the study would be the Apex Court judgments bearing on the pendency of cases and safeguards thereof. The literature available in the bibliography would be made use of, for some of the chapters. The rest of chapters would be based on empirical research.

Literature Review of Books

1) **Constitutional Law of India**

Pandey (2015) in his book 'The Constitutional law of India'[16] has explained the work of judiciary. Judiciary imparts justice to the economically backward class and thus has necessary check on executive. The author in this book has incorporated various landmark judgments of Supreme Court which safeguard the Constitutional rights of every citizen. It has also stressed importance of performance of Constitutional duties by the executive and legislature. Non-performance of which may lead to chaos in the society. Also, author has focused on right of speedy trial which is fundamental right under Article 21 of Constitution with various landmark case laws. It also states that if it infringes his right, he can move to Supreme Court under article 32 of Constitution for its enforcement.

The author has concentrated on the various Constitutional rights of citizens with the various landmark judgments. The author hasn't talked about any solution to the problem of huge pendency in the courts of law, which is a matter of global concern. Though this study supports to the study of the present researcher giving basic idea of right of speedy justice guaranteed under Constitution of India. But the present researcher has moved one step ahead in providing innovative solution for this huge pendency.

2) **Indian Constitutional Law**

Jain in his book Indian Constitutional law[17] has explained various constitutional provisions for the protection of fundamental rights of individual. With the illustrative case laws, he has explained the work of judiciary for the protection of fundamental rights. Judiciary through its various precedents says that right to speedy trial is part and parcel of Article 21 of Constitution of India.

The author has concentrated on the various Constitutional rights of citizens with the various landmark judgments. The author hasn't talked about any solution to the problem of huge pendency in the courts of law, which is a matter of global concern. Though this study is support to the study of the

16 Dr Pandey J.N. (2015), Constitutional Law of India, Central Law Agency, Allahabad.
17 Jain M.P. (2018), Indian Constitutional Law, LexisNexis.

present researcher giving basic idea of right of speedy justice guaranteed under Constitution of India. The present researcher has moved one step ahead in providing innovative solution for this huge pendency.

3) **History of Courts and Legislation**

Tripathi (2009) in his book, 'History of Courts and Legislation'[18] has explained in detail the development of judicial system in India from Ancient period till British period. The growth of legislature is explained in this book with a separate chapter. Also, author of this book discussed in detail the, the court structure, development of legal education, legal profession, criminal law in India. Thus, the growth of judicial system with the legislation has been well elaborated by the author including ancient, medieval and British period.

The author has focused on the judicial growth in India. The author hasn't talked about present judicial system and the problem faced by judiciary now a days, which is a subject for present researcher.

4) **Outlines of Indian Legal History**

Jain (2001) in his book, 'Outlines of Indian Legal History'[19] has elaborated different stages of development of legal institution in India. Before codification of laws, the judiciary played vital role in imparting justice which has been explained by the author in this book. Also, one significant chapter modern judicial system has been added by the author. The other chapters like law reforms, law reporting, legal profession is also inserted. For the codification of law, the role played by law commission are explained by the author. So, it gives the present researcher the exact idea about the growth of judiciary and also about codification of the law and various law reforms.

The author has focused on various aspects like codification of law, law reforms, legal profession, and legal education. In addition to that he has inserted modern judicial system. But the problem faced by todays judiciary has not been considered by the author which is the research area for present researcher.

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18 Tripathi G.P. (2009), History of Courts and Legislation, Central Law Agency, Allahabad.

19 Jain M.P. (2001), Outlines of Indian Legal History, 5th Wadhwa and Company, Law Publishers, Nagpur.

5) **The Constitution of India**

Bakshi (2017) in his book 'The Constitution of India'[20] has elaborated the Constitutional provisions from preamble to emergency, with help of various case laws. The detailed interpretation of every article of Constitution has been explained by the author. This gave ideas to the present researcher for his study. The author says that the judges, the lawyers and the administrative staff who are working for imparting justice should work carefully. Speedy trial is the right of every litigant. It is necessary that the matter should be disposed of within stipulated time. For that purpose, author has mentioned various landmark judgments of the court. The judiciary have also mentioned their concern for the delay in disposal of case.

The author has discussed in short, the concept of right to speedy trial. The detailed interpretation of speedy justice is not provided by the author. Also, the other factors like lawyers, administrative staff which are contributing for delay in disposal of cases has not been considered by author which is the area for research of the present researcher.

6) **Constitution of India**

Dr. Agrawal (2017) in his book, 'Constitution of India'[21] has mentioned various landmark judgments on right to speedy trial. The right to speedy justice is integral part of article 21 of Constitution of India. It is the duty of judiciary to give justice within stipulated time otherwise it may violate the right provided under the Constitution of India. For that purpose, author of this book sights various case laws which gives evidence that right to speedy trial is a right of every litigant seeking for justice. The Supreme Court of India by its judgment also stressed the importance of imparting justice within timeframe. If it is not given within such stipulated time, it may create chaos in the society, which is subject area for present researcher. It gives direction for his study.

The author has focused on various judgment of speedy trial. But author hasn't talked about any interpretation of speedy trial. Present researcher has moved one step ahead by providing detailed interpretation of speedy trial with its judicial interpretations.

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20 Bakshi P.M. (2017), The Constitution of India, Lexis Nexis.
21 Dr Agrawal P. K .and Dr. Chaturvedi K. N. (2017), Constitution of India, Prabhat Prakashan.

7) **Constitution of India and Pendency of Court Cases**

R. C. Aggarwal in his book, Constitution of India and pendency of court cases[22] (2016) has discussed the various aspects of Constitution of India. His book is a compilation of various 32 Article written by eminent judges, advocates on the topic of Constitution and delayed justice. The writers of article in this book also make analysis of pending litigation with statistic. He has mentioned the causes behind the delay in disposal of cases and also suggested the remedies to solve the issue. The delayed justice is crucial problem in India. It not only existed in superior court but inferior courts too haven't escaped from it. Every hierarchical step is affected by this delayed justice and pendency problem. As per the opinion of various writers, Constitution is mere a document and is of no use for the benefit of society. It gives guideline for present researcher as relating figures which gives exact idea for pending litigation, its causes and remedies for it.

The author of this book has focused on various causes leading for non-disposal of cases within the time. It has also suggested possible solution for it. But he hasn't considered problem of pendency of subordinate courts. Also, the solutions provided are not practicable in the lower judiciary. But the present researcher moves one step ahead in providing innovative solution for huge pendency in the lower courts.

8) **D. J. De. The Constitution of India**

Justice B. Sudarshan Reddy in his book D. J. De. The Constitution of India[23] has illustrated in detail every article of constitution with the landmark judgment. He has explained in detail that right to speedy trial is Constitutional mandate and it is fundamental right of litigant. Also, author has elaborated the difference between speedy trial and fair trial. He has stated that delay in trial violates the right of litigant provided under article 21 of Constitution of India. It is available to him at every stage including trial, investigation, and post-trial. He explained the 'common cause' cases wherein the accused is directed to be released on bail, where his trial is pending. It not only includes the right to speedy trial in trial stage but also at appellate stage. He stated that it is the duty

22 Aggarwal R.C. (2016), Constitution of India and Pendency of Court Cases.
23 Justice Reddy B.S. (2017), D.J. De, The Constitution of India, Asia Law House, Hyderabad.

of state to provide equal justice and free legal aid provided under article 39 A of Constitution. It covers criminal as well as civil pending cases under the purview of right to speedy trial. The proceeding needs to be struck down which is unreasonable.

The author has concentrated on the right to speedy trial with the landmark judgments. The author hasn't talk about the issue of pending litigation at lower judiciary. Though this study is support to the study of the present researcher giving basic idea of interpretation of right to speedy trial and its availability at different stages of trial. But the present researcher has moved one step ahead in studying the problem of pending litigation at lower judiciary.

9) **Shorter Constitution of India**

Durga Das Basu (2018) in his book 'Shorter Constitution of India'[24] has elaborated right to speedy trial with number of leading cases. He has stated that it is available in every category of cases. It is not confined not only to the trial but also to the police investigation stage. He has focused on the duty of state to provide speedy justice. Also, it is available in disposal of mercy petition under Article 72 of Constitution of India. Though author has explained in very short about speedy trial but he has cited number of cases in support of his writing.

The author has focused on right to speedy trial, with number of judgments. The author hasn't talked about the problems faced by responsible judiciary in disposal of cases. He has held only judiciary responsible for delay in disposal of cases. But there are other factors responsible for delay in disposal of cases which is the study of present researcher.

10) **Constitutional Law of India**

Dr. Narender Kumar (2016) in his book 'Constitutional Law of India'[25] has explained that though not directly but through judicial interpretation right to speedy trial is fundamental right provided under Article 21 of Constitution of India. As per author the procedure in trial must be fair, just, and reasonable and it should not violate liberty of that person. Author has stated that speedy trial

24 Dr Basu D. D. (2007), Shorter Constitution of India, 15th ed., Lexis Nexis.
25 Dr.Kumar N. (2016), Constitutional Law of India, Allahabad Law Agency,Faridabad.

protects accused from unnecessary detention, it saves the accused from social stigma. In addition to that evidence may have chance of being destroyed due to long delay. Also, author has stated the guidelines of Supreme Court given in the A. R. Antulay case. He has explained the difference between the speedy trial and fair trial. The author of this book has elaborated the number of judgments in support of his writing.

The author has concentrated on the right of speedy trial with case laws. He has stated the difference between fair trial and speedy trial. Though this study is support to the study of the present researcher by explaining the speedy trial. But the present researcher has moved one step ahead in studying the problem of pending litigation in lower judiciary. The author hasn't talked about the problem of pending litigation which is the study subject for present researcher.

11) **Human Rights and Criminal Justice**

Pandit Kamalakar in his book 'Human Rights and criminal justice'[26] has explained the right to speedy trial with the historical background of this right. He has stated the international provision for speedy trial in international covenant on civil and political rights 1966. He discusses the Constitutional and criminal procedure code provision for speedy trial. He has stated that the right to speedy trial emerges due to judicial activism. As right to speedy trial does not directly arise from Constitution but through judicial interpretation right to speedy trial becomes essential part of article 21 of Constitution of India. There are number of judgments discussed by author where court struck down the proceeding due to prolonged delay. He has explained that inadequacy of number of judicial officers is responsible for delay in disposal of cases. He has further stated other reasons for delayed justice. Delay in execution of death sentence is also hurdle for speedy justice.

The author has focused on the Constitutional, statutory, international provisions for pending litigation. He hasn't talked about the problem of pending litigation at lower judiciary. Though this study is support to the study of the present researcher by giving national, international perspective for speedy

26 Kamlakar P. (2019), Human Right and Criminal Justice, Asia Law House, Hyderabad.

justice. But the present researcher moves one step ahead in studying the problem of delayed justice in lower courts.

12) **Rights of Accused**

Dr. Ashutosh in his book 'Rights of Accused'[27] has stated various rights of accused. He has explained the right to speedy trial with the reasons behind the delay in disposal of cases. Author has discussed that the right to speedy trial is available not only in civil justice system but also in criminal justice system. The provisions for the same contained in criminal procedure code. The delay in delivery of judgment has been considered as one reason of delayed justice by Supreme Court in 'Anil Rai' case. Also, author has held lawyers strike responsible for delay in disposal of cases. In support of his writing, he quotes that '**Justice delayed is justice denied'**. He cited various criminal case laws where the court considered that right to speedy trial is available to accused also in criminal cases. He explains various reasons for delay in disposal of criminal cases. Author states that the accused has the right of bail in case of delay in conducting trial.

The author has focused more on criminal justice system and rights available to accused in criminal cases. The author hasn't talked about the civil justice system. Though this study is support to the study of present researcher giving brief right available to accused in criminal cases. But the present researcher moves one step ahead in considering civil and criminal justice system along with their present situation.

13) **History of Courts, Legislature and Legal Profession in India-**

Dr. Kailash Rai (2004) in his book, 'History of Courts, legislature and Legal Profession in India', has explained the history of court system in India. [28] The author has discussed the judicial institution in first part. In second part he has discussed history of legislature in India with the struggle for independence during British period. In third part he explained the growth of legal profession

27 Dr.Ashutosh (2010), Rights of Accused, Universal Law Publication Co.Pvt.Ltd.
28 Dr. Rai K. (2004), History of Courts, Legislature and Legal Profession in India, Allahabad Law Agency.

in India. He gave basic idea as to how the judiciary develops in India. He also discussed in detail as to how the legal profession became noble in India.

The author has concentrated on the history of judicial institution of India, and its development. He hasn't talked about the present judicial system and the problem of delayed justice faced by the judiciary. Though this study is support to present study of researcher as he explained as to how judicial system grows in India. The present researcher moves one step ahead by studying present judicial system with the problems faced by them, today.

14) **'History of Courts, Legislatures and Legal Profession in India**

In his book Dr. T. Padma and K. P. C. Rao (2010) 'History of Courts, Legislatures and Legal Profession in India[29] has discussed the development of court system in India. He also stated the growth of legislature, and legal profession. The author has explained that we have adopted the judicial system from British period and the judiciary is guardian of fundamental rights with the extensive powers given to the Supreme Court and High Court. He has explained the importance of judiciary and role played by them.

The author has focused on historical background of judicial system. He hasn't talk about the present judicial system. But the present researcher moves one step ahead by studying the lower judicial system at present and their hurdles in delivering justice.

15) **Human Rights and the Law.**

Dr. Paramjit S. Jaswal and Dr. Nishtha Jaswal (1996) in his book, 'Human Rights and the Law'[30] have explained the right to speedy trial of prisoner. He considers the right to speedy trial as human right. He has stated the importance of giving justice to the accused on time, who is waiting in jail for their trial. For this purpose, he has given the leading case law i.e., Hussainara Khatoon case. This case proves a milestone in achieving the speedy justice. He has pointed out the states ignorance in protection of human rights. He has further explained guideline given by Supreme Court for speedy justice in

29 Dr. Padma T. And Rao K. P. C. (2010), History of Courts, Legislature and Legal Profession in India, ALT Publication.

30 Dr Jaswal P. S and Dr. Jaswal N (1996), Human Rights and Law, APH Publishing Corporation.

A. R. Antulay case. Author has stated that warning has been given by Supreme Court. This warning may be sufficient to executive and lower judiciary for encouraging them in delivering justice within time. As Supreme Court is guardian and protector of human right it plays vital role in imparting timely justice.

The author has focused on role of Supreme Court in providing justice within time as a human right. He has explained the number of case laws in support of his writing. But he hasn't talked about the role of lower judiciary in imparting justice. The present researcher moves one step ahead by studying the role of lower judiciary in delivery of justice.

16) **Law of Fundamental Rights**

Chaudhari and Chaturvedi's (2017) in his book 'Law of Fundamental Rights'[31] has explained the Right to speedy trial as right of accused in criminal cases. It is necessary to prove the guilt of accused without delay. He further stated difference between fair trial and speedy trial. Denial of speedy trial is the violation of human right. Author has focused on international perspective for speedy justice and the importance of speedy trial for protection of the human right of accused. The effect of delay in disposal of cases violates the Constitutional right of litigant. The court struck down the proceeding where there is long delay in investigation. The power of parliament has been extended to see whether armed forces are exercising their power for public interest without violating the Constitutional right of citizen under part III of the Constitution. These powers are contained in Article 33 of Constitution. The duty is cast on state to safeguard rights of weaker section and minorities right of speedy justice.

Author has concentrated on right to speedy justice in criminal cases. He hasn't talked about the speedy justice in civil justice system. But present researcher moves one step ahead by including both civil and criminal justice system.

31 Chaudhary and Chaturvedi's (2017), Law of Fundamental Right, Delhi Law House.

17) **Lawman's Law on Speedy and Fair Trial along with Arguments**

Nayan Joshi (2016) in his book 'Law on Speedy and Fair Trial along with Arguments'[32] has elaborated scope of speedy trial in details. The author stated that speedy trial should not be attended at the cost of fair trial. Though terms speedy trial and speedy justice are not explicitly stated under article 21 of Constitution of India. The apex courts through its judgement considered it as fundamental right. They are similar to the rights contained in American Bill of Rights and British Magna Carta. But Indian court does not fix any limit on time for concluding the trial of case. Speedy trial provides opportunity of administration of justice and it releases the accused from suspicion of prosecution. To meet the end of justice it is necessary that trial should be concluded within reasonable time. Author explains speedy trial with case laws.

The author has focused on right to speedy trial in detail with the landmark judgment. But he hasn't talked about problem of pending litigation at lower judiciary which is the subject of study of present researcher.

18) **'The Judge Speaks'**

Dr. Justice A. R. Lakshmanan (2009) in his book, 'The Judge Speaks'[33] has explained the huge pendency in judicial institution. Author has stated the reasons behind the huge backlog of cases. The public document i.e., Constitution of India is formed to make country democratic and republic. To make country a welfare state it is necessary to improve court system of country, this has been explained by author under the chapter law delay. The government is the biggest litigant now days. He has quoted the number of reasons for delay in disposal of cases like lawyers strike, fake filing of cases, misuse of public interest litigation are some of them. In another chapter author has stressed importance of setting of fast-track court for disposal of small cause cases like cases under section 138 of Negotiable Instrument Act. Dr. Justice A. R. Lakshmanan suggested that Access to justice must be available to everyone and should be easily at the reach of everyone.

32 Joshi N. (2016), Law on Speedy and Fair Trial along with Arguments, Kamal Publishers.
33 Dr. Justice Lakshmanan (2009), The Judge Speaks, Universal Law Publication House.

The author focused only on delay in disposal of cases. He hasn't talked about the problem of pending litigation of lower judiciary which is the subject of research for present researcher.

19) **'Judicial Process'**

Prof. G. P. Tripathi and G. G. Tripathi (2018) in his book 'Judicial Process'[34] has elaborated court structure of various countries in the world. The author of this book discussed in detail the judicial institution, their structure, hierarchy of court, the designation of judges, and provision of appeal from lower to appellate court. He has also stated civil and criminal judicial system separately. Further he has illustrated the power in the hands of judges. He has included the court structure of United Kingdom, U.S.A. Swiss, Canada, Japan, China, U.S.S.R., England and France. He has also elaborated judicial system in India.

The author concentrated on the court structure of Indian and foreign countries. He hasn't talked about the problem of delayed justice of Indian Judiciary and other judiciaries in the world. The present researcher moves one step ahead by taking into consideration the problems faced by today's judiciary in justice delivery.

20) **'Handbook on Human Rights for Judicial Officers'**

National Institute of Human Rights in their handbook on 'Human Rights for judicial officers'[35] has discussed about speedy trial in the chapter Human Rights and criminal justice system. He has elaborated it in the handbook of statutory, Constitution provision for speedy trial and has explained in detail the judicial interpretation of speedy justice with the case laws. He also stated the supportive case laws relating the subject. He gave international perspective of Human Right Provision for Speedy trial. Author has discussed in detail for speedy trial provision with the explanatory facts.

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34 Prof.Tripathi G.P. and Tripathi G.G (2018), Judicial Process, Central Law Publication.

35 Handbook on Human Rights for Judicial Officer (2000), National Institute of Human Right, National Law School of India University, Bangalore.

Author has focused only on Constitutional and criminal procedure code provision and judicial interpretation of some leading case laws. He hasn't talked about other statutory provision like civil procedure code provision, Arbitration Act provision, and Indian Penal Code provision relating speedy justice. But the present researcher moves one step ahead by discussing all other statutory provision relating speedy trial.

21) **Judiciary in India**

U. C. Jain and Jeevan Nair (2000) in their book 'Judiciary in India'[36] have explained the court systems in India in chapter 2. He has elaborated the criminal, civil court system during British period and todays court system. In addition to that it discussed the hierarchy of court, powers, provision of appeal, and jurisdiction of these courts in detail. The procedure to be adopted by these courts also explained in detail. Not only the court system but the Law officers of central government, tribunals and commission have been elaborated in detail by the authors. They have discussed in the book about various tribunals like motor accident claim Tribunals, Railway rates Tribunals, Industrial Tribunal, Income Tax appellate tribunal, central and state Tribunals. The authors have explained in detail the entire judicial institution of the country including their structure, appointment of judges, powers, procedure, appeal provision in the chapters of the book.

The Author concentrated only on the court system in India. He hasn't talked about the problem faced by these judicial institutions in discharging their function. But the present researcher moves one step ahead by studying the problem of pending litigation faced by the todays subordinate courts.

22) **Landmark Judgments of Supreme Court (1950-2011)**

N. K. Acharya (2012) in his book 'Landmark Judgments of Supreme Court'[37] has discussed about various landmark judgment of speedy trial in detail. Not only the facts of the various cases but also the direction given by Supreme Court discussed by the author. These landmark judgments provide the

36 Jain U.C.and Nair J. (2000), Judiciary in India, Pointer Publishers, Jaipur.

37 Acharya N. K., (2012), Landmark Judgments of Supreme Court,3rd ed., Asia Law House, Hyderabad.

role played by judiciary through its decision for the protection of speedy justice right of accused. The author clarifies the judgment with the additional directions issued by court.

Author has focused on only few judgments about the speedy trial. It also gave guideline to the present researcher for understanding the role played by judiciary in protection of speedy justice. He hasn't talked about the reasons for delay and its solution. But the present researcher through her research is trying to provide solution through study.

23) **Justice, Courts, and Delay Vol. 1**

Arun Mohan (2009) in his book 'Justice, Courts and Delays'[38] in volume 1 has discussed the problem of delayed justice. If justice is not given within stipulated time, then it is of no use. Delay may be caused at any stage of the proceeding which defeats its purpose. Author has discussed not only the scope of the delay but effects of having justice after prolonged delay. Also, justice hurried is equal with justice buried. It may cause the errors in the process of justice. It affects the socio-economic development of the country. That is why there is need for strong justice delivery system. He has also explained the reasons for delay in disposal of cases. Corruption is one of the causes for delayed justice. It stresses importance of timely delivered justice and equal access to justice. He has also suggested the Alternative Dispute resolution modes for settling the dispute, like Conciliation, mediation, Lok Adalat etc.

The author has focused on the reasons, the effects, and the solutions for the delayed justice. He hasn't talked about the problem of delayed justice of lower judiciary. But the present researcher moves one step ahead by taking into consideration pending litigation issue of lower judiciary.

24) **Justice, Courts and Delays Vol. 4**

Arun Mohan (2013) in his book 'Justice, Courts and Delays'[39] in volume 4 has elaborated one of the main reasons of the delay in disposal of cases that is Adjournment. He discussed in detail factor responsible for

38 Mohan A., (2009), Justice, Courts and Delays, Vol.1.
39 Mohan A. (2013), Justice,Courts and Delays,Vol.4.

adjournment, its effects and solution to the problem of delayed justice. He also suggested the case management solution for this problem. He calls the backlog of cases as a monster which defeats the purpose of justice. The use of recent technologies like computer, setting of fast-track courts is also suggested by author as a solution to the problem of pending litigation.

The author has concentrated only on one reason behind delay in disposal of cases. He hasn't talked about other factors responsible for delay in disposal of cases. But the present researcher is taking into consideration other factors leading for delayed justice.

25) **Judicial Process**

Dr. Sheetal Kanwal (2017) in his book 'Judicial Process'[40] has explained in detail the concept of justice. She discusses the types of justice. She has stated Dharma as a source of legal system in the ancient time. Author explores the theories of justice in the foreign countries and also the Indian theories of justice. She discusses the role of judiciary in delivering justice within time. The apex court in its judicial decision has explained the importance of timely delivery of justice. The number of cases has been cited by the author to explain the role played by judiciary in the chapter, Judicial Process in India.

The author focused on concept of justice, theories of justice. Also, the judicial activism in the area of timely delivery of justice. She hasn't discussed about the problem of delayed justice in the lower judiciary which is subject of research for present researcher.

26) **'India's Legal System, can it be Saved?**

Fali S. Nariman in his book 'India's Legal System, can it be saved'[41] has discussed about the Indian legal system at British time and after independence its position. He has also explained Indian Legal System at the village level. He has also stated number of causes for delayed justice along with the efforts made by various commissions in India. He explores number of reasons for delay in disposal of cases along with the suggestions. He stressed

40 Dr. Kanwal S. (2017), Judicial Process, Amar Law Publications, Indore.
41 Fali. N.S. (2017), Indian Legal System Can it be Saved? Penguin Random House India.

the importance of quality of judges. The judiciary should work effectively with help of legislature and executive otherwise these mounting arrears of cases in courts may not come to an end.

The author differentiates the position of legal system before independence and after independence to make the picture clear about what changes occurred during these times. He further states reasons for such huge backlog with suggestive reforms. He hasn't talked about the delayed justice issue at lower judiciary. Though this study gives idea about Indian legal system to the present researcher. But the present researcher moves one step ahead by taking into consideration the problem of pending litigation at subordinate courts.

- **Literature Review of Research Journals**

1)"Right to speedy trial- one big illusion"

Researcher in his research paper "Right to speedy trial- one big illusion" [42] provides conceptual arguments and empirically explores the right to speedy trial as a problem of judicial institution. They explore causes for delay in disposal of cases. The role played by judiciary in protection of speedy justice through various case laws. Researcher also stated the right to speedy trial provided under American Constitution expressly but in India it is provided indirectly under criminal procedure code. It focuses indirectly speedy trial is highly impossible because of various reasons. The researcher suggested possible solutions for the speedy justice.

First gap of the study is that the whole research work was based on conceptual arguments based on secondary data. In addition, study related only to criminal justice system. Further, the researcher dealt with the subject at a very general level. The present researcher's study is based on primary sources of data.

2) **Access to justice and delay in disposal of cases**

"Access to justice and delay in disposal of cases" [43] provides conceptual arguments relating access to justice. It means having quick disposal

42 Mishra S and Singh S (2004), Right to Speedy Trial- One Big Illusion,Crimial Law Journal.
43 Rao P.P. (2003), Access to justice and delay in disposal of cases, Indian Bar Review, Vol. XXX (2&3).

of cases within reasonable time. Also, he stressed importance of quality judges. People want not only justice but quality justice. Researcher explores the solution for delay in disposal of cases, like Alternative modes of dispute resolutions, establishment of fast-track courts, and provision under civil procedure code under Sec. 89 (1). He stated the suggestion of Law Commission in its 125 report (1998) of shift system in Supreme Court.

First gap of the study is that the whole research work was based on conceptual argument based on secondary data. He has dealt with the subject at a very general level. The present researcher's study is based on primary sources of data.

3) **"Speedy trial in magistrate courts"**

The author in his research paper, "Speedy trial in magistrate courts"[44] provides the importance of attention of magistrate in speedy disposal of criminal matter. By taking measures like court management through maintenance of Board diary may help to give justice within time to accused and to victims also. He further classifies the cases as per their nature. Researcher suggested the format for disposal of civil and criminal case stage-wise on a particular date. The researcher suggested the Thana wise distribution of cases to the magistrate and the charges must be framed on the date of filing of First Information Report.

The whole research is based on the efforts to be taken by magistrate in quick disposal of cases. Further researcher stressed more on the criminal justice system. But there are other factors responsible for delayed justice which is considered by present researcher.

4) **Right of the Defendant: A speedy trial in the criminal proceeding**

The author in his research paper, "Right of the Defendant: A speedy trial in the criminal proceedings"[45] provides right available to accused in criminal proceedings. He stated the concept of speedy trial with the historical background of speedy trial. He explores the right to speedy trial in the criminal trial, in military justice system, the difference between American federal speedy

44 Agrawal V. K. (2004), Speedy trial in Magistrate Courts, Criminal Law Journal.
45 Adnan A. (2000), Right of Defendant: A Speedy Trial in Criminal Proceeding, Criminal Law Journal.

trial and state speedy trial. The researcher suggested some policies should be framed to dispose criminal matters speedily by the state.

First gap of the study is that the whole research work was based on conceptual arguments. In addition, study relates only to rights of accused in criminal justice system. He has dealt with subject at a very general level. The present researcher study is based on civil and criminal justice system both.

5) **"Judicial Dilemma regarding prescription of maximum time limit for conclusion of criminal trial and acquittal of accused thereafter – (A necessary requisite to make the right of an accused to speedy trial an effective and operative fundamental right")**

The author provides the provision of speedy trial under various 'Statutes in India[46] and also under the Article 3 of universal declaration of Human Right 1948. Though in India it is not provided directly under Constitution but apex court in it is various decisions held it to be the fundamental right. Also, the provision for the same is provided under criminal procedure code. During investigation it is also necessary to make available to the accused. Researcher stressed the difference of opinion between the judges for fixing limit for concluding the trial.

The whole research is based on the role of judiciary in protection of right to speedy justice. She stresses on criminal justice system and dealt it at general level, which is based on secondary data. The present researcher study is based on primary data and takes into study the civil justice system also.

6) **'Combating Corruption'**

Researcher in research paper, 'Combating corruption'[47] provides speedy and scientific investigation of corruption cases. He explained the concept of corruption which is act against laws. The researcher stated the importance of speedy trial in corruption cases of public servant. It affects the administration of the state government to the great extent. The provision for

46 Jaiswal J (2010), Judicial Dilemma regarding prescription of maximum time limit for conclusion of criminal trial and acquittal of accused thereafter – (A necessary requisite to make the right of an accused to speedy trial an effective and operative fundamental right, Indian Bar Review, Vol. XXXVII (3 & 4).

47 Madan A. (2000), Combating Corruption, Criminal Law Journal.

punishment is contained under Indian Penal Code and under the prevention of corruption Act 1988. It is necessary to dispose these matters summary.

The whole research is based on the speedy trial of corruption cases. The researcher hasn't talked about other civil and criminal matters. Further the researcher dealt with the subject at a very general level. The present researcher study is based on primary sources of data.

7) **'Special Courts and Speedy trial for rape victims'**

Researcher in his research paper, 'Special Courts and Speedy trial for rape victims'[48] provides the need of speedy trial in rape cases. As it is a crime against humanity it needs to be disposed of, in speedy manner. Researcher stressed that there are rape cases pending in the court where the victims are waiting for justice. He also quotes 'Delay Defeats equality' so it is necessary to give justice to rape victim in time. He also stated that fast track courts are of no use in the trial of rape case. Thus, there is necessity of establishment of special court for trial of rape cases.

The research is based on speedy trial of rape cases only. The whole research is based on conceptual arguments based on secondary data. Further he deals with the subject at a very general level. The present researcher study is based on all over the justice system including civil, criminal and importance of speedy trial in these cases.

8) **"Right to speedy trial – Is section 436A, Cr. P. C enough for this purpose"**

Researcher in his research paper, "Right to speedy trial – Is section 436A, Cr. P. C enough for this purpose"[49] discussed the rights of the accused to speedy trial and inclusion of section 436A in the criminal procedure code which provides right to speedy trial to the accused. It states that where the accused has undergone a one half of the maximum period of imprisonment specified for that offence and whose trial is pending, the court shall direct release of accused on bond. He also discussed about reasons for delay in disposal of criminal cases. It is the duty of state and legislature to ensure the speedy justice for accused.

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48 Chavan T (2007), Special Courts and Speedy trial for rape Victims, Criminal Law Journal.

49 Chopra N. (2007), Right to speedy trial – Is section 436A, Cr. P. C enough for this purpose, Criminal Law Journal.

The whole research is based on criminal justice system. Researcher hasn't talked about civil justice system. Further he deals with the subject at general level. The present researcher study is based on civil, criminal justice system at lower judiciary along with the problem of pending litigation.

9) **"Problems before the lower judiciary in changing circumstances via establishment of Human Rights courts at district level"**

Researcher in his research paper, "Problems before the lower judiciary in changing circumstances via establishment of Human Rights courts at district level"[50] has provided protection to violation of Human Rights by establishment of Human Rights courts by state government. It is necessary to dispose of these matters in speedy way. As under article 32, and article 226 of Constitution the litigant can move to the Supreme Court and High Court but it is out of reach of ordinary litigant. That is why the Human Right courts plays vital role in the protection of human right. It is necessary to dispose of the matter without delay.

The whole research is based on protection of human right through human rights courts in the district. He hasn't talked about the problem of pending litigation at lower judiciary of other civil, criminal cases. Further he deals with the subject at a general level and based on secondary data. The present researcher study is based on primary data dealing with pending litigation issue at lower judiciary.

10) **"Lok Adalat – The Mission the Movement and some thoughts for Fresh Impetus"**

Researcher in his research paper, "Lok Adalat – The mission the Movement and some thoughts for fresh impetus"[51] has explained the concept of Lok Adalat in detail. Today judiciary is facing problem of backlog of cases. The establishment of Lok Adalat which provides speedy, cheap justice is solution to the problem of pending litigation. Researcher suggested the matters to be tried before Lok Adalat for speedy trial like matters under section 320 of criminal procedure code, also the matter which are relating under trial prisoners.

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50 Singh M. (2003), Problems before the lower judiciary in changing circumstances via establishment of Human Rights courts at district level, Criminal Law Journal.

51 Sharma D.K. (2000), Lok Adalat – The Mission and the Movement and some thoughts for fresh impetus, AIR Journal.

As speedy trial is part of Article 21of Constitution, Lok Adalat serves the very purpose of it. It also helps to remove territorial, mental barriers between litigating parties.

The whole research is based on establishment of Lok Adalat and suggestions given by researcher to give speedy justice. He hasn't talked about the problem of pending litigation and dealt with subject at a general level. It is based on conceptual argument. The present researcher study is based on primary data and the problem of pending litigation at lower judiciary.

11) **"The New speedy trial law to maintain order in Bangladesh: It's Constitutional and Human Right implications"**

Researcher in their research paper, "The New speedy trial law to maintain order in Bangladesh: It's Constitutional and Human Right implications" [52] has explained the crime position in the Bangladesh country. To overcome the incidence of crime the law-and-order Disruption crimes (speedy trial) Act, 2002 has been passed by the government. To maintain law and order in the country the special courts were constituted, to try the matter speedily. But even after passing of speedy Trial act enforcement is no effective. It is influenced by politician and its arbitrary exercise fails its very purpose.

The whole research is based on speedy trial act passed in Bangladesh. It deals with the subject at general level and with help of secondary data. The present researcher study is pending litigation at lower judiciary in India by using primary data.

12) **"Hidden Factors that slow our courts and delay justice"**

Researcher in his article "Hidden Factors that slow our courts and delay justice"[53] discussed about the factors that are responsible for delay in disposal of cases. Though it is the constitutional mandate to provide speedy and easy access to justice, but practically it is not possible to every needy person to have easy access of justice. He explained the number of pending cases in lower judiciary that is 2.85 crore. In Supreme Court 61,000 cases and 40 lakh cases

52 Islam R.M and Solaiman S.M. (2004), "The New speedy trial law to maintain order in Bangladesh: It's Constitutional and Human Right implications", Journal of Indian Law Institute.

53 Sengupta A. (2016), "Hidden Factors that slow our courts and delay justice",

are pending in High Courts. Only filling of vacancies will not improve the problem of delayed justice. Also, he suggested ADR mode may help to reduce huge backlog of cases in India.

The whole article is based on conceptual argument based on secondary data. In addition, article stresses on only one ADR mode as solution for pending litigation. He has dealt with article on a general level. The present researcher study is based on problem of pending litigation at lower judiciary using primary sources of data.

13) **ADR and Access to justice**

'ADR and Access to justice[54]:' Issues and perspectives in his article researcher has stated the provision of access to justice under article 39-A of the Constitution along with problem of delay. He states the importance of Alternative Dispute Resolution modes for huge backlog of cases in the courts. He has criticized the judicial institution for its non-availability to the needy people. Justice Sinha explores the conceptual argument on concept of Alternative dispute resolution, its mode and implementation of ADR mechanism. He discussed the easy availability, cheap and quick access of the ADR modes. It will help to reduce the burden on the courts.

The whole article is based on the access to justice and Alternative dispute resolution mode. It deals with the subject at general level by using the secondary data. He hasn't talked about problem of delayed justice which is the subject of research for the present researcher by using primary data.

14) **"Waiting for justice: 27 million cases pending in courts, 4500 benches empty"**

Author in his article, "waiting for justice: 27 million cases pending in courts, 4500 benches empty"[55] (2016) provides the number of vacancies in the courts and its impact on delivery of justice. The article is based on statistical data as to the number of judges appointed in the courts. In this article they have stressed the importance of appointment of judges by taking into consideration

54 www.economictimes.indiatime.com/news accessed on 29 September 2018 at 05.20 p.m.
55 www.thsja.th.gov.in/article/ADR accessed on 3 October 2018 at 10.00 a.m.

the population. It also states the Supreme Court guideline for the appointment of 10% additional post of judges in the lower judiciary. The article focused on the problem of pending litigation and the only reason for it as the vacancies in the judicial institution.

The article is based on the vacancies in the court and its effect on delay in disposal of cases. They haven't talked about the other factor responsible for delayed justice. Further it deals with the subject on a general level. The present researcher has considered other factors leading for delayed justice.

15) **'Unnecessary delay in disposal of cases'**

Researcher in his article, 'Unnecessary delay in disposal of cases'[56] has discussed about the right to speedy trial as basic human right. He stresses on the vacancies in the court as root cause for the delay in disposal of the cases. The reason behind is the holidays taken by courts, Lengthy arguments, fees charged by advocates. Thus, he explores the reasons for delayed justice in the apex court. Many commissions and committees were formed to solve the problem of pendency but have failed. Still, we are facing the problem and it must be solved. Otherwise, people will lose their faith. It is not the only responsibility of executive and legislature but all 3 wings should work together. The whole article is based on the reasons for the delay in disposal of cases. It deals with the issue of pending litigation of apex court. He hasn't talked about the problem of delayed justice of lower judiciary. The present researcher has studied the subject by using primary sources of data

16) **"Delay defeats justice: A study of provisions of Civil Procedure Code and Limitation Act**

Researcher in his article, "Delay defeats justice: A study of provisions of civil procedure code and Limitation Act[57] has provided with causes for delay in disposal of civil cases. He clarifies the concept of delay in civil suits in detail. He explores the work done by committees in combating evil of delayed justice. He has also discussed the provision under civil procedure code for speedy

56 www.hindustantimes.com/india accessed on 29 October 2018 at 11.00 a.m.
57 www.legalserviceindia.com/law/article accessed on 2 November 2018 at 11.30 a.m.

justice. He states the role of judiciary in dealing with the problem of pendency with the help of case laws and has suggested possible solutions.

The whole article is based on the issue of delayed justice in civil suits only. He hasn't further talked about the delay in disposal of cases in lower judiciary of civil, criminal suits. He has dealt with the subject at a general level by using secondary data. The present researcher study is based on problem of pending litigation at lower judiciary by using primary data.

17) **"Delay in civil litigation: overview and Analysis"**

Researcher in her article, "Delay in civil litigation: overview and Analysis" [58] has discussed the issue of delayed justice in civil suits. She has stated the reasons for delay in disposal of cases with its effect on the ordinary litigants. It hampers the faith of people on the judicial institution. She has discussed the position of the pending litigation prior to amendments and after passing of various amendments under section 26, section 27, section 89, section 100A, section 102, order V, Order VI, Order XVII. She has also suggested the reforms made for the problem of pending litigation issue.

The whole article is based on the problem of delay in disposal of cases in civil suits. She talks about reason for and reforms for delayed justice. She hasn't taken into consideration criminal justice system and used the secondary data. The present researcher dealt with the subject by using primary source of data and includes civil, criminal justice system at lower judiciary.

- **Thesis Reviewed**

1) **A. H. Nathani (2004)** causes of delay in justice delivery system and correctional remedies"

A. H. Nathani in his thesis 'causes of delay in justice delivery system and correctional remedies'[59] has discussed reasons for delay in disposal of cases. He has suggested along with reasons and remedies for such delay like Alternative dispute resolution modes, establishment of Lok-Adalat, NyayaPanchayat etc. He has criticized the adversarial judicial system and its

58 http:// Blog-ipleader.in accessed on 3rd Nov 2018 at 5.30 P.M.
59 Nathani A.H. (2004), Causes of delay in justice delivery system and Correctional remedies, BAMU.

failure in combating issue of pending litigation. He explores the concept of justice. He compares Indian Constitution provision under article 21 of speedy trial with the American Constitutional provision for speedy trial right which is expressly given in it.

The whole research thesis is based on causes and remedies for delayed justice. He hasn't talked about the problem of pending litigation at lower judiciary. Though this thesis supports the study of present researcher giving idea of justice, causes of delay and remedies. But the present researcher moves one step ahead by taking into consideration justice delivery system at lower judiciary.

2) **Anklesaria Bhavna Adil (2014)** "Mediation for speedy legal remedy"

Anklesaria Bhavna Adil (2014) in his research thesis has provided the importance of mediation for the speedy justice[60]. Today the huge backlog of cases in judicial institution is the problem for which India is no exception. It affects the faith of public in judicial system. So, he has stressed the importance of timely justice delivery. He explores the mediation process in detail and its use where both sides get justice without differences. He differentiates with other ADR modes like conciliation, mediation. The primary data along with secondary data has been collected by researcher. Finally, he has suggested that if these mediation and other ADR modes not used it may again lead to more pending litigations.

The researcher has concentrated on the only mediation as ADR modes for dispute resolution. He hasn't talked about the problem of pending litigation at lower judiciary. The present researcher study is more based on delayed justice at lower judiciary.

3) **Junaid, md (2015), 'Speedy Trial, Criminal Justice System: an appraisal**

Junaid, md (2015) in his research thesis has provided the concept of speedy trial with the Historical background of emergence of right to speedy

60 Ankalesaria B.A. (2014), Mediation for speedy legal remedy, Shri Jadish Prasad Jhabarmal Tibarewala University.

trial. [61] He has also stated the international perspective that is covenants and conventions relating right to speedy trial. He has further discussed the Constitutional mandate for right to speedy trial. Also, the provision for right to speedy trial provided under criminal justice system has also been discussed by the researcher. His whole research is based on the problem of pending litigations in criminal justice system and the role of lawyers, judges, litigants for protection of right to speedy justice in criminal justice system.

The whole research thesis is based on the problem of delayed justice in criminal justice system. He hasn't talked about civil justice system. But the present researcher studied both civil, criminal justice system of lower judiciary.

4) **Shyamala, A. S. (2007) 'Constitutional Contours of the right to speedy trial and judicial response'**

Shyamala, A. S. (2007) in her research thesis has discussed about the emergence of right to speedy trial with its need[62]. She explores many reasons for delay in disposal of cases. She states the statutory provision for speedy trial. She also explained the position of right to speedy trial before decision in Maneka Gandhi case and after Hussainara Khatoon case. She suggested some of the reforms to reduce the huge backlog of cases in judicial institution like reducing number of holidays of judges, the strike of the advocates should not be allowed, plea bargaining etc. There is need for a great cooperation between the judiciary, executive, and legislature to tackle this pendency. Because it is not only the work of judiciary, the three wings should come together.

The whole research thesis is based on cause of the delay in disposal of cases and the role played by judiciary in the protection of right to speedy trial. She hasn't talked about the problem of pending litigation at lower judiciary which is the subject area of research for present researcher based on primary source of data.

5) **Thakar, Mahesh K (1999) 'Delay in judicial proceedings and execution of decree: A critical study of existing provision of law with special reference to recovery suits by banks financial institutions'**

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61 Junaid Md. (2015), Speedy Trial, Criminal Justice System: An Appraisal, Aligarh Muslim University.

62 Shyamala A.S (2007), 'Constitutional Contours of the right to speedy trial and judicial response, Maharishi Dayan and University.

Thakar Mahesh K (1999) in his research thesis has discussed the problem of delayed justice in the judicial institution[63]. He explores the concept of justice from its evolution of judicial system in India and compares it with other legal systems in the world. He explores the efforts made by various commissions in tackling the backlog of cases. He further talks about the effects of delay in disposal of cases on administration of justice. He explores the factors responsible for pending bank recovery cases and financial institutions along with that he has suggested solutions to it.

The researcher has focused on the causes of delayed justice in civil, criminal, bank recovery cases and in financial institutions. He hasn't talked about the problem of pending litigation in lower judiciary. The present researcher considers the problem of delay in disposal of cases by using primary sources of data.

6) **Moudgil, Leena (2015), 'Fair and Speedy trial need of the time in criminal justice system'**

Moudgil, Leena (2015) in her research thesis provides the concept of speedy trial and fair trial in detail[64]. She has stated the Historical background of speedy trial and fair trial in India. The evolution of both from ancient India till the British period. The researcher has analysed the reports of the various commission and committees report on delayed justice in criminal trial. Researcher explains the legislative provision for speedy trial along with the judicial role in the protection of speedy trial and fair trial. She has further suggested the reforms for delayed justice. Finally, she concludes with fair trial as speedy trial.

The researcher has focused on the concepts of fair and speedy trial with the role played by judiciary. Her maximum discussion was related to the criminal justice system. She hasn't talked about the problem of pending litigation in civil justice system. But the present researcher considers civil,

63 Thakar M.K (1999), Delay in judicial proceedings and execution of decree: A critical study of existing provision of law with special reference to recovery suits by banks financial institutions', Maharaja Sayajirao University of Baroda.

64 Moudgil L (2015), Fair and Speedy trial need of the time in criminal justice system, Kurukshetra University.

criminal justice system and its delay in disposal of cases at subordinate courts.

7) **Singla, Naresh Lata, (2012) 'Speedy Justice and Alternative Dispute Redressal**

Singla, Naresh Lata (2012) in her thesis speedy justice and alternative dispute redressal has discussed the right to speedy justice as fundamental right of litigant and the huge backlog of cases in the judicial institution[65]. She explores the Need for ADR system instead of formal judicial system. She has explained the Historical background of ADR system in India. Further she has stated causes for delay in disposal of cases. She has divided ADR modes as Adjudicatory method of Alternative dispute resolution and non-Adjudicatory method of alternative dispute resolution like Lok Adalat, negotiation, mediation, conciliation etc. She suggested the need for creating the awareness among the public of the importance of using ADR modes. Not only the litigants but the advocates too, should be made aware of the use of ADR mode. The use of ADR modes may help it to reduce huge backlog of cases.

The researcher thesis is based on right to speedy justice and importance of using ADR modes to reduce pendency in courts. She hasn't taken into consideration the other solution for tackling pending litigation. But the present researcher moves one step ahead by taking into consideration the problem of huge backlog in the subordinate courts by using primary sources of data.

1.7. Hypotheses of the Study

A hypothesis in legal research laid down an inquiry in the process of research, it is tentative statement or assumption or proposition. The formulation of hypotheses occupies indispensable portion for inquiry in research. This proposed research has been designated to explain and explore the relationships between independent and dependant variables connected with the judicial administration system with special reference to delay in disposal of cases. Considering this fact, the researcher formulated following hypothesis.

1. Number of judicial officers is inadequate in the ratio of population.

65 Singla N.L. (2012), Speedy Justice and Alternative Dispute Redressal, Punjab University.

2. Absence of attentiveness and lack of knowledge in recent technology amongst lawyers is responsible for delay in disposal of cases.
3. Public and litigants are not aware about their right relating to speedy disposal of cases.

1.8. Research Methodology

As per requirement of the research problems, hypotheses and objectives sought to be achieved, this research project adopted both doctrinal and non-doctrinal methods of research methodology for conducting the said empirical research. The present study is based mainly on primary data collected by conducting a survey of lower judiciary cases in Kolhapur and Sangli District by personal interview, questionnaire method and information from registrar of District Court. While conducting the survey researcher has used the Sangli and Kolhapur district map, so that it covers research area that is Kolhapur and Sangli District from the western Maharashtra.

The secondary data has been gathered from both published and unpublished references. The required data has been collected from the sources like records books, references, journals, periodicals and internet sources.

i) **Doctrinal Research**

It is pertinent to note that quality empirical research cannot be conducted without having deep understanding of the relevant literature on the subject of research. Data has been collected from newspapers, web sites and information from registrar of courts, research papers to make its ambit wide. The researcher has critically examined the nature of scope of the relevant existing statutory instruments like Constitutional Law, The Legal Service Authority Act 1987, Law Commission Reports, etc.

The research also examined other secondary data in the form of various articles, Judgement of Apex courts, Reports of law Committees, Commissions.

ii) **Non-Doctrinal or Empirical Research**

To evaluate the reasoning of delay in disposal of cases by judicial administration empirical research method has been adopted to collect primary

data from all respondents involved in the judicial administration mechanism. In order to collect quality and representative data from the respondents in the universe, stratified random proportional allocation sampling method has been adopted for collection of primary data. This research is designated to explain and explore as how far the beneficiaries are badly affected by the delay in judicial administration.

For that purpose of evaluating the issue few close ended questionnaires for respondents i.e., litigants from amongst two districts each Sangli and Kolhapur have been framed for the purpose of collection of primary data.

As the topic of research relates to a socio-legal phenomenon so the appropriate method is sample survey in the empirical study. All the aspects of empirical research are elaborated in chapter number six (VI) of the thesis. Appropriate graphical, figurative representation with necessary tabulation is given to analyse and draw the findings. For the present study, 400 respondents have been selected by applying stratified random sampling with proportional allocation technique. Care has been taken to observe standardized patterns of giving footnote and bibliography. The researcher is mainly guided by American Psychological Association (APA) handbook for writers of research.

1.09 Limitation

The researcher is aware about the limitation in the present study which has been indicated herein as-

- The present research is limited only to Kolhapur and Sangli District.
- The present research is limited only to pending cases of lower judiciary from 2017-2021 in Kolhapur and Sangli District.
- The research is limited only to reasons behind delay of disposal of cases in lower judiciary.
- Due to technical issue response from judges can't be collected.
- The time and resources are also limited as prescribed by Shivaji University, Kolhapur.

1.10. Scheme of Chaptalisation

To study the delay of pending cases in lower judiciary in Maharashtra with special reference to Kolhapur and Sangli district and to find out reasons behind the delay in disposal of cases and to give recommendation to reduce such pendency the researcher has divided present research study into I to VIII chapters are as follows-

Chapter I: Introduction

This chapter highlights the significance of the study, Review of related literature, its objectives, its limitations, the hypothesis and various methods adopted by the researcher in collecting the empirical data from administrative staff of court, registrar of district court, lawyers, judges, litigants to understand the reasons of pendency of cases in lower judiciary. It mainly deals with Research Methodology.

Chapter II: Conceptual Analysis and its Foundation

This chapter deals with various concepts used in the research. It discusses concepts like Delay, Pendency, Disposal, Court, Lower Judiciary, Cases etc. Also, this chapter elaborated the foundation of judicial system in India. In addition to that it comprises of causes of delay and effects of delay in disposal of cases.

Chapter III: Constitutional and Other Statutory Provisions relating Right to Speedy Justice

The researcher mentioned the provisions relating to Speedy Trial in Indian Constitution as well as in various Civil, Criminal, Labour, Commercial proceeding. Also explained the provision of Speedy disposal of cases in Family Law especially under Special Marriage Act and Hindu Marriage Act 1955. In addition to that researcher mentioned the role of ADR mechanism in Speedy disposal of cases.

Chapter IV: Role and measures adopted by the Government

In this chapter the researcher mentioned the role and measures adopted by Government at National and International level. In furtherance the researcher explained the various law commission report viz. 14^{th} ,27^{th} ,58^{th}, 77^{th},

79th ,100th ,120th ,124th ,125th ,126th ,141th up to 245th. Also, the researcher put forth the reports of Rankin Committee 1924, Vohra committee 1993, Malimath Committee 2003, Arrears Committee 2007 etc. and suggestions given by the said committees.

Chapter V: Role and measures adopted through Judicial Pronouncements

The researcher explained the role played by Indian judiciary through Judicial Activism. Researcher has elaborated active role of Indian Judicial system. The Researcher mentioned various judicial pronouncements to curb the problem of delay for disposal of cases and the matters linked thereto. For this purpose, researcher divided the cases on the basis of delay of trial, delay in investigation, delay due to non-framing of charges, delay in pronouncement of judgement. Under these heads researcher elaborated the positive role played by courts.

Chapter VI: Analysis of Data Collection and Findings

It deals with processing and analysis of the collected data in both tabular as well as graphical forms. Hypotheses has been tested on the basis of analyzed data collection and findings.

Chapter VII: Conclusion and Suggestion

This chapter pertains to the research conclusion and suggestions of the study. Based on the empirical data and analysis, the researcher has drawn various inferences and has given some innovative suggestions to reduce the pendency which will be helpful to the entire judicial system, judges, lawyers, litigants, academicians, public and private sector, students and societies at large.

CHAPTER II

CONCEPTUAL ANALYSIS AND ITS FOUNDATION

2.1 Introduction

This chapter includes various concepts related to pending litigation. Conceptual framework defines the concepts and the definitions that has been taken or used in the study. It develops the clarity of the concepts or idea. Therefore, the researcher has enumerated the concepts involved in the research work like Court, Cases, Disposal, Lower Judiciary, Justice, Delay, Pendency, Speedy Trial. Also, this chapter elaborates foundation of judicial system in the India, Causes and Effects of delay in disposal of cases.

2.2 Conceptual analysis

For the purpose of study, the researcher has enumerated the following concepts.

2.2.1) Court

(A)Meaning of Court

"Court is a place where judges decide dispute by hearing the parties as per the provisions of law."[66]

Court is an important wing of state. As a government institution it adjudicates the legal disputes as per the procedural law whether civil or criminal. This court performs important function of interpretation and application of law. Courts are collectively known as judiciary. To perform their functions, they have presiding officers who are called as judges. Courts are having jurisdiction to entertain matters viz. Original, Appellate, Advisory etc.

Being a democratic country, the judiciary are considered as the protector of the

fundamental rights of citizens. For the purpose of jurisdiction, we have hierarchy of court. At the apex we have Supreme Court, below that

66 https://dictionary.cambridge.org accessed on 10th April 2021 at 9.00 a.m.

there is High Court at every state. At every Districts we have District Court.

B) Foundation of judicial system in India

Indian judicial system is received from the British judicial system as an inheritance. It prevails in India from ancient time. The foundation of judicial system in India is discussed as follows.

1) Ancient Period

Indian judicial system is the oldest judicial system in the world**.** In Ancient Period the judicial system prevailed in society by various means in the form of leadership of our great Kings, Sultans, and Rulers etc. It is notified in various religions as follows.

a) Hindu Law

Judicial system in India is existed since ancient period. Laws were the part of Dharma. The Dharma means justice i.e., Nyaya. So, Dharma was considered as the insurer of justice. Laws under Hindus contained in 3 codes as 1) Dharma sutra 2) Nyaya sutra 3) Smriti and acts.[67]

(i) Manu smriti

In Hindus Manu smriti is considered as the first legal text.

Manu-Smriti, contain 18 titles of law i.e., Law of contract, Law of crimes, Labour law, Family law, Partnership and Land laws etc. Manu smriti has 12 chapters and 2694 verses which contain sources of Dharma, Law and Administration of Justice.[68]

(ii) Mitakshara

Mitakshara was written by Vijnanesvara in twelfth century. It is legal commentary. Mitakshara is known for its theory of 'Inheritance by Birth'. Like

67 Tripathy G.P. (2009), History of Courts and Legislation, Central Law Publication, p.1-20.
68 Myneni S.R. (2016), Indian History,4th ed. Allahabad Law Agency, Faridabad, p. 88.

Dayabhaga it was considered as main source of Hindu Law. It deals with the law for the country which was applicable to Kashmir except Bengal and Assam.

(iii) **Narad-Smriti**

Narad-Smriti provides legal maxim on Dharma. It contains procedural and substantive law.

It is judicial text. Also make difference between Law and Ethics. It gives supremacy to kings and its judicial administration. It is composed of 1028 slokas with 61 appendixes.

(iv) **Brihaspati Smriti**

Brihaspati is a Hindu god. Also, it refers to one rishi who advice the gods. It is foundation law in Hindus. He distinguishes Civil law from Criminal law and justice. Some principles of this smriti are now part of section 95 of Indian Penal Code. There are 12 types of witness as per Brihaspati Smriti.

v) **Katyayan Smriti**

It comprises of 29 sections related to religious rites and ceremonies. In addition to that it provides code of conduct to be followed in ceremony. This Smriti distinguishes civil laws from criminal law and also substantive and procedural law. It contains provision like evidence, estoppels, res-judicata, qualification of judges, etc.

vi) **Kautilya's Arthashastra**

The book was written in Sanskrit language which is about Hindu Philosophy. It elaborates various social welfare. This book contains provisions related to civil and criminal court system, nature of government, law and its administration, market and trade ethics.

vii) **Ramayana and Mahabharata**

Ramayana and Mahabharata are our holy books. For Hindus these books are the source of law. Though these books do not contain any direct provision of law but they indirectly interpret the law.

b) Law in Vedic Jurisprudence

Vedic Jurisprudence provides sources for Hindu law. Concept of Dharma was considered as main source of law. Dharma includes principles of law, morality, ethics, and culture[69].

c) Courts of Law

Following are different courts which decide the disputes in ancient times. They had limited jurisdiction based on subject matter.

i) **Kul or Family Court**

Kul means family or assembly. In India patrilocal family unit is followed from ancient time.

The dispute of the family member was settled by elder member of the family under this court.

ii) **Pay Court** This court decides the dispute between two families in the society.

iii) **Sreni Court** This court decides the dispute between the different professions like traders, merchants, artisans. They comprised of experienced old people who used to give unbiased decision.

iv) **King** It was highest court of appeals having original jurisdiction also[70]. King was supreme authority.

v) **Panchayat**

The disputed matters among Hindus were decided by the Panchayat. It consists of five Panchas in the village who were the village headman. They were taking decisions related to Civil, Criminal matters in the villages.

2] **Medieval Period (Muslim Period)**

Quran is the source of law under Muslim religion. The sources of Muslim law are Hadis, Izma and Qiyas. Under Muslim, sultan was the head of judiciary. He had original also appellate jurisdiction. While exercising their functions, they were assisted by chief Sadr and Mufti. Sultan appointed chief quazi who has the second highest judicial officer. He heard the lower court cases, in provinces. Chief Quazi appointed other quazi who settled the matter of

69 Tripathy G.P. (2009), History of courts and Legislation, Central Law Publication, p.45.
70 Tripathy G.P. (2009), History of courts and Legislation, Central Law Publication, p.45-46.

dispute between Muslims and Hindus. The matters in a metropolitan area were settled through Dad-i-baq or Amir-i-dad magistrate. Kotwal was in- charge with criminal investigation[71].

The Muslim rulers applied the Islamic law to the Muslims and Hindus also. But when the disputed parties were Hindus then Hindu personal law was applied. The authority to interpret law lied with Quazi who could also issue fatwa. The hierarchy of courts was not in the strict manner.

The judiciary was not separated from executive. Governors, Divan can exercise judicial functions also. But the punishment given for the criminal offences were cruel.

Some of the Muslim rulers like Akbar, Shahjahan, Sher Shah were follower of fair and honest justice delivery system. They treated Muslim and Non-Muslims equally. But Aurangzeb protected the Muslim subjects only.

Maratha Empire

After the Muslim ruler Maratha Empire rescued the entire country from the religious discrimination. During the king Shivaji justice was delivered by Nyayadhish i.e., chief justice with assistance of Ashtapradhan Mandal i.e., Council of eight ministers[72].

3) **East India Company**

The downfall of Mughal Empire started with the death of Aurangzeb. The Delhi sultanate was passed in the hands of East India Company. The charter of 1600 gave law making power to East India Company. Administration of justice was to be exercised by British subject under charter of 1661. Under this charter Governor in council was given power to exercise the judicial functions. Under the charter 1683 Admiralty courts were established administering all tort cases, trade related disputes, trespass cases etc. There were 4 Presidency towns in British period that is Calcutta, Madras, Bombay and Surat. Later on, Surat town merged into the Bombay town and then 3 towns were remained. During British period following courts were in existence in India, as follows

71 Rao K.P.C. & Padma T (2020), History of Courts, Legislature and Legal Profession in India, ALT Publication, p.120.

72 Myneni S.R. (2015), Indian History, 3rd ed., Allahabad Law Agency, p.316-321.

i) Charters 1726 Mayor Court

A) Administration of Justice in Madras Presidency**:**

In 1683 first admiralty court was formed in Madras. Then the High court of judicature and Mayor Court was established in Madras. It had jurisdiction to try Diwani, Fauzdari, Succession matters. As the proceeding of court was to be recorded, it was called as Court of Record.

B) Administration of Justice in Surat and Bombay Presidency

In Surat administration of justice was exercised by President (Governor) in Council. This judicial system was applicable to only English people and not to local people in Surat. In Bombay (Mumbai) Governor in Council were entrusted to deal with civil and criminal matters.

C) Administration of Justice in Chennai and Mumbai from Recorder Court (1798) to High court 1861

By the British parliament Act 1797 Recorder Courts were established in Madras and Bombay. The person having knowledge of law was appointed on these courts. The appeal from these courts lies to Privy Council[73].

Supreme Court Madras (Chennai) 1801

The Recorder Courts were in existence only for 3 years which was replaced by Madras Supreme Court in 1801. The court heard both civil and criminal matters. Establishment of High Court was made by passing High Courts Act 1861 by British Parliament. It comprised of 19 sections. The Act was authorized for establishment of High Courts in presidency towns. It had 1 chief justice and 15 Puisne judges. It heard all civil, criminal, original, appellate matters which were previously dealt by Supreme Courts, Sadar Diwani / Sadar Nizamat Adalat.

Further the Act of 1861 was amended and provided for establishment of High Courts wherever it was necessary to establish. The number of chief justice and other judges were also increased. By passing of Government of India

73 Jain M.P. (2001), Outlines of Indian Legal History, 5th ed., Wadhwa and Company, Law Publisher Nagpur, p. 35-54.

Act 1915 the original jurisdiction to hear revenue matter of High courts in Bombay, Madras and Calcutta was taken back, or withdrawn[74].

ii) Federal Court 1937

By passing of Government of India Act 1935, Federal Court of India was established. It consists of Chief Justice and 6 Judges. These Courts had original as well as appellate jurisdiction. The appeal from High Court lied with federal courts only if the certificate was issued by High Court.

The certificate was only issued if the cases that involved – a) a substantial question of law as to interpretation of Government of India Act 1935 or b) of an order in council made under that Act. An appeal from orders of Federal court lay with Privy Council[75].

iii) Privy Council (1726—1949)

Under the Government of India Act 1935 the Privy Council could entertain appeal from federal court only when –

a) Original jurisdiction cases involving constitutional matters.
b) In other matters by leave granted by the federal court or leave granted by the Privy Council.

The judgment of federal court and Privy Council were binding on all courts in British India. The Privy Council consist of English judges, who were trained in English law. They were not the ministers of Crown. Also appeals from Crown Courts that was Mayor Court (1726), Supreme Court of Calcutta (1774), Recorder Courts at Bombay and Madras (1797) and Supreme Court of Bombay (1823) and Madras (1801) lay with Privy Council.

No appeal lay with Privy Council from 01/02/1948 from the High Court.

By passing of Abolition of (Privy Council) Jurisdiction Act 1949 the Privy Council jurisdiction was withdrawn, which was started in 1726 in India. From 10th October 1949 appeal lay with Federal Court[76].

74 Murthy S.H.V (2002), History of India, Eastern Book Company, p. 256-270.
75 Tripathy G.P. (2009), History of Courts and Legislation, Central Law Publication, p.222.
76 Jain M.P. (2001), Outlines of Indian Legal History, 5th Wadhwa and Company, Law Publishers, Nagpur, p. 317-362.

iv) Constitution of India

The Constitution of India came into force on 26/01/1950.In Constitution of India Justice, Liberty, Equality and Fraternity are the major values focussed. The features of Privy Council that is Rule of law, justice for all were transferred to Supreme Court after passing of Constitution of India, with hope to carry for future.

v) High Courts after passing of Constitution of India under Article 214

Chapter V Article 214 to 231 of Constitution of India deals with High Court.

Under Article 214 the High Court has to be established in every state. It made provision to establish one High Court for more than 2 states also.

It consisted of one Chief justice and other Judges as President deemed it necessary to appoint. Under Article 215 power was given to High Court to punish for its own contempt. All High Courts had power to exercise any matter civil or criminal as given in civil procedure code and criminal procedure code or any other act made by parliament. Also has Writ Jurisdiction.

vi) Supreme Court (1950)

Chapter IV of part 5 of Constitution of India deals with the Supreme Court. Article 124 deal with establishment of Supreme Court as Union judiciary. It consists of Chief justice and other Judges as Parliament by law decides. For that purpose, the parliament has passed the Supreme Court (Number of Judges) Act. It sits in Delhi or in any other place with approval of President.

Under Article 131 it has original jurisdiction. Also, under Article 132 and Article 147 it has civil, criminal and other jurisdiction. Supreme Court has special leave to appeal under Article 136. It has review power under Article 137.

Article 32 gives writ jurisdiction to Supreme Court[77].

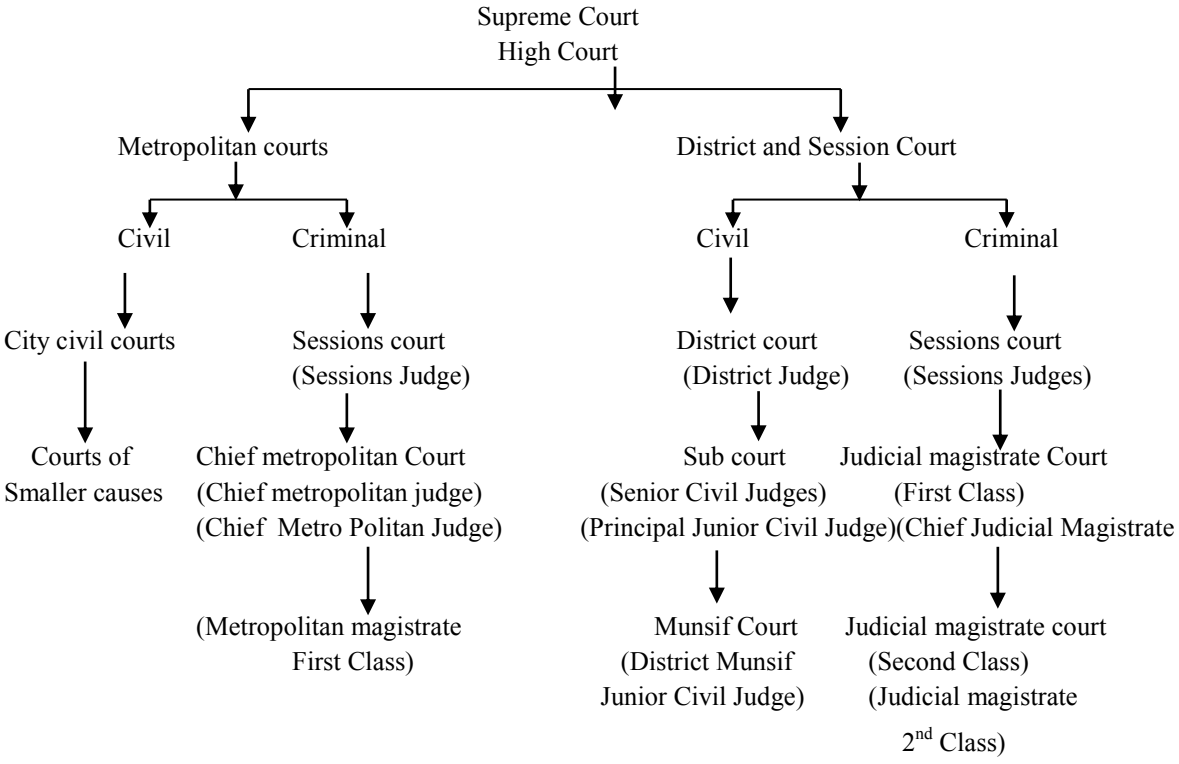
77 Jain M.P. (2001), Outlines of Indian Legal History, 5th ed., Wadhwa and Company, Law Publisher Nagpur, p. 669.

Hierarchy of Courts in India[78]

Subordinate Courts in India-

District courts are established at every district in India. The provisions of subordinate courts are given in 6th part of the Indian Constitution under Article 233-237.

Hierarchy of Courts in India



C) Inadequacy of courts and delay

The major cause for delay in disposal of case is an Inadequacy of courts in India. We have huge pendency in India and to deal with that the courts are inadequate. There is huge burden on existing courts who fails to deal with it within stipulated time. The infrastructure of courts is poor. They are not equipped with latest technology. All these together affect the efficiency of courts and cause delay.

78 www.merriam.webster.com. accessed on 10 November 2018 at 03.00 p.m.

2.2.2) Lower Judiciary

a) **Meaning of lower judiciary**

"A lower court is a trial court against the decision of which an appeal may file. A lower court examine the evidence and testimony of witnesses and accordingly provides judgements.[79]

Lower judiciary is the ultimate source of justice for the poor litigants. Where the litigants are frustrated by the government policy, their judiciary is the only hope left in their hand.

b) **Lower Judicial System in India**

The judicial system in India is classified into 3 heads. At top there is Supreme Court below which High Court is there. Below High Court District Court and lower judiciary works at every district in the state. This lower judiciary is further divided into 2 parts civil court and criminal court. The lower judiciary comprises junior civil judge court, principal Junior civil Judge court, Senior civil Judge Court to deal civil matters. To decide criminal matters, it has second class Judicial Magistrate Courts, First Class Judicial Magistrate Court, Chief Judicial Magistrate court.

The district court is having jurisdiction to entertain all appeals from lower judiciary. It has control and power of Supervision on all lower courts. The lower judiciary decides all civil and criminal matters as per law.

c) **The problem of delayed justice in lower court**

The lower judiciary are full of pending litigation. The lower judiciary is only way where the poor litigants get justice. But these courts are now a days facing the problem of huge pendency. Also, other problems like corruption allegation on judges, their inability to dispose of new matters adding into the problem. To state this situation chief justice

79 http://en.wikipedia.org accessed on 27 November 2018 at 0.5.00 p.m.

P. N. Bhagwati has rightly said that, the system is "on the verge of collapse"

2.2.3) Case

a) **Meaning**

"A legal case means a dispute between parties which may be decide by court of competent jurisdiction. The decision in a legal case is based on either civil or criminal law."[80]

A legal case is of 2 types viz civil case and criminal case. A civil case is decided as per code of Civil Procedure Code. A criminal case is decided as per Criminal Procedure Code. A case in the context of this research is a legal dispute to be decided which is pending in the lower court in Kolhapur and Sangli district whether civil or criminal.

b) **Types of cases**

Cases are of 2 types which are discussed as below

i) **Civil case**

In civil cases after hearing both sides, a judge decides the rights and liabilities of the parties by pronouncing the judgment. This type of cases includes various matters viz suits relating to property, suits relating to divorce and related matters, relating to maintenance and custody of child, landlord rent issue. Now a days these civil suits can also be settled by amicable means by adoption of Alternative dispute resolution mechanism.

ii) **Criminal Cases**

In criminal cases after hearing both parties of the suit and by considering evidence put before it, court decides whether accused is guilty or not guilty. The punishment given in criminal cases may be fine, prison, probation.

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80 http:/en.wikipedia.org accessed on 2nd December 2018 at 6.00 p.m.

The criminal cases can also be settled by plea bargaining where less punishment is given to accused if he pleads guilty[81].

2.2.4) Disposal

a) **Meaning of Disposal**

"Disposal with reference to case in courts means the final decision of court which decides the rights or claims of disputed parties"[82]. Disposal is the final adjudication of civil or criminal cases in the court of law. The court proceedings completed when all issues or charges has been disposed of with respect to that case.

b) **Basis for the disposal of cases in court**

On following basis, the cases in the courts can be considered as disposed of

1) **By delivery of judgement**

After all the proceedings in the civil or criminal cases, the judge pronounces the judgment. This judgment is based on merits of fact. Whenever the judgment is given by court it is said to be disposed of.

2) **Case is barred by any law**

If filing of case is barred by any of the law, then it is termed as disposed of the given case. It is disposal by any statutory provision. At the initial stage it considered by the court before whom the case is filed.

3) **Compromise between the parties**

During the pendency of a suit, when both the parties to the suit decides to compromise the case, then the case will be deemed as disposed of, as there is no contesting issue left between the litigant.

81 Dr Mahajan V.D., (2010), Jurisprudence and Legal theory, Eastern Book Company, p.120
82 https://blog.ipleaders.in>case-dispo accessed on 3rd December 2018 at 6.00 p.m.

4) **Finding of guilty or not guilty by court having criminal jurisdiction**

In criminal trial when court decides that accused is guilty or not guilty then the criminal case is said to be disposed of.

c) **Time limitation for the disposal of case in the proceeding**

There is no provision of time limit in any statutory law for the conclusion of proceeding. The apex court through its various judicial decision direct the lower courts to disposed of cases as early as possible.
In Hussainara Khatoon case the supreme court of India provides speedy trial as a fundamental right under Article 21 of the Constitution of India. This the first time where the delay in disposal of cases were considered as a serious issue to be tackled for judicial reform in India.

D) **When case considered as disposed of under various matters**

The cases are considered as disposed of under various statutory law in following manners,

(1) **Civil Matter**

In civil proceeding the case is deemed as disposed of on following grounds

i) When judgment is pronounced

Under order XX of Civil Procedure Code when judgment is pronounced by the court after hearing both sides the case is deemed to be disposed of accordingly. The judge in this case declares rights and liabilities of either party of the case.

ii) When Decree is passed

Decree is the formal expression of an adjudication and may be preliminary or final. It is drawn by the concern judge of the case within 15 days of delivery of the judgment XX Rule 6 of Civil Procedure Code.

iii) **Dismissal of Suit**

If either party to the litigation dies or remains absent then suit is deemed to be disposed of.

iv) **Barred by any statutory law**

Filing of the case when barred by limitation then it is deemed to be disposed of.

2) **Criminal matter**

In criminal proceeding the case is considered to be disposed of in following way –

(1) When court find accused either guilty or not guilty the case is deemed to be disposed of in criminal proceeding.

(2) Application for plea bargaining

When under section 265B of the criminal procedure code application is given for plea bargaining the case is disposed of. Plea bargaining means an agreement between the prosecutor and defendant where the defendant pleads guilty and in exchange of that lessor punishment is given to them or some charges against them may be removed.

e) **Difference between the Disposed and Dismissed**

The terms disposal and dismissal are not the same. Disposal means final adjudication of claim whereas dismissal is based on following ground -

1) **Absence of litigants**

When parties to the dispute remain absent without reason then court is having power to disposed of the case whether it is civil or criminal nature. Because it is said that "**vigilantibus non dormientius aequitas subvenit**" means equity aids to vigilant and not the ones who

sleep over their rights. Unreasonable delay by the parties to suit for enforcing their right is barred by latches[83].

2) **Death of litigant**

If parties who are seeking for enforcement of claim dies then suit will be automatically disposed by the judge.

3) **Non availability of evidence**

Non availability of evidence in the proceeding is another cause for dismissal of suit.

4) **Improper charges or complaint**

Where charges are not properly framed or complaint is not filed as per the provision of Criminal Procedure Code then court can dismiss that suit.

2.2.5) Justice

a) **Meaning**

Justice is disposal of cases within stipulated time and according to the due process of law.

According to Aristotle justice was what was fair and equitable. Salmond state while defining justice, "**Law is an instrument of society, what then does the law aim to achieve is justice**"[84]

The main object of welfare state is to maintain law and justice. The preamble of Constitution of India states to secure justice to all its citizen whether social, economical, political. Thus, provision for providing justice to all is given in the Constitution of India and its preamble. For the orderly society imparting proper justice is of much importance otherwise citizen may take other improper means for the

83 Takwani C.K. (2007), Lectures on Administrative Law, 4th ed., Eastern Book Company Lucknow, p.346

84 Dr.Paranjape N.V., (2009), Studies in Jurisprudence and Legal Theory, 5th ed., Central Law Agency, p. 196

enforcement of their right. That will be very dangerous for the democratic country like India.

b) **Importance of Justice**

The state impart justice, which is the important object of it. For imparting justice, it works through judiciary. It performs important function of imparting justice as per the provision of law by giving true meaning to it. The importance of justice is discussed on following grounds[85],

1) **To maintain peace in the nation**

If justice is given as per the equity, the citizens faith on judicial system, law will be strengthen. This strength of people will convert into trust of people and ultimately there will be no chaos in the country and peace can be maintain.

2) **To prevent crime in the country**

Justice helps to punish the wrongdoers in the nation as per the provision of law. In addition to that it sets an example in the country which will ultimately prevent further commission of crime. The crime and criminals can be automatically prevented.

3) **It protects the economically backward class**

The main function of state is to provide justice to everyone irrespective whether rich or poor. It helps the poor who cannot afford the legal help. It is the states duty to provide them free legal assistance.

4) **It settles the disputes**

The judicial system settles the dispute whether it is civil or criminal. Without the court mechanism it is not possible to resolve dispute. It determines rights and liabilities between parties as per the provision of law by providing justice.

85 Dr. Mahajan V.D., (2010), Jurisprudence and Legal Theory, Eastern Book Company, p.115

5) **Different dimension of justice**

Justice whether social, economical, political, legal justice are interrelated to each other. To have the justice in true sense all these must clubbed together. Following are different dimensions of justice,

1) **Legal Justice**

It is the justice equal for all without any discrimination. The main object is to give legal security and application of due process of law.

2) **Political justice**

It provides equal political rights to the people, without any distinction. It includes right to vote in the election and right to contest election.

3) **Economic Justice**

It includes right of work, right to have fair wages. It states that everyone is having fair and equitable distribution of wealth and resources. Thus, right to all basic necessity of life are included in it.

4) **Social Justice**

Social justice means every citizen is equal and there should not be discrimination based on sex, caste, religion, colour, language, etc. It includes variety of rights viz. right of access to any public place, temple, entertainment etc.

d) **Delay defeats justice**

The purpose of justice is defeated by delay. People knocks the door of court as a last resort. If it is not given within, time then what is the use of that justice. So, justice must be given within stipulated time. In addition to that,

"**Justice should not only be done but it should appear to have been done."** Judiciary protect and enforce the fundamental rights of citizens. But that should be within reasonable time otherwise people may lose its faith on judiciary. Delay not only defeats the justice but also the equity.

Law will help to those who are vigilant. Court is not expected to wait for the litigant for filing case. Delay may be for any reason it defeats its purpose whether due to litigant, procedural or any other.

2.2.6] Delay

A) Meaning of Delay

Delay means latter disposal of litigation than expected time. Delay in a judicial system means in relation to a case which is in court for a long period than a normal expectation of its disposal. In the context of justice delivery system, it denotes the time taken for the disposal of case in the court than an expected time. Though cases cannot be decided overnight also. The timely dispensation of justice is an important aspect of rule of law.

B) Provision for preventing delay in India

There is no direct provision for preventing delay in India in any statute or in the Constitution but the Procedural laws like The Code of Civil Procedure, the Code of Criminal Procedure Contained the provision for timely justice. In civil procedure code under section 80 the provision for settling the claim has been made which saves the money and delay. Also, under section 89 of Civil Procedure Code, the court is having power to settle them outside the court by using Arbitration, conciliation, mediation process. In addition to that order 5 Rules 19 and 20, order 8 and 10 Rule 1, Order 11 and 12, order17 Rules 1 and 2, order 20 Rule 1 of Civil Procedure Code Provide for curtailment of unnecessary time for the proceedings[86].

The Criminal Procedure Code States provision for speedy disposal Cases under section 167, 258, 309, 311, 468[87].

86 Dr Tripathi P.P., (2016), The Code of Civil Procedure, 8th ed., Allahabad law Agency Publications, p.580

87 Askari Hasan, (2011), Criminal Procedure and Police, 3rd ed., Asia Law House Hyderabad, p.245

The Constitution of India provides for Provision for timely dispensation of Justice under Article 14,19,21,32,226 and in the preamble itself. Under the Directive Principle of State Policy in Article 38(1), 39 A of the Indian Constitution state is under obligation to provide justice[88].

C) Reports of Law Committees

In 1924 under the chairmanship of Justice Rankin the first law Committee was constituted for studying the problem of delay in judicial system. A 14th, 19th, 80th, 120th, 222nd, 124th, 221st ,222nd and 229th Law Committees focused on the problem of pendency, delay and arrears in India. In spite of these efforts the problem of pendency remains the same. There are many reasons for delay. some of them are discussed as under.

D) **Delay related terms**

There is no concrete definition for Delay. Many a times it is used with pendency, arrears, backlog. But these terms are different from each other, which are discussed below –

(1) **Pendency**

Pendency means non disposal of case, irrespective of when it was filed. In these cases, are organized but not decided. More than 4.5 crore cases are pending all across the Indian courts. Out of total pendency more than 69,000 cases are pending in the Supreme Court. In High Courts 58.5 lakh and in district and subordinate courts 3.9 crore cases are pending.

(2) **Arrears**

It means unreasonable delay. The case is delayed than stipulated time without proper reason. Some cases may be delayed for valid reason but there are many cases which causes delay unnecessarily. In India we have mounting arrears in court cases. The litigant has to suffer for the cost of litigation.

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88 Sharma B.R. (1990), Constitutional Law and Judicial Activism, Ashish Publication House, New Delhi, p.422.

(3) **Backlog**

The huge gap between institution and disposal of the case is known as backlog. In India the problem of backlog is worst. In 2015-2019 the average rate of disposal was about 1.8 million cases per year.

(**E**) **The problem of delay in India**

The problem of delay in disposal of case in India denotes the time taken for disposal of case in excess of expected time. We can categorize this delay as a grey area where our judicial system failed to protect the justice in true sense. As chief Justice Anand has rightly stated,

"The litigant as consumers of justice are seekers of speedy and inexpensive justice. In its absence, instead of following legal procedure, he may take law in his own hands. So as to prevent people from adopting extra judicial methods, timely disposal of cases is the need of hour."[89]

The above statements clearly state the position of courts in India. As compare to our population this delay is not helpful to protect our social environment properly.

Unfortunately, over 4.5 crore cases are pending all across India courts, out of which 87.6% cases are pending in lower and 12.3% cases pending in apex courts[90].

This problem become crucial now a days which frustrates the very purpose of administration of justice.

2.2.7) **Pendency**

a) **Meaning**

Pendency means non disposal of case irrespective of when it was filed. Judiciary in India are not able to tackle the pending litigation. More than 4.5 crore cases are pending all across the Indian courts. Out of total pendency more than 69,000 cases are pending in the Supreme Court. In

89 Judicial Delays in India: Causes and remedies by Vandana Ajay Kumar, journal of law, policy and Globalization ISSN 2224-3240, vol 42012

90 https://prsindia.org>policy>pende-accessed on 30th December 2018 at 11.00 a.m.

High Courts 58.5 lakh and in district and subordinate courts 3.9 crore cases are pending.

In 2019 retired Supreme Court Justice Markandey Katju has rightly said in one article that, "It is estimated that if no fresh case is filed, it will take about 360 years to clear the backlog of case in all the Indian Courts." This statement was made when the pendency was 3.3 crore in India[91].It shows the severe condition of our judicial system.

b) **Pendency in lower courts**

As pending case are more at lower courts. The problem is worst at lower courts because out of total pendency the pending litigation is more than 3.3 crore. This clearly state the inability of lower courts in dealing with the problem of pending litigation.

2.2.8) Speedy Trial

a) **Meaning**

"Speedy trial is a trial conducted as per the provision of law without delay or within a stipulated time."[92]

Speedy trial in the context of research is a trial conducted to give justice without any unreasonable delay.

b) **Provision for right to speedy trial in India**

Constitution of India does not provide for any direct provision for speedy trial. But Supreme Court of India through its judgment provides direction for speedy trial. The speedy trial right prevents unnecessary detention, physical and mental torture to accused, risk of loss of evidence, prevent accused form the social trauma.

The Supreme Court of India in Hussainara Khatoon V. Home Secretary, State of Bihar case considered right to speedy trial as part of Article 21 of Constitution of India.

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91 www.news18.com accessed on 15 January 2019 at 11.00 a.m.
92 www.merriam.webster.com accessed on 16 January at 2.00 p.m.

Not only in one above case but many judgments of Supreme Court direct for speedy trial. It considers right of speedy trial as a human right of litigant. In addition to that various statutory provision prevents unnecessary delay and promotes for speedy trial impliedly.

c) **International perspective on right to speedy trial**

Development of Right to Speedy Trial

The growth of speedy justice started from Henry II who created legal code to provide right to speedy justice to litigants. The traces of which can be found in 1215 in Magna Carta. There is no express provision for speedy justice in the Constitution of India. But the United States of America in the sixth amendment of Bill of Rights provides expressly right to speedy and public trial in criminal cases. The United States of America passed the Speedy Trial Act in 1974 which is the only country in the world directly providing right to speedy trial to accused. The Act provides minimum period of 70 days for concluding criminal trial from the date of filing of charges or from the date of appearance of accused before court. They also fix minimum period of 30 days for formulating formal charges. It also provides that criminal charges against accused be dismissed if it infringes his right to speedy trial. Further by amendment in 1979 it provides period of 30 days for trial commencement. United Kingdom also time to time amended their criminal justice Act in 1967, 1982, 1988, 1991 and 1993.

d) Provision for Right to Speedy Trial in the International Convention, Committees

Delay in disposal of cases violates right to speedy justice of the litigant. Internationally it has been considered under various conventions and committees, which are as follows,

1) **Article 5 (3) and Article 6 (1) of European convention on Human Right 1950**

The European convention on Human Right 1950 contains provision for right to speedy trial.

a) **Article 5 (3)**

As per this article the person arrested or detained in the custody must be brought before judicial officers within the stipulated time or be released if there is delay

in his trial. So, it protects the accused during pre- trial stage and saves him from the unnecessary delay in trial.

b) **Article 6 (1)**

It provides the right to a fair trial to the accused charged for criminal offences. It gives him certain rights like right to have legal assistance by lawyer, right to have reasonable time for defence, right to presumed innocent till the guilt is proved. Civil, Criminal case must be tried before impartial judicial officer without delay. It protects the accused charged for criminal cases[93].

Provision for Right to Speedy Trial in the International Covenant on Civil, Political Rights, 1966[94]

It is signed by 170 member states and duty is cast on contracting state to protect Right to Speedy Trial. The provision for speedy trial is provided expressly in the International Covenant on Civil, Political rights, 1966.

1) **Article 9 (3)**

It provides that, any person charged for a criminal offence must be brought before competent judicial officer within time for trial or be released if there is delay in trial. But his release is subject to the appearance of accused before court.

2) **Article 10 (1)**

It provides that, the accused charged for an offence shall not be deprived from his personal liberty and his dignity as a human being must be protected. He should be treated with humanity.

3) **Article 14**

Following are the detailed provisions contained in Article 14 of ICCPR 1966 for protection of right to speedy trial.

i) The person charged for a criminal offence has right to fair trial before competent judiciary and has right of equality before the judicial institution whether it is tribunal or courts.

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93 Dr. Agarwal.H.O.,(2017), International Law and Human rights, 21st ed., Central law Publication, p. 901-909

94 Dr Myneni S.R. (2018), Human Rights, Asia law House Hyderabad, p.108 – 113

ii) He should have right to be presumed an innocent until guilt is proved.

iii) For deciding criminal charges against accused he has following rights of fair trial.

(a) Right to be informed the charges against him in his language.

(b) Right to defence and to have legal assistance of his choice.

(c) Right to be tried without unnecessary delay.

(d) The trial must be held in accused presence and must be given free legal assistance whenever requires.

(e) Right to have examination of his witnesses and of other side also.

(f) Right to have interpreter if the language in the court is different than he uses.

(g) He has provided the right to be protected against self-incrimination.

iv) For the juvenile offenders the rehabilitation must be taken into account.

v) Right to review by apex court against conviction by trial court.

vi) The accused charged if proved and if later on it is found that he is not guilty he shall be compensated for that same.

vii) The person shall not be tried for the second time for similar offences, if tried by competent judiciary. Thus, it protects him from double jeopardy.

4) **Article 16**

It also provides the right to speedy trial by signatory state with the right to equality before judiciary.

5) **Article 17**

The dignity of the individual shall not be interfered by an arbitrary law. It is the duty of signatory state to protect his right without exploitation. They should give effect to the covenant by formulating domestic legislation.

6) **Article 19 (1)**

It provides with the right against arbitrary arrest or detention. His personal liberty shall not be interfered unnecessarily. Also, he should not be unreasonably detained in custody without the trial.

Provision for Speedy Trial under the Universal Declaration of Human Rights, 1948 (Article 8)

Article 8 and Article 10 of the Universal Declaration of Human Rights 1948 provides protection from the delay in disposal of cases and gives right to speedy trial as follows.

1) **Article 8**

It gives right of protection against violation of fundamental rights provided by Constitution of country or by under any of the law. It also provides right of redressal by the competent judiciary in case of violation of his above rights.

2) **Article 10**

It provides Right to Speedy Trial to an accused charged for criminal offences. It gives him right of fair trial by competent judicial institution.

Thus, Universal Declaration of Human Rights, 1948 protects the right to speedy trial of litigant and associated with fair and public hearing of the trial[95].

Provision for Speedy Trial under the American Convention on Human Rights (Article 7 (5), 8 (1)

Article 7 (5) and Article 8 (1) of the American convention on Human Rights provides with the Right to Speedy Trial.

1) **Article 7 (5)**

Accused detained shall be brought before competent judiciary without unnecessary delay. It avoids unnecessary detention of accused without trial and give right to speedy trial.

2) **Article 8 (1)**

It provides right of hearing without delay as follows

i) It provides right of hearing without delay before competent judiciary for a person charged for criminal prosecution. Also, it provides protection of his civil rights.

95 Dr Kapoor S.K., (2014), Human Rights under International Law and Indian Law, 6th ed., Central law Agency, p. 32-42

Thus, it covers both civil and criminal adjudication of matter without unreasonable delay.

ii) It provides the right to be presumed innocent in case of person charged for criminal offences until final disposal of matter. Following rights are given to every person charged for criminal Prosecution.

a) Right to have assistance of translator in case his language is different from the court.

b) Right to be informed the charges against him.

c) Reasonable time to defend himself.

d) Right to choose advocate of his choice and to have private interaction with the counsel of his choice.

e) If accused is unable to have legal aid, the provision of free legal assistance must be provided by concern state, without delay.

f) Right to examine witnesses of other side and from his side also.

g) Right to be protected against self-incrimination.

h) The right of appeal in apex court.

Along with the above rights it provides the right against double jeopardy, right of public trial in criminal offences. If the confession is made by accused without undue influence, then it is allowed to prove his guilt.

Provision for Speedy Trial in African charter on Human and Peoples Right (Article 7 (1) (d))

Article 7 (1) (d) of the African Charter on Human and Peoples right is associated with Right to Speedy Trial. It provides right to be heard by competent judiciary without unnecessary delay. Article 7 of the African Charter on Human and People's Rights also contain provisions for protection of delayed justice, as follows. 1)

(a) Right to appeal in apex court for protection of fundamental right under conventions, statutory acts etc.

(b) Right to be presumed innocent till the guilt is proved.

(c) The right to be defended by advocate of his choice.

(d) Right to be tried by competent court without delay.

2) Punishment shall be given to an offender only and should not be more than that for which the offender charged for an offence. Thus, it provides right of ex-post facto law that is Retrospective effect of law which is similar with Article 20 (1) of Indian Constitution[96].

Provision for Speedy Trial in the Convention on the Rights of the Child, 1989 (Article 40 (2) (b) (iii))

Article 40 (2) (b) and Article 40 (2) (b) (iii) of the convention on the right of the child 1989 is associated with the Right to Speedy Trial as follows.

i. Article 40 (2) (b) it deals with the right given to a child for commission of an offence punishable under criminal law.

ii. Article 40 (2) (b) (iii) – It gives the child right to be tried expediously by the competent judiciary who is charged for an offence punishable under criminal law.

Thus, it protects his right to speedy justice in criminal matter. It saves him from unnecessary delay and detention in prison without trial[97].

International Criminal Court (ICC) Statute, 1998 (Article 64 (2), 64 (3), Article 67 (1) (c))

Article 64 (2), Article 64 (3), Article 67 (1) (c), of ICC statute is associated with right to speedy trial. It was adopted on 17th July 1998 in Rome Italy. It is also called as Rome statute. It has 123 signatory states as party to the ICC statute[98].

i) **Article 64 (2)**

This article of the ICC statute provides that trial should be done without unnecessary delay.

ii) **Article 64 (3)**

It provides that the trial chamber shall adopt procedure which will be helpful to provide fair and speedy procedure. Thus, it avoids unreasonable delay caused due to prolonged proceedings.

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96 Dr.Agarwal H.O.,(2017), International law and Human rights, Central law Publication, 21st ed.,p. 911-922

97 Dr.Myneni S.R.,(2018), Human Rights, 1st ed, Asia Law House Hyderabad, p. 308-330

98 Dr Agarwal H.O., (2017), International Law and Human rights, 21st ed., Central law Publication, p. 739-752

iii) **Article 67 (1) (c)**

It gives accused right be tried within reasonable time. It avoids unnecessary detention of accused.

Thus, international criminal court contains provision for speedy disposal of the criminal cases. It protects the accused from unreasonable delay. It equipped accused with certain rights during trial of criminal offence.

d) **Importance of Speedy trial**

'Delay defeats the justice'

It is true that if justice is not given within reasonable time, its not worth to have it. Thus, justice should be given as early as possible, otherwise the purpose of it will not serve. Justice given in time is helpful to increase general public trust in law and government.

Speedy trial is the important aspect of trial today. It becomes fundamental right now.

2.3) Reasons for Delay in Disposal of Cases

There are many reasons for delay in disposal of cases. The problem of pending litigation is more crucial at lower courts. Delay in disposal of cases hampers justice delivery system. Following are some of the reasons behind delay,

1) **Increase in the number of filing of cases**

The rate of disposal of cases is less than the filing of cases which create the docket explosion in the court of law. Though apart from civil and criminal courts, we have separate tribunal for consumer dispute, industrial dispute even though we are unable to tackle the issue of pending litigation which create the burden on judiciary.

Many a time state and central government is litigating parties in the suits. There is need to control the litigation against government also.

2) **Vacancies of Judicial Officers in the Courts**

This is the main cause for delay in disposal of cases. The present numbers of judges are unable to tackle the huge burden of pending litigation. The numbers of judges are inadequate as compared to population of the country.

This vacancy causes due to delay in appointment and posting of judges also. So inadequate number of judicial officers causes pending litigation problem. The Law commission in its 120th report mentioned the insufficient number of judicial officers in the court of law.

3) **Complex Procedural Formalities**

The procedures whether civil or criminal are lengthy and rigid. The procedural laws are difficult to understand and take a lot of time for its understanding. This again leads to increasing problem of delay in disposal of cases. Lack of understanding of these procedural formalities is also responsible for delay.

The procedure to be followed in court is lengthy and costly. It consumes valuable time of the court.

4) **Lack of Administrative staff strength**

Not only the judicial officers but also the administrative staff is inadequate in the court system. Courts are already overburdened with the existing work load. There is huge backlog of cases in the courts and the administrative staff to deal with daily work load is inadequate which contributes for delay in disposal of cases.

5) **Inadequate Number of Court Rooms**

The numbers of court rooms are less to deal with the existing work load. There is need to formulate a greater number of court rooms in the judicial system. This is another reason for docket explosion in judiciary. Thus, court infrastructure needs to be improved.

6) **Unnecessary Adjournment**

The biggest reason for pending litigation is grant of adjournment. Almost 80% cases are adjourning daily due to many reasons. Many a times the provision is misused by lawyers. The provision of adjournment has to be granted in appropriate cases and reason for granting adjournment is subject to payment of costs.

7) **Holidays of Courts**

The vacation of the courts is one big cause for delay in disposal of cases. Only the subordinate criminal court runs for whole year. But the Supreme Court, High Court, Lower Courts goes for long summer holidays. Apart from these long vacations they enjoy public holidays like Holi, Diwali etc. There must be some reduction in the number of holidays of courts. We have docket explosion in court and still these holidays remain the same.

8) **Delay in Delivery of Judgments**

Delay in delivery of judgment is another cause for pending litigation. Sometimes delay in pronouncing judgment becomes another contributing factor for delayed justice. Even though High Court has given guidelines to be followed in delivery of judgment, in spite of that many a times it becomes cause for delayed justice.

9) **No specific time period for disposal of case**

There is no provision of fixed time period for disposal of case in any specific act or in any code. This loophole has been misused by litigant, lawyer for delayed tactics. It wastes the valuable time, money and labour of the court.

10) **Frequent transfer of Judges**

There is always transfer of judges from one court to another after some period. The transferred Judges take time to understand the new

cases before them; it further contributes for delay in disposal of cases. It again spoils the important time of the judiciary.

11) **Lack of Specialized Knowledge among Judiciary**

Law is not static. It changes as per the society. Also, there is an emergence of new offences with the development of technology. To tackle these matters Judges needs to understand that matter and adjust with that. This takes time of the court for disposal of cases.

12) **Illiteracy among the Litigants**

The litigants also are not aware of their right to speedy trial provided under article 21 of Constitution of India.

General public does not have any knowledge about it, which leads to delay in disposal of cases. Law should be described in general public language which will be helpful to avoid the delay due to less understanding about law.

13) **Prolonged Arguments by the Lawyers**

The lengthy arguments by the lawyer waste the time of judicial system. Even the senior lawyers follow the same pattern which becomes cause for pending litigation again.

14) **Non-Applicability of Provision of Section 89 of Civil Procedure Code.**

Sec. 89 of Civil Procedure Code has made a provision for settlement of dispute through alternative dispute resolution methods instead of trial. But the lawyers avoid using this provision. They prefer lengthy procedure of court. They avoid making aware litigants about these provisions. Thus, contributing again to the delay in disposal of cases.

15) **Amendment of Laws**

It is one of the contributing reasons for delay in disposal of cases. As society changes as per that law also changes. Numbers of amendments

are always made in law. It becomes difficult to understand new provision in the laws, for the judges, lawyers. Thus, endless amendments of laws become cause for delayed justice.

16) **Increase in the Number of Filing of Appeals**

The rate of filing of appeal has been increased. It takes a time of courts in disposal of appeal. The other trial matters remain pending due to that. In turn adds the number in pending litigation.

17) **Deputation of Judges for Non-Judicial Work**

Though we have a docket explosion in the court of law. In spite of that judges are appointed for non-judicial work like appointment for administrative work, on inquiry commission. It utilises valuable time of judges for non-judicial work.

18) **Non-Observance of Working Hours by Judges, Administrative staff**

The administrative staff and judges are not punctual about their work. Thus, non-observance of working hours causes delay of trial and in turn contribute to pending litigation.

19) **Lawyers have No Knowledge of Technological Advancement**

Today E-filing of cases has been introduced in the judicial system to save time of court and litigant.

But many lawyers are not equipped with knowledge of technology. They do not have basic knowledge about how to operate computer system. It become hurdle in the E-Proceeding.

20) **Strike by Lawyers**

This is the biggest reason for delayed justice. As lawyer have adopted this method to stop the proceeding of the court to fulfil their demand. But it leads to non-disposal of cases. Thus, increasing the number of pending litigations. It wastes valuable time of the court.

2.4) Effects of delay in Administration of justice

Delay in the disposal of case is the cause for injustice. The number of Pending cases are increasing. It has adverse effect on entire judicial system. Some of the effects of delay are as follows-

1) It affects the loss of faith of people in the judiciary

The democracy can flavourish only when people keep faith on judicial system. Today due to education people are aware of their rights and remedies. If justice is not given within the time, then people respect for law, justice delivery system may be weakened. It hampers the credibility of the system. It may lead for chaos in society which is dangerous for welfare state.

2) Delay violates human rights of under trials

Unreasonable delay in trial, delay due to non-framing of charges unnecessarily detains the accused in jail. It violates his human right. In India 60 % under trial prisoners are waiting in jail for trial. It frustrates the object of justice delivery system.

3) Delay defeats the purpose of litigation

The main object of litigation is to have fair and speedy justice. This object will only survive when justice is given within stipulated time. Delay in providing justice frustrate the purpose of litigation and litigant faith and confidence on judiciary.

4) Delay consumes time and cost

The delay in deciding cases within stipulated time takes unnecessary time of litigant. In addition to that cost of litigation is also added with the passage of time. It involved both unnecessary cost and time consumption during the trial due to delay.

5) Economic impact of delay

For the development of nation systematic application of principle of economics are necessary. There is increase in number of commissions of economic offences, and the white-collar crime. Delay in disposal of these kinds of offences may lead for economic or financial loss to the nation. It creates hurdle in development and growth of the country.

6) Effect of Delay in deciding matters involving public interest

The cases in which large public interest is involved should be disposed of as early as Possible. In these cases, delaying tactics have been used. The Narmada Project, Express Highway Project, Anti encroachment drive by Baroda Municipal corporation are the examples of such of kind of litigation which were pending for unnecessary reasons.

7) Effect of Delay in deciding matters involving educational institutions

The matters of educational institutions are related to admission of Candidate, examination result of Student, disciplinary action, selection for various posts. The delay in disposal of these matter causes injustice to the litigant as in such case time is essence. The future of the litigant is depended on speedy justice.

8) Effects of Delay in deciding service-related matters

The service-related matters like appointment, removal, retirement, payment needs to be decided on urgent basis. The failure of giving justice within time in these cases disturbs litigants whole life. In addition to that his or her family members also adversely affected by the delay. we have number of legislations for labours in India. But for economic and social justice timely justice is important.

2.5) Conclusion

Being a democratic country, to maintain law and order the smooth functioning of judiciary is of utmost importance. Judiciary should

function by taking into consideration the common people in the country. We have the oldest judicial system from ancient times. With the passage of time judiciary evolves, through its precedents. Constitution of India makes judiciary independent so that it can work more efficiently. It upholds the fundamental rights of every citizen. In India there is hierarchy of courts, so that if individual is dissatisfied with the decision, he can move to the upper court. In India the concept of delay in disposal of case is not mentioned in constitution or in any other statute. It is the judiciary who paved the way for the development of right of speedy justice through its judgement. We do not have specific legislation in relation with prevention of delay. Judiciary and other related factors took effort to prevent unnecessary delay and set an example for fair and timely justice.

CHAPTER III
CONSTITUTIONAL AND OTHER STATUTORY PROVISIONS RELATING RIGHT TO SPEEDY JUSTICE

3.1 Introduction

There is no specific provision for the Speedy Trial and for prevention of delay in Constitution of India like other Constitutions in the world. Though the Supreme Court has given Right to Speedy Trial to accused through judicial interpretation. Constitution of India and other statutory acts made indirect provision for speedy trial. It is a fundamental right given to protect the innocent person from unnecessary detention so that he should not suffer for the wrong which he did not commit. Under American Constitution right to speedy trial is expressly provided. In this chapter researcher is going to elaborate provisions relating right to speedy trial provided under Indian Constitution and other statutory acts which indirectly prevents delay.

3.2 Constitutional Provision

United States Constitution expressly provides right to accused that, "The accused should be entitled to the right to a speedy and public trial in all criminal proceeding". But under Indian Constitution though it is not given expressly, we can infer it from various Supreme Court decisions. Following are Constitutional provision relating right to speedy trial.

1) **Article 21 of Constitution of India**

Right to Speedy Trial is an inseparable part of fundamental Right to Life and Liberty provided in Article 21 of Constitution of India. It provides that, No any other process is used to deprived the persons life or personal freedom except action taken under course of law.

Thus, Constitution impliedly not only provides Right to Speedy Trial but considers it as inherent right of accused. Again, Supreme Court laid down that, Procedure established by law means just, fair and reasonable procedure only. This procedure will not become fair, reasonable, just until it provides Speedy Trial for determination of guilt of the accused whose liberty is deprived.

The Speedy Trial prevents unnecessary pre-trial detention, social trauma to victims, also from risk of loss of evidence. It came first time before Supreme Court for consideration in

1) **Hussainara Khatoon v Home Secretary, state of Bihar Case**[99]

In this case numbers of under trial prisoners were waiting for their trial in jail for many years. They were charged for trivial offence for which punishment may be for 2 years. But they were deprived of their personal liberty from 3 to 10 years.

The Supreme Court took a serious note of it and blames judiciary for such incarceration. Not only the right to life and liberty but also human right of them was violated. The court in this case took reference of American Constitution where by 6th amendment they expressly provide Right to Speedy Trial. Also, court considered Article 3 of European Convention on Human Rights. It states that everyone arrested or detained has the right to a fair trial or release pending trial. The Court ordered the releases of under trial prisoners in this case.

2) **In Katar Singh v State of Punjab**[100]

A Constitution bench of apex court held that right to speedy trial is derived from the provisions of Magna Carta 1215, also from Virginia Declaration of Rights of 1776 and from American constitution.

3) **A. R. Antulay v R. S. Nayak** [101]

The Supreme Court provides guidelines to be followed for exercising Right to Speedy Trial. But it does not fix the time limit for disposal of case. This right can be exercised in any stage of the case. It includes various stages like investigation, inquiry, trial, appeal, revision and retrial. The court keeps burden to justify delay on prosecution.

99 AIR 1979 SC 1369
100 JT 1994 (2) 423
101 1994(3) SCC 569

1) The right to speedy trial given for the accused are:
   (a) The time for which accused put in remand and pre-conviction detention should be reduced. It means that accused should not be in jail before his conviction.
   (b) The other incidental losses caused due to unnecessary detention should be minimize and
   (c) The unreasonable delay may result into his loss of capacity to defend himself on account of his death, loss of evidence and non-availability of witnesses or otherwise.

2) Procedure established by law includes fair, just, reasonable procedure for speedy trial.
3) It is available at any stage including investigation, trial, appeal, revision.
4) The duty to explain delay is cast on prosecution.
5) It does not fix a time limit for trial of offence.
6) Where the party to the suit took time to protect their rights and interest it cannot be said to be delaying tactics.
7) The prosecution should not violate the time of court.
8) Accused should be given a right to speedy trial.

4) **In Common Cause, a Registered Society v Union of India**[102]

In this case delay in criminal proceeding considered as injustice to accused and the Supreme Court ordered either bail or release of accused or closure of case.

5) **In Raj Deo Sharma v State of Bihar**[103]

A three-judge bench of the Apex Court directed additional guidelines in respect to time limits and bars of limitation including termination of trial or proceedings. The court considered delay caused due to delay in investigation and trial of the case.

102 AIR 1996 SC 619
103 1999(2) SCC 604

6) **In P. Ram Chandra Rao v State of Karnataka Case** [104]

A bench of seven judges of apex court overruled the previous decision in above case. There is no time limit for conclusion of criminal proceedings. The court ordered for reopening of trial by considering the delay.

7) The apex court in **All India Judges Association v Union of India**[105]Court issued the direction for appointment of more judges in subordinate courts. The directions of apex court are useful for speedy disposal of cases.

8) **In Niranjan Hem Chandra Sashittal v State of Maharashtra**[106]

In this case petitioner filed a petition under Article 32 of Constitution for struck down of criminal trial due to unnecessary delay.

The court said that for quashing of criminal trial the nature of crime, its impact on society and confidence of people in judiciary should be considered.

There could not be a mechanical approach, the court said.

The court in this case made qualitative distinction, between fair trial and speedy trial. While giving right to speedy trial nature of offence, social justice and collective demand considered by court.

On 12th March 2014 Supreme Court state that the corruption and heinous offence trials against MP'S and MLA'S cannot be quashed down on expiry of one year.

But, the right to a speedy trial does not include the right of the petitioner to claim the fundamental right to have a High Court at a close distance from his residence.

9) **In Anil Rai v State of Bihar**[107]

Court stated unreasonable delay in delivering judgment violates right of speedy trial under Article 21 of Constitution.

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104 www.lawyersservice.com.accessed on 28 November 2018 at 11.00 a.m.

105 Indiankanoon.com.accessed on 29 November 2018 at 11.00 a.m.

106 Kumar N (2016), Constitutional Law of India, Allahabad Law Agency, Law Publishers, Faridabad (Haryana), p.357.

107 Sharma B.R. (1990), Constitutional Law and Judicial Activism, Ashish Publication House, New Delhi, p.422.

2) **Article 39 A (Directive Principles of State Policy)**

Part IV of Indian Constitution deals with Directive Principles of State Policy. India will become welfare state only if the states implement these Principles in policy making.

Under Article 39A Provision has been made for Speedy trial and Legal aid.

The provision has been made for the economically backward person. So that doors of justice should not be denied to them. The state is under obligation to pay a lawyer fee of this Poor Person who cannot stand in court due to economic condition.

Article 39A Provides that,

There will be free legal aid in the form of appropriate legislation or schemes or in any other forms to make sure that the functioning of the legal system based on the equal opportunities which promotes justice. In addition to that no citizen will be denied access to justice, especially due to his financial or any other disabilities.

The Right to Speedy Trial provided under Article 21 of Constitution of India is fundamental Right given to accused and every person who are knocking the doors of justice. Similarly, it cast duty on state to provide justice to everyone entering the court rooms.

Supreme Court also in its various judgments elaborated this provision. Following are some of them.

(1) H. M. Hoskot v State of Maharashtra[108]

In this case court held that State is under obligation of providing legal assistance to poor and it should pay the fees of lawyers as decided by court, under Article 39A of Constitution of India to provide timely justice.

(2) Hussainara Khatoon v State of Bihar

Court held that right to free legal assistance is important and inseparable part of Article 21 of Constitution of India.

108 1978 (3) SCC 544

(3) In **Centre of Legal Research v State of Kerala**[109]

In this case court held that to gain the objectives of Article 39A, the participation of voluntary organisation should be increased. Also, they must refrain from governmental control. The court cast this duty on state for providing legal assistance which is integral part of justice within time.

(4) State of Maharashtra v Manubhai Pragati Vashi[110]

In this case court direct that the principle contained in Article 39A is fundamental and the duty is on state to implement it. It is also necessary for proper functioning of legal system.

(5) In Khatri v State of Bihar[111]

In this case court direct state to provide legal assistance to poor ones and state is not allowed to take defence of economic or administrative constrain.

2) **Article 22**

It states that no detention can be made without informing his grounds of arrest and should be given opportunity to seek for legal assistance of his choice. Also, the right to have defended by lawyer is given to accused.

3.3) - Statutory Provisions

In India following are the statutory provision preventing delay in disposal of cases.

3.3.1.) Criminal Proceedings

Not only under Constitutions of India but also in the Criminal Proceeding the provision relating to speedy trial has been made. It deals with disposal of cases at various stages in speedy way. It is contained in section 157, 167, 309 and 437 of the Criminal Procedure Code[112].

i) **Section 157 (1) Of Criminal Procedure Code**

It states that, "If information of the case is received or otherwise, the officer who is an in charge of a police station has a cause to suspect a crime for

109 AIR 1986 SC 1322
110 www.indiankanoon.com.accessed on 12 December 2019 at 06.00 p. m.
111 19810 Cri L J 470
112 Ratanlal and Dhirajlal (2010), The Code of Criminal Procedure, LexisNexis, p.260-866.

which he has the right to investigate under section 156, he will immediately send his report to the magistrate who has power to take notice about it. On the basis of police report of such a crime officer who is personally proceeding or appointing one of his junior officer, who is not below the rank as the state government with general or special order, who prescribe the facts and circumstances of the case, in this regard proceed investigation, and he will take measures to find and arrest the culprit whatever required." [113]

So, this section casts the duty on the officer in charge of a police station to intimate the commission of cognizable offence to magistrate having jurisdiction. It able the magistrate to give necessary direction.

ii) **Section 167 (2) Of Criminal Procedure Code**

"Under this section the magistrate to whom the accused is referred under this section whether he has the right to prosecute or not, may, from time to time direct the detention of the accused in custody as he considered appropriate for a period of not more than 15 days. Magistrate has no authority to try such case and if he thinks it is unnecessary to take further custody, he may order the accused to be referred to a magistrate who is having jurisdiction." [114]

In this section of Criminal Procedure Code, the reflection of speedy trial provision enumerated in constitution can be seen. It says that every enquiry on trial the proceedings should be held in speedier manner.

iii) **Section 437 (6) Of Criminal Procedure Code**

It provides that, "For non bailable offence if trial is not concluded within 60 days from the first date fixed by a magistrate for taking evidence, in such a case if a accused is in custody for that period he shall be released on bail."[115]

This section gives power to police officer or the judiciary to release an accused on bail in non-bailable offence where no reasonable ground exists. In one case the accused was charged for an offence under section 304-B and 498-A for which punishment is 7 years and 2 years. But the accused was in jail waiting for trial more than 3 years. The court ordered to release the accused on bail.

113 Lal Batuk (2017), The Code of Criminal Procedure, 3rd ed., Central Law Agency, p.248.
114 Kelkar R.V., (2006), Lectures on Criminal Procedure, 4th ed., Eastern Book Company, p. 70
115 Ratanlal and Dhirajlal (2018), The Code of Criminal Procedure, 21st ed, Lexis Nexis, p.866.

This delay was considered as against his right to speedy disposal of cases. So, the right to speedy trial can be seen in the section 437 (6) of Criminal Procedure Code. Investigation should be completed without delay.

iv) **Section 309 Of Criminal Procedure Code**

It states that, "309. Power to Postpone or adjourn proceedings.

(1) In each inquiry or trial, proceedings will be conducted without delay. Once the examination of witnesses has been started it will continue for every working day until all the present witnesses have been examined. If the adjournment is given the reason for same need to be recorded.

(2) After initiating a trial if court deems it necessary to adjourn or postpone the commencement of any enquiry or trial shall adjourn from time to time and may by warrant remand the custody of accused. However, under this section no magistrate detains a person for period exceeding 15 days at a time. After that it says that there will be no adjournment or postponement if the witnesses are present, but under exceptional cases by recording reasons in writing adjournment may be granted. However, no adjournment shall be granted to the accused for the purpose of availing himself to show cause against the proposed punishment." [116]

This section also direct court to conduct matter as early as possible. The Constitutional provision of speedy justice is clearly mentioned in section 309 of Criminal Procedure Code. It directs that in every enquiry on trial the proceeding should be completed as early as possible. It provides that the examination of witnesses should be held every day, unless reasonable cause is there for adjournment. Also, in sub section (2) of 309 states that for giving adjournment for remand of accused for custody only 15 days period should be granted at one time.

Following are the cases relating to Speedy Trial under Criminal Proceeding

1) **Ramakrishna Sawalram Redkar v State of Maharashtra** [117]

In this case court held that trial should be disposed of expediously without delay in the public interest.

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116 Dr. Subzwari Arshad, Survase B.R. (2009),3rd ed. Criminal Major Acts, Ashok Grover & Sons, p.300.

117 1980 Cri L J 254

2) **In Raj Deo Sharma v State of Bihar**[118]

In this case the writ petition was filed by the petitioner for quashing the trial including the F. I. R. as the 13 years were lapsed from the date of filing of F. I. R.

3) **In Durgesh Chandra Shah v Bima Chandra Saha**[119]

Court held that pending of criminal case without just cause violates right to life and liberty of accused guaranteed under Constitution of India.

4) **State of Punjab v Ajaib Singh**[120]

The Court upheld the view that unnecessary detention of accused in custody infringes right to life and liberty under Constitution of India and also his right to live with human dignity.

5) **In S. G. Nain v Union of India**[121]

Court quashed down the prosecution as it was pending from 14 years.

6) **In A. R. Antulay v R. S. Nayak**[122]

The Court held that speedy trial includes "a reasonably prompt investigation, shortest possible period of remand and pre-conviction detention, trial and conclusion of a criminal case." The duty is cast on state in this case.

7) **State of Punjab v Kailash Nath**[123]

The court quashed prosecution on ground of unnecessary delay in investigation and prosecution.

8) **Madhu Mehta v Union of India**[124]

The inordinate delay in mercy petition violates the right to speedy trial of accused under Article 21 of Constitution. For the delay sufficient cause and mental condition of convict, nature of offence should be considered.

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118 www.indiankanoon.com.accessed on 5 December 2019 at 04.00 p.m.
119 Ibid
120 AIR 1953 SC 10
121 AIR 1992 SC 603
122 1984(2) SCR 914
123 AIR 1989 SC 558
124 AIR 1989 SC 2292

9) **Srinivas Gopal v Union Territory of Arunachal Pradesh**[125]

The Court again held that delay in trial violates the right to speedy trial of accused under Article 21 of constitution.

v) **Section 304 – Legal aid to accused at state expenses in certain cases**[126]

There is provision of legal assistance by state to accused who is unable to afford it. The State is under duty to provide legal aid under this section.

3.3.2)**Civil Proceeding**

The Civil Procedure Code is piece of legislation which contain provision relating to civil proceeding in view of speedy disposal of cases are as follows.

(1) **Order XXIII, Rule 3 of Civil Procedure Code**

Compromise of Suit

"When court comes to the conclusion that a suit has been adjusted fully or partly adjusted or signed by any legal agreement or by written compromise by the parties to the suit or where the respondent satisfy the complainant in whole or in part this the court will pass the decree on the basis of the filling of such lawful agreement, compromise or satisfaction. [127],,

As per this rule court can make compromise between the parties which should be in writing. The court formulates the compromise decree accordingly along with reasons for such compromise. The valuable time of judiciary can be saved through this rule. Also, the workload on judiciary can be reduce. Judiciary in its various judgments elaborated this provision.

Following are the cases relating to Speedy trial in Civil Proceeding

(i) **Shanti Budhiya Vesta Patel v Nirmala Jayprakash Tiwari.**[128]

In this case court held that if compromise is done with the use of fraud or coercion then burden to prove it lies on party alleges so. Court considered that Speedy procedure is necessary but it should be fairly used.

125 www.indiankanoon.com.accessed on 6 March 2019 at 07.00 p.m.
126 Ibid
127 Dr.Subzwari(2015),The Code of Civil Procedure1908,Ashok Grover and Company, p. 689.
128 2008 (1) BomCR 156

(ii) **Jineshwardas (d) through L. R. S. and Ors. v Smt. Jagrani and Anr.**[129]
Court held in this case that judgment passed as a result of consensus arrived before court not be allowed to said to be one passed on compromise. Thus, the rules for compromise have been laid down by court to avoid delay.

(iii) **Jineshwardas (d) through Lrs. And Ors.v Smt. Jagrani and Anr.**
Court held that for whole or part adjustment of claim it must be in writing and signed by the parties to the suit. Thus, court said that if it satisfies for adjustment of claim it can compromise the matter through which the burden on judiciary can be reduce. Also, the matter can be disposed of as early as possible.

(2) **Section 89 of Civil Procedure Code**

Sec. 89 - Settlement of dispute outside the court.

(1) According to this section, upon finding the parties for compromise of dispute that is acceptable to parties, the court shall make the terms of the agreement and give them to the parties for their observation and after receiving parties observation, the court will amend the terms of the possible settlement and refer it for –

(i) Arbitration
(ii) Conciliation
(iii) Judicial settlement including settlement through Lok-Adalat; or
(iv) Mediation

(2) Where a controversy has been referred:

(a) For arbitration or conciliation, the provision of the Arbitration and Conciliation Act, 1996 shall apply.
(b) For Lok-Adalat, the provisions of sub section (1) of section 20 of the Legal Services Authority Act, 1987 shall be applied.
(c) For judicial settlement, the court may refer the same to an appropriate body or individual who may be considered Lok Adalat and the provisions of the Legal Services Authority Act, 1987 shall apply.

129 www.Supremecourtofindia.com (Appeal Civil No. 8104-8105/2003)

(d) For mediation, the court will give effect to settlement between the parties and follows the prescribed procedure. Court may formulate the possible terms of settlement and refer them for ADR mechanism[130].

It helps court including trial and appellate one to decide the matter as early as possible.

In case of, **Salem Advocate Bar Association, Tamil Nadu v Union of India.**[131]

In this case the amendment made by the Amendment Act 46 of 1999 and Amendment Act 22 of 2002 was challenged by filing writ petition.

The court held that this amendment is necessary for early disposal of pending litigation both in trial and in appellate court also.

The judicial decision can be given as early as possible. Also, unnecessary delay in disposal of cases can be made.

The Arbitration, Conciliation, Mediation, Judicial settlement through Lok-Adalat save the cost and time of the litigation. It runs the justice delivery system in faster way. Now a day court approach in adopting these methods in disposal of cases has been changed.

3) **Section 47 of Civil Procedure Code**

Questions determined by the court executing decree

(1) "The questions which are required to be adjudicated which remains in judgement and decree of suit or any question arises after judgement and decree of suit will be decided in execution petition of that suit itself and not by a separate suit[132].

(2) If there is question as to who is the legal representative the question will be determined by court for the purpose of this section."

Section 47 provides that while execution of decree if any question arises relating to execution, discharge of the same should be decided by that court only. The separate suit should not be filed for determining such above

130 Dr.Subzwari (2015), The Code of Civil Procedure1908,Ashok Grover and Company, p. 154.
131 www.indiankanoon.com.accessed on 24 March 2019 at 05.00 p.m.
132 Dr.Subzwari (2015), The Code of Civil Procedure1908, Ashok Grover and Company, p. 107.

questions. This provision saves the time of judiciary. This power has been given to a court who is executing the decree.

In case of Deepa **Bhargava and Anr. v Mahesh Bhargava and others** power has been given to same court if question arises relating to execution of decree.

4. **Order XXXII A of Civil Procedure Code -** Suits relating to matters concerning the family.

The Provision is applicable only to family matters. The duty is cast on the courts to conciliate or negotiate the family disputes instead of giving legal solutions. It contains following matters only:

(a) In suit of affirmation as to validity of marriage.
(b) In suit of affirmation as to legitimacy of any person.
(c) In petition of maintenance
(d) In suit of validity of adoption
(e) In a suit relating to wills, intestate and succession.

It saves the time of the court. Along with that settle the matter amicably and preserve their relations also[133].

Also, Civil Procedure Code has been amended from time to time to make trial procedure faster. Some of the amendments are as follows –

(i) Under amendment in section 148 of Civil Procedure Code court has given power to extend time.
(ii) Section 13 of amendment Act in 1999 made provision of time limit for giving statement by defendant and also for summoning witnesses.
(iii) Amendment in Rule 9 and Rule 9 A of order V the defendant has been cast the duty to forward summon through courier is evolved in this.
(iv) Under section 27 of the C. P. C. (Amendment) Act, 1999 and section 12 of CPC (Amendment) Act, 2002 the commissioner has been empowered to record the evidence.

Previously the Judges has to record the evidence but later on duty was cast on commissioner. It saves the time of judiciary so that cases can be disposed of in speedy manner.

133 Takwani C.K, (2015), Civil Procedure with limitation act 1963, 7th ed. Eastern Book Company, p.446

3.3.3.) **Alternate Dispute Resolution Mechanism**

Alternative dispute resolution plays vital role in speedy disposal of cases. In India the provision for the same has been laid down under following legislation

1) **The Arbitration and Conciliation Act, 1996**

Apart from formal legal system the Arbitration, Conciliation plays the vital role in settlement of dispute outside the court. These methods are less expensive and take less time to dispose the case. Though it is informal method of settlement of dispute it has legal recognition in various statutes like in the Arbitration and Conciliation Act 1996, Legal Service Authority Act 1987.

The prolonged delay which takes in stay, adjournment is curtailed through the provisions made under this act[134].

Following provisions has been made in Arbitration and Conciliation Act, 1996

i) This Act includes domestic, international, and interstate arbitrations also. International arbitral awards can be enforced under this Act.

ii) The powers of court to enter in these matters are cut down by this Act.

iii) The Arbitral award given after the proceeding is final and court has no power to entertain into it.

iv) Section 18 to section 27 of Arbitration and Conciliation Act 1996 stated detailed provision relating to procedure to be adopted under the act.

v) Though courts power to interfere in the proceeding under the act is curtailed but the evidence can be taken with help of court.

vi) The powers of arbitrators are increase in section 16 and 17 of the Arbitration and Conciliation Act 1996.

134 Dr.Tripathi S.C.(2008),Arbitration and Conciliation Act 1996, Central Law Publication, Allahabad,p.24.

vii) The detailed provision has been given in part III of the Act relating to conciliation. Also, conciliator is not under duty to follow Civil Procedure Code 1908, Indian Evidence Act, 1872.

viii) This act also gives recognition for applicability of foreign Arbitral Tribunal awards.

2) Alternative means of Settlement of Dispute

In India Alternative Dispute Resolution modes are – i) Arbitration ii) Conciliation iii) Negotiation iv) Mediation

It provides for speedy disposal of case. So that parties need not to wait for long period, for the sake of justice. It is economical and time saving. It has been also legally recognised in various statutes like Civil Procedure Code under order XXXII-A Rule 3 and under Section 89 of the said Act. Following are the methods of Alternative dispute resolution,

(i) **Arbitration**

It is settlement of dispute through arbitrators, who is independent impartial third party. It takes place only when both the parties to dispute agrees for it. Also, in contract the arbitration clause can be inserted by the contracting parties for future dispute which may arise between them. Thus, without delay matter can be settled between parties.

(ii) **Negotiation**

It is settlement of dispute with or without help of third person. It is non-binding process where the parties resolve their dispute without intervention of third party. Negotiation will succeed only when both parties have same interest in subject matter. The negotiation goes through following stages,

a) **Preparation**

It relates to collection of information of parties. In this stage parties understand interest of each other and what are the strengths and weaknesses of the case.

b) **Opening**

In this stage the parties put their initial opinion relating dispute. The parties focus is on their interest in the case.

c) **Bargaining**

The parties are suggested to come down for settlement and reduce their demand. They try to listen opposite side and then synthesize it.

d) **Closing**

It is outcome of negotiation[135]. Here parties if agrees for settlement draws draft of agreement of settlement or if settlement is not accepted between parties they may walk away from negotiation.

(iii) **Mediation**

Family matters, Contract matters etc. can be settle with the help of mediation. The mediator facilitates a settlement between the disputed parties. His role is to only give suggestions of proposals for settlement. So, he has given very limited powers.[136] Also he can assist the parties for drafting the settlement agreement.

(iv) **Conciliation[135]**

The Conciliator has more powers than the mediator. His powers are well elaborated under Arbitration and Conciliation Act, 1996. He can make proposals for settlement.

3) Legal Service Authority Act 1987

The Legal Service Authority Act 1987 makes provision for the establishment of Lok Adalat[137].

The main purpose behind the act is to provide speedy, economical and competent legal aid to those who cannot bear expenses of it due to economic or other disability. The literal meaning of Lok Adalat is 'People's Court'.

As today judiciary is overburden with the pending litigation. Also, the formal adjudication takes lot of time of court. So, Lok Adalat Provides inexpensive justice as early as possible. Section 19 of the Legal Service Authority Act 1987 clearly states that, every Taluka legal services committee, state authority, District authority, High Court legal service committee, Supreme

135 Dr. Tripathi S.C. (2017), Arbitration and Conciliation Act 1996, Central Law Publication, p.351.

136 Shridhar Madabhushi (2016), Alternative Dispute Resolution, 4th ed., LexisNexis, p.270-278

137 Dr.Myneni S.R. (2019), Alternative Dispute Resolution ,Asia Law House, Hyderabad,p.244-253.

Court legal service committee may organize Lok Adalat at such interval of time and at such place as it thinks fit.

Lok Adalat has jurisdiction to decide and settle the matter in respect of –

(i) Any case pending before or

(ii) Any matter which is subject of the jurisdiction of Lok Adalat and not of any other court.

It bars to deal any matter relating to an offence not compoundable under any law.

Advantages of Lok Adalat

(1) Speedy inexpensive trial is the main objective behind the Lok Adalat.

(2) Lok Adalat never takes the court fee and even if it is taken then the Lok Adalat refund that fee to the litigant.

(3) The parties are allowed to have conversation with judges.

Thus, speedy justice is the function exercised by the Lok Adalat, which helps to ordinary courts for reducing burden on them.

3.3.4) Provision under Family Laws

In India there are various family laws providing the provision relating to speedy disposal of family matters are as follows,

1) Family Courts Act, 1984

The state government is having a duty to establish the family courts in the metropolitan cities whose population exceeds 1 million under section 3 of family courts Act, 1984[138]. The establishment of family courts helps in quick disposal of cases. It deals with all family matters including divorce, maintenance, matters of custody, education and financial support to children, alimony. The proceeding should be held in camera and adjournment must be avoided if possible. Its basic aim is to preserve family institution. Thus, instead of providing legal solution, family court tries to settle the matter with the help of counselling. Family courts also adopt less formal method in the proceeding. Main function under this act of court is reconciliation and to avoid unnecessary

138 Diwan P. (2007), Family Law, Allahabad Law Agency, Faridabad. 271-287.

delay. Also, undue delay is bar to relief in all matrimonial petitions under Hindu Marriage Act, Special Marriage Act, Parsi Marriage and Divorce Act. But under Indian divorce Act it is bar to have remedy of divorce only.

2) **Hindu Marriage Act, 1955**

The Hindu Marriage Act 1955 is applicable to all Hindus by religion and includes Buddhist, Jain, and Sikh. The petition filed under the said act for matrimonial relief lies in district court. It hears matters relating to nullity, divorce, judicial separation, restitution of conjugal rights. They follows Civil Procedure Code and rules formed by High Court. The main objective under this act is to reconciliate the dispute and to save valuable time of court by providing timely justice. Following are provision under Hindu Marriage Act 1955 preventing delay.

a) **Section 23 (2) of the Hindu Marriage Act, 1955**

Provides that, 23 (2) "Before Providing any remedy under this Act, it will be the obligation on court to make every possible effort to initiate about reconciliation between the parties in accordance with the nature and circumstances of case wherever possible provided that any matter contained in the subsection shall be exempted for any reason specified in clause (ii), clause (iii), clause (iv) or clause (v)or clause (vi) or clause (vii) or clause (viii) of subsection (1) of section 13 will not apply to any proceeding." [139]

The matter before court is reconciliated instead of formal proceeding which waste the valuable time of judiciary to dispose of the case. Thus, court tries to settle the dispute as expediously as possible.

b) **Section 23 (3) Hindu Marriage Act, 1955**

In order to assist the court in bringing about such reconciliation, if the both parties wish or the court deems it just and appropriate to do so, it may adjourn the proceedings for a reasonable convenient period not exceeding more than fifteen days and refer the matter. If the party fails to provide the name of

139 Lawman's (2017), Family Court Act 1984, Kamal publisher, p. 129.

any person the court will provide so. Court will draw reconciliation accordingly. [140]

Under this section court can grant adjournment if necessary but not more than 15 days. The court may refer the name of a person if parties fail to gives, for the purpose of reconciliation report. So that court can ascertain to carry or not to carry reconciliation proceeding. Thus, Unnecessary delay can be prevented in the proceeding.

3) Special Marriage Act, 1954

The petition relating to divorce, judicial separation, nullity, restitution of conjugal rights lies in District Court under this Act. The court follows the Civil Procedure Code and rules framed by High Court for the purpose of this Act.

Section 34 (3) Special Marriage Act, 1954

Provides that, 23 (2) "Before Providing with any remedy under this Act, it will be obligation on the court to make every possible effort to initiate about reconciliation between the parties in accordance with the nature and circumstances of case wherever possible provided that any matter contained in the subsection shall be exempted for any reason specified in clause (ii), clause (iii), clause (iv) or clause (v)or clause (vi) or clause (vii) or clause (viii) of subsection (1) of section 13 will not apply to any proceeding."[141]

Under this section of Special marriage Act court can grant the adjournment which should not be more than 15 days. Also, court can refer the name of a person or parties may refer to the reconciliation report. So that court can determine whether to carry or not reconciliation proceeding which saves valuable time of court by preventing delay

3.3.5) Commercial Proceeding

The commercial proceeding in India contained provision for preventing delay. The Consumer Protection Act 1986, The Negotiable Instruments Act 1881 are the legislation on it. These statutory acts laid emphasis on the speedy disposal of cases without delay.

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140 Lawman's (2017), Family Court Act 1984, Kamal publisher, p. 129.
141 ibid

1) **Consumer Protection Act 1986**

The Consumer Protection Act 1986 has been passed for the speedy disposal of consumer complaints relating to defects in goods and deficiency in the services. It also makes provision for the constitution of the consumer redressal agencies at district, state and national level. Section 13 (3-A) of the act states that consumer complaint should be disposed of as early as possible where no testing of goods involves. Within five months if it involves testing of goods in the laboratories no adjournment should be granted, even if it granted the reason for such adjournment shall be recorded in writing.

Section 13 (3-A) Procedure on admission of complaint

"Every grievance will be heard as soon as possible and attempt will be made to resolve the grievance within the 3 months from the date of receipt of the notice from the opposing party where the grievance does not require an analysis of the commodities. The five months period is given where commodity requires analysis or testing.

However, no adjournment will be granted by the district forum unless sufficient reason is given and the reason for the adjournment must be given in writing by the forum.

Also if the grievance is settled after the mentioned period, the district forum will record the reasons in writing while resolving the respective complaint."[142]

1) **The Negotiable Instrument Act 1881**

The Negotiable Instrument Act has been amended by the Negotiable instrument (amendment and miscellaneous provision) Act, 2002, [143] it clearly states that trial in a case filed under section 138 of the Act shall be tried in summary manner. It provides that magistrate under this act can use section 262 and 263 of criminal procedure code for the trial. Under this provision it is mandatory on magistrate to conduct trial on daily basis and to dispose of the case within 6 months from the date of institutions of suit. The main object

142 Shukla.M.N.(2016), The Law of Torts and Consumer Protection Act, Central Law Agency, p. 51.

143 Lakshmanan A. R., The Negotiable Instrument Act 1881, Universal Law Publishing Co. Pvt.Ltd, p. 264.

behind the amendment of the act is to dispose of the matter relating to dishonouring of cheques as early as possible. Thus, speedy justice and preventing undue delay is a part of Negotiable Instrument Act also.

3.3.6) Labour Proceedings

The provision for speedy justice has been also inserted in the Labour proceedings. Under the Industrial Dispute Act 1947 the following provision has been made for the settlement of dispute which avoid unnecessary delay.

Industrial Dispute Act 1947

Under the Industrial Dispute Act 1947 provision for speedy disposal of matter has been also made. Under section 10-A of the act employer and workers can submit the matter for voluntary arbitration. The arbitral award passed by arbitrator officer will be binding on the parties of the dispute. Under section 12 the employer and worker can submit the matter for conciliation in front of the conciliation officer which will be binding on them by signing on final agreement[144].

3.4) Conclusion

Indian Constitution has not expressly provided for right to speedy justice. But it is the integral part and parcel of the Article 21 of Indian Constitution. Supreme Court through its precedent recognises it as a fundamental right of citizen. Like the American Constitution we do not have direct provision for speedy disposal of cases. Various statutory provisions indirectly laid emphasis on the right to speedy justice. Along with that quality justice is of much importance. We do not have definite either statutory or Constitutional law for speedy justice. There is need to form firm legislation for disposal of cases within fix period.

It is human right of individual, which should be protected under specific legal provision. Due to lack of dedicated law in relation to the right to speedy justice, huge pendency cannot be tackled. It is great need to add provision directly related to the speedy justice as one of the finest solution for dealing with the huge backlog and pendency of cases.

144 Misra S.N., (2009), Labour and Industrial Laws, 25th ed., Central Law Publication, p.92-111

CHAPTER IV

ROLE AND MEASURES ADOPTED BY GOVERNMENT

4.1) INTRODUCTION

As Indian judiciary is overburdened with the pending litigation, several attempts have been made by Central and State Government to overcome this problem. Article 14 of the Constitution of India directs that there should be equality before law and equal protection of law to every individual. Right to speedy trial is the inseparable part of Article 21 of Constitution of India. Article 38 provide that in order to attain welfare state legal system should be strengthen by promotion of justice and by providing equal opportunity for all. Discrimination should not be done on account of economic and other disability. Article 39 A gives right to every individual of equal justice by providing free legal aid by the appropriate policies, legislations, schemes. So, it can be rightly said that right to speedy justice is available to everyone and it is the state duty to provide so by organising proper means.

The provision for speedy justice is made at international level also. Article 10 of Universal Declaration of Human Right Provides that free and fair trial is the part of Human Right. Also, Article 9 (3) of the International Covenant on Civil and Political right provides that trial should be disposed of within a reasonable time.

So, by considering the international and national provision it is necessary to tackle the problem of pending litigation. Number of Commissions, Committees was formed. Also, amendments were made in procedural laws, special tribunals have been constituted. Supreme Court in its judgment directed from time to time to state and central government to take steps for reducing pending litigation.

Following are the efforts taken by Government of India at national and international level in eradication of this docket explosion and huge arrears of pending cases. It is fundamental right of citizen to have cheap and speedy justice.

4.2 Role of International Conventions on delayed Justice

Efforts taken by Indian Government as a signatory to International Covenants on Delayed Justice -

India is signatory state to the International Covenant on Civil and Political rights. India ratified it on 10th April 1979. Article 2 (2) of the International Covenant on Civil and Political Rights binds the obligation on the signatory state to give effect to the rights provided under the covenant. Article 3 of the ICCPR provides the signatory state shall provide this right equally to all citizens in their states.

The question of applicability of this covenant comes for decision before Supreme Court of India in the people's union of India v Union of India case. The court held that the provision contained in the covenant are similar with Constitutional provisions thus are enforceable.

Further second time it comes for consideration in Supreme Court in 'Vishakha and others v State of Rajasthan and others case'. The court held that international convention which does not violate the fundamental right in the Constitution must be taken into consideration.

The signatory states become party to international covenant. It will become law in the country when parliament or state legislature passed law for it. We cannot demand the application of the provisions contained in international convention. But as in India various humanitarian laws are similar with the fundamental right in the Constitution of India. We can say that India effectively has provision for speedy trial right in the Article 21 of Constitution of India passed by the Constituent assembly while formulating Articles in the Constitution. Though not directly but by various judicial decisions we can say that right to speedy trial has become an important part of Article 21 of Constitution of India. The right to speedy trial is not only available at pre- trial stage but also post trial and execution of the sentence stage. In Raj Deo Sharma Supreme Court gave additional guideline to the court for enforcement of right to speedy trial in criminal cases.[145]

145 https://shodhganga.inflibnet.ac.in accessed on 30 December 2018 at 11.30 a.m.

4.3) Efforts of Central Government

Various committees and commissions were constituted by Central Government. National Litigation Policy was framed to curb the problem of delayed justice.

4.3.1.) Committee established by Central Government

1) **Rankin Committee 1924**[146]

The civil justice committee was set up under the chairmanship of Justice Rankin 1924 to study the pending litigation issue. According to the report of this committee the main cause of delayed justice in High Courts is the smaller number of judges. According to the observation of committee which was made 90 years back, that to curb the problem of pending litigation, there should be change in method.

2) **High Court Arrears Committee 1949**[147]

In 1949, the High Court Arrears Committee was established under the chairmanship of Justice S. R. Das. According to the report of this committee the only reason for pending litigation in High Courts and subordinate court is lack of judicial strength.

3) **Survey Report 1967**[148]

In 1967, the Government of India through survey of every High Court in India reported that the reason behind every pending litigation is an inadequacy of judiciary.

4) **High Court Arrears Committee, 1972**[149]

In 1972 under the chairmanship of Justice J. C. Shah, High Court Arrears committee was constituted. According to report of this committee the inadequacy of judicial officers in High Court and the delay in appointment of new judges was considered main cause for pending litigation.

5) **Arrears Committee 1990**[150]

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146 Rankin committee 1924 headed by Justice Rankin for the subject 'Enquire into the operation and effects of the substantive and objective law.

147 High Court Arrears committee 1949 headed by Justice S.R.Das on the subject Analysis of Lack of Infrastructure and Vacancies and its Impact on Pendency in subordinate court: A Study of Delhi, Punjab and Haryana

148 Ibid

149 Ibid

To resolve the problem of huge backlog of pending cases the conference of chief justices was organised in 1987. The inadequacy and incompetency of judges was considered to be main cause for the Arrears in upper courts as well as in subordinate courts. So, to tackle this problem the government of India framed committee of chief justices in 1989 to find out reason and give recommendation on this problem. The committee consisted of Shri. V. S. Malimath, P. D. Desai and P. C. Jain. To tackle the problem committee suggested some recommendations. According to the report of committee competent judiciary, increase in work hours, use of modern technology like use of computer, court and case management, appointment of judges in court may help to reduce the huge backlog of pending cases.

6) **Vohra Committee, 1993**[151]

The committee suggested reforms in legal system India. The following recommendations were suggested by the committee.

i) To make legal system clear and simple so that every citizen can better understand it.

ii) The provision to deal the economic offences which are insufficiently provided in todays legal system.

iii) To constitute nodal agency under ministry of home affairs who will be under Union Home Secretary.

iv) The provision to deal economic offences should be made because private wrong were covered in criminal justice system but not the economic offences.

This will help in speedy disposal of economic offences by simplifying the criminal justice system.

7) **Padmanabhaiah Committee on Police Reforms 2000**[152]

In 2000 under the chairmanship of Sri. K. Padmanabhaiah the committee was constituted to suggest the changes in police reform. The

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150 Arrears Committee 1990 Framed by Govt. of India to find out reasons and give recommendations on problem of huge Backlog of pending Cases.

151 Vohra Committee 1993 headed by N.N.Vohra for the subject the Problems of criminalization of Politics and of the nexus among Criminals, Politicians and Bureaucrats in India.

152 Padmanabhaiah Committee on Police Reforms 2000 headed by K.Padmanabhaiah to study and suggest reforms, to amend and modify the Police Organization.

committee suggested reforms in criminal justice administration system. It consists of chairman and 4 other members. The other members are always policemen. It did not include any other member from public in its committee.

i) Separation of crime form law and order.

ii) Reforms in criminal justice administration system.

Thus, it put stress on strengthening of police administration so that it may help to dispose matter without delay.

8) **Malimath Committee Report, 2003**[153]

This is also called as committee on reforms in criminal justice system. In 2003 it was framed under the chairmanship of Justice V.S. Malimath.

The main suggestion of this committee is to provide reforms in Judicial Procedure to make it simple and clear. There is need to make criminal justice system to be clear and fair. Following recommendations were suggested by committee.

i) To decrease the number of pending litigations in High Court the help of retired high court judge can be taken.

ii) Constitution of fast-track courts.

iii) The separate criminal division of Supreme Court and High Court judges shall constitute to deal criminal matters.

iv) To simplify the criminal procedure.

v) The number of judges shall be increased.

vi) The crimes need to reclassify into other categories.

vii) Reduction in the number of holidays in High Courts and Supreme Courts.

viii) The code needs to be classifying into social welfare code, correctional offence code, criminal offences code and economic and other offences code.

The recommendation is helpful in reduction of huge backlog of case and to provide right of speedy trial to accused. Thus, it is necessary to make criminal procedure code clear and simple.

153 Malimath Committee Report, 2003 headed by Justice V.S.Malimath for the subject Reforms of Criminal Justice system.

9) **Parliamentary Standing Committee on Home Affairs 69th Report[154]**

There are various reports of law commission which put more emphasis on efforts to be taken by government. There must be change in judicial system. To tackle the pending litigation following suggestion were made by committee.

i) There is a need to create post in judicial services by government.

ii) Adoption of ADR mode which include arbitration, conciliation for speedy disposal of cases.

iii) Constitution of special tribunals.

iv) Constitution of Lok-Adalat for quick disposal of cases.

v) Introduction and training of computer facilities in the courts which will help to stop delay in disposal of cases.

The committee suggested the judicial reforms for speedy disposal of cases without delay.

10) **Arrears Committee 2007[155]**

The problem of pending litigation is more crucial in High Courts. It put more stressed on the improvement of judicial skill intellectually. Following are the suggestions of committee –

i) The number of holiday of judges should be decrease in 21 days.

ii) There is need to make judges intellectually strong and update with the todays knowledge by increasing their participation in seminars.

iii) The co-operation between judges and advocates shall be promoted for quick disposal of cases.

Thus, this committee focused on strengthening High Court judges intellectually by providing training to them. This will automatically help to reduce delay in disposal of cases.

11) **28thReport of Parliamentary Standing Committee on Rajya Sabha on Law and Justice, 2008[156]**

The committee has discussed on the delay in disposal of cases in the apex court that is Supreme Court. It hampers the faith of people in the judicial

154 Parliamentary Standing Committee on Home Affairs 69th Report

155Arrears Committee 2007 headed by Justice A.P.Shah on the subject Arrears and Backlog: Creating Additional Judicial (WO) Manpower.

156 28th report of Parliamentary Standing Committee on Rajya Sabha on Law and Justice, 2008

institution. It is obligation on the government under article 130 of the Constitution of India to create judicial services to the citizen. It is also called as Supreme Court (Number of Judges) Amendment Bill, 2008. It suggested following measures to reduce arrears in the pending cases.

i) To increase the number of judges in apex courts that is Supreme Court.
ii) Committee held government responsible for not creating judicial services.

4.3.2.) Law Commission of India

Various law commissions were formed from time to time to study the justice delivery system in various, courts in India. To make India welfare state it is necessary to improve judicial system so that people can keep faith in administration of justice. Following are some of the reports of law commission.

(1) 14th Law Commission Report 1958 [157]

The Commission studied the working of judiciary from lower to apex court. The subject of report was "Reform of the judicial administration" and it was in 2 volumes. It deals with civil matters and criminal matters in 2 volumes. It studies various aspects of civil matters, disposal of civil cases, reasons behind its delay, court fee, legal education, similarly reasons in delay of disposal of criminal matters, investigation, criminal court system including writ jurisdiction. It also stressed on the view that major reason behind the pending litigation is lack of judicial strength. According to report it is necessary to tackle this issue and for this purpose court system should work properly. Then only cheap and speedy justice can be provided to litigant. Following are the recommendations made by this14th law commission.

i) Establishment of separate ministry of law and Justice.
ii) The ministry of justice must be equipped with proper Administrative Facilities.
iii) The number of judges should be increased.
iv) High Court must be provided with the power of appointment of additional court where there is requirement to do so.

157 14th Law Commission Report 1958 headed by Justice B.S.Chauhan on the subject Reform of Judicial Administration.

2) **27th the Report of Law Commission of India 1964**[158]

The commission was constituted under the chairmanship of M.C. Setalvd for examining the issue of huge backlog of cases with the delay in disposal of cases. The commission found the 4 reasons for delayed justice like less no of judiciary, and ministerial staff, the procedural defects.

They suggested following remedies for speedy disposal of cases

i) Increase in number of judges by appointment.
ii) Increase in number of ministerial staff which may assist judge in working efficiently.
iii) Pre -trial and trial stage delay must be tackled.

3) 58th Report of Law Commission of India, 1974[159]

Under the headship of Justice P. B. Gajendra gadkar the commission was constituted to study the delay in disposal of cases. The following remedies suggested by the commission as follows.

i) The age of retirement of judges must be increased from 62 to 65 years of age.
ii) The other modes of Alternative dispute resolutions must be adopted.
iii) The amendment in the Article 134 (1) (c) and Article 133 (1) (c) of Constitution to be made.

Also, the trained younger judges must be increased.

4) **77th Report of Law Commission 1978** [160]

The subject of report was 'Delay and Arrears in Trial Courts'. It studied civil and criminal pending cases in trial courts. The civil matter may be considered to be lapsed if it is pending for 1 year from the date of its filing. It gives recommendations based on the report as follows. Also, criminal case to be disposed of within 6 months.

(i) Judicial system should be modernised.

158 27th the report of Law Commission of India 1964 headed by M.C.Setalvd to examine the problem of Huge Backlog of cases with the delay in disposal of cases.
159 58th Report of Law Commission of India, 1974 headed by Justice P.B.Gagendragadkar to Study delay in disposal of cases
160 77th Report of Law Commission 1978 headed by Justice H.R.Khanna on the subject Delay and Arrears in Trial Courts

(ii) Scrutiny of cases should have been done within 1 week.

(iii) Summons and notices should be attached along with plaint.

(iv) There should be change in procedural laws for civil matters.

5) **79th Report of Law Commission 1979** [161]

The subject of report was "Delay and Arrears in High Courts and other Appellate Court. It studied civil and criminal matters pending in High courts and Supreme Court. There should be increased in the number of judicial officers, otherwise people may lose their faith in judiciary.

6) **100thReport of Law commission 1984**[162]

The Subject of the 100th law commission 1984 Litigation by and against government. The commission studied the litigation pending by or against the government, which needs to be resolved without delay. The 'Litigation ombudsman' was appointed for the central and state government before whom matters will be heard first if someone wants to file a case against government. According to recommendation of committee, the period to file case by or against government, the amendment should be made in section 112 of Limitation Act, by which 30 years limit will be reduced to 3 years.

7) **120thReport of Law Commission of India, 1987**[163]

As there are a smaller number of judges in proportion to the number of populations. It affects the rate of disposal of cases. It violates the right to fair and speedy trial of litigant. The following suggestions were given by law commission,

i) There must be increase in number of judges with the proportion to population. They also suggested increasing the strength of judges.

ii) Also, the number of judges must be increased in the proportion to litigation.

There is provision for fair and speedy trial and also the duty is cast on the state to provide judicial services to citizens in India.

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161 79th Report of Law Commission 1979 headed by Justice H.R.Khanna on the subject Delay and Arrears in High Courts and others Appellate Courts

162 100th Report of Law commission 1984 headed by Justice K.K. Mathew on the subject Litigation by and against the Government.

163 120th Report of Law Commission of India, 1987 headed by Justice D.A.Desai for the subject Manpower Planning in Judiciary: A Blueprint.

8) **121st Report, Law Commission of India, 1987**[164]

The law commission in its 121st report suggested increasing in the number of judges to tackle the delay in disposal of cases. It says that –

i) Before any vacancy in the judicial officials the prior 6 months provision for appointment shall be made.

ii) For appointment of judges in the High Court the opinions of chief justice of High Court and of chief minister of the concern state shall be made.

iii) The commission can suggest in the appointment of the apex court judges. The lower judiciary can be appointed by apex courts.

iv) Constitution of National Judicial Service Commission. The commission consist of chief justice of India with other 11 members and also 3 other senior judges of Supreme Court.

The committees concern was in the appointment of judge before there is any vacancy in the court. It states importance of Constitution of National Judicial Services Commission for the selection of judges.

9) **124th Report, Law Commission of India, 1988**[165]

In this report law Commission stressed the importance of inclusion of technology in the judicial institution. It will help to dispose the matter in time. It also focused for division of judicial system of administration of justice. It will help to reduce the huge backlog in the apex court.

In 2007 government gave sanction for computerization of judicial institution which includes superior and lower judiciary. Also, the commission suggested following measures -

i) The involvement of retired judges in dealing with pending litigation.

ii) Inclusion of computer facilities in the lower as well as apex court.

iii) The curtailment of court powers in exercising tax, labour, and education matter of High Court and appointment of special tribunal for that purpose.

iv) Judges should be equipped with their own computer.

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164 121st Report of Law Commission of India, 1987 headed by Justice D.A.Desai for the subject Anew forum for Judicial Appointment.

165 124th Report of Law Commission of India, 1988 headed by Justice D.A.Desai for the subject The importance of Inclusion of technology in the Judicial Institution.

v) Retiring judges should not be allowed to leave their post until other new appointment is made.

10) **125th Report, Law Commission of India, 1988**[166]

The commission suggested the division of Supreme Court into Constitutional court and court of appeal. This may help to reduce the burden on this apex court work. The Supreme Court sits in Delhi. The cost of journey to reach this apex court is more. It involves high cost of advocate fees dealing with Supreme Court cases. For this purpose, there is need to divide it into two. So that cost of litigation and time of litigation can be saved.

11) **126th Report of Law Commission 1988**[167]

The subject of 129th law commission 1988 was Government and public sector undertaking Litigation Policy and strategies. According to the recommendations of commission public sector of government should approach for alternative dispute resolution instead of traditional judicial method. As most of public funds are utilised by government and these public sectors undertaking in an action taken by or against them in litigation. Following are the recommendations suggested by this commission.

i) Central and state government should initiate to conduct the arbitration proceedings in all public sector undertakings.
ii) The Construction of grievance Redressal cell by the public-sector undertaking which decision is binding.
iii) If case has been filed against officer, such officer shall within two weeks give reply to such notice and adopt arbitration.
iv) There should be constitution of federal legal cell, state legal cell, and public undertaking cell for effective disposal of litigation.

166 125th Report of Law Commission of India, 1988 headed by Justice D.A.Desai for the subject The Supreme Court- A fresh look

167 126th Report of Law Commission of India, 1988 headed by Justice D.A.Desai for the subject Government and Public sector undertaking Litigation Policy and Strategies.

12) 141st Report of Law Commission of India, 1991[168]

The commission suggested two amendments in the criminal procedure code 1973 as follows.

i) **Section 256** –If accused is released due to absence of appearance of complainant, it may cause injustice to the complainant by which administration of justice loose its purpose. Thus, there is need to restore the application.

ii) **Section 482 -** There is needed to give power to courts to restore back such kind of above application.

Thus, principle of equality should be followed whether there is complainant or accused. Case should not be dismissed if reasonable, justified cause for absence is there.

13) 142nd Report, Law commission of India, 1991[169]

142nd report of law commission is associated with introduction of plea-bargaining concept. It provides provision for lesser punishment when accused agrees voluntarily to accept his guilt. It avoids unnecessary detention of accused in jail. Also provides fair and speedy justice to him which is now concern of criminal justice system. It is also called as the charges bargaining or sentence bargaining. It reduces the prolonged trial of the accused. It saves time and cost of litigation.

14) 154th Report, Law Commission of India 1996[170]

As speedy trial is the quintessence of criminal justice system. It is available to accused in all pre-trial and post- trial stages that is inquiry, investigation, appeal revision. Commission was not in favour of deciding fix time period for disposal of any case. The commission considered the Supreme Court direction given in Common Cause v. Union of India case. It gives the following suggestions.

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168 141st Report of Law Commission of India, 1991 headed by Justice M.P.Thakkar for the subject Need for amending the Law as regards Power of Courts to restore Criminal Revisional Applications and Criminal cases dismissed for default in appearance

169 142nd Report of Law Commission of India, 1991 headed by Justice M.P.Thakkar for the subject Concessional Treatment for Offenders who on their own initiative choose to plead guilty without any bargaining

170 154th Report of Law Commission of India, 1996 headed by Justice K.J.Reddy for the subject The Code Of Criminal Procedure 1973 (Act no.2 of 1974)

i) Separation of investigation agency which will otherwise not become fair without influence. It may be helpful to complete investigation without delay. Also stressed that for good interaction with public it is necessary that these officers must be without police uniforms.

ii) Alterations should be made in definition of warrant and summons case.

iii) Amendment should be made in section 161, 162, 164, 172 of criminal procedure code for speedy disposal of cases. It includes hostile witnes statement.

iv) Use of plea bargaining for less serious offences for which the punishment is less than 7 years.

v) The provision for release of under trial prisoners should be made.

vi) Amendment to be made in Section 437, of criminal procedure code.

vii) For less grievous offences the special magistrate should be appointed.

viii) The appointment of separate government agency should be made for delivery of summons and execution of warrant without delay.

ix) Use of summary procedure, compounding of offences.

15) 177th Report, Law Commission of India, 2001[171]

The law commission suggested constituting independent investigating agency and keeping it separate from police. Further it suggested equipping this agency with training. It will automatically help the police authority to dispose of matters within time. Thus, it ensures speedy trial.

In report the focus is on arrest was made which will deter the criminal from further commission of crime. They are not afraid of conviction because they know there are chances of delay in disposal of cases. Also recommended the change in central, state acts, police act, police manuals and others. But today the agencies like CBI, RAW works efficiently to deal the cases put before them.

16) 198th Law Commission of India, 2006[172]

The 198th Law commission of India suggested both accused and victim should be treated equally while giving justice before court of law. The right to

171 177th Report of Law Commission of India, 2001 headed by Justice B.P.Jeevan Reddy for the subject Law relating to Arrest

172 198th Report of Law Commission of India, 2006 headed by Justice M.Jagannadha Rao for the subject Witness Identity Protection and Witness Protection programmes

fair trial is available to both of them. There are chances of threatening the victim witness, which needs to be protected. The commission discussed in its report 3 types of witnesses.

i) The victims witnesses whose specifications are unknown to accused.
ii) The victim witness whose name is known to accused.
iii) Witnesses whose specifications unknown to accused.

It requires the protection must be given to these witnesses. The commission suggested the identification of witness programme and witness protection scheme should be adopted. It says that not only the victim but accused must be protected too.

17) **213th Report, Law Commission of India, 2008**[173]

The Law Commission in its 213th report stated the problem of huge backlog of cases under the Section 138 of Negotiable Instrument Act, 1881. It is necessary to tackle this problem by Constitution of fast-track courts. It also stated that ADR modes which include Arbitration, Conciliation, and Mediation must be adopted to dispose of these matters without delay. Commission states that 38 lakhs cheque bouncing cases are pending in the courts in India. The following recommendation were suggested by commission –

i) The state and central government must provide financial assistance to constitute fast track court, and for its infrastructure.
ii) Constitution of Fast track court, magistrate to dispose of cases under 138 of Negotiable Instrument Act, 1881.
iii) Adoption of ADR modes like mediation, conciliation, arbitration, negotiation to dispose of these matters speedily.
iv) The number of judges must be increase in proportion to the ratio of population.
v) The Lok-Adalat may also helpful to reduce this huge backlog of cases.

173 213th Report of Law Commission of India, 2008 headed by Justice AR.Lakshmanan for the subject Fast track magisterial Courts for Dishonoured Cheque cases

18) 221st Report, Law Commission of India, 2009[174]

The huge pendency of cases in apex and lower courts is a biggest problem of todays judicial system. It affects the right to speedy trial of litigant. It suggests the following measures to solve the problem.

i) It suggested amendment in the section 378 of criminal procedure code which says that in case of appeal against order of acquittal by sessions court, can be made in the sessions court itself instead of High Court. But for that special leave needs to be taken.

ii) In case of non bailable offence where the magistrate releases the accused, the appeal needs to be filed with approval from magistrate or state government. But commission suggested the appeal to be filed by the aggrieved person who will save time and money in litigation.

iii) There must be one forum of revision to filed an appeal where there are more accused.

iv) The term used in trial, appeal, inquiry 'interlocutory order' needs to be define specifically to remove the problem of understanding and interpreting it in judicial decision.

19) 229th Report, Law Commission of India, 2009[175]

The Law Commission of India discussed the problem of huge pendency in Supreme Court. The commission suggested following measures to deal with issue of pendency in Supreme Court.

i) The retirement age of judges in the Supreme Court and High Court must be increased 70 for Supreme Court and 65 for High Court.

ii) The number of judges must be increased.

iii) Article 130 must be interpreted by parliament liberally.

iv) The division of Supreme Court should be made into Constitutional and Appeal Court so that it will become in the reach of litigant.

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174 221st Report of Law Commission of India, 2009 headed by Justice AR.Lakshmanan for the subject Need for Speedy Justice.

175 229th Report of Law Commission of India, 2009 headed by Justice AR.Lakshmanan for the subject Need for Division of the Supreme Court into Constitution Bench T Delhi and Cassation Benches in four regions at Delhi, Chennai/Hyderabad/Kolkata and Mumbai.

20) 230th Report of Law Commission 2009[176]

The subject of 230th law commission 2009 was 'Judicial Reforms in the High Court'. The commission studied the situation of huge backlog of pending cases in High Court. Also issues like corruption, ethics, access to justice was studied by this commission. According to recommendation of this commission there must be increase in number judges, reduction in holidays of court, increase in retirement age of judges.

Following are some of the recommendations of this commission

(i) The working hours of court should be increased and unnecessary adjournment should be avoided.

(ii) By using technology, the cases involving similar matter of fact should be clubbed together. These cases accordingly can be disposed of by single judgment. Same can be followed in case of old cases and interlocutory application.

(iii) The judgement and guideline provided in Anil Rai v. State of Bihar should be followed to dispose of cases in speedy manner.

21) **233rd Report, Law Commission of India, 2009[177]**

The commission recommended certain amendments in the criminal procedure code. It may help for speedy disposal of cases and workload on the courts can be reduced. The following recommendation was made by the commission.

i) When civil suit is dismissed for nonappearance of plaintiff, there is provision for restoration of civil suit. But such provision is not there in criminal procedure code. The commission suggested changes as such in criminal procedure code.

ii) In case of revision of criminal complaint, the complainant needs to move in High Court. But provision needs to be made to make revision in trial court itself by making amendment in section 249, 256 of Cr. P. C.

176 230th Report of Law Commission of India, 2009 headed by Justice AR.Lakshmanan for the subject Reforms in the Judiciary.

177 233rd Report of Law Commission of India, 2009 headed by Justice AR.Lakshmanan for the subject Amendments of Code of Criminal Procedure Enabling restoration of Complaints.

iii) The amendment in the section 482 of criminal procedure code 1973 needs to be made to restore the complaint in the subordinate criminal court instead of High Court.

22) 245th Report of Law Commission 2014[178]

The subject of 245th Report of Law Commission was "Arrears and backlog: Creating Additional Judicial (WO) manpower". It studied existing judicial system and of view that increase in number of judges in proportion to population is necessary. Also, other issues like 'deliver of timely justice', backlog of cases', 'Judges Strength' were studied by this commission. Following are some of the recommendations of this commission,

i) For the appointment of judges in subordinate court rate disposal method was suggested.
ii) To provide equal justice to all, the number of judges should be increased.
iii) As per guideline provided in the case of 'All India Judges Association v. Union of India, the retirement age of lower court judge should be extend to 62 years.
iv) For the petty offences like police or traffic challan cases the constitution of special court should be done. Also, provision of payment of online fine should be made so that judicial work can be reduced.
v) To find out number of cases disposed by judges, the periodical assessment of judicial work should be done. In addition to that courts should be equipped with staff and infrastructural facility.

4.3.3.) Other Efforts of Central Government

1) **E-Court Project 2007**

Central Government launched the E-Court Project in 2007 to make use of Information Communication Technology in the judicial work. This includes use of E-services so that court can function effectively and in expedious manner. In May 2017 the provision of E-filing has been made and for that investment of Rs 5.68 billion was done by government. It includes video

178 245th Report of Law Commission of India, 2014 headed by Justice A.P.Shah for the subject Arrears and backlog: Creating Additional Judicial (WO) Manpower

conferencing, digital payment in court. It saves the valuable time of court in disposal of cases.

2) **Vision Statement of Central Government 2009**

To solve the problem of huge arrears in the court, the central government adopted the vision statement in 2009 for the development of Administration of justice. The main object of this vision statement is the disposal of cases within reasonable time and to make changes in administration and make judges accountable for disposal within time. The following are the some of the statement of this vision plan.

i) To find out of areas of huge pendency.
ii) To adopt new solutions for disposal of case within time.
iii) To make judiciary more efficient by providing training.
iv) Use of technology and improvement in infrastructure.
v) Change in the procedural laws.
vi) Effective working of management and administration in the judiciary.
vii) Solving the pending litigation issue from lower courts.

3) **Constitution of Fast Track Court** [179]

The Ministry of Finance under the 11th finance commission invested Rs. 5.0290 billion for the formation of fast-track court. The provision of formation of 1,734 fast track courts was made under this plan. The duty is cast on the State Government to form the fast-track courts in consultation with of High Court.

4) **Amendment in the Procedural Laws**

The reason behind delay in disposal of cases is the difficulties due to procedural laws. The Criminal Procedure law, Civil Procedural law have lengthy provision for its application. There are amendments done many a time in the procedural laws which are as follows.

179 Pibarchive.nic.in accessed on 20th February 2019 at 9.00a.m.

I) **Civil Procedure Code 1908**

a) **Section 35 B -** The Court may direct to other party to pay cost, if necessary, steps were not taken by that party on the date fixed for hearing of suit. It saves time of courts and prevents delay.

b) **Section 89 -** If there exist an element of settlement court may refer such matter to be disposed by Alternative Dispute Resolution means like Arbitration, Conciliation, Mediation, Lok Adalat.

c) **Service of Summon**

(i) Order v, Rule 9-A made provision of service of summons by himself that is by plaintiff to avoid delay during proceeding.

(ii) Service of summons can be made through speed post, courier, fax, E-mail.

d) **Filing of Written Statement**

Order VIII, Rule 1 Provided that defendant should file his say that is written statement within 30 days of service of summon. But this period may extend to 90 days if reasonable cause is there.

e) **Dismissal of Suit**

If plaintiff fails to pay his court fee, process fee due to which summons was not issued to defendant then court may dismiss the suit.

f) **Repeal of Redundant and Obsolete Laws**

Parliament now days are repealing laws which are of no use. Till now 1200 laws have been repealed by parliament.

II) **Criminal Procedure Code 1973**

The following are amendments made in Criminal Procedure Code to decide matters in speedy way.

a) **Section 164** – It made the provision of record of confession with the help of electronic media by police.

b) **Section 275 (1)** - It made the provision of record of evidence of witness with the help of electronic media before advocate of accused.

c) **Section 206 -** This section enables an accused guilty of a petty offence to plead guilty and pay fine without appearing in court.

d) **Section 260 -** This section enables to try summarily the matter of theft or other property offences where value of property is Rs.2, 000.

e) **Section 265 A to 265 L -** Chapter XXIA was inserted by an amendment. Accused can make an application of plea bargaining other than offence which is punishable with death, imprisonment for life or imprisonment more than 7 years.

f) **Section 309 –** It limits the court power in granting adjournment. It makes mandatory hearing of trial on the daily basis.

g) **Amendment in rape offence**

Where the accused is charge for an offence under section 376, 376A, 376D of Indian Penal Code. The trial should be completed before expiry of 2 months from the date of filing of charge sheet.

h) **Section 436 A -** Where the under-trial prisoners are detained in jail for a period of half of their punishment they shall be directed to be released on bond with or without securities.

5) **National Litigation Policy 2010**

National litigation policy was framed by Central Government in 23rd June 2010. The main object behind this is to reduce the workload on judiciary. As not only state but Central Government are litigant in the court for many times. Not only at central level but also at state level the State Litigation Policy was directed to be made. This will save the time of court and may prevent unnecessary litigation. The main idea of this policy was of the ministry of law and justice to make government more responsible as a litigant.

6) **Case Flow Management Rules**

As per the Supreme Court guideline in Salem Bar Association v. Union of India committee was constituted to study case flow management system in India. Accordingly, case flow management rule for High Courts and subordinate courts was prepared. Also, one policy document under the title National mission for Delivery of Justice and Legal Reforms and Justice A. M. Khanwilkar committee was constituted. So, they directed to each state to frame rules as per

their need for speedy disposal of case. But it failed. Again, chief justice in 2016 directed to follow the case flow management rule for the reduction of heavy workload on judiciary.[180]

7) **National Court Management System (NCMS), 2012**

National Court Management System was formulated in 2002 under the chairmanship of Justice S. H. Kapadia. It consists of Chief Justice of India and other 18 members. It discussed changes in the administration of cases from subordinate to apex courts.

The system shall include the following,

i) Introduction of National System of Judicial Statistics (NSJS) which will provide exact number of cases in the judicial institution in India.
ii) To introduce case management system.
iii) To monitor performance parameters needs to be introduce in National framework of court Excellence.
iv) To introduce five-year development plan in judiciary that is a court development planning system.
v) For appointment and training of judges of lower courts, A Human Resource Development strategy needs to be formed.

8) Appointment of Judges and Improvement in Infrastructure Facility

As the main cause of these mounting arrears in the lower courts is non-availability of number of judges. To overcome this problem our government in 2017 started to appoint a greater number of judges in apex courts as well as in lower courts. In 2017 the number of judges increased to 16, 413. Not only in the apex court but also lower courts are also equipped with a greater number of judges. Along with this the numbers of Additional judges are also increased.

Central Government also invested Rs.22, 4973 billion for the improvement in infrastructure facility of subordinate courts. In addition to that it provided Rs. 6 billion for the infrastructure facilities for judges.

180 Ghosh Y., An Analysis of the Cyclic Syndrome of Delay, Arrears and pendency, Asian Journal of Legal education, sage publications, p. 21-39.

4.4.) **Efforts of State Government**

4.4.1.) **Constitution of Fast Track Courts**[181]

The huge backlog of cases increases workload of courts. For that purpose, the central Government made provision of establishment of Fast Track Court. The duty under the provision was cast on the state to establish fast track courts. It will be helpful to reduce the burden on courts. The session tribal offences can be disposed of within reasonable time under the fast-track courts.

187 Fast Track Courts established in Maharashtra State. Under the 11th finance commission scheme the Maharashtra Government utilised 16.31 crores. The cities like Nasik, Ahmed Nagar, Aurangabad, and Pune are leading cities where many disputes were dissolved by these fast-track courts. These courts were presided over by sitting or retired Senior Judicial Officers, Additional District and Session Judges.

The main hurdle behind the success of these fast-track courts are non-availability of public prosecutor, non-action on behalf of police authority.[182]

4.4.2.) **Organisation of Lok Adalat**

Under the Legal service authority act 1987, provision has been made for establishment of Lok Adalat for settlement of dispute. It is also called as People's Court. The main object behind Lok Adalat is to provide equal justice to the economically backward people as directed in Article 39 A of the Constitution of India. In 2002, the amendment has been made in this act which provide establishment of permanent Lok Adalat for the public utility services, minor civil, criminal offences. It consists of committee of chairman with 2 other member who may be a lawyer or a social activist. The procedure in the Lok Adalat is simple and amicable settlement of dispute take place in Lok Adalat.

Maharashtra government organises Maha Lok Adalat in the state and dispose of many matters which were pending in various courts. Also, government disputes were settled in this court. It saves time and money of litigant

The National Lok Adalat settled the 2.4 lakh pre-litigation stage cases. It runs successfully in Nashik District followed by then Pune district and then

181 Pibarchive.nic.in accessed on 22 March 2019 at 01.00 p.m.
182 WWW.Pibrachive.nic.in accessed on 22 December 2018 at 02.00 p.m.

Satara district. Such Lok Adalats are organised on a particular day throughout country that is why called as National Lok Adalat[183]

Huge number of pending cases including pre-litigation stage and other stages cases were dissolved by this National Lok Adalat in Maharashtra state. It saves the time and matter involving huge money amount.

4.4.3.) **Implementation of Tantamukti Abhiyan**

The Maharashtra government in 2007 launched the scheme of Tantamukti Abhiyan under the deputy Chief minister Shri. R. R. Patil.

This innovative Abhiyan helps to reduce the workload of courts. The scheme helps to dissolve the petty offences in villages through alternative dispute resolution system.

The Mahatma Gandhi Tantamukti Gaon Mohim is part of this Tantamukti Abhiyan. As small dispute turns into big issues which later gave birth to big disputes. This abhiyan helps to reduce huge pendency in courts. This scheme was actually implemented in August 2011 in villages.[184]

It constituted the samities in villages for the amicable settlement. Then divide the cases according to the category viz. civil, criminal, revenue. After that measures adopted so that dispute should not arise again. For solving the dispute in this manner government awarded the prize to that village by grading system. Such prize is given by offering money form Rs. 1, 00,000 to Rs. 10, 00,000 to winner village.

4.4.4.) **State Litigation policy**

In 2009 the Central Government adopted National Litigation Policy and accordingly directed every State Government to frame the state litigation policy to remove the burden of pending litigation on judiciary. Its main object is to provide speedy justice to every litigant which is mandatory as directed in constitution of India under Article 38 and 39A. In many cases government is also a litigating party. In these cases, it is necessary to throw away false litigation and to make government responsible one.

183www. Hindustantimes.com accessed on 8 May 2020 at 12.30 p.m.
184 timesofindia.indiatimes.com/mahapolice.gov.in accessed on 27 December 2018 at 01.00 p.m.

a) **Objectives of State Litigation Policy**

The main idea behind state litigation policy is as follows.

i) To constitute special courts, Fast Track courts.

ii) To dissolve the dispute by adopting alternative mode of dispute resolution.

iii) To prevent filing of false vexatious litigation.

iv) To develop the infrastructure of all the lower courts.

v) To eliminate burden on all the courts including High Courts.

vi) To review the litigation where the government is a party to the suit. Whether it is appeal, writs special leave petition to scrutinise this matter.

vii) To discourage adjournments in courts.

So basic approach is to reduce government litigation and to dispose of other matter which is pending for more than 15 years. There is lack of cooperation between government department and government prosecutor and that is the reason of failure of cases by the government. For this problem there is need of appointment of Nodal Officer who should be law graduate and having experience at High Court or other subordinate court. So that unnecessary delay can be prevented by his proper management. Such officer should be appointed at every state government department by which the report of status of pending litigation can be informed to government by his report every month.

To monitor the working of Nodal Officer there should be the empowered committee at state and District level. The working of government pleaders should also be improved by organising seminars, workshops. These pleaders should be equipped with advance technology like computer internet.

The Adjournment should be avoided which are unnecessary. The maximum use of alternative dispute resolution modes should be adopted, to save time and money of state government. The disputes which are pending for years and years must be withdrawn. There shall be constitution of special court to dissolve matters like motor vehicle claim, corruption, atrocities etc. The vacancies in the court should be filled and also infrastructure must be improved of subordinate court.

So, all these are recommendations under state litigation policy to every state.

The Maharashtra state adopted this policy and accordingly set up fast track courts and organise the Tanta Mukti Abhiyan scheme to tackle the problem of huge pendency in all courts.

4.5) Conclusion

In spite of various efforts made by Central and State Government, pendency remains to be solved. It is the biggest threat to the democracy. India being the member of international conventions and treaties recognise right to speedy justice as human right. Though Indian government efforts are not recommendable. They failed to frame the definite law to protect the right to speedy trial.

As per the committees which are constituted by the government some changes should be made which are -

1) Introduction of case management system in working of judiciary.
2) To increase the number of judges in proportion to the population.
3) Training should be given to administrative staff for the quick disposal of cases.
4) Infrastructure of the court should be improved.
5) Adoption of Alternative Dispute Resolution method for reducing burden on courts.

Litigants are unaware of their right to speedy disposal of case. They consider delay as a part and parcel of the proceeding. Such misconception needs to be removed from mind set of litigants. Democracy will only strengthen, if citizen keep their trust on judicial work.

CHAPTER V

ROLE AND MEASURES ADOPTED THROUGH JUDICIAL PRONOUNCEMENT

5.1) Introduction

Through judicial activism judiciary protect the rights and liberties of every individual. The right to speedy trial is an output of such judicial decisions. Supreme Court in its various judgments declared right to speedy trial as a fundamental right of individual. Apart from Executive and Legislature, Judiciary plays a vital role in protecting human right. It also tries to maintain basic structure of the constitution of India. As no doubt right to speedy trial flows from the Article 21 of constitution. But when the question of timely disposal of cases comes, the delay becomes inevitable part of it. Supreme Court for the first time considered speedy trial as the quintessence of criminal justice in Maneka Gandhi case. In Hussainara Khatoon v. Home Secretary, Bihar case court is of opinion that delay in disposal of cases of under trial prisoners violates their right to speedy trial provided in Article 21 of the constitution.

Criminal and civil cases are pending for more than decade. Supreme Court is trying to solve this problem through its judgements. Some of the landmark judgements of Supreme Court are discussed in this chapter.

5.2 Role of Court

In 2006 at the conference of chief justice of High Courts and chief minsters of the state, the Ex-prime minister Dr. Manmohan Singh has rightly said that –

"Today public at large is disappointed regarding the performance of the executive and the legislature and their ability to meet the changing need of the society. People worship the court as last resort to get their grievance redressed. The judiciary as protector and watch dogs of the fundamental rights are able to win the faith of common people."

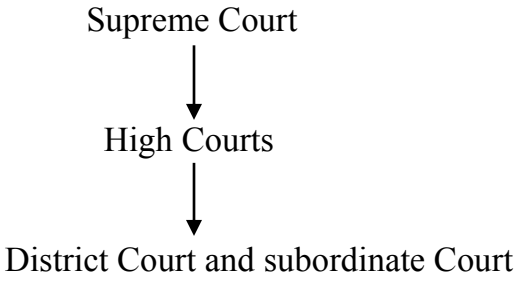
The above statements of our ex-prime minster state the exact role played by the 3 organs of the state. As with the passage of time executive and legislature failed to meet the demands of the citizens. This gap has been

now fulfilled by the court through judicial activism. With number of judgements it proved that they are true guardians of fundamental rights of the individual.

Justice Delivery System

The preamble of Indian Constitution itself provide for justice to the people of India without any kind of discrimination. This justice includes both civil and criminal. To impart justice through the judiciary is the main work of state machinery. The Indian courts performs various judicial functions - i) Adjudication of Civil and Criminal cases. ii) To interpret Constitutional questions. iii) To safeguard fundamental rights of individual by issuing the writs iv) Advisory functions.

We have justice delivery system according to their Hierarchy.



Supreme Court and High Court have Appellate and Advisory jurisdiction. They can issue writs for the enforcement of fundamental Rights. Both the courts are the court of records and they have power to punish for contempt of it.

The district and subordinate courts decide the civil cases by taking into consideration Code of Civil Procedure and they decide criminal cases by taking into consideration Code of Criminal Procedure.

It is judiciary on whom millions of people in the country keeps faith for fair and equitable delivery of justice. India as a democratic country plays vital role in providing timely justice.

Judicial Activism

Previously the main function of judiciary was to only interpret the provision of law or to provide the guideline only. This passive role of courts has changed now. The new positive role has been adopted by the judiciary. The judges like justice P. N. Bhagwati, Justice VR. Krishna Iyer, Justice Chinnappa Reddy through their Judicial decisions protects fundamental rights of citizen. The PIL was the part and parcel of Judicial activism. Through public interest litigation the poor and needy people are having easy access of justice. In Hussainara Khatoon v State of Bihar case the PIL was allowed to be filed on behalf of prisoners awaiting their trial in the jail.

Not only single, above case but in many cases supreme court touched and protect basic rights of the citizens. After that in Golak Nath v The State of Punjab case and in Kesavananda Bharti v The state of Kerala case Supreme Court with its decision gave new dimension in the case. Legislature and Executive have failed to protect rights of citizen, under this situation judiciary took active approach. They protect the individual from the arbitrary actions of the state. The orthodox approach of courts only to interpret the law has now changed. Actually, Judicial activism is nothing but the decision given by court by considering the both parties by providing new rules or policies.

But the Judicial activism should be only used for the protection of socially and economically disadvantaged people. The right position of the court in every case must be taken into consideration otherwise it can be termed as judicial interference.

5.3) **Judicial Pronouncement on Delayed Justice**

By considering delay caused on the basis of delay in investigation, delay in pronouncing Judgement, delay in trial, delay in criminal proceeding for non-framing of charges, delay in execution proceeding the landmark cases are discussed on delayed justice as follows.

Unnecessary detention of accused

1) Machander v State of Hyderabad[185]

The appellant was sentenced for murder of manmatb. The brother of accused Gona was considered to be co-accused and absconded. The confession about the murder which was made by accused was not at all questioned by trial court under section 342 of Criminal Procedure Code. The High Court confirmed the conviction. But the death punishment converted into rigorous imprisonment for life. High court also eliminated confession from the evidence on record.

Supreme Court upheld the decision of High Court. It also pointed out that there is no need to send the case for retrial. Supreme Court stated that it is courts duty to see that justice should not be delayed and accused should not be tortured for retrial without necessity. The court further casts the responsibility on magistrate and sessions judge under section 342 of criminal procedure code of questioning the accused.

2) **Hussainara Khatoon v Home Secretary, State of Bihar[186]**

The under-trial prisoners which are petitioners in this case were in jail from 6 to 7 years waiting for their trial. The offences for which they were caught are bail able and if the maximum punishment for that offence to given will be equal to the period they were waiting in the jail. These petitioners were unaware of their right to be released on bail due to poor economic condition and lack of legal assistance. So, writ petition was filed on behalf of these petitioners by Mrs.Hingorani for issuing writ of Habeas Corpus in Supreme Court under Article 32 of Constitution of India.

Supreme Court held that it is the duty of state government to provide legal assistance to the poor. The right to speedy trial is provided under Article 21 of the constitution is fundamental right of every individual. Article 39 A of Constitution of India casts duty on state to provide free legal assistance for providing justice. Supreme Court directed release of these under-trial prisoners.

185 AIR 1955 SC 792
186 AIR 1979 SC 1369

3) **Salim Khan v State of Uttar Pradesh**[187]

The petitioner in this case was arrested in 1978 and since that time he was in jail. He was charged with many offences but not a single charge sheet was produced before court. Petitioner was in jail for 3 years without a trial. The respondent was unable to produce any evidence against him. So, writ petition was filed in Supreme Court.

The Supreme Court held that petitioner should be released on bail on giving personal bond of Rs. 500 and this order is applied for all cases pending against him.

4) **Puran Singh v State of Uttaranchal** [188]

The petitioner Puran Singh was charged for an offence punishable under section 302 of Indian Penal Code, for having committed murder of Rajpal Singh. Trial court acquitted him. But the High Court convicted him for an offence under section 302 of Indian Penal Code and sentenced him for imprisonment for life. Further appeal has been filed by the appellant against the judgment of High court in the Supreme Court of India.

Supreme Court acquitted appellant as case continued for 29 years and he was for that long period in jail. He was given benefit of doubt, and released.

Delay in Trial

5) **Chajoo Ram v RadheyShyam**[189]

The appellant in this case was elected as a Sarpanch of the Nyaya Panehay of Risia Bazar, Tehsil Nan-pora, District Bharaic. The respondent filed an election petition which was dismissed. The RadheyShyam further filed various complaints against Sarpanch in district court about irregularity of the work done by him. But action was not taken by district magistrate. Further he filed writ petition in Allahabad High court for issuing writ of mandamus. High court upheld the writ petition and directed to district magistrate and sub divisional magistrate to enquire the matter. Also, Respondent challenged the affidavits sworn by appellant.

187 AIR 1982 SC 1096
188 www.supremecourtofindia.com (Appeal Cri.437/2006)
189 AIR 1971 SC 1367

Supreme Court held that there was delay in the proceeding which itself causes mental and financial loss to appellant. Because the subject matter of the charge which was the affidavits sworn by appellant for more than 10 years and the proceeding was pending since 1962. The Supreme Court rejected further proceeding on the basis of delay and allowed the appeal.

6) **State of U. P. v Kapil Deo Shukla**[190]

The respondent worked in the Imperial Bank of India at Allahabad in 1946. The first information report filed and investigation had been completed by the police. The proceeding which commenced before the magistrate completed in 1949. The magistrate further directed to conduct the trial before session court at Allahabad under section 408 and 477-A of Indian Penal Code. The session judge ordered acquittal of the respondent. State filed an appeal before High court against the order passed by the session court. The High Court sentenced him rigorous imprisonment for 4 years along with fine of Rs. 10,000 and stated that out of this amount 7000 should be given to Bank as compensation. The respondent filed an appeal in Supreme Court against the judgment passed by the High Court.

Supreme Court did not find the acquittal of the respondent to be upheld. But it considered the delay which is more than 20 years and refused the retrial of proceeding after such long delay.

7) **State of Maharashtra v Champalal Punjaji Shah**[191]

The respondents were charged under section 120 B of Indian Penal Code and under Custom Act. Apart from 3 respondents Champalal was sentenced to imprisonment and also fine was imposed, by the trial court. Against the judgment of trial court respondent filed an appeal in High Court which was decided in favour of respondent and was acquitted. The state of Maharashtra further filed an appeal in the Supreme Court against judgment of High Court.

The Supreme Court allowed the appeal. Supreme Court considered delay in the trial infringes fundamental right under Article 21 of the

190 AIR 1973 SC 494
191 AIR 1981 SC 1675

Constitution of India. If delay is unintentional and due to heavy work load of court, court should not be blamed.

8) **M. V. Chauhan v State of Gujrat** [192]

The petitioner in this case was a divisional accountant of class III post and was charged for an offence under Prevention of Corruption Act, 1947 read with Section 161 of Indian Penal Code. During the trial of the said offence, he was suspended. He was further convicted by Judge of special court and by High Court also. Petitioner filed appeal against such conviction in Supreme Court in 1997. The incident took place in 1983 and in 1985 the trial commenced.

Supreme Court held that his conviction by government is invalid and acquitted him and allowed the petition. The court directed that the incident took place in this case in 1983 and it will be unfair for the petitioner for keeping him for trial after a long period of 14 years. It violates his right of speedy trial guaranteed under article 21 of constitution.

9) **Srinivas Gopal v Union Territory of Arunachal Pradesh**[193]

The petitioner in this case was charge for an offence of rash and negligent driving, where an accident caused due to driving of jeep by petitioner. One person died and other was grievously injured in this accident. The case of accident was registered by police in 1977 and it was brought before deputy commissioner in 1986. The magistrate directed petitioner to appear for next hearing in 1986. The appeal had been filed in High Court against order passed by the magistrate as cognizance of offence was taken in 1986. The petitioner took the defence that delay of nine and half year violates limitation given in section 468 of criminal procedure code.

The Supreme Court held in this case that delay of nine and half years violated his right to speedy trial given under Article 21 of constitution. The delay in criminal prosecution destroys its purpose of imparting justice.

192 www.indiankanoon.com
193 1988(4) SCC 36

10) **Ramkrishna SawalramRedkar v State of Maharashtra**[194]

The petitioner in this case was working as store keeper in Haffkine institute, Bombay. He was charged for an offence relating to medicinal product manufactured by this institute. Several offences were pending in 9 session court. Out of 9, in one case the accused was convicted. He filed for an appeal against such conviction which was pending. Other 8 trials were pending.

Bombay High Court held that trial must be carried out without delay to save miscarriage of justice. Keeping matter sine die violates right to speedy trial of accused. The appeal was allowed and judgment of trial court was set aside ordering denovo trial from framing of charges.

11) **S. G. Nain v Union of India**[195]

The appellant in this case was a sub-inspector in the Central Reserve Police Force. In 1977 a complaint had been filed against him for misappropriation of sugar quality in distribution while working as a manager of co-operative shop at Central Reserve Police Force Centre. The proceeding was started under the CRPF Act, 1949 against him before metropolitan magistrate. The writ petition has been filed by appellant to strike down the prosecution in Supreme Court.

Supreme Court directed in this case to quash down the proceeding and complaint as it was pending for more than 14 years which violated appellant right to speedy trial under Article 21 of Constitution of India.

12) **State of Punjab v Kailash Nath**[196] **(1989) 1 SCC 321**

The Kailash Nath worked as an engineer in P.W.D. in Punjab state in 1979. In 1985 First Information Report was filed against him under the Prevention of Corruption Act, 1947, for the inquiry of purchase made by him. The appeal has been filed by respondent against this First Information Report in High Court stating as the First Information Report had been filed after 3 years of his retirement and 6 years after subject matter purchase of sign boards in 1979. High court quashed down the proceeding which was against Punjab Civil

194 1980CriLJ (Bom)254
195 1995 (Supp 4) 552
196 1989 (1) SCC 321

Services Rules. The state of Punjab filed appeal in the Supreme Court against the decision of High Court.

Supreme Court held that it is open to quash down the proceeding which are prolonged without reason. Thus, quash down the proceedings against respondent.

13) **Ranjan Dwivedi v C. B. I.**[197]

The petitioner was an advocate and charged for an offence of murder in furtherance of criminal conspiracy punishable under section 302 with section 120B of Indian Penal Code, before additional sessions Judge, Delhi. The chargesheet was framed by C. B. I. in 1975. The trial was pending before Additional Sessions Judge for 37 years. The writ petition had been filed by petitioner before Supreme Court for struck down of proceeding as it was pending over 12 years.

Supreme Court directed to dispose of the proceeding on daily basis and dismiss the writ petition. Court held that the object of speedy trial is to prevent delay. It has 3 main objectives,

1) It prevents accused from unnecessary pre-trial detention.
2) It saves accused from mental and physical torture.
3) The risk of loss of evidence and witnesses memories may be saved.

Court held that only long pendency will not give right to dismissal of prosecution.[198]

Speedy Trial and Fair Trial as part of Article 21 of Constitution of India.

14) **Maneka Gandhi v Union of India**[199]

The passport of the petitioner was impounded by the regional passport officer, New Delhi on July 1977, without being informed the cause for such confiscation. The only reason given by ministry of external affairs is that such confiscation was in the interest of the general public. So, petitioner filed writ

197 2008 Criminal Law Journal (Del) 1440
198 Justice Reddy B.S. (2018), D. J. De. The Constitution of India, (Article 1-21) 4th ed., Vol.I., Asia Law House, Hyderabad, p. 1167.
199 AIR 1978 SC 597

petition under Article 32 of Constitution of India into the Supreme Court for infringement of her fundamental right under Article 21 of constitution.

The Supreme Court held that confiscation of passport by the authority is arbitrary. Court stated that procedure which takes away personal liberty of an individual should be fair, just and not to violate his right to life under Article 21 of Constitution of India. It includes speedy trial and fair trial as part of Article 21 of the Constitution of India.

15) **Kadra pahadiya v State of Bihar**[200]

A letter in this case written by one researcher was considered by Supreme Court of India as writ petition. Kadra along with 3 boys who belong to backward tribe were detained in jail of Bihar without trial for more than 8 years. They were subject to physical abuse where they forced to work in jail and put in leg irons.

Supreme Court admitted this writ petition and gave direction. Court held that speedy trial is the part of right to life and liberty of Article 21 of constitution and it is accused right to approach court if it has been violated.

16) **Raghubir Sing v State of Bihar**[201]

The petitioner was charged for committing offence under sections 121A, 123, 124-A, 153-A, 165-A, 505 and 120B of Indian Penal Code and first information report has been filed against them in 1985. The five petitioners were detained in jail under the National Security Act. All the petitioner had applied for bail but was rejected by High Court and proceeding was initiated against them before the special judge. The petitioners further filed writ petition in Supreme Court along with special leave petition for the rejection of bail and struck down the proceeding before special judge.

Supreme Court dismissed the petition and gave order for speedy disposal of case. Court further held that speedy trial is part of Article 21 of Constitution of India which is the essence of criminal justice.

Delay in Investigation

200 1983 (2) SCC 504
201 www.indiankanoon.com

17) **Mantoo Majumadar v State of Bihar**[202]

Two under trial prisoners who are petitioners in this case were waiting for their trial for seven years in jail. Also, the offence for which they were charged, the maximum punishment is equal with the period for which they were in jail. There was a delay in criminal investigation of their offence. The writ of Habeas corpus has been filed by petitioners.

The Supreme Court directed release of the petitioners, by allowing petition. As delay in investigation prolonged the trial of the petitioner and violated their right to speedy trial under Article 21 of the Constitution of India.

18) **Sheela Barse v Union of India**[203]

The children and adults were detained in jail in Calcutta, under the name "Non-Criminal Lunatics". After producing those before judicial magistrate of West Bengal directed that they should be send to jail by giving medical assessment. Without the necessaries needed for life they were detained in jail without proper fixation of trial time. On the behalf of these persons writ petition has been filed by one social activist Ms.Sheela Barse in Supreme Court of India.

Supreme Court directed the right to speedy trial is an integral part of Article 21 of the Constitution and if it is not followed then prosecution is liable to be quashed. It also dealt with a procedure to be followed where the offence committed by a person below 16 years of age. Court held that if an offence for which a juvenile is charged the punishment for which is less than 7 years, the investigation in such proceeding must have been completed within 3 months of filing of a first information report or liable to be closed.

9) **Vakil Prasad Sing v State of Bihar** [204]

The appellant an assistant engineer in the Bihar state electricity board, Muzaffarpur was charged for illegal gratification for release of payment for the civil work executed by him. Money notes were found from him by the office of

202 AIR 1980 SC 847
203 JT 1988(3)15
204 2006 (4) JCR 605

the Superintendent of Police. In 1982 charge sheet was filed. The case was conducted before magistrate in 1982. Appellant filed petition under section 482 of criminal procedure code in High Court of Patna against the order of Magistrate court challenging jurisdiction of investigating officer who framed charges. The High Court allowed the appeal and directed to complete the said investigation within 3 months by Deputy Superintendent of Police. But nothing further step took place in this case till 1998. Further appeal had been filed by appellant in Supreme Court to quash down the proceeding on account of such pendency.

Court held that delay in the investigation and trial violated the right of appellant provided under Article 21 of Constitution. Court quashed down the proceeding against appellant which was pending for more than 17 years.

20) **Pankaj Kumar v State of Maharashtra and others** [205]

The accused in this case without calling for the quotations for purchase of spare part for milk plant, got prepared bill from staff members who were accused and made payment in cash and by demand draft to appellant. He purchased 2 air compressors and payment also made accordingly of Rs. 64,100/- made to accused number 10 without doing any actual work. Special court summoned all the accused. High Court dismissed the writ petition filed by accused number 10, 12 on ground that he failed to produce necessary document of date of birth of appellant who was minor at the time when transaction in question was made. Further appeal has been filed in Supreme Court.

Supreme Court allowed the appeal and directed to strike down the criminal proceedings against the appellant. Court held that right to speedy trial is available in every criminal proceeding. It is applicable not only in trial stage but also in the investigation stage as well. Thus, his right had been violated in this case where FIR filed in 1987 for the offence committed in 1981 and investigation was delayed. Chargesheet filed in 1991. Not a single step was taken till 1999.

205 www.indiankanoon.com

21) **Lokesh Kumar Jain v State of Rajasthan**[206]

The appellant was working as a lower division clerk in office of District literacy education officer Dausa. In 2000 he was charged for an offence of committing financial irregularity as a cashier. The First Information Report has been filed against him with help of Auditor General Report, in 2000. The investigation remained pending for non-availability of original copies of bills. After lapse of 6 years appellant filed petition under section 482 of criminal procedure code before High Court of Rajasthan to set aside the First Information Report. High Court decided not to disturb the matter in the hands of authorities, thus did not set aside First Information Report. Further special leave petition was filed by appellant in Supreme Court of India.

Supreme Court by allowing appeal quash down the First Information Report filed against him in Police Station Dausa. The delay was caused due to delay in investigation by police and not due to appellant who violated his right to speedy trial given under Article 21 of Constitution.

Delay in the Execution proceeding

22) Madhu Mehta v Union of India[207]

Gyasi Ram was sentenced to death for murder of government servant under section 302 of Indian Penal Code by the sessions judge and also by the High Court. Mercy petition had been filed by the wife of said person which remained pending. The mercy petition was rejected by governor of state and it was further sent for the consideration before President. During the pendency of such mercy petition the son of said person filed the special leave petition against judgment of High Court which reconfirmed the death sentence. But the mercy petitions remained undecided, for 8 to 9 yrs. Writ petition was filed by one social worker Madhu Mehta for issuing writ of Habeas Corpus under Article 32 of Constitution of India in the Supreme Court.

The Supreme Court of India converted death sentence into imprisonment for life. But court considered the delay in disposal of mercy Petition unreasonable. It confirmed the right of person to reach the Supreme

206 www.supremecourtofindia.com (Misc.Cri.Pet 605/2006)
207 AIR 1989 SC 2299

Court for long delay in the execution of death sentence as part of Article 21 of constitution.

23) **T. V. Vatheeswaran v State of Tamil Nadu** [208]

The petitioner in this case was charged for committing murder and sentenced to death. He was in jail for two years before conviction and for 8 years after confirmation of death sentence. So, he was in detention for total period of ten years before execution of death sentence. The petitioner then filed an appeal in the Supreme Court of India for violation of his right to life under article 21 of constitution.

Supreme Court held that long pendency of execution of death sentence violates the right to life and liberty of person which is unjust. Supreme Court allowed the appeal and converted death sentence into imprisonment for life.

Undue delay in criminal Proceeding for non-framing of charges

24) **Mihir Kumar v State of West Bengal**[209]

The accused in this case was charged for an offence under the sections 468, 409, 120B of Indian Penal Code read with section 5 (1) (c) (d) of the Prevention of Corruption Act 1946. From 1976 to 1987 the public prosecutor failed to examine all the witnesses in spite of such long period. Additional Special Court took cognizance of offence under section 200 of criminal procedure code and examine the complainant. No charge had been filed against him during such period. Further the writ petition had been filed in High Court under Article 226 of Constitution for quashing of trial.

High Court allowed the petition and directed that proceeding against petitioner were liable to be quashed and released him from all the charges. Court considered that undue delay in criminal proceeding in framing of charges caused injustice to an accused. It violated his right to speedy trial provided under article 21 of Constitution of India.

208 AIR 1983 SC 361
209 1990 CriLJ 26

25) **Rajiv Gupta v State of Himachal Pradesh**[210]

The Petitioner were produced before court in 1994 and police filed challan against them under section 411 of Indian Penal Code. The trial in the judicial magistrate hadn't commenced for 3 years. They took the reference of Common Cause v Union of India case. According to that, case which is pending for more than 3 years, accused can be released. The trial Court thus released the accused in this case. The appeal had been filed against judgment of trial court in High Court which directed that since charge has not been framed by magistrate, accordingly trial was not commenced and accused should not be thus released. The petitioner filed appeal in Supreme Court against judgment of High Court.

Supreme Court allowed the appeal and set aside judgment of High Court and restore order of magistrate which allowed the release of petitioner. Again, court considered the pendency of case more than 2 years.

26) **Niranjan Hemchandra Sashittal v State of Maharashtra**[211]

The petitioner in this case was a public servant and was charged for on offence under the Prevention of Corruption Act 1988 for having disproportionate assets. First Information Report has been lodged in 1986 and a charge against him was formed in 2007. Thus, writ petition has been filed by petitioner under Article 32 of Constitution to strike down the trial for prolonged delay.

Supreme Court held that accused has right to speedy trial but court said that if such quash of proceedings take place then advantage may be taken by everyone. So, court directed in this case for speedy disposal till the end of December 2013 and held that time limit cannot be fixed for criminal trial disposal.

27) **P. Ramachandra Rao v State of Karnataka**[212]

The appellant was charged for an offence under section 13 (1) (e) read with section 13 (2) of the Prevention of Corruption Act, 1988 for having

210 www.indiankanoon.com
211 www.thelaws.com
212 www.indiankanoon.co,

disproportionate assets while working as an electrical superintendent in Mangalore city corporation. The accused acquitted by the special court as trial did not commence even after two years, as directed in Raj Deo Sharma v State of Bihar. The state of Karnataka filed an appeal against such acquittal in the High Court. High Court by allowing the appeal of state government set aside the acquittal and remand the case for retrial as according to High Court the direction in Raj Deo Sharma case were not applicable in corruption case. Also notice was not issued to accused by the High Court. Further special leave petition has been filed by accused in Supreme Court against judgment of High Court.

Supreme court directed re-opening of the trial against accused. It was held that the guidelines given in Common Cause and Raj Deo Sharma case were not applicable in each and every case. Criminal Courts are not bound to close down the case only on the ground of lapse of time. A time limit cannot be fixed for criminal proceedings.

28) **Durga Datta Sharma v State**[213]

The petitioner along with other accused were charged for an offence punishable under section 5 of Prevention of Corruption Act, under sections 120B, 420, 467, 477A of Indian Penal Code with section 7 of Essential Commodities Act with clause 7 of Iron and steel (control) order 1956 for committing conspiracy with an intention of cheating of state government and steel authority of India Ltd. The petitioner case went for hearing before special judge, Assam, Guwahati, who applied for strike down of proceeding. The FIR had been filed in 1980 for offence committed in 1978. The chargesheet was framed in 1985. After long pendency of 17 years no trial was commenced nor charge has been framed. After lapse of 25 years where no trial had begun many witnesses, accused expired. Also the dispute relating jurisdiction was there. Further revision petition had been filed by appellant in Supreme Court.

Court by allowing revision petition quashed down proceeding against accused under section 482, Criminal Procedure Code read with 227 of

213 2003 Criminal Law Journal 2841

Constitution of India. As accused had undergone for a physical, mental stress within these 25 years. His right to speedy trial had also been violated provided under Article 21 of Constitution.

29) **Ajay kumar Chaudhary v Union of India through its Secretary and other**[214]

The appellant was charged for an offence of corruption. The criminal case was pending against him for 9 years without making any order. During this period, he was suspended. He further made an appeal in the Supreme Court.

Supreme Court held that suspension order should be revoked and directed to reinstate the petitioner in any other non-sensitive post. Court held that "currency of a suspension order should not extend beyond 3 months, if chargesheet is not served, reasoned order must be passed for extension of suspension." Delay in trial violates his right to speedy trial.

30) **State of Bihar v Uma Shankar Ketriwal and Others**[215]

The complaint has been filed against respondent for misappropriation of large quantity of G. C. Sheets under section 7 of Essential Commodities Act. In 1979 the respondent filed an appeal in the High Court for striking down of proceeding against him. High court allowed the appeal as the prosecution had started from 1963 and it continued till 1979. Further state government filed an appeal in the Supreme Court.

The appeal has been dismissed by the Supreme Court on the grounds of delay. Court further stated that there should be a fixed period for the criminal prosecution. There is lapse of more than 20 years for trial. It also mentally and financially affected the accused.

Delay in pronouncing judgment by court

31) **Anil Rai v State of Bihar**[216]

The appellants with other persons formed an unlawful assembly with the common object of murder in 1989 of two persons and ran away. Police later

214 2015(2) PLJR 250 SC
215 AIR 1981 SC 641
216 2001 (7) SCC 318

on caught and arrested them and filed chargesheet against them. The accused were convicted by trial court under section 302 of Indian Penal Code, 149 of Indian Penal Code and with section 27 of the Arms Act. They were sentenced for life imprisonment for offence under 302 with 149 of Indian Penal Code and one-year rigorous imprisonment under section 27 of Arms Act. In an appeal filed in High Court of Patna confirmed the conviction of trial courts. But out of 9 only 7 were sentenced for imprisonment to life and released two of them. An appeal had been filed by petitioner in the Supreme Court.

The Supreme Court upheld the conviction of Accused 3, 4, 5, 6, 7 under section 27 of arms act and dismissed their conviction under section 302 with 149 of Indian Penal Code and sentenced for 3 years rigorous imprisonment. Appeal filed by accused number 2 was dismissed. Court considered delay made by magistrate court in pronouncing judgment even after completion of argument which was unreasonable. It violates accused right under Article 21 of Constitution. It says that justice should not only be done but should also appear to have been done. Also, whereas justice delayed is justice denied, justice withheld is even worse than that.

32) **Madhav Hayawadanrao Hoskot v State of Maharashtra**[217]

The petitioner in this case was charged with the offence of attempting to prepare degree certificate of university punishable under the sections 417, 467, 471, 511 of Indian Penal Code. The trial court sentenced the petitioner with a simple imprisonment till the rising of court and fine. Both state and petitioner filed appeal in the High Court. The appeal against conviction filed by petitioner was dismissed by High Court and it extends the punishment into 3 years imprisonment by allowing states prayer regarding sentencing. The copy of judgment was provided him in 1978 for the judgment delivered in 1973. He was detained in jail for a period of 4 years due to delay in delivering copy of judgment. Due to which he was unable to approach for appeal. Special leave petition was filed by appellant in Supreme Court after 4 years.

Supreme Court held that it is the prisoners constitutional right of appeal which provided him right of legal assistance also under Article 21, 39A of Constitution of India.

217 AIR 1978 SC 1548

States duty to provide free legal assistance for poor

33) **Khatri and others v State of Bihar** [218]

The 17 petitioners filed writ petition who were detained in jail of Bhagalpur and they were deprived of their eyesight by police in custody of them. Their right to life and personal liberty provided under Article 21 of Constitution had been violated by the state. The question before Supreme Court was that whether person deprived of their right to life can be compensated by giving monetary relief.

Supreme Court held that it is Constitutional right of every accused that his right to life should be protected and state was liable to pay compensation to blind persons. Also, court directed that state is under obligation to provide legal assistance to poor once and state is not allowed to take defence of economic or administrative constrain.

34) **Centre of Legal Research and Another v State of Kerala** [219]

The writ petition had been filed by Centre of Legal Research and Another, where question arises whether the voluntary organisation or social action groups who are working for legal aid programme should be financially supported by state government or not and what is the extent of liability of state in this support.

Supreme Court held that to gain the objective of Article 39A the participation of voluntary organisation should be increased. Also, they must refrain from governmental interference. It is the duty of state to provide assistance to these organisations.

Right of speedy trial against state arbitrary action

35) State of West Bengal v Anwar Ali Sarkar[220]**.**

Mr. Anwar Ali and other 49 were charged for various offences and given imprisonments. They were working in Jessop Factory and were declared as armed gang. Certain special courts were constituted in state of west Bengal

218 1981 (2) SCR 408
219 AIR 1986 SC 1322
220 AIR 1952 SC 75

under section 3 of west Bengal special courts ordinance 1949. This court has been replaced by the West Bengal special courts Act 1950 in March. The appeal has been filed by the accused in High Court. They applied for writ of certiorari for striking down of conviction sentenced by special courts. Also claimed that it violates their right to equality before law under Article 14 of Constitution of India. High Court upheld the appeal and directed the trial of respondents as per the law. Again, case went for an appeal in Supreme Court.

The Supreme Court of India declared the West Bengal special courts Act void as it infringes the Article 14 of Constitution of India. Court stated that the act is arbitrary and gave unlimited power to state government. The court held that speedy trial purpose is not served by the said act of the state government. Hence decided the appeal in favour of Anwar Ali Sarkar and others.

Guidelines given by Supreme Court for Speedy Trial

36) **Abdul Rahman Antulay v R. S. Nayak** [221]

Abdul Rahman Antulay was Chief Minister of Maharashtra but resigned the post after convicted by Bombay High Court under the section 161, 162, 163, 164 and 165A of Indian Penal Code and Section 5 of the Prevention of Corruption Act, 1947. But he remained as a member of legislative assembly. Without giving any opportunity of being heard the case was transferred from special judge to the Bombay High Court for day-to-day hearing. The right of a petitioner in this case to be tried by competent court was denied and also his right of appeal and revision to High Court had been violated. Appeal had been filed by petitioner in Supreme Court for violation of his right under Article 21 of Constitution.

Supreme Court gave guidelines in this case for exercising right of speedy trial. But court rejected to strike down proceeding against accused as many times delay was due to the accused. It was directed for speedy trial on daily basis.

221 1994 (3) SCC 569

- **Guidelines given by Supreme Court in the above case are as follows**

1) Article 21 of the Constitution provides right to be tried speedily to accuse which also include fair, just, reasonable procedure.

2) The Right to Speedy trial is available at each and every stage of trial including inquiry, investigation, appeal, revision and retrial.

3) The Right to Speedy trial is also considered by taking into account accused as follows -
   (i) The time period of remand and pre-conviction should be reduced.
   (ii) The delay during investigation, inquiry or trial should be reduced so that his mental health may not get affected.
   (iii) Unreasonable delay may reduce his capacity to defend his case which is due to death, disappearance or due to absence of witnesses etc.

4) While deciding the violation of speedy trial, the court should take into consideration who is responsible for such unreasonable delay whether he who is accused or prosecution. The frivolous applications which delay the proceedings should be rejected.

5) For deciding whether the delay is unreasonable or not court should take into consideration nature of offence, work load of court, the number of accused and witnesses.

6) Every delay may not affect the rights of accused. But unreasonable delay must be taken into account.

7) Accused right to speedy trial cannot be rejected merely because he did not ask for it in time.

8) The court must take into consideration relevant facts and after examining all aspects of case.

9) The court may strike down the proceeding where the right to speedy trial has been violated of the accused. But it is not so applicable in every case. Court can

also direct the disposal of case within specified time. Each and every case is different, that is why court should consider the facts of every case.

10) It is not possible to dispose of case within specified time limit and it is not practicable also. It is duty of prosecution to justify the delay.

11) The High Court is having primary duty to dispose of objection relating to violation of speedy trial.[222]

37) **Common Cause Case/A. Registered Society through its director v Union of India [223]**

The petitioner named Common Cause, a registered society filed a writ petition under Article 32 of Constitution before supreme court demand for issuing direction relating pending cases in criminal court across the country. Also, it is brought to notice before the Supreme Court that accused who are detained in jail were not brought before court for hearing.

Supreme Court gave direction relating pending cases in criminal courts in India. Court considered that speedy trial is the essence of Article 21 of Constitution of criminal cases.

Directions given by the court in above case

a) Where the accused has been charged for an offence punishable for a period not exceeding 3 years imprisonment with or without fine under Indian Penal Code or under any other law for the time being in force and in such a case the said accused if detained in jail for a period of six months or more and the trial is pending for a period of one year or more, the concerned court shall direct release on bail of such accused or on personal bond under section 437 of criminal procedure code.

b) Where the accused has been charged for an offence punishable for a period not beyond 5 years imprisonment with or without fine under Indian Penal Code and

222 Dr Jaswal P.and Jaswal N (2010), Human Right and the Law, APH.Publishing Corporation, New Delhi, p.201, 202.

223 AIR 1996 SC 1619

in such a case if his detention in jail is for 6 months or more and whose trial is pending for a period of 2 years or more, the criminal court shall release him on bail or on personal bond under section 437 of criminal procedure code.

c) Where The accused has been charging for on offence punishable for a period not exceeding 7 years or less imprisonment with or without fine under Indian Penal Code or under any other law for the time being in force and in such a case if said accused, if detained in jail for a period of one year or more whose trial is pending for 2 years or more, the criminal court shall direct release of the said accused on bail or personal bond under section 437 of criminal procedure code.

1) (a) Where the accused has been charged for a traffic offence whose case is pending in criminal court for a period of two years, the court shall direct, the release of accused and close the case.

(b) Where the accused has been charged for an offence under Indian Penal Code or any other law which is compoundable with permission of court whose case is pending for a period more than two years, where the trial is not commenced still, the court shall direct acquittal or discharge of accused after hearing public prosecutor and other party.

(c) Where the accused has been charging for an offence under Indian Penal Code or under any other law, which is non-cognizable and bailable, whose case is pending for a period of 2 years where the trial has not commenced, the court shall acquit the accused.

(d) Where the accused has been charged for an offence under Indian Penal Code or under any other law which is punishable with fine only and which is pending for a period beyond one year whose trial is not begin year whose trial has not begun still, the concerned court shall direct the acquittal of accused.

(e) Where the accused has been charged for an offence punishable with a one-year imprisonment with or without fine, whose case is pending beyond one year where the trial is not commenced, the court shall acquit the accused.

(f) Where the accused has been charged for an offence punishable with 3year imprisonment with or without fine, whose case is pending beyond 2 years, where the trial is not commenced, the concerned court shall acquit the accused.

3) For the application of clause (1) and (2), the period of delayed criminal case shall be calculated from the date the accused are summoned to appear in court.

4) Clause (1), (2) shall not apply to offences including corruption, cheating under Indian Penal Code, Prevention of Corruption Act, Offence relating to Army and Navy and Air Force, offences relating to election, offences relating defamation under section 499 of Indian Penal Code.[224]

38) **Raj Deo Sharma v State of Bihar[225]**

The petitioner in this case was charged for an offence under the sections 5 (2) read with section 5 (1) (e) of the Prevention of Corruption Act 1947, on 2nd November 1982. On 30th August 1985 the central bureau of investigation submitted chargesheet with list of 40 witnesses and 20 documents. The trial was held before special judge CBI from 1986 but till 1995 only 3 witnesses were examined in that court. The petitioner filed writ petition in the High Court for the unreasonable delay in conducting investigation and trial of case pending for 13 years. The High Court dismissed the writ petition. Further appeal filed by petitioner in the Supreme Court.

The Supreme Court directed additional guideline for the protection of accused speedy trial right, as follows.

(i) Where the accused has been charged for an offence for which the punishment is less than 7 years imprisonment, where he is detained or not, the court shall direct to prosecution to close down the evidence on expiration of two years, no matter prosecution examined all witnesses or not. The court can direct to proceed with the further next step of trial.

224 . Justice Reddy B.S. (2018), D.J. De The Constitution of India, 4th ed., Asia Law House, Hyderabad p. 1170, 1171.

225 1999(7) SCC 604

(ii) If for an offence as mentioned in clause (i) an accused has been detained in jail for one half of the maximum period of punishment for that offence, the court shall release that accused on bail subject to necessary conditions.

(iii) Where the accused has been charged for an offence for which the punishment is beyond 7 years imprisonment, where he is detained in jail or not, the court shall direct to prosecution to close down the evidence on expiration of 3 years from the date on which charges were framed, no matter prosecution examined all witnesses or not. The court can direct to proceed with the further next step of trial. But court can extend the period for prosecution to adduce evidence in the interest of justice.

(iv) But if delay is caused due to the conduct of accused in completion of trial, court is not bound to close the prosecution evidence within the period as mentioned in above case.

(v) Also, where the trial is delayed due to stay order of court or by operation of law, such period should not be counted in examination of prosecution evidence and court shall not in these cases allowed to close the evidence of prosecution.[226]

39) **All India Judges Association v Union of India**[227]

The writ petition had been filed by all India Judges Association under Article 32 for constitution of Uniform Condition of Service for the subordinate judiciary which included residential provision, transport facility, library facility and service training to judiciary.

Supreme Court held that independent judiciary is inseparable part of welfare society. Judiciary also is equipped with essentials of life for mental stability. To decrease the number of pending cases, the number of judicial officers should be increased. It will help to disposed of cases in speedy manner. It stressed emphasis on the increase in number of judicial officers.

226 Justice Reddy B.S. (2018), D. J. De The Constitution of India, 4th ed., Asia Law House, Hyderabad, Vol.I.,p. 1174, 1175.
227 www.indiankanoon.com

5.3) Conclusion

Judiciary plays vital role in the justice delivery system. Precedents are significant because as a common law of country the decision of apex courts are binding on subordinate courts. Supreme Court with various judicial pronouncements tried to protect right to speedy justice as a fundamental right. Even though only judicial decision may not be effective to solve the problem of huge pendency. The other two wings it Executive and Legislature must participate to deal with it.

Only judge made law will not be able to solve the huge pendency, the appropriate legislation must be framed.

CHAPTER VI
ANALYSIS OF DATA COLLECTION AND FINDINGS

6.1 Introduction

This Chapter contains Empirical study of Kolhapur and Sangli district. Also, it comprises of data analysis, interpretation, testing of hypothesis and findings. Data collected from Google form due to COVID 19 pandemic. The questionnaire was circulated through links on social media networking in Kolhapur and Sangli district. Collected data has been represented in tabular and graphical form. After that hypothesis are tested and findings are drawn accordingly.

6.2 Locale of the chosen Area

The present research includes Kolhapur and Sangli district. Kolhapur is situated on the bank of the river Panchganga. It is also called as Dakshin Kashi. It consists of total 12 Taluka. The first court was established in Kolhapur in 1844 which had its own High Court and Supreme Court. In 1867 first District Court was established by Mahadev Ranade. New building of Kolhapur district court is known NyayaSankula.

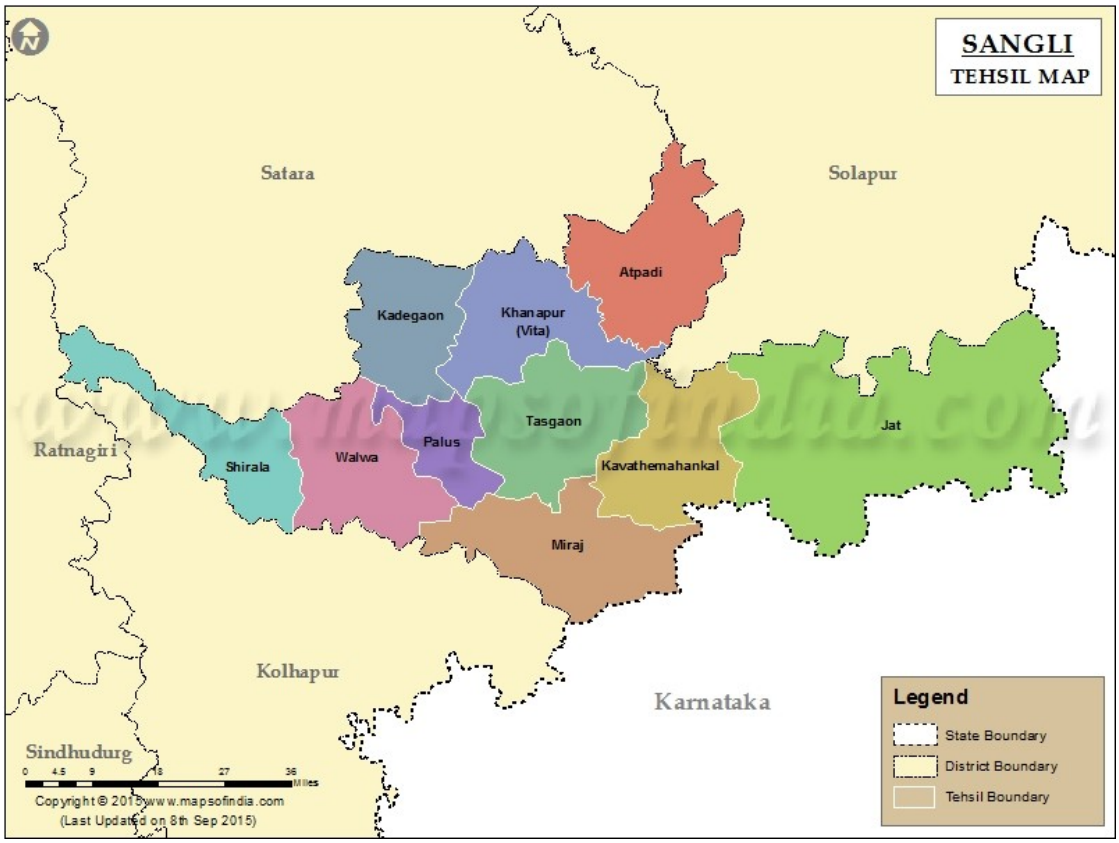
At the north border of Kolhapur, Sangli district is located, on the river basins of Warna and Krishna rivers. The district is known for its sugar factories and as a strong political power house. It consists of total 10 Talukas. In Sangli district there was High Court known as South Satara. In 1908 Sangli Court building was build but today it is shifted in its new building.

6.2.1) Area and Population

According to Census of 2011 Kolhapur has total population of 3,876,001. Out of this population 1,895, 343 are females and 1,980,658 are males in the district. In Kolhapur district 3.01% people belongs to scheduled castes and 0.78% people belong to schedule tribe out of the total population. Kolhapur has total Area of 7,692 km^2.

This map shows geographical area of Kolhapur District from where a researcher has selected a sample. It comprises of 12 talukas. It has 14 trial and 4 appellate court viz Kolhapur, Ichalkaranji, Gadhinglaj, Jaysingpur Radhanagari, Shahuwadi, Kale-kheriwade, Panhala, Vadgaon, Kurundwad, Ajara, Chandgad, Gargoti are trial courts and Kolhapur, Ichalkaranji, Gadhinglaj, Jaysingpur are appellate courts respectively.

The population of Sangli district as per the 2011 census is 2,822,143. Out of which 1,435,728 are males and 1,386,415 are females. Out of total population scheduled caste is 12.51% and scheduled tribe population is 0.65% in Sangli district. It has total area of 8,572 km^2.



This map shows geographical area of Sangli District from where a researcher has selected a sample. It comprises of 10 talukas. It has 11 trial and 2 appellate court viz Sangli, Islampur, Palus, Kavate-Mahankal, Kadegaon, Aatpadi, Shirala, Miraj, Tasgaon, Vita, Jat are trial courts and Sangli and Islampur are appellate courts respectively.

6.2.2) Pending litigation information in Kolhapur and Sangli district

The problem of pending litigation is crucial at lower judiciary. The Kolhapur and Sangli district are not an exception for it. As researcher study is to analyse the problem of pending litigation in Kolhapur and Sangli district. Following table shows number of pending litigations from 2017 to 2021 in Kolhapur and sangli district.

Number of pending litigations in Sangli

Year	**Pendency**
2017	2458
2018	2800
2019	2750
2020	2000
2021	3600
Total	**13608**

(Source: Sangli district and Session Court)

Above table clearly shows that the rate of pending litigation is increasing in Sangli district. In 2017 the number of pending litigations is 2458 and in 2021 the number of pending litigations is 3600.

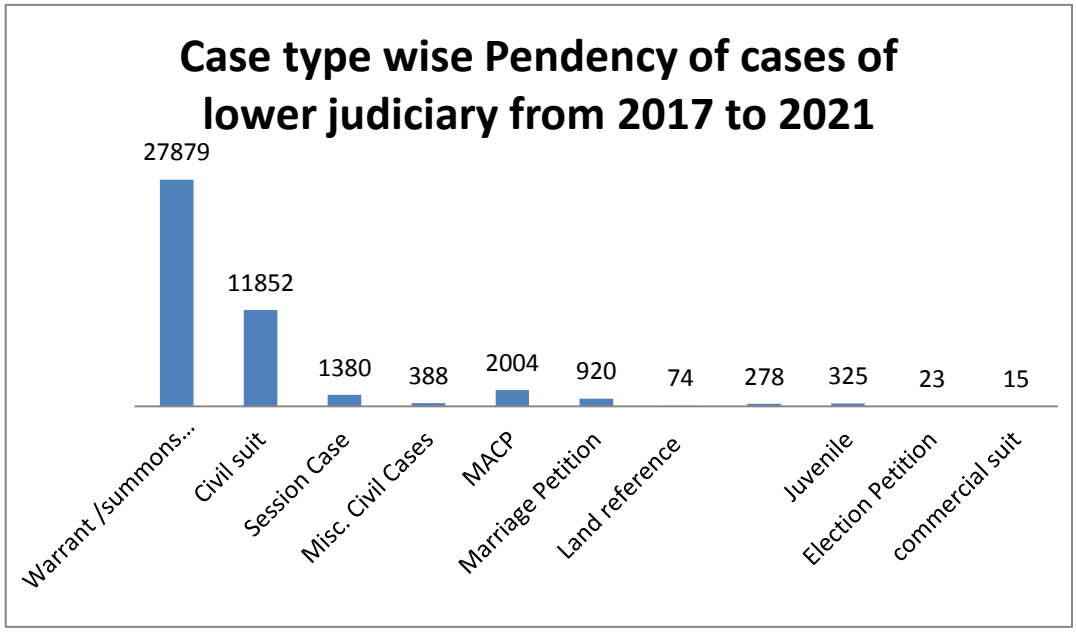
Number of pending litigations in Kolhapur

Year	**Pendency**
2017	2508
2018	2865
2019	2640
2020	2050
2021	3200
Total	**13263**

(Source: Kolhapur district and Session Court)

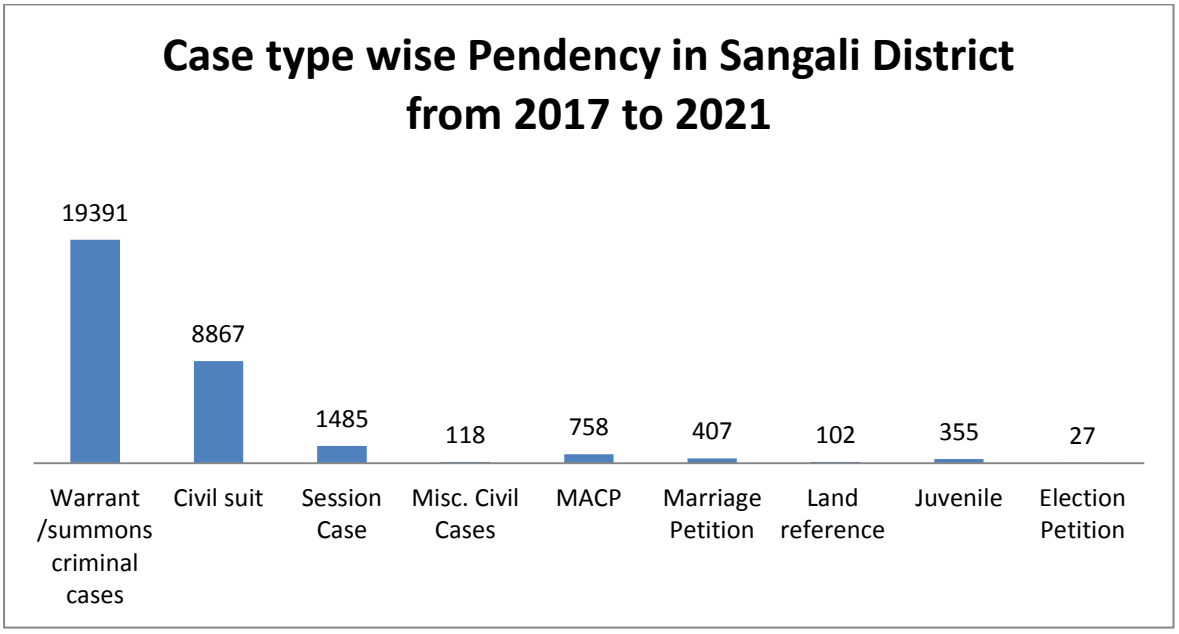
Above table clearly shows that the rate of pending litigation is increasing in Kolhapur district. In 2017 the number of pending litigations is 2508 and in 2021 the number of pending litigations is 3200.

In addition to that the researcher studied the pending cases in lower judiciary case viz commercial suits, miscellaneous civil case, marriage petition between the year 2017 to 2021 which is shown in following chart,



(Source: National Judicial Data Grid)

The above chart clearly shows the Pendency of litigation in Kolhapur District. Total 45138 cases are pending in District court. Out of which warrant cases are 27879, Civil suit are 11852, Session case are 1380, Misc. Civil cases are 388, MACP are 2004, Marriage Petition are 920, Land reference are 74, Juvenile are 325, Election Petition are 23 and Commercial suit are 15. As compare to other cases pendency in Warrant and Civil suits are more.



(Source: Nationals Judicial Data Grid)

The above chart clearly shows the Pendency of litigation in Sangli District. Total 31,510 cases are pending in District court. Out of which warrant cases are 19391, Civil suit are 8867, Session case are 1485, Misc. Civil cases are 118, MACP are 758, Marriage Petition are 407, Land reference are 102, Juvenile are 355, Election Petition are 27. Warrant and Civil cases pendency is comparatively more in numbers than other types of cases.

6.3 Methodology adopted in empirical research

As per requirement of the research problems, hypotheses and objectives sought to be achieved, this research project adopted both doctrinal and non-doctrinal methods of research methodology for conducting the said empirical research.

i) **Doctrinal Research**

It is pertinent to note that quality empirical research cannot be conducted without having understanding of the relevant literate on the subject of research. Various resources have been used for collection of information according to topic. Data has been collected from newspapers, web sites and information from registrar of courts, research papers to make its ambit wide. The researcher has critically examined the nature of scope of the relevant existing statutory instruments like Constitutional Law, The Legal Service Authority Act 1987, Law Commission Reports, etc.

The researcher also examined other secondary data in the form of Articles, Judgement of Apex Courts, Reports of Law Committees and Commissions.

ii) **Non-Doctrinal or Empirical Research**

To evaluate the reasoning of delay in disposal of cases by judicial administration empirical research method has been adopted to collect primary data from all respondents involved in the judicial administration mechanism. In order to collect quality and representative data from the respondents in the universe, stratified random proportional allocation sampling method has been adopted for collection of primary data. This research is designated to explain

and explore as how far the beneficiaries are badly affected by the delay in judicial administration.

For that purpose of evaluating the issue, few close ended questionnaires for respondents i.e., litigants, from amongst two districts each Sangli and Kolhapur have been framed for the purpose of collection of primary data. For legal aspects I conducted questionnaire-based survey from Lawyers, Administrative Staff which gave me opinion about my research study.

6.3 .1) Survey and its importance

For collection of data a survey research method is used. It provides new dimensions to the study. By using the standardized procedure, the data can be obtained through questionnaire. The questionnaire can be distributed online or offline. Today due to advent of new technology online surveys can be done to collect response from the respondent through Internet by filling a Google form. It provides easy and quick data for analysis and saves time and physical labour of researcher. In addition to that it is accurate.

6.3.2) Organization of the survey with the reference to the study

Due to COVID-19 situation it was not practically possible to visit and collect the data. For the purpose of data collection researcher used the online survey research method. Researcher prepared questionnaire by using Google form and circulate it through a social media network by sharing link on it. Also send reminders to respondents for filling questionnaire in time and send it to researcher.

6.3.3) Universal Sampling Design

Area of Study

Maharashtra has the second highest number of pending cases across states after Uttar Pradesh. More than 20 lakh criminal cases, 11 Lakh civil cases are pending in Maharashtra. Indias Western Maharashtra state is also known as Paschim Maharashtra. This western Maharashtra includes Pune, Solapur, Satara, Sangli and Kolhapur district. In this research work researcher selected two districts from western Maharashtra that is Kolhapur and Sangli District. In

each district researcher selected sample from litigants whose cases are pending in court.

Universe

Litigant (whose case is pending between the year 2017-2021)

Universe defined by litigant whose case is pending from last 5 years in Sangli and Kolhapur district. Number of litigants in Kolhapur 13263 and in Sangli 13608. So Universe size is 26871.

Number of pendency

For Sangli

Year	**Pendency**
2017	2458
2018	2800
2019	2750
2020	2000
2021	3600
Total	**13608**

(Source: Sangli district and Session Court)

For Kolhapur

Year	**Pendency**
2017	2508
2018	2865
2019	2640
2020	2050
2021	3200
Total	**13263**

(Source: Kolhapur district and Session Court)

Therefore, Total number of pendency = 13608 + 13263 = 26871 = Population

Sampling Method

In order to collect authentic, representative and accurate primary data, researcher plans to adopt stratified random proportional allocation sampling method. Representative samples from the major respondents such as administrative staff, litigants, registrar of courts, lawyers, judicial officers for collection of primary data in the universe, has been collected through personally administered questionnaire and online questionnaire for the research study. The researcher has also proposed to frame few questionnaires containing closed ended questions related to the delay in disposal of cases for the purpose of primary data collection in the universe.

Sample size

A sample size decided on a statistical data which has been collected from all courts and pending cases in Kolhapur and Sangli District for last five years that is between 2017 to 2021. The study also includes the information relating lower judiciary of concerned courts.

To determine sample size, I used following formula with 5% error

Sample size it is denoted by 'n'

$$n = \frac{N}{1 + Ne^2} \qquad e = \text{error} = 5\% = 0.05$$

$$= \frac{26871}{1 + 26871 \times 0.05 \times 0.05}$$

$$= 399.99$$

Therefore, for convenience purpose sample size is taken 400 according to Stratified random sampling with proportional allocation method as below,

Distribution of Sample Size District wise

District	North	East	West	South	Total
Kolhapur	**15**	**31**	**62**	**92**	**200**
Sangli	**67**	**66**	**50**	**17**	**200**
Total	**82**	**97**	**112**	**109**	**400**

Kolhapur district comprise of 12 talukas which is divided by researcher into 4 regions viz East, West, North, South for the purpose of distribution of sample size. East Region comprises of two talukas viz Hathkangale, Shirol, West Region comprises of four talukas viz Radhanagri, Gaganbawada, Panhala, Shahuwadi, North Region comprises of one talukas viz Karveer, South Region comprises of six talukas viz Changad, Kagal, Gadhinglaj, Aajra, Bhudargad, Gargoti. From North region 15, East region 31, West region 62, South region 92 sample of respondents were taken.

Sangli district comprise of 10 talukas which is divided by researcher into 4 regions viz East, West, North, South for the purpose of distribution of sample size. East Region comprises of four talukas viz Kavathe Mahankal, Jat, Atpadi, Miraj. West Region comprises of two talukas viz Palus, Shirala. North Region comprises of four talukas viz Tasgaon, Vita, Kadegaon, South Region comprises of six talukas viz Walva, From North region 67, East region 66, West region 50, South region 17 sample of respondents were taken.

6.3.4) Tools of Research

Researcher framed few questionnaires, according to the requirements of research problems and objective of this research sought to be achieved for relevant respondents. The researcher carried out pilot study before the finalisation of total numbers of respondents and questionnaire in each category of stakeholders involved Qualitative method used for data collection. Methodologies such as interview and questionnaire etc. were used by researcher.

In order to collect quality, accurate and representative primary data from the specified stakeholders located in the Universe, the researcher framed questionnaires comprising of closed ended questions for the respondent i.e., Litigants.

6.3.4.1) **Questionnaire and its use in present research**

Questionnaire tool has been used by the researcher because the total population is large in the present study. Due to COVID-19 situation the

researcher has created this questionnaire on Google form and distributed it through a social media networking by sharing link. By this Google forms data was collected in less time without the presence of researcher. This questionnaire includes closed-ended questions. It helped the researcher to collect the opinions, attitude and facts related to research topic of the respondent.

6.3.4.2) Statistical tools for analysis

Different statistical tools, scales are used by the researcher like diagrams graphs tables, Parametric and Non parametric tests like Chi square test, Z test are used for data analysis.

6.3.4.3.) Collection of data

Data has been divided into two parts-i) Primary Data ii) Secondary Data

Primary Data

The primary data was collected through a self-prepared questionnaire. The questionnaire was distributed amongst the respondents through Google forms. The link was shared through WhatsApp and other social media networking. To verify hypotheses the questionnaire method was used by researcher. Due to covid situation face to face visits and data collection was not possible. Total 400 responses were recorded which is easy to access, handle and properly direct the respondents about her research topic, so they can work on it in a given time. For legal aspects researcher conducted questionnaire-based survey from Lawyers, Administrative Staff which gave me opinion about my research study. Total 386 opinions were taken by researcher from lawyers and administrative staff. Due to technical issue opinions can't be collected from judges.

Secondary Data

Researcher collected secondary data from books, websites, journals, articles, reports etc.

6.4 Field difficulties

The researcher met with the following difficulties in the present study

1. Due to COVID-19 situation it was impossible for the researcher to meet the respondent face to face and collect the data

2. Due to technical issues response from judges cannot be collected

6.5) Analysis and interpretation of data

This chapter contains a presentation of data analysis and testing of hypothesis.

For litigant

. 6.5.1) Personal background of litigant and related tables.

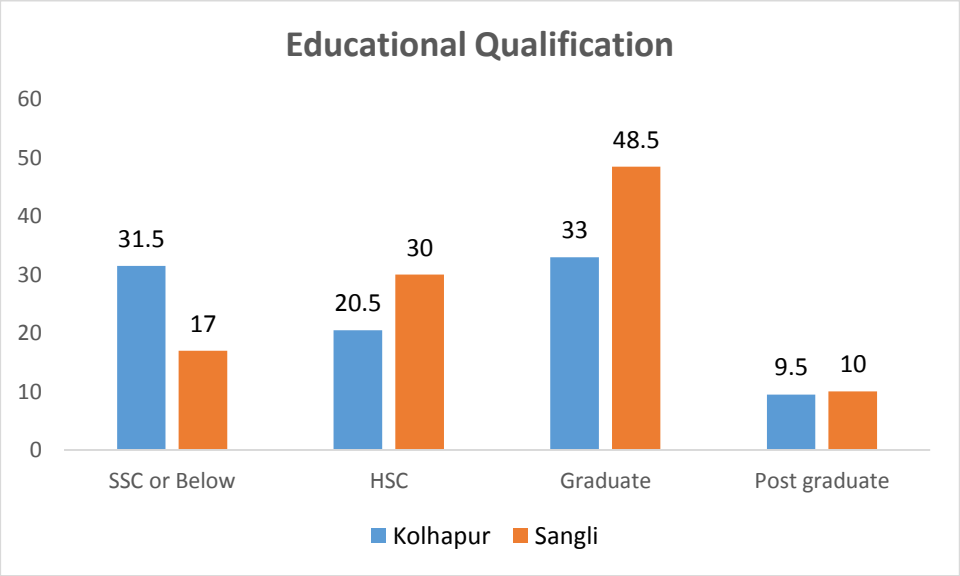
The pending litigation affects the litigants. Following is the demographic Profile of Litigants in Kolhapur and Sangli district.

Table no.6.1

Educational Qualification of litigants

Educational Qualification	Kolhapur	%	Sangli	%
SSC or below	63	31.5	34	17
HSC	41	20.5	60	30
Graduate	66	33	97	48.5
Post graduate	19	9.5	20	10
	200		200	

Diagram no.6.1

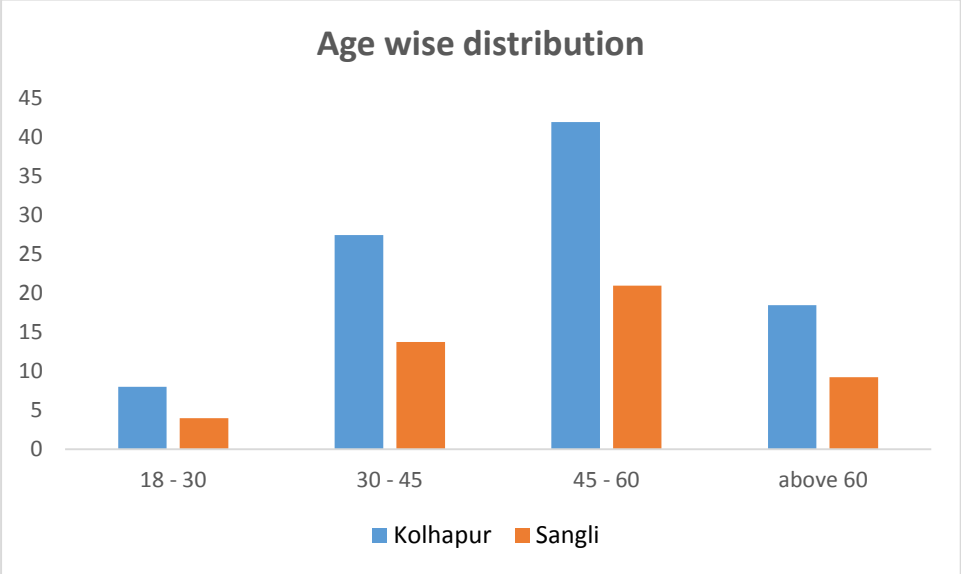


The above table no. 6.1 and diagram no 6.1 shows all litigants are literate in Sangli and Kolhapur District. In both the district proportion of Post graduate litigants is minimum as compared to other qualification. Proportion of graduate litigants whose case is pending is more in both district Sangli and Kolhapur with 33% and 48.5 % respectively.

Table no.6.2
Age wise distribution

Age	Kolhapur	%	Sangli	%
18 - 30	16	8	31	15.5
30 - 45	55	27.5	86	43
45 - 60	84	42	60	30
above 60	37	18.5	34	17
	200		200	

Diagram no 6.2



The above table no 6.2 and diagram no 6.2 shows age wise distribution of litigants. Proportion of litigants whose age is above 60 for Kolhapur and Sangli district is very low with 18.5% and 17% respectively. Most of the litigants are from age group 30 – 60 for Kolhapur it shows 69.5% and for Sangli it shows 73%

6.5.2) Reasons for delay in Disposal of Cases and related table

Our important pillar of democracy which is Judiciary is today in trouble due to huge mounting arrears in Court. Delay in disposal of cases is the main problem in all Indian court. There are many reasons for delayed justice. Delay may be cause due to lawyers, administrative staff, Litigants, Judges. There is no single reason for delay. All the above factors lead for delayed

justice. Researcher in her research tried to find out of them through questionnaire.

Table No.6.3

Inadequacy of number of judges reason for delay in disposal of cases

Inadequacy	Frequency	%
Yes	328	82
No	72	18
Total	400	100

Diagram No.6.3

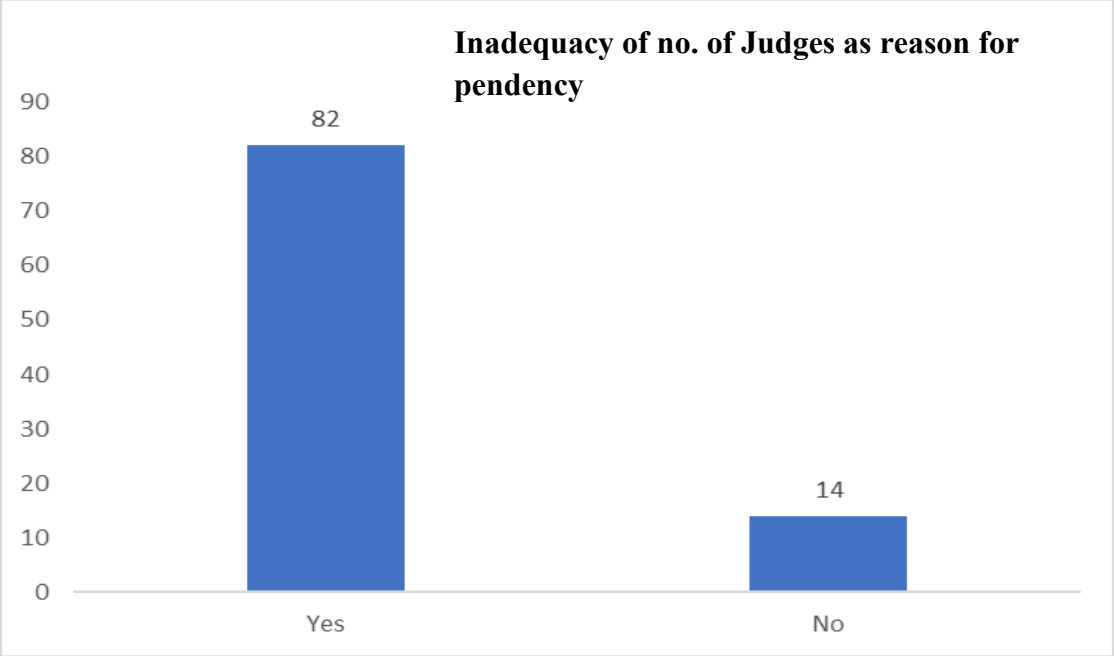


Table number 6.3 and diagram number 6.3 shows how inadequacy of number of judges affected in delay in disposal of cases. According to majority of litigant inadequacy of number of judges affected for delay in disposal of cases with 82 percentages. While 18 percentage sample respondents of litigants not agreed with number of judges affected for delay in disposal of cases. So Higher percentage indicates it is one of the major cause for delay.

Table No.6.4

overburdening of cases on judiciary cause for pending litigation

Overburdening	Frequency	%
Yes	344	86
No	56	14
Total	400	100

Diagram No.6.4

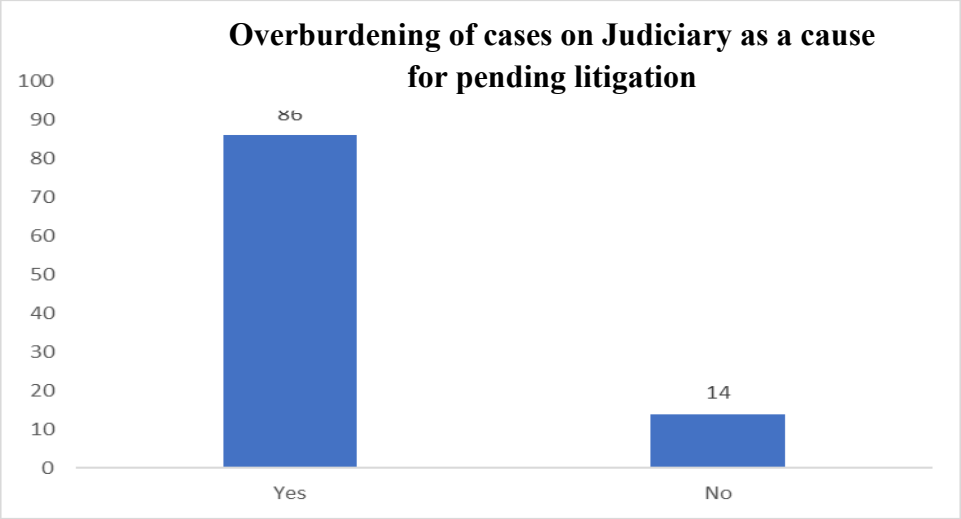


Table number 6.4 and diagram number 6.4 shows overburdening of cases on judiciary is one of the cause for pending litigation. Majority of sample respondents that is 86% agreed that overburdening of cases on judiciary is one of the cause for pending litigation. While 14% sample litigants not agreed with overburdening of cases on judiciary is one of the cause for pending litigation. It underlines that overburdening is also one of major reason for delay.

Table No.6.5

Area the judges spend their more time

Area	Frequency	%
Administration	106	26.5
Any Other	14	3.5
Litigation	280	70
Total	400	100

Diagram No. 6.5

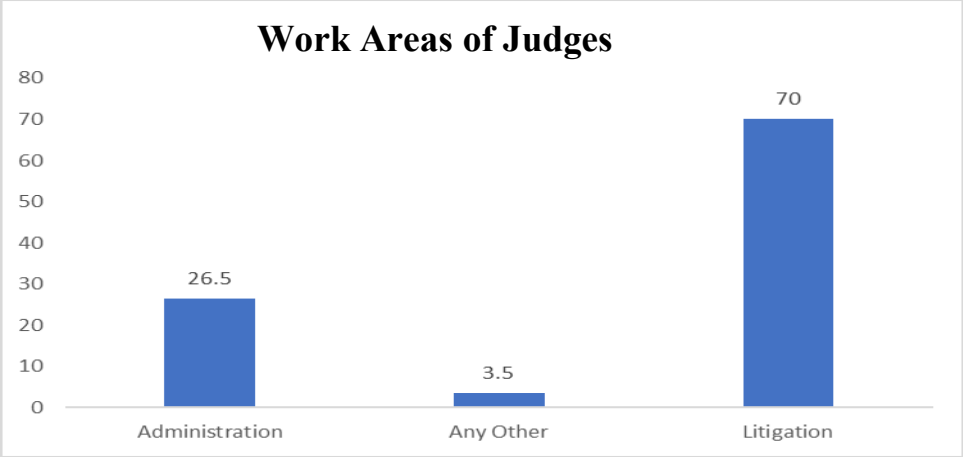


Table number 6.5 and diagram number 6.5 shows how judges spend their time for judicial work. According to majority of respondents that is 70%, judges spend their time for litigation, 26.5% judges spend their time for administration purpose and remaining that is 3.5 % they work for other reasons. So, a greater number of judges are busy in the litigations most of the time.

Table No. 6. 6

Inadequacy of number of courts leads for non-disposal of cases

Inadequacy	Frequency	%
Always	155	38.75
Never	6	1.5
Often	50	12.5
Rarely	7	1.75
Sometimes	182	45.5
Total	400	100

Diagram No 6.6

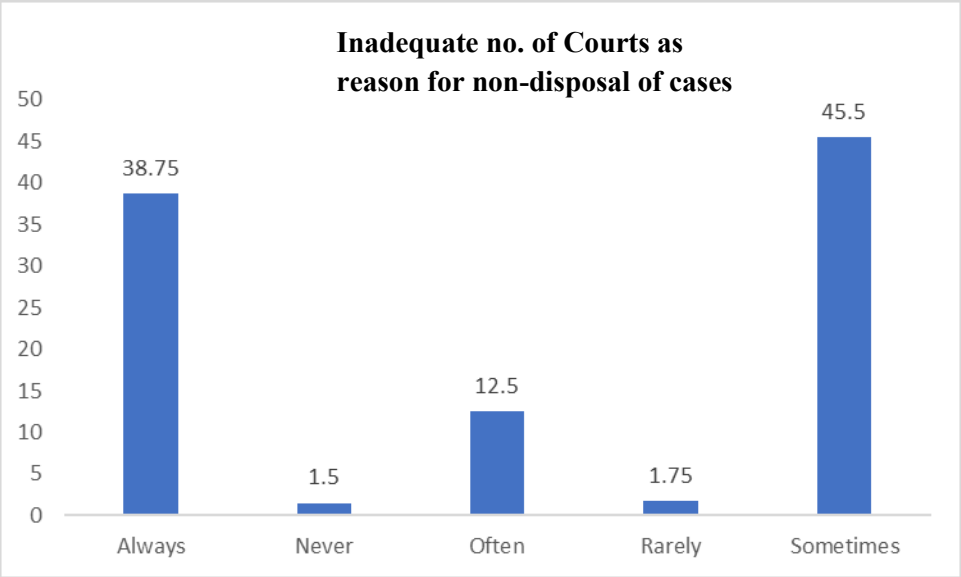


Table number 6.6 and diagram number 6.6 shows inadequacy of number of courts leads for non-disposal of cases within time. According to 45.5% sample respondents that are nearly half inadequacy of number of courts sometimes affected for non-disposal of cases within time. 38.75% llitigants suggested to increase number of courts since inadequacy of number of courts leads for non-disposal of cases within time. 12.5% sample respondents are of opinion that there is no correlation between number of courts and disposal of cases in time. So, inadequacy of number of courts is having impact on disposal of cases.

Table No. 6.7

The reason for taking adjournment by lawyers

Reason	Frequency	%
Absence of Litigant	102	25.5
Absence of witness	192	48
Non availability of case related documents.	98	24.5
Any other	144	36
Family issues	120	30
Overload of litigation	160	40
Physical illness	80	20

Diagram No. 6.7

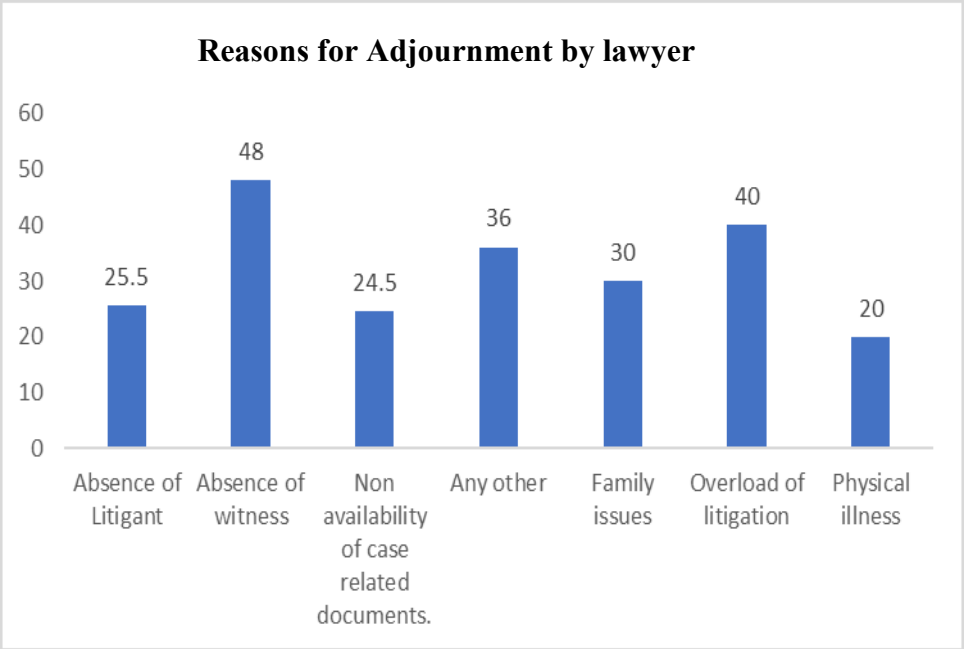


Table number 6.7 and diagram number 6.7 shows the different reasons for taking adjournment by lawyers. Majority of lawyers are taking adjournment that is 48% due to absence of witness followed by overload of litigation with 40%. Due to family issues 30% lawyers taking adjournment followed by absence of litigant with 25.5%. Physical illness is also one of the reasons for taking adjournment by lawyers with 20%. In 24.5% situations due to non-availability of case related documents lawyers take adjournment. So absence of witnesses and overload of litigation captures more percentage as reason for adjournment, compare to other reasons.

Table No.6.8

Frequency of adjournment in a case

Adjournment	Frequency	%
Always	100	25
Never	3	0.75
Often	34	8.5
Rarely	16	4
Sometimes	247	61.75
Total	400	100

Diagram No.6.8

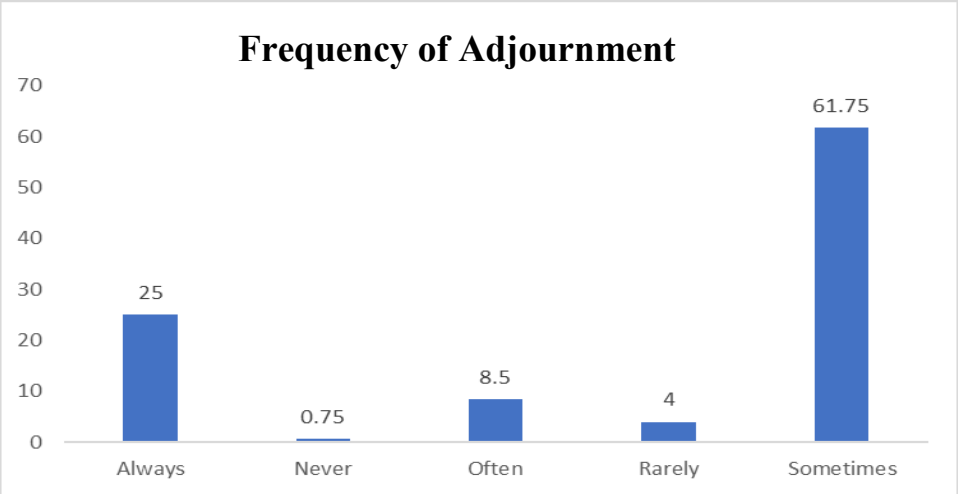


Table number 6.8 and diagram number 6.8 shows how frequently adjournment is given in a case. According to 25% sample respondents adjournment is given always. According to 61.75 % respondents adjournment is given sometimes. While proportion of rarely or never adjournment is given in a case is very rare that is 4 and 0.75 percentage respectively. Most of the respondents supports to the option that 'sometimes' adjournment is given in a case.

Table No. 6.9

Illiteracy of litigants as reason for pending litigation

Illiteracy	Frequency	%
No	160	40
Yes	240	60
Total	400	100

Diagram No.6.9

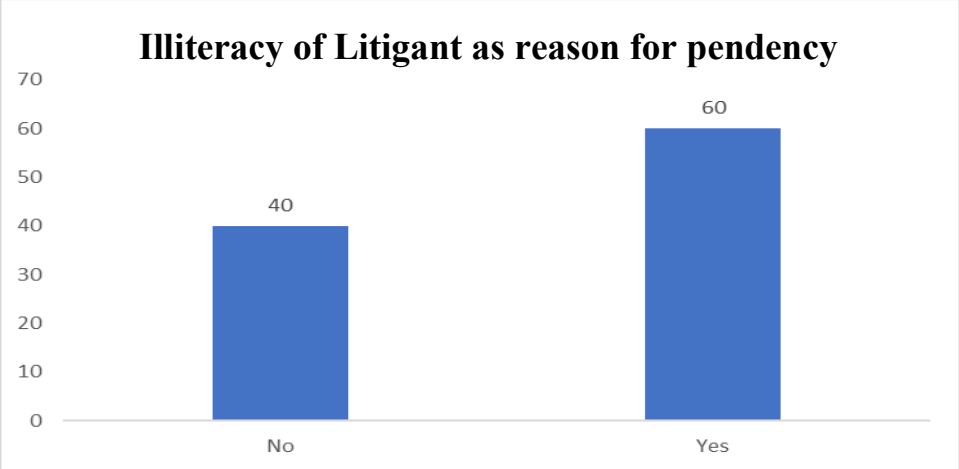


Table number 6.9 and diagram number 6.9 shows illiteracy of litigants is also one of the reasons for pending litigation. A Majority of litigants agreed with illiteracy of litigants is one of the reason for pending litigation with 60% and nearly quarter of litigants that are 40% not agreed with the opinion that illiteracy of litigant is one of the reason for pending litigation.

Table No 6.10

Number of times judges transferred within past ten years

Transferred	Frequency	%
1 to 2 times	34	8.5
3 to 4 times	340	85
5 to 6 times	22	5.5
7 to 8 times	2	0.5
None	2	0.5
Total	400	100

Diagram No 6.10

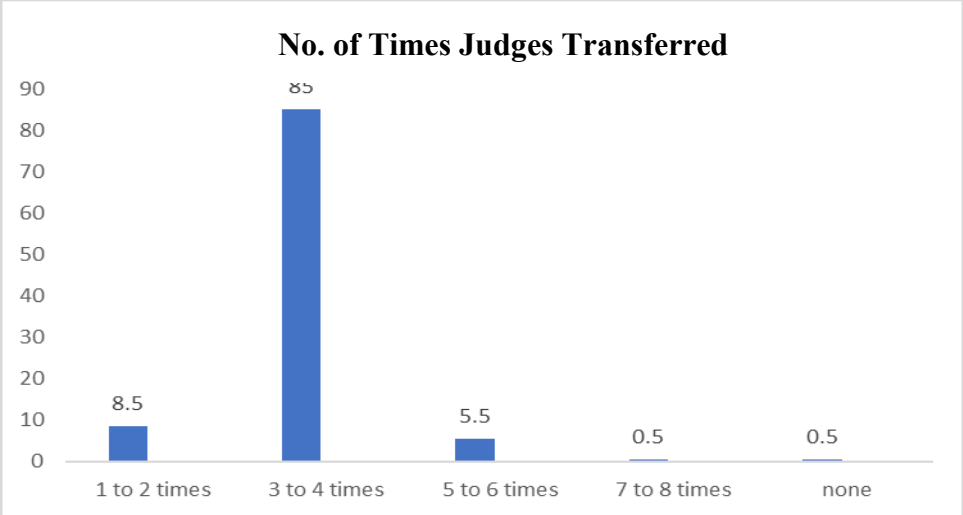


Table number 6.10 and diagram number 6.10 shows how many judges have been transferred within past ten years. A majority of judges that is 85% have been transferred for 3 to 4 times followed by 1 to 2 times with 8.5 percentage followed by 5 to 6 times with 5.5 percentage and very rare

proportion 7 to 8 times with 0.5 percentage. And proportion of judges were not transferred is 0.5%. It indicates that transfer of judges 3-4 times in past 10 years affected the delay in the disposal of cases.

Table No. 6.11

Transfer of Judges as a cause for delay

Delay	Frequency	%
No	110	27.5
Yes	290	72.5
Total	400	100

Diagram No. 6.11

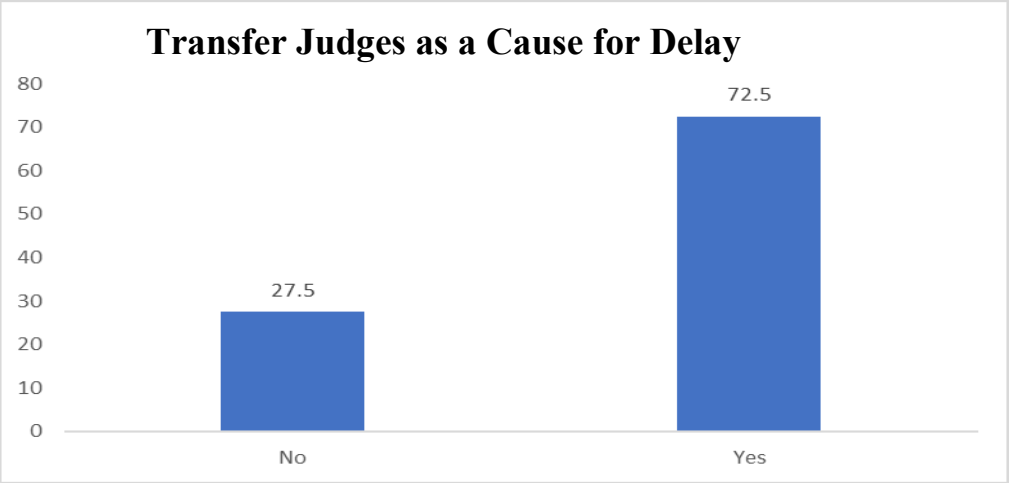


Table number 6.11 and diagram number 6.11 shows transfer of judges is also one reason for delay in disposal of cases. According to 72.5% litigant transfer of judge is also one of the reason for delay in disposal of cases while 27.5% litigant respondents not agree with transfer of judges is the reason for delay in disposal of cases. Transfer of judge make judges again to study the case from its starting point, so it converts into delay of disposal of case.

Table No. 6.12

Delay caused by the strike of lawyers

Strike	Frequency	%
1% to 25%	320	80
26% to 50%	40	10
51% to 75%	10	2.5
76% to 100%	30	7.5
Total	400	100

Diagram No.6.12

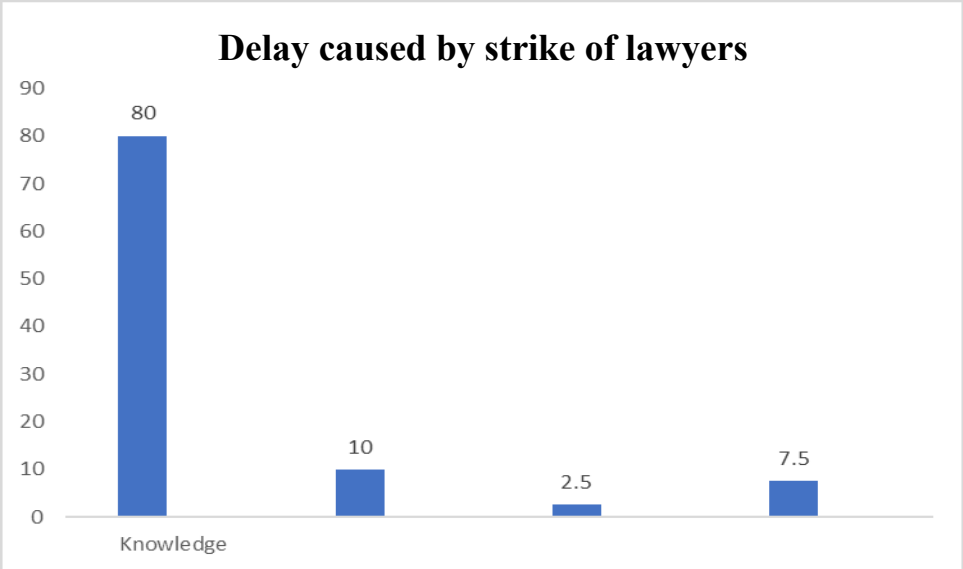


Table number 6.12 and diagram number 6.12 shows the strikes of lawyers how affected on delay of cases. According to sample respondent 80% cases delayed due to strike of lawyers with 25% weight age. Due to 26 to 50% strikes 10% cases are delayed. 2.5% cases delayed due to 51 to 75% strikes of lawyers. And 7.5% cases delayed due to 75% to 100% strikes of lawyers.

Table No. 6.13

Mismanagement of daily work added the number of pending litigations

Mismanagement	Frequency	%
Agree	340	85
disagree	20	5
Neutral	15	3.75
Strongly agree	15	3.75
Strongly disagree	10	2.5
Total	400	100

Diagram No. 6.13

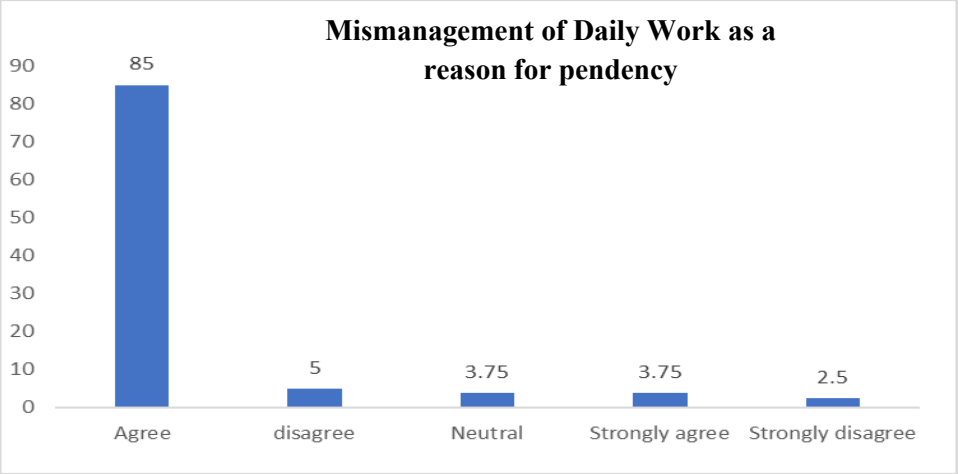


Table number 6.13 and diagram number 6.13 shows mismanagement of daily work added the number of pending litigations that means mismanagement is also one of the reason for pending litigation. Most of respondents that are 85% agree with mismanagement of daily work is one of the reason for pending litigation above average followed by 3.75%, with no relation between mismanagement and pending litigation. Similarly, 3.75% litigants are strongly agreed with this reason also 2.5% are disagreeing. 5% litigants are strongly disagreeing for this particular reason.

Table No. 6.14

No times Judges deliver their judgment on fixed date

Fixed date	**Frequency**	**%**
Not at all	6	1.5
Often	52	13
Rarely	90	22.5
Sometimes	252	63
Total	400	100

Diagram No. 6.14

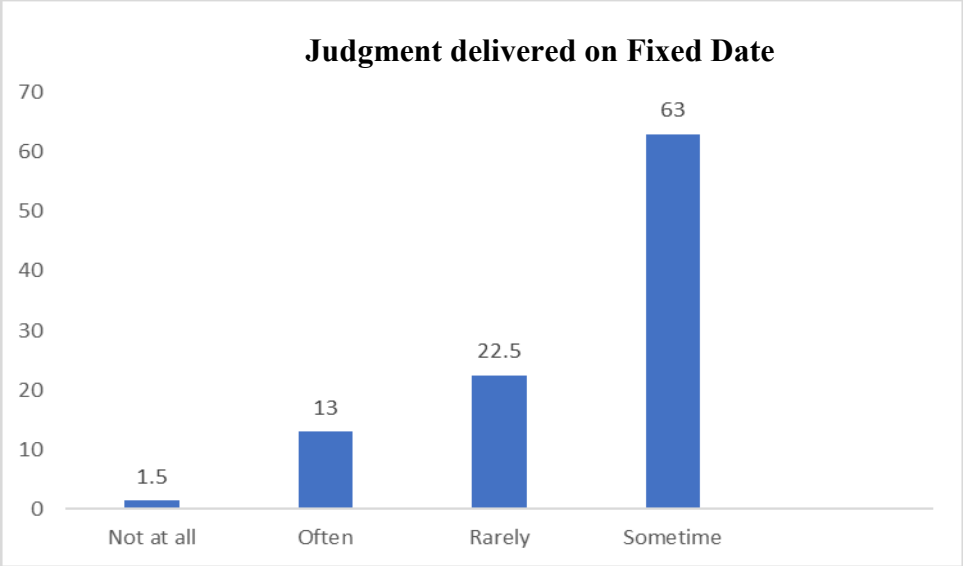


Table number 6.14 diagram number 6.14 shows how many times judges has delivered the judgment on fixed date. Majority of judges not delivered their judgment on fixed date with 63%. Very rare judges delivered their judgment on fixed date with 22.5 percentages. There are some judges they often delivered their judgment on fixed date with 13%.

Table No. 6.15

Observance of the working Hours of court by respondents

Observation	Frequency	%
No	20	0.5
Yes	380	99.5
Total	400	100.0

Diagram No. 6.15

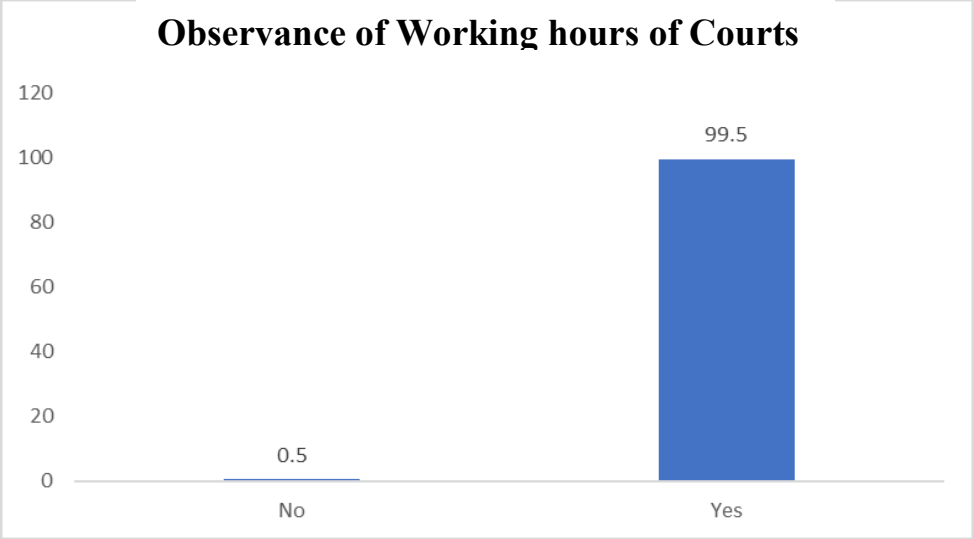


Table number 6.15 and diagram number 6.15 shows the working hours of court. Nearly 100% that is 99.5% respondent observes the working hours of court and very rare that is 0.5% litigants not observed the working hours of court.

Table No. 6.16

Effect of Deputation of judges for non-judicial work on their performance

Agree	Frequency	%
No	40	10.0
Yes	360	90.0
Total	400	100.0

Diagram No. 6.16

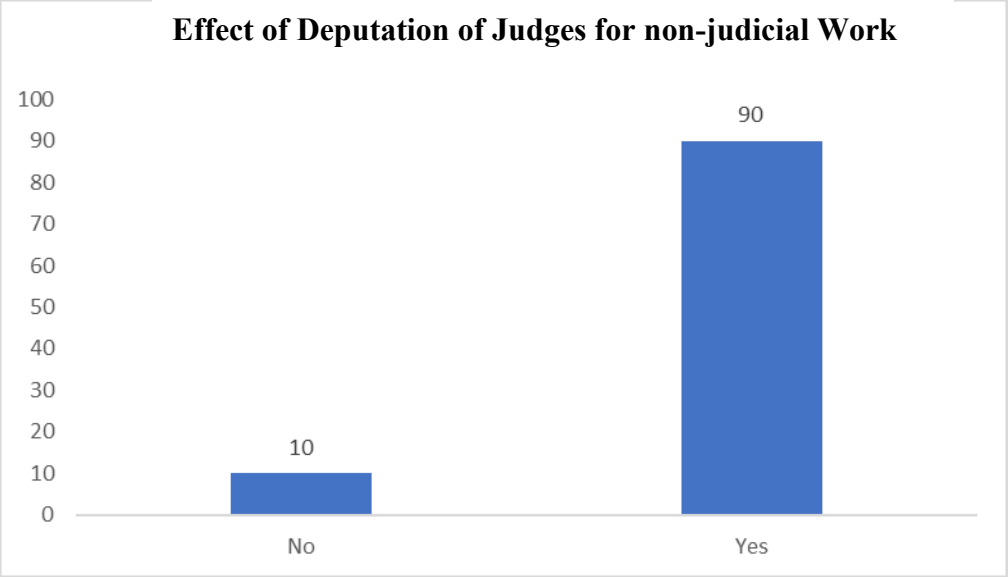


Table number 6.16 diagram number 6.16 shows whether a deputation of judges for non-judicial work affects the performance of judges. A majority of sample respondents of litigants that is 90% agree with deputation of judges for non-judicial work affects the performance of judges while 10% litigants disagree with deputation of judges for non-judicial work affects the performance of judges. So, it shows non-judicial work becomes most of the time the major barrier in the proper completion of judicial work.

6.5.3) Analyse the working of Administrative Staff and related tables

Administrative staff plays vital role in disposal of cases. Their cooperation with lawyers and judges is necessary in justice delivery system. To analyse the working of administrative staff researcher studied the various aspects of their work. Their observance of daily working hours, their knowledge of civil, criminal manual, judicial work, their cooperation with judges and administrative staff was considered by researcher to study its effect on disposal of cases in the court of law.

Table No. 6.17

Percentage of Cooperation between lawyers, judges, and administrative staff

Cooperation	Frequency	%
0-25	20	5
25-50	110	27.5
50-75	168	42
75-100	102	25.5
Total	400	100

Diagram No.6.17

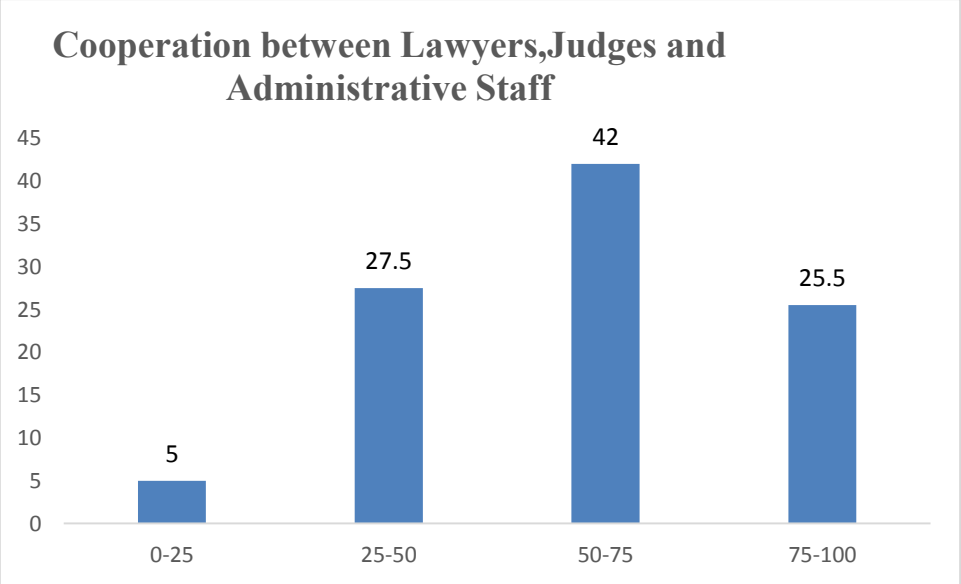


Table number 6.17 diagram number 6.17 shows co-operation between lawyers, judges, and administrative staff as per respondents judgment. According to 25.5% litigants there is 75 to 100% co-operation between lawyers, judges, and administrative staff.

Similarly, 42% respondents are agreeing with cooperation between lawyers judges and administrative staff is 50-75 percentages. Overall impression shows that there is good co-operation between lawyer, judges, administrative staff while running and disposal of case.

6.5.4.) Legal Awareness and related tables

Court will help to litigant only when if he knocks the door of justice within stipulated time. Those who sleep over their right courts are not expected to help them. For that purpose, litigant must be aware of their fundamental right guaranteed under Constitution of India. To study whether litigants are aware of their right, their awareness relating to Alternative Dispute Resolution, Information Communication Technology, Cyber Crimes researcher has conducted survey.

Table No. 6.18

Knowledge of Information Communication Technology

Knowledge	Frequency	%
Computer	215	53.75
Any Other	163	40.75
Internet	234	58.5
M.S Office	235	58.75

Diagram No. 6. 18

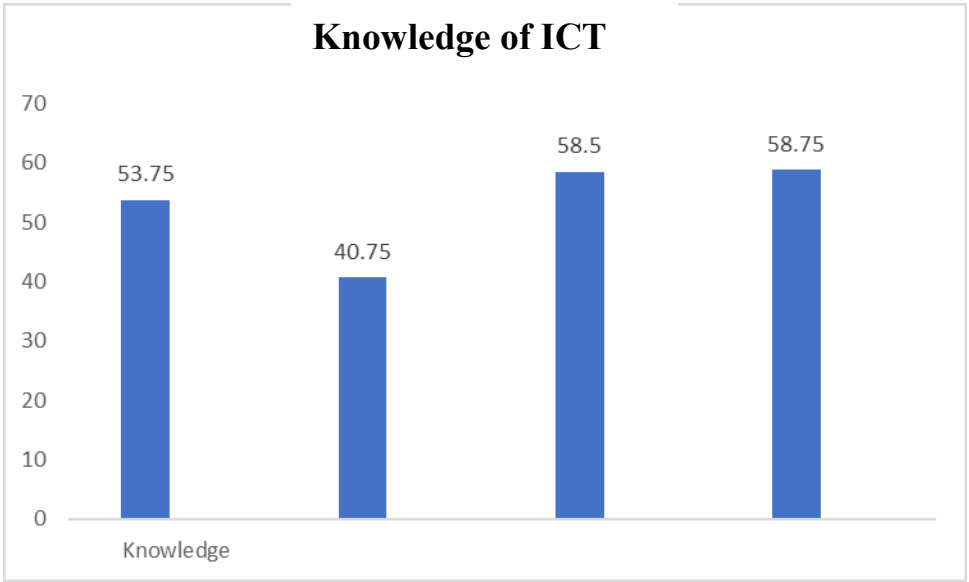


Table number 6.18 and diagram number 6.18 shows the information about litigant knowledge about Information Communication Technology. Only

58.75% litigants are aware about Ms Office, 58.5% litigants are aware about Internet, 53.75% litigants are aware about computer and 40.75% litigants are aware about other ICT. It shows literacy of IT in litigants.

Table No. 6.19

knowledge of cyber-crimes.

Rate	Frequency	%
Above Average	25	6.25
Average	250	62.5
Below Average	40	10
Excellent	10	2.5
Poor	75	18.75
Total	400	100

Diagram No.6.19

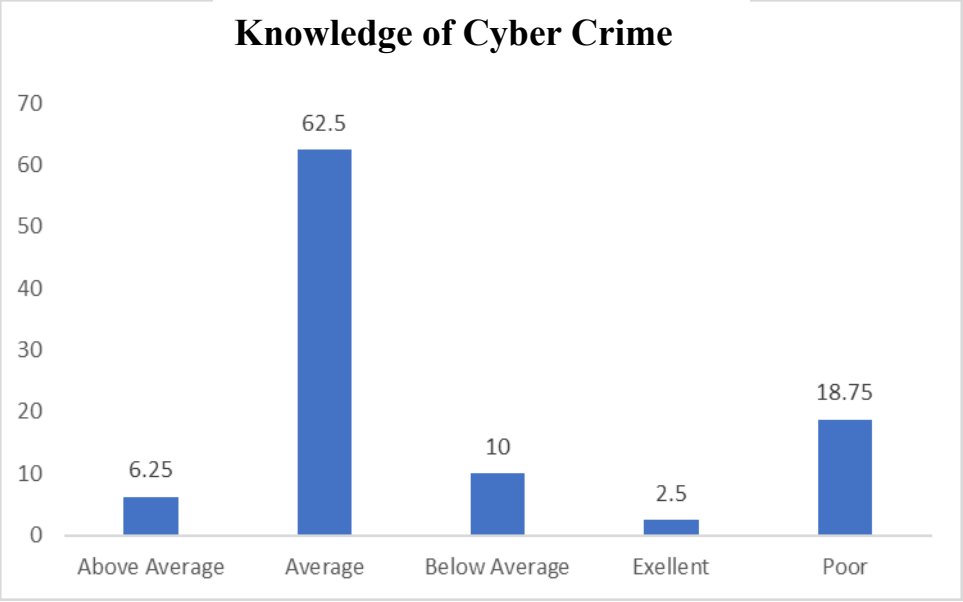


Table number 6.19 and diagram number 6.19 shows knowledge of cyber crimes. Majority of litigants have average knowledge of cyber crime with 62.5% followed by 18.75 percentages with poor knowledge. Only 2.5% litigants have excellent knowledge of cyber crime while 6.25% litigants have above

average knowledge of cyber crime. It indicates that most of litigants are having average awareness about cyber-crimes.

Table No.6.20

Knowledge of Constitution of India

Knowledge	Frequency	%
Yes	20	5
No	380	95
Total	400	100

Diagram No.6.20

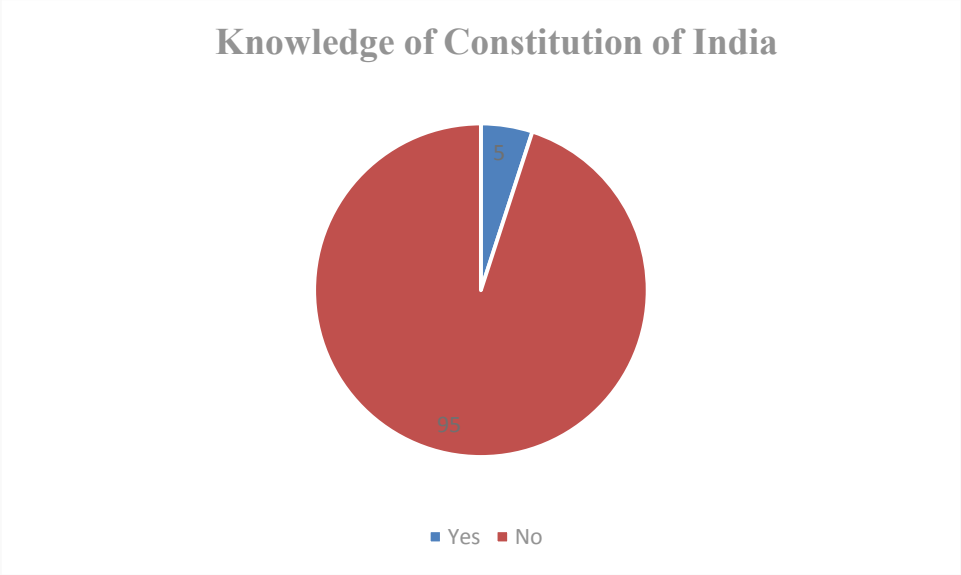


Table number 6.20 and diagram number 6.20 shows knowledge of Constitution of India among litigants. Nearly 95% are unaware about knowledge of Constitution of India and only 5% that is very rare are aware about knowledge of Constitution of India. It is very serious matter that 95% litigants are still does not have proper knowledge about Constitution of India after 75 years of independence.

Table No. 6.21

Knowledge of Alternative dispute resolution

Rate	Frequency	%
Above Average	50	12.5
Average	242	60.5
Below Average	32	8
Excellent	30	7.5
Poor	46	11.5
Total	400	100

Diagram No.6.21

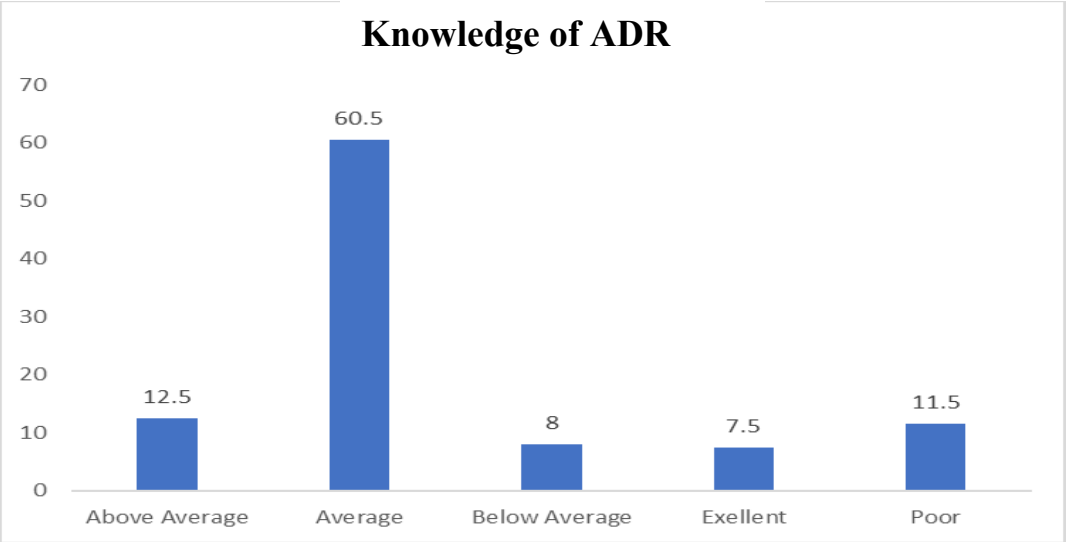


Table number 6.21 and diagram number 6.21 shows the knowledge of alternative dispute resolution. 60.5% litigants have average knowledge of ADR followed by above average knowledge of ADR with 12.5 percentages. Only 7.5 llitigants have excellent knowledge of ADR. Similarly, 11.5%litigants have poor average knowledge of ADR.It shows requirement to improve knowledge of ADR among litigants.

Table No.6. 22

Knowledge of right to Speedy trial to respondent

Knowledge	Frequency	%
Yes	44	11
No	354	89
Total	400	100

Diagram No.6.22

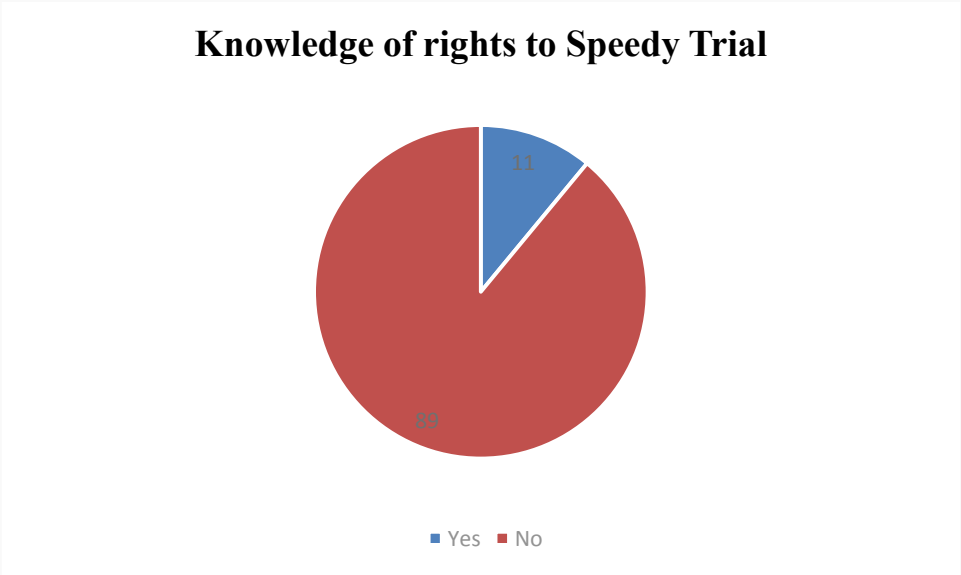


Table number 6.22 and diagram number 6.22 shows legal knowledge relating to speedy trial right available to clients. Majority of litigants that is 89% are unaware about such rights are available to clients. Only 11% litigants are aware about that such rights are available to clients. It underlines that there is need to make litigants aware about their right to speedy trial.

6.5.5.) Innovative Solution and related tables

To tackle the problem of delayed justice is the biggest task. Government through its commissions and committees tried to solve the problem. Today in the technology era many ways are available for speedy disposal of cases. These new techniques save time and money involved in the proceeding. Researcher tried to find out these new solutions and their awareness among respondents.

Table No. 6.23

Alternative dispute resolution mechanism, Lok-Adalat as an innovative solution

Innovative solution	Frequency	%
No	60	15
Yes	340	85
Total	400	100.0

Diagram No 6.23

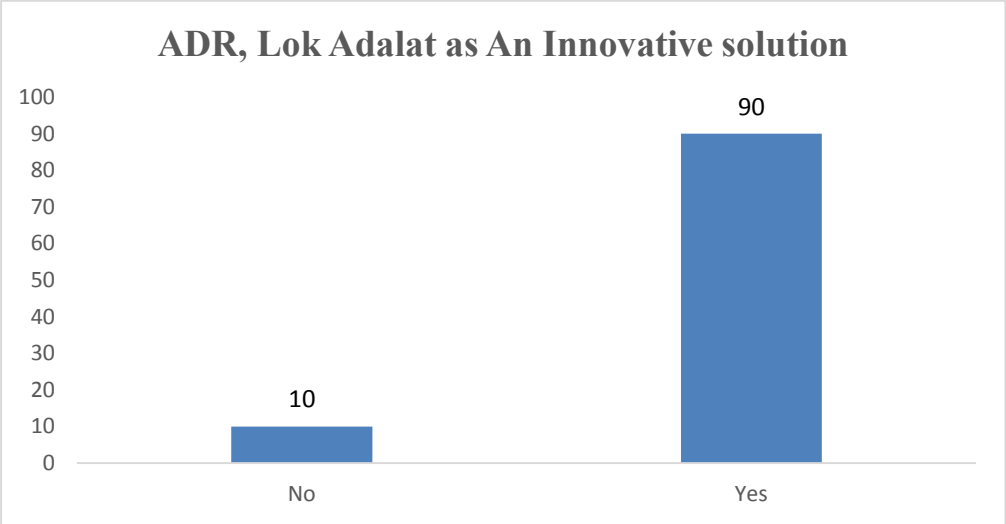


Table number 6.23 and diagram number 6.23 shows adoption of Alternative dispute resolution mechanism, Lok-Adalat is innovative solution to reduce time for judicial proceeding. Majority of respondents are agreed with adoption of Alternative dispute resolution mechanism, Lok-Adalat is innovative solution to reduce time for judicial proceeding with 90%. Remaining that is 10% are disagree with adoption of Alternative dispute resolution mechanism, Lok-Adalat is innovative solution to reduce time for judicial proceeding. It shows litigants strong belief upon Lok-Adalat is a good way for reducing time for disposal of cases.

Table No. 6.24

Video conferencing, Legal-aid clinic as an innovative solution

Innovative solution	Frequency	%
No	40	10
Yes	360	90
Total	400	100.0

Diagram No. 6.24

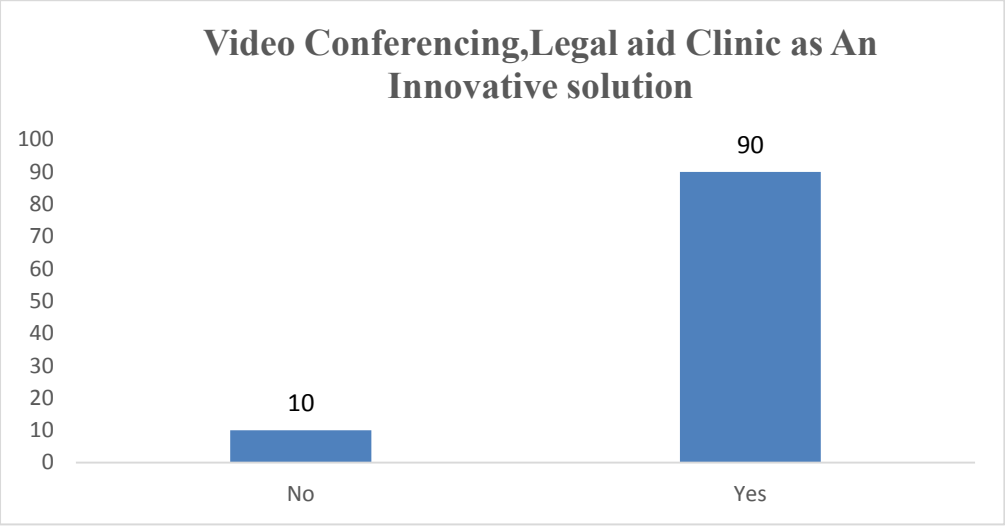


Table number 6.24 and diagram number 6.24 shows video conferencing, organization of legal-aid clinic will be innovative solution to solve the issue of delay in disposal of cases. Most of that is 90% respondents are agreeing with video conferencing, organization of legal-aid clinic will be innovative solution to solve the issue of delay in disposal of cases. While 10% respondents not agree to video conferencing, organization of legal-aid clinic will be innovative solution to solve the issue of delay in disposal of cases.

Table No. 6.25

Use of Fast-track courts, Gram Nyayalaya for saving time of court

Saving time	Frequency	%
Agree	310	77.5
Disagree	26	6.5
Neutral	30	7.5
Strongly Agree	22	5.5
Strongly Disagree	12	3
Total	400	100

Diagram No 6.25

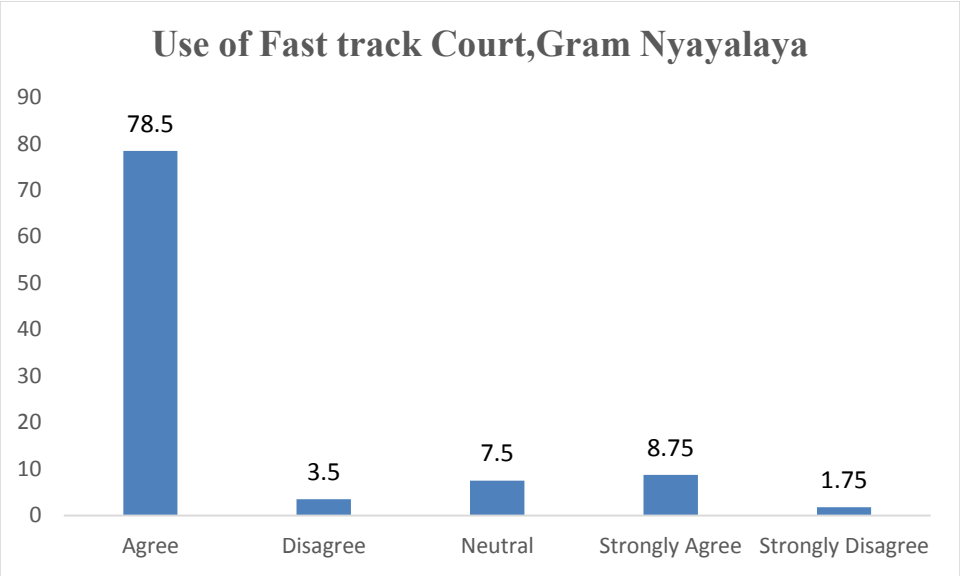


Table number 6.25 and diagram number 6.25 shows Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court. Majority of sample respondent that is 78.5% are agree with Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court but 1.75% samples are strongly disagree with the statement at the same time 8.75% respondents are strongly agree with the same. 8% litigants are disagreeing with Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court. So, it stresses that most of the litigants are agreed with use of fast-track court, Gram Nyayalaya.

Table No. 6.26

Other innovative solution for disposal of cases

Innovative solution	**Frequency**	**%**
Case management and court management.	320	80
Court should work in 2 shift System (i) Morning shift (ii) Evening shift	140	35
Increasing the retirement age of judges	50	12.5
Legislature should fix a time limit for each proceeding.	310	77.5
Reduction in days of vacation of courts.	280	70

Diagram 6.26

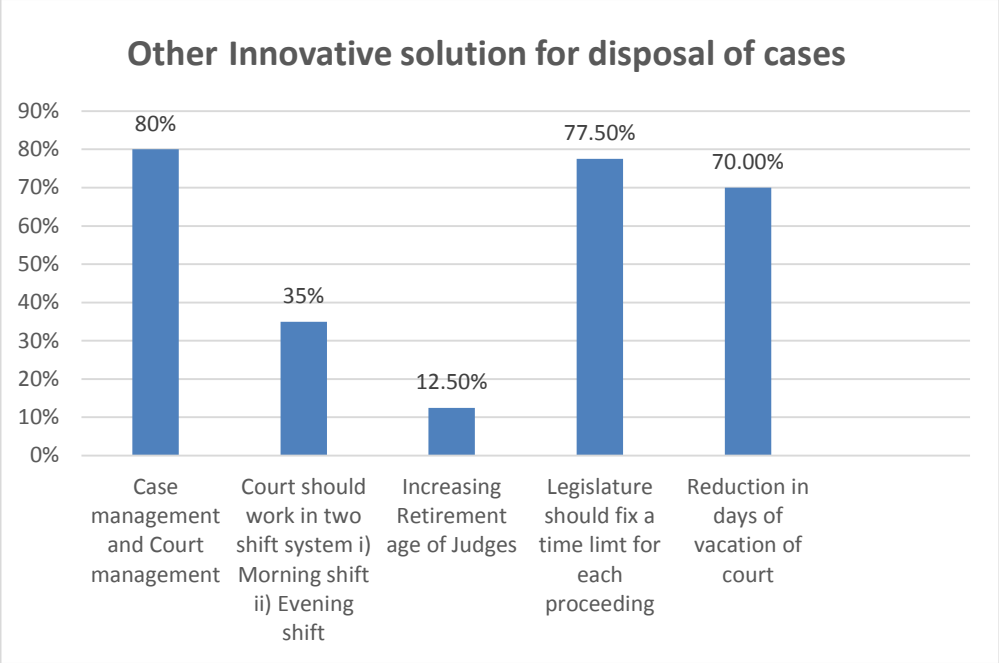


Table No. 6.26 and diagram No. 6.26 shows various innovative solutions for reducing pendency in litigation. Most of the respondents that are 80% suggest that Case management and court management to reduce pendency followed by Legislature should fix a time limit for each proceeding with 77.5%. According to 70% respondents reduction in days of vacation of courts is also one of the innovative solutions to reduce pendency. Nearly more than quarter of respondents that is 35% agree that Court should work in 2 shifts System (i) Morning shift (ii) Evening shift will reduce pendency. Also 12.5 % respondents

suggest that increasing retirement age of judges will be helpful for the timely disposal of cases.

Table No. 6.27
Effective solutions for reducing pendency

Effective solution (Summary Trial and Plea Bargaining)	Frequency	%
Agree	314	78.5
Disagree	14	3.5
Neutral	30	7.5
Strongly Agree	35	8.75
Strongly Disagree	7	1.75
Total	400	100

Diagram No. 6.27

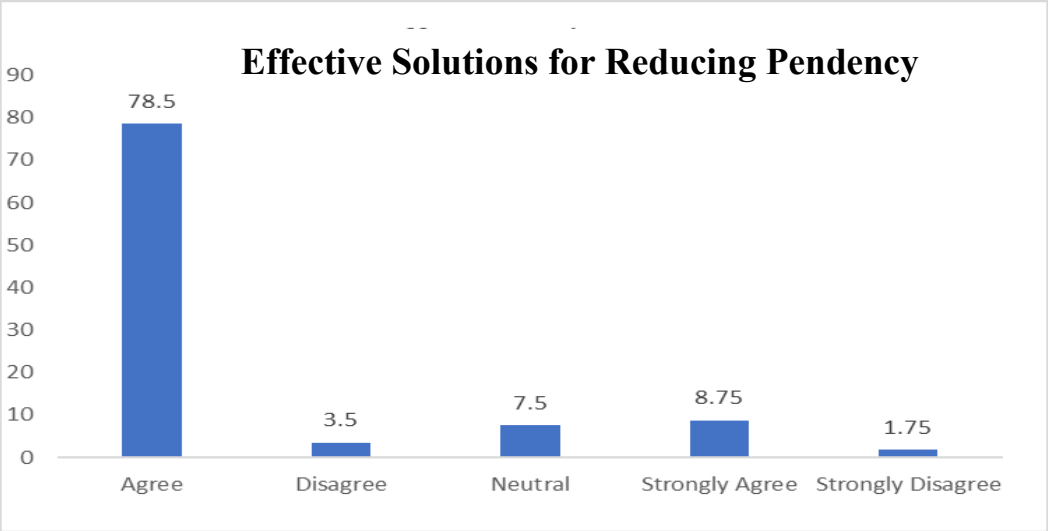


Table No. 6.27 and diagram No. 6.27 shows the Summary trial and Plea bargaining are effective solutions to reduce time for judicial proceeding. Most of the respondent that is 78.5% are agree with the summary trial and plea bargaining are effective solutions to reduce time for judicial proceeding. But 1.75% sample respondent are strongly disagreeing with the summary trial and plea bargaining are effective solutions to reduce time for judicial proceeding. While 8.75% are strongly agree with the summary trial and plea bargaining are effective solutions to reduce time for judicial proceeding. So, it shows that most of litigants are agreed to accept Summary Trial and Plea Bargaining is better solution for disposal.

Table No. 6.28

Challenges for disposal of cases

Challenges	Frequency	%
Absence of parties lawyer at a fixed date.	120	30
Frequent adjournment application in the case.	190	47.5
Inadequate number of courts.	78	19.5
More attention in disposal of appeal rather than regular trial.	12	3
Total	400	100

Diagram No 6.28

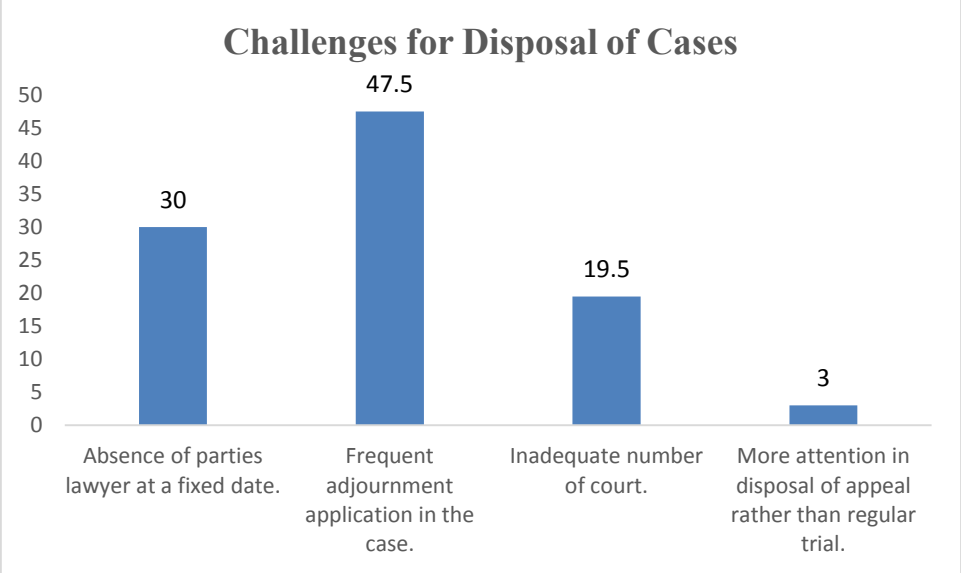


Table No. 6.28 and diagram No. 6.28 shows different challenges faced by respondents while disposal of cases. Nearly half of respondents that is 47.5% are facing frequent adjournment application in the case as a challenge. Similarly, Absence of parties lawyer at a fixed date is also one of the challenge faced by respondents with 30% respondents. 19.5% respondent's faces inadequate number of courts as a challenge and more attention in disposal of appeal rather than regular trial is also challenge faced by respondents with 3%. So frequent adjournment, Absence of parties lawyer and inadequate number of courts these are prominent challenges in the disposal of cases.

Table No. 6.29

Recommended Policies for reducing court pendency

Policies	Frequency	%
Application of provision under section 89 of civil procedure code.	104	26
Avoid unnecessary adjournment.	290	72.5
Improvement of court infrastructure.	239	59.5
Training of judges and administrative staff.	271	67.5

Diagram No 6.29

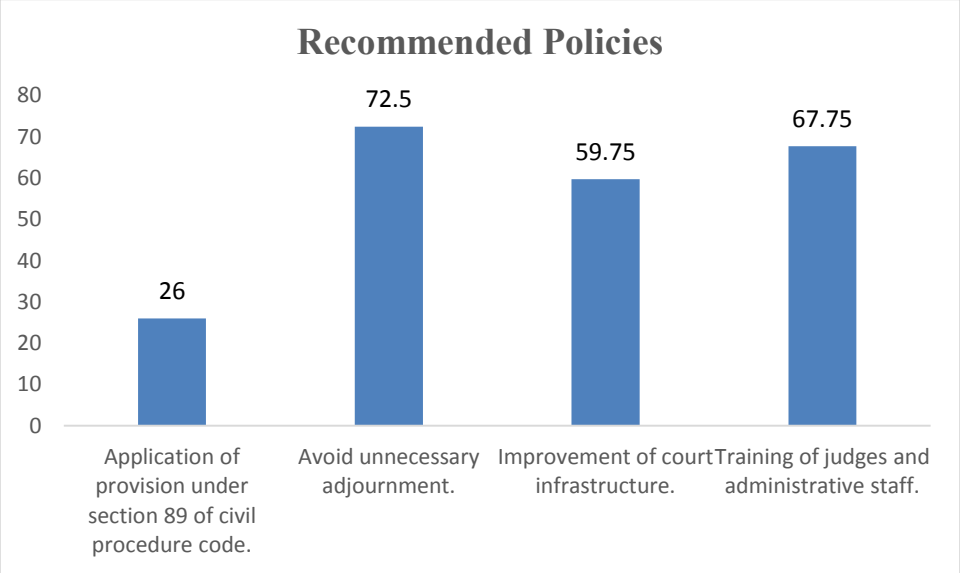


Table No. 6.29 and diagram No. 6.29 shows policies recommended for reducing court pendency. 72.5% respondents recommend avoid unnecessary adjournment for reducing court pendency. Nearly three quarter that is 72.5% respondent recommend Training of judges and administrative staff for reducing court pendency. According to 59.5% respondent, Improvement of court infrastructure is also useful to reduce pendency. Similarly, application of provision under section 89 of civil procedure code is recommended to reduce court pendency with 26%. So, the result reflects that all the policies mentioned above are useful for the disposal of cases.

Opinions of Lawyers, Administrative Staff

For legal aspects researcher conducted questionnaire-based survey from Lawyers, Administrative Staff which gave me opinion about my research study. I tried to covered maximum senior lawyers and experienced administrative staff for legislative and judiciary opinion. Total 386 opinions were taken by researcher from lawyers and Administrative staff. Due to technical issue many opinions can't be collected from judges.

6.5.6.) Opinions on Reasons for delay in disposal of cases and related tables

Delay in disposal of cases leads for injustice. There are many reasons for delayed justice. Delay may be cause due to any reasons, it hampers faith of litigant. Researcher in her research tried to find out of them through questionnaire.

Table No. 6.30

Inadequacy of number of judges as reason for delay in disposal of cases

Inadequacy	Frequency	%
Yes	356	89.2
No	44	10.8
Total	400	100.0

Diagram No 6.30

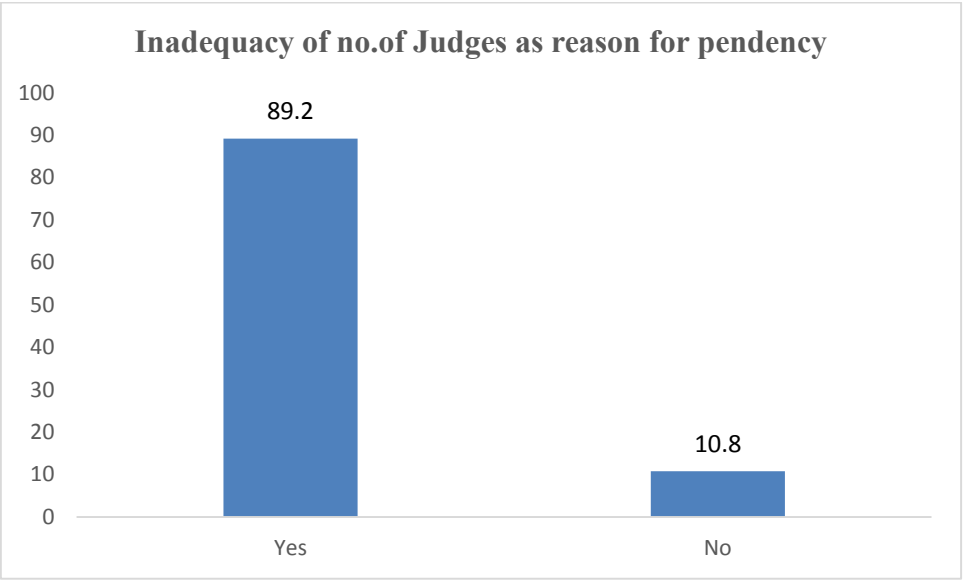


Table number 6.30 and diagram number 6.30 shows how inadequate of number of judges affected upon delay in disposal of cases. According to majority of respondents inadequacy of number of judges affected for delay in disposal of cases with 89.2 percentages. While 10.8 percentage of respondents not agreed with the opinion that number of judges affected for delay in disposal of cases. Inadequate number of judges falls under the main reasons in delay of disposal of cases.

Table No. 6.31

overburdening of cases on judiciary as cause for pending litigation

Overburdening	Frequency	%
Yes	357	89.5
No	43	10.8
Total	400	100.0

Diagram No.6.31

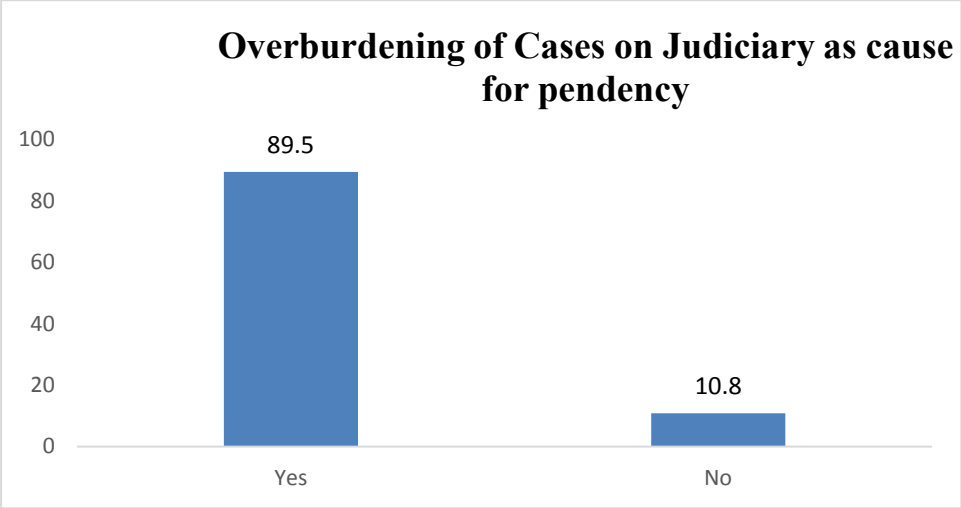


Table number 6.31 and diagram number.6.31 shows overburdening of cases on judiciary is one of the cause for pending litigation. Majority of respondents that is 89.5% agreed that overburdening of cases on judiciary is one of the cause for pending litigation. While 10.8% respondents not agreed with overburdening of cases on judiciary is one of the cause for pending litigation.

Table No.6.32

Areas the judges spend their more time

Area	Frequency	%
Administration	122	30.6
Any Other	28	6.8
Litigation	250	62.7
Total	400	100.0

Diagram No.6.32

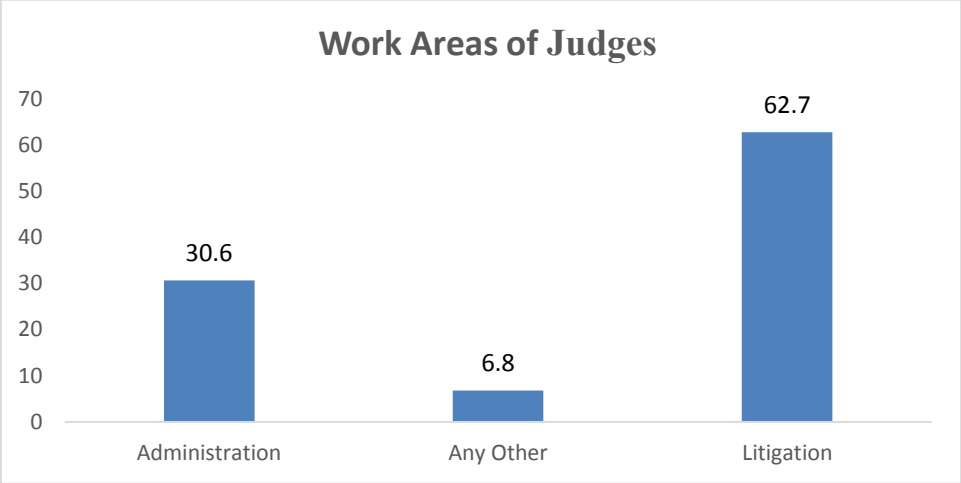


Table number 6.32 and diagram number 6.32 shows how judges spend their time for judicial work. According to respondents majority of judges that is 62.7% judges spend their time for litigation .30.6% judges spend their time for administration purpose and remaining that is 6.8 % they spend time for other work. So litigations and administrative work are the areas where judges spend their majority of time.

Table No. 6.33

Inadequacy of number of courts leads for non-disposal of cases

Inadequacy	Frequency	%
Always	125	31.3
Never	10	2.5
Often	60	15.0
Rarely	15	3.5
Sometimes	190	47.6
Total	400	100.0

Diagram No .6.33

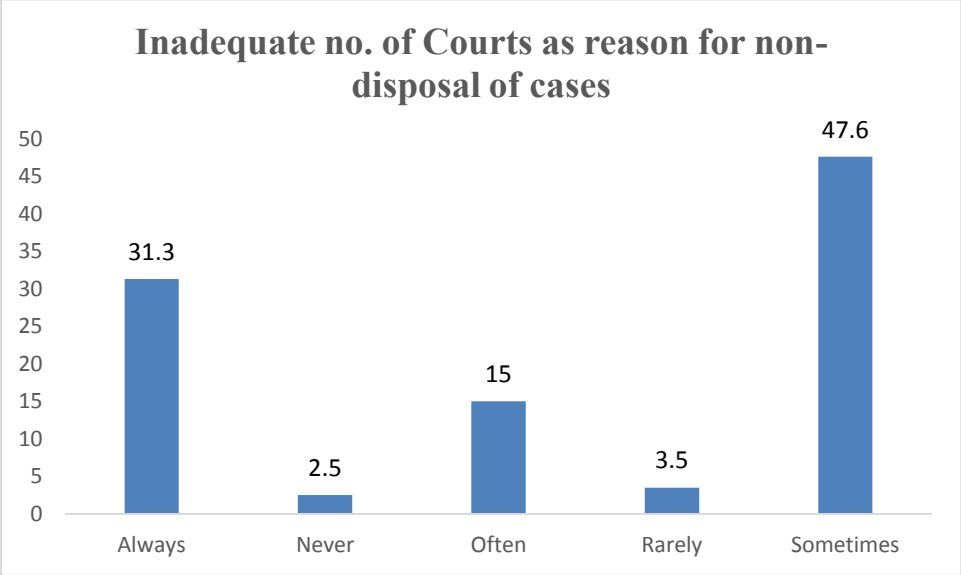


Table number 6.33 and diagram number.6.33 shows inadequacy of number of courts leads for non-disposal of cases within time. According to 47.6% respondents that are nearly half of respondents inadequacy of number of courts sometimes affected for non-disposal of cases within time. 31.3% respondents suggested to increase number of courts since inadequacy of number of courts leads for non-disposal of cases within time. As per 2.5% respondents there is no correlation between number of courts and disposal of cases in time. So the responses focuses our attention that there is great need to increase number of courts.

Table No.6.34

Reasons for adjournment by lawyer

Reason	Frequency	%
Absence of Litigant	96	24
Absence of witness	168	42
Non availability of case related documents.	82	20.5
Any other	136	34
Family issues	122	30.5
Overload of litigation	156	39
Physical illness	72	18

Diagram No.6.34

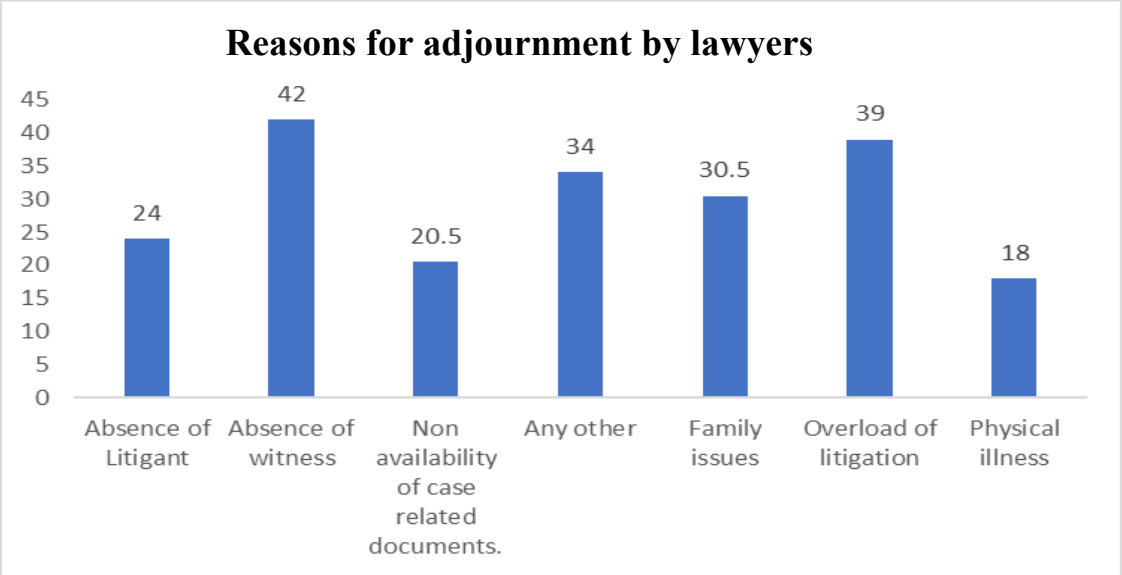


Table number 6.34 and diagram number 6.34 shows the different reasons for taking adjournment by lawyers. Majority of lawyers take adjournment that is 42% due to absence of witness followed by overload of litigation with 39%. Due to family issues 30.5% lawyers take adjournment followed by absence of litigant with 24%. Physical illness is also one of the reason for taking adjournment by lawyers with 18%. In 20.5% situations due to non-availability of case related documents lawyers take adjournment. Here is the indication that all above reasons are more or less responsible for the adjournment by lawyers.

Table No. 6.35

Frequency of adjournment in a case

Adjournment	Frequency	%
Always	86	21.6
Never	5	1.3
Often	46	11.5
Rarely	23	5.5
Sometimes	240	60.2
Total	400	100.0

Diagram No. 6.35

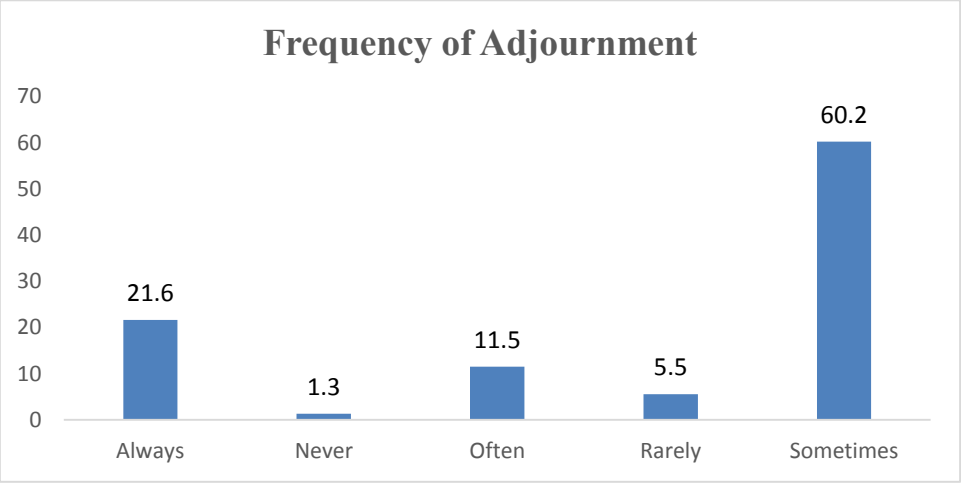


Table number 6.35 and diagram number 6.35 shows how frequently adjournment is given in a case. According to 21.6% respondents adjournment is given always. 60.2 % respondents are of opinion that adjournment is given sometimes. While proportion of rarely or never adjournment is given in a case is very rare that is 5.5 and 1.3 percentage respectively. So percentage of often, always, sometimes indicates that giving adjournment affects the delay.

Table No. 6.36

Illiteracy of litigants as reason for pending litigation

Illiteracy	Frequency	%
No	131	32.6
Yes	269	67.4
Total	400	100.0

Diagram No.6.36

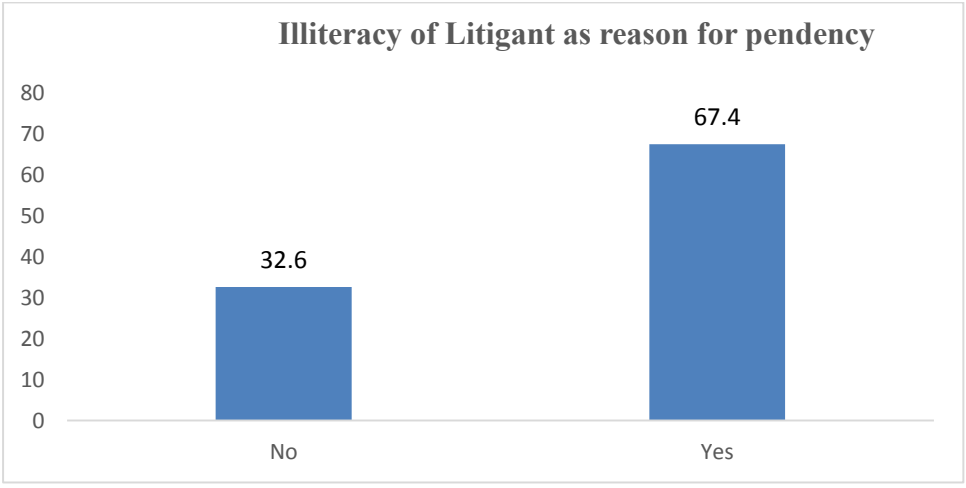


Table number 6.36 and diagram number 6.36 shows illiteracy of litigants is also one of the reason for pending litigation. A Majority of respondents agreed with that illiteracy of litigants is one of the reason for pending litigation with 67.4% and nearly quarter of respondents that are 32.6% respondents not agreed with illiteracy of litigant is one of the reason for pending litigation. It reflects that literacy matters in court cases.

Table No.6.37

Number of times judges transferred within past ten years

Transferred	Frequency	%
1 to 2 times	37	9.3
3 to 4 times	328	82.0
5 to 6 times	23	5.8
7 to 8 times	8	2.0
None	4	1.0
Total	400	100.0

Diagram No. 6.37

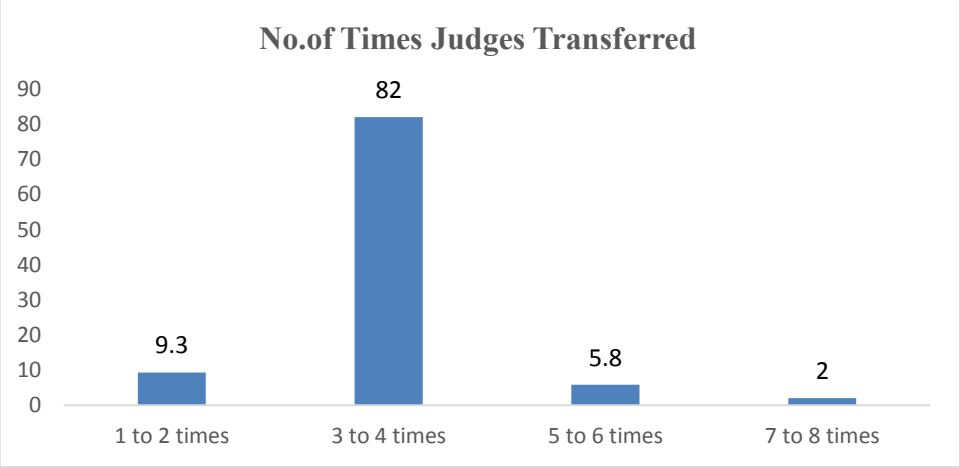


Table number 6.37 and diagram number 6.37 shows how many judges have been transferred within past ten years. A majority of judges that is 82% have been transferred 3 to 4 times, followed by 1 to 2 times with 9.3 percentage, followed by 5 to 6 times with 5.8 percentage and very rare proportion 7 to 8 times with 2 percentage. 1%. respondents remain neutral about the transfer of

judges. Thus 3-4 times transfer of judges in between last ten years affects the delay in disposal of cases.

Table No. 6.38

Transfer of judge as reason for delay

Delay	Frequency	%
No	126	31.3
Yes	274	68.7
Total	400	100.0

Diagram No 6.38

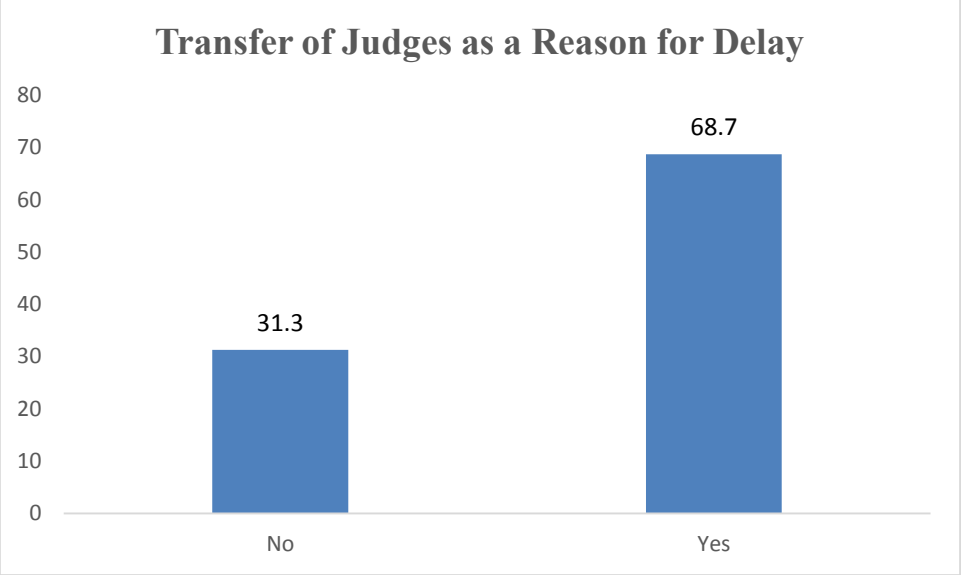


Table number 6.38 and diagram number 6.38 shows transfer of judge is also one reason for delay in disposal of cases. According to 68.7% respondents transfer of judge is also one of the reason for delay in disposal of cases while 31.3% respondents not agree with the opinion that the transfer of judges is the reason for delay in disposal of cases

Table No. 6.39

Delay caused by strike of lawyers

Strike	Frequency	%
1% to 25%	304	75.9
26% to 50%	43	10.8
51% to 75%	15	3.8
76% to 100%	38	9.5
Total	400	100.0

Diagram No.6.39

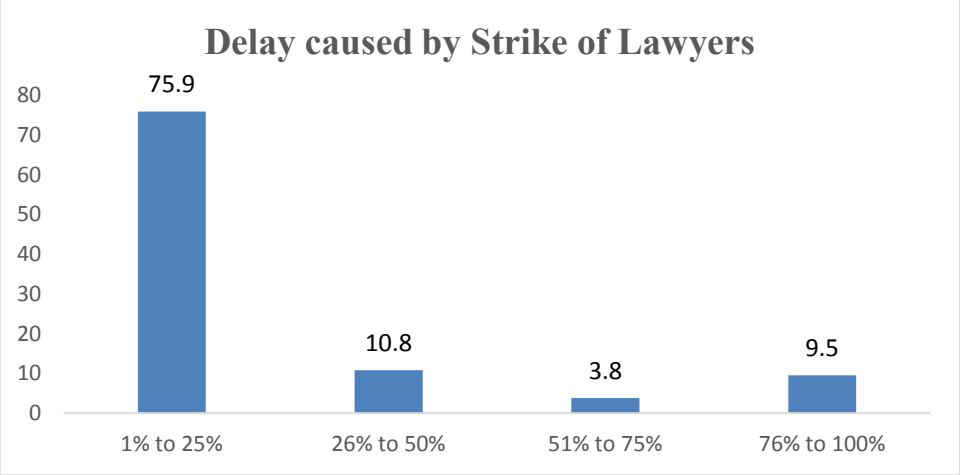


Table number 6.39 and diagram number 6.39 shows the strikes of lawyers how affected on delay of cases. According to respondent 75.9% cases delayed due to strike of lawyers with 25%. Due to 26 to 50% strikes of lawyers 10.8% cases are delayed. 3.8% cases delayed due to 51 to 75% strikes of lawyers.

Table No. 6.40

No of times judges delivered Judgement on fixed date

Fixed date	**Frequency**	**%**
Not at all	10	2.5
Often	70	17.5
Rarely	81	20.3
Sometime	239	59.6
Total	400	100.0

Diagram No 6.40

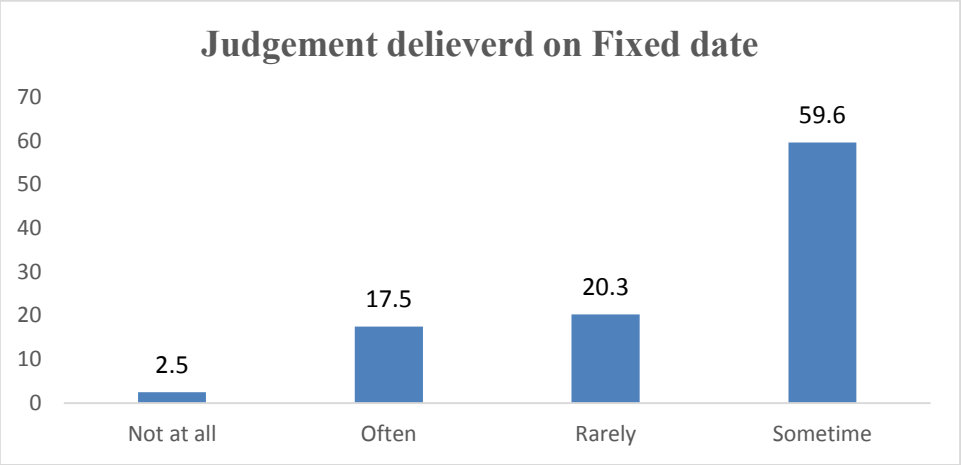


Table number 6.40 diagram number 6.40 shows how many times judges has delivered the judgment on fixed date. Majority of judges not delivered their judgment on fixed date with 59.6%. Very rare judges delivered their judgment on fixed date with 20.3 percentages. There are some judges they often delivered their judgment on fixed date with 17.5 percentages. The percentage of often should be increased to improve the percentage of disposal of cases in stipulated time.

Table No.6.41
Effect of Deputation of judges for non-judicial work on their performance

Agree	Frequency	%
No	60	15.0
Yes	340	85.0
Total	400	100.0

Diagram No 6.41

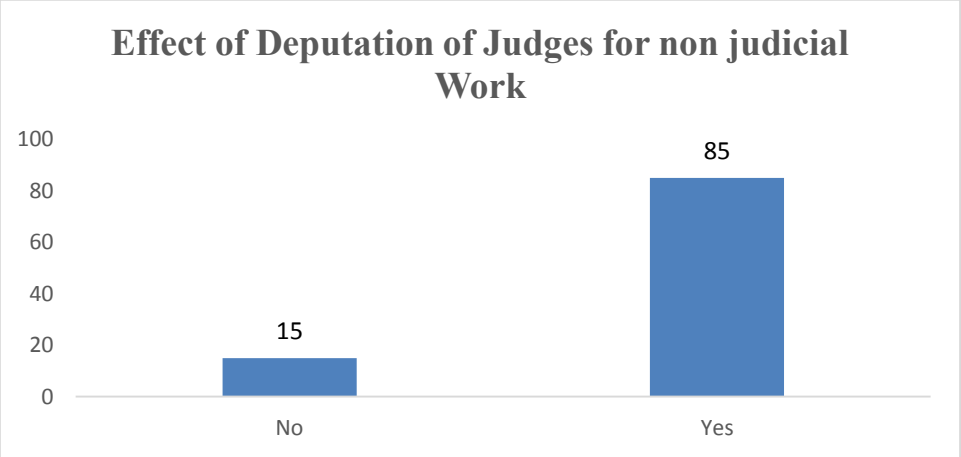


Table number 6.41 diagram number 6.41 shows whether a deputation of judges for non-judicial work affects the performance of judges. A majority of respondent that is 85% agree with deputation of judges for non-judicial work affects the performance of judges while 15% respondent disagree with deputation of judges for non-judicial work affects the performance of judges. It expresses that non -judicial workload upon judges should be decrease, which will be helpful for the disposal of the cases.

Table No. 6.42

Mismanagement of daily work added the number of pending litigations

Mismanagement	Frequency	%
Agree	257	64.4
Disagree	33	8.3
Neutral	65	16.3
Strongly agree	33	8.3
Strongly disagree	13	2.8
Total	400	100.0

Diagram No 6.42

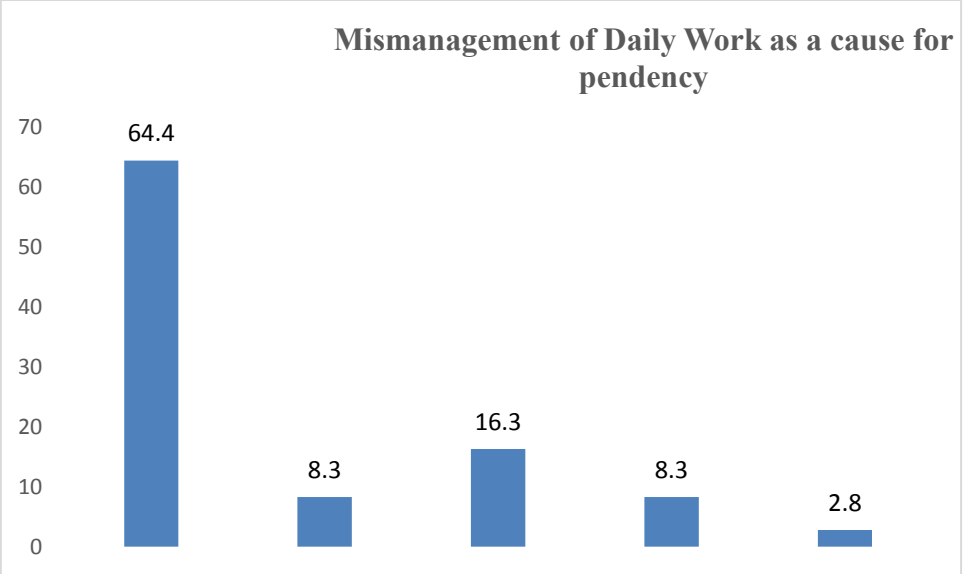


Table number 6.42 and diagram number 6.42 shows mismanagement of daily work added the number of pending litigations that means mismanagement is also one of the reason for pending litigation. Most of

respondents that are 64.4% agree with statement that mismanagement of daily work is one of the reason for pending litigation, above average opinion is followed 16.3% with no relation between mismanagement and pending litigation. 8.3% respondents are strongly agreeing with this reason, also 8.3% are disagree. 2.8% respondents are strongly disagreeing for this particular reason. So sum of agreed and strongly agreed percentage of respondent underlines mismanagement of daily work affects pendency.

Table No.6.43

Effect of Transfer of judges on their performance

Transfer	Frequency	%
No	58	14.3
Not applicable	203	50.9
Yes	139	34.8
Total	400	100.0

Diagram No.6.43

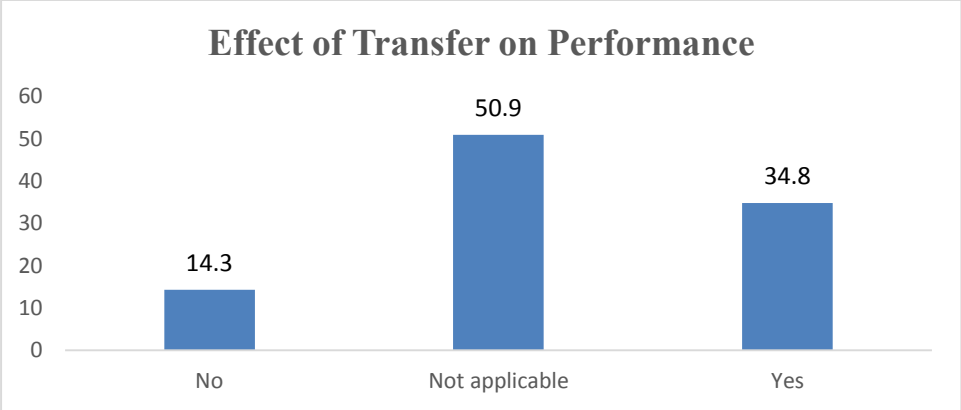


Table number 6.43 and diagram number 6.43 shows the transfer of judges how affects the performance. Nearly half that is 50.9% respondents mentioned that transfer is not applicable to them. While 34.8% respondent are agreeing with that transfer affects the performance and 14.3% respondent are not agreeing with opinion that transfer affected on performance.

6.5.7) Knowledge of ICT and related tables

Today in the world of technology it is very important to have knowledge of ICT, ADR, Cyber Crime. It helps to save time in the court proceeding. Apart from this the daily observance of working hours of court is necessary part of disposal of cases. To study whether respondents have knowledge of ICT researcher has formulated few questions.

Table No.6.44

Knowledge of Information Communication Technology

Knowledge	Frequency	%
Any Other	8	2.0
Computer	52	13.0
Computer, Any Other	3	0.5
Computer, Internet	40	10.0
Computer, Internet, Any Other	9	2.3
Computer, M.S Office	5	1.3
Computer, M.S Office, Internet	85	21.3
Computer, M.S Office, Internet, Any Other	139	34.8
Internet	51	12.8
Internet, Any Other	3	0.8
M.S Office	2	0.5
M.S Office, Internet, Any Other	3	0.8
Total	400	100.0

Diagram No 6.44

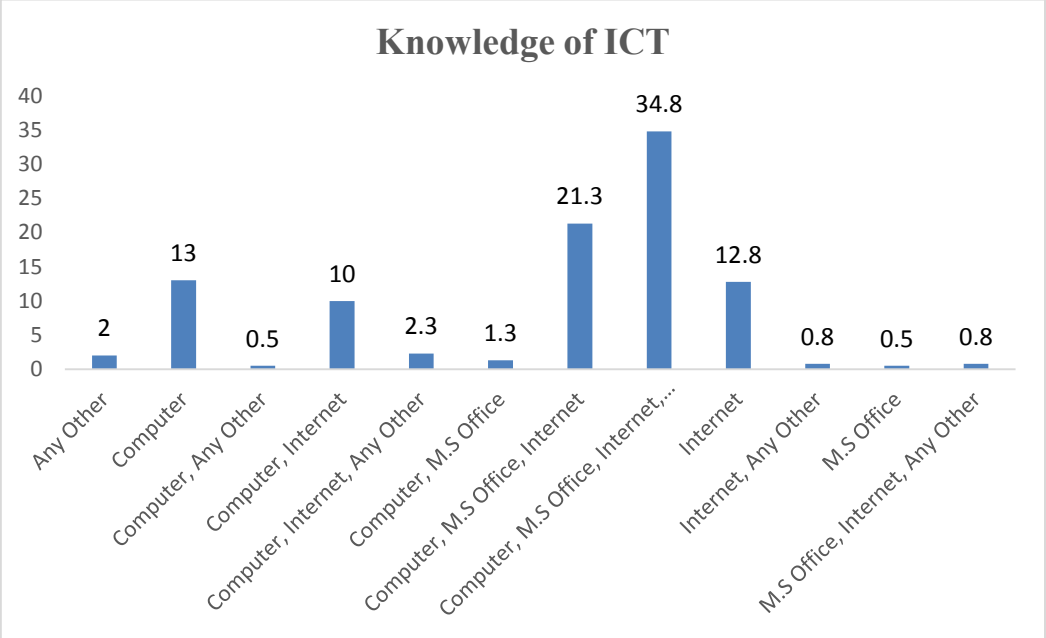


Table number 6.44 and diagram number 6.44 shows the information about Information Communication technology knowledge. Only 34.8% respondents are aware about Computer, Ms Office, Internet and any other ICT. It shows illiteracy of ICT in respondent. 21.3% respondent knows computer, Ms Office, and Internet. While 13% respondent have knowledge of only computer. Increasing awareness about ICT among respondents is the great need of time.

Table No. 6.45
Knowledge of cybercrime

Rate	Frequency	%
Above Average	30	7.5
Average	241	60.4
Below Average	55	13.8
Excellent	12	3.0
Poor	61	15.3
Total	400	100.0

Diagram No.6.45

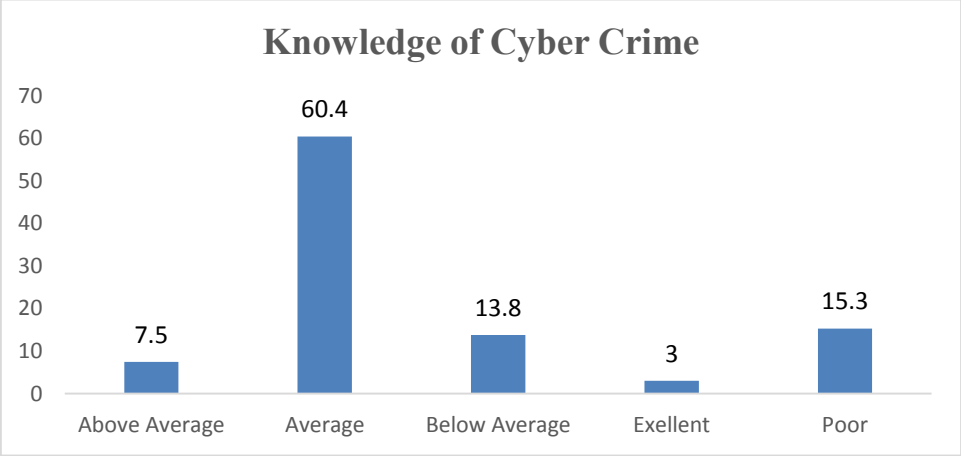


Table number 6.45 and diagram number 6.45 shows knowledge of cyber crime. Majority of respondents have average knowledge of cyber crime with 60.4% followed by 15.3 percentages with poor knowledge. Only 3% respondents have an excellent knowledge of cyber crime while 7.5% respondents have above average knowledge of cyber crime. Addition of respondents related to average, above average and excellent indicates that average respondents have good knowledge about cybercrime.

Table No.6.46
knowledge of Alternative dispute resolution

Rate	Frequency	%
Above Average	69	17.3
Average	214	53.4
Below Average	37	9.3
Excellent	37	9.3
Poor	43	10.8
Total	400	100.0

Diagram No 6.46

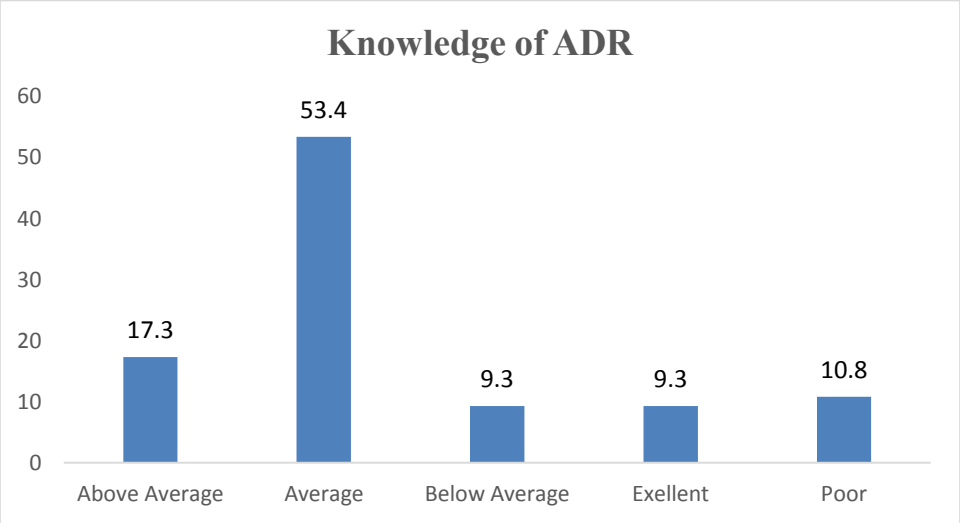


Table number 6.46 and diagram number 6.46 shows the knowledge of alternative dispute resolution. 53.4% respondent has average knowledge of ADR followed by poor knowledge of ADR with 10.8 percentages. Only 9.3 respondents has an excellent knowledge of ADR. Similarly, 9.3% respondent have below average knowledge of ADR.

Table No 6.47
knowledge of judicial work

Knowledge	Frequency	%
No	27	6.8
Yes	373	93.2
Total	400	100.0

Diagram No 6.47

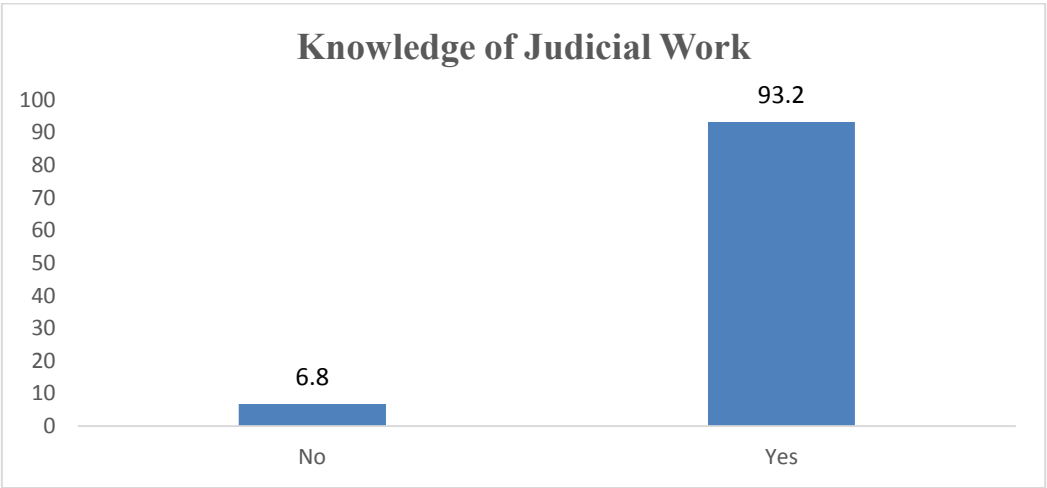


Table number 6.47 and diagram number 6.47 shows an adequate knowledge of judicial work. A majority of respondent that is 93.2% have an adequate knowledge of judicial work while 6.8% that is very rare respondents are unaware of knowledge of judicial work.

Table No.6.48
Up to date knowledge of Law

Up to date	Frequency	%
No	8	2.0
Not Applicable	40	10.0
Not sure	45	11.0
Yes	307	76.9
Total	400	100.0

Diagram No.6.48

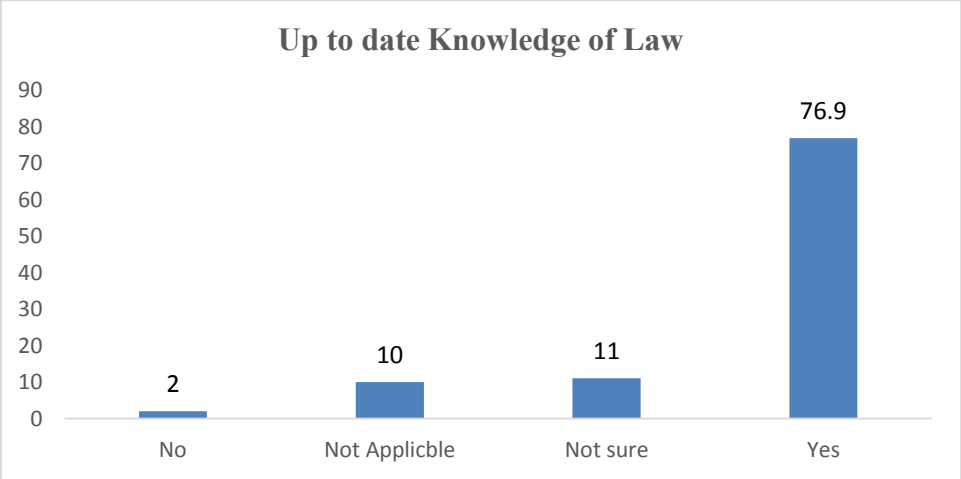


Table number 6.48 diagram number 6.48 shows how the respondents updates their law knowledge. Most of the respondents that is 76.9% respondents update their knowledge time to time. While only 2% that is negligible respondents are not updated their law knowledge. Some of the respondents are not aware about their updated knowledge.

6.5.8) Attentiveness of respondent and related Table

To analyse attentiveness of respondent the researcher studied the various aspects of their working to understand whether it affects the pendency or not

Table No.6.49

Leave on working Days by lawyers and administrative staff

Observation	Frequency	%
No	8	2.0
Yes	392	98.0
Total	400	100.0

Diagram No.6.49

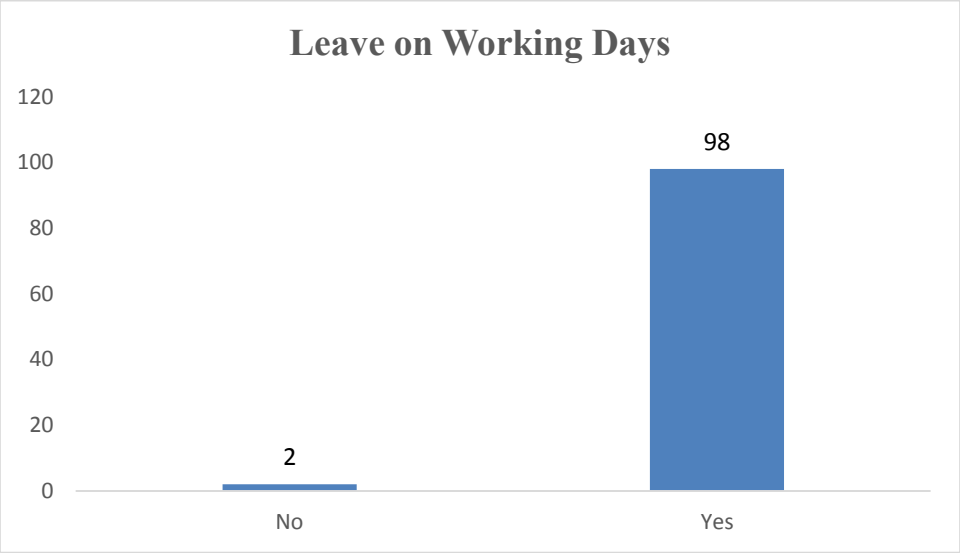


Table number 6.49 and diagram number 6.49 shows the percentage of leave by respondents during working hours of court. Nearly 100% that is 98% respondent takes the leave on working hours of court and very rare that is 2% respondent do not take the leave on working hours of court. This huge percentage indicates most of the respondents taking leave on working days which causes pendency.

6.5.9) Analyse the working of Administrative Staff and related tables

Administrative staff and lawyers play significant role in disposal of cases. Their cooperation is necessary in justice delivery system. To analyse the working of administrative staff researcher studied the various aspects of their work. Their observance of daily working hours, their knowledge of civil, criminal manual, judicial work, their work-related specialized training was considered by researcher to study its effect on disposal of cases in the court of law.

Table No.6.50

Updated knowledge of Civil Manual, Criminal Manual and Civil Procedure Code, Criminal Procedure Code

Up date	Frequency	%
Always	158	39.6
Never	1	0.3
Often	53	13.3
Rarely	14	3.5
Sometime	174	43.4
Total	400	100.0

Diagram No.6.50

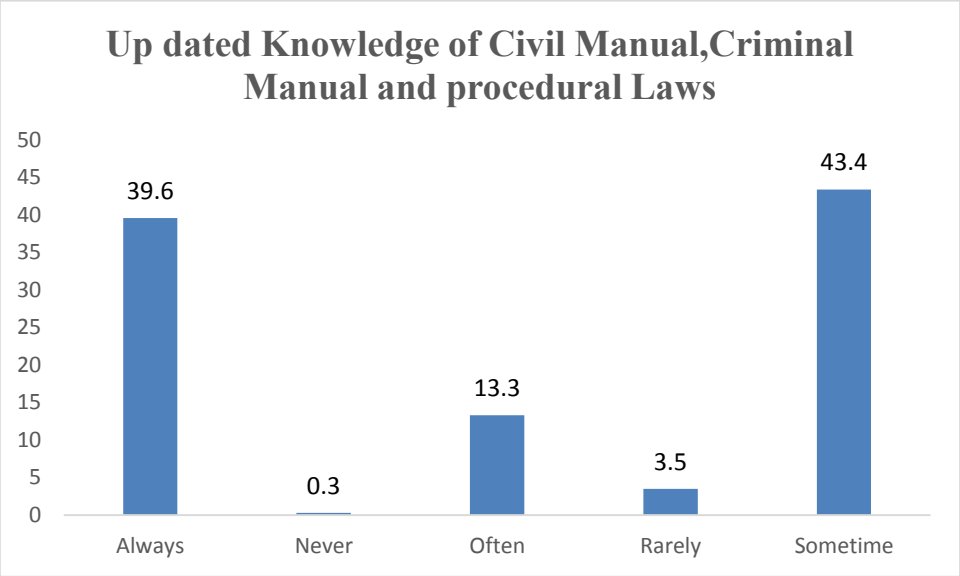


Table number 6.50 and diagram number 6.50 shows how the respondent updates for Civil Manual, Criminal Manual and Civil Procedure Code, Criminal Procedure Code. A majority of respondents that is 43.4% sometimes update their knowledge about Civil Manual, Criminal Manual and Civil Procedure Code, Criminal Procedure Code followed by 39.6% who always update their knowledge. With 13.3% respondent update for Civil Manual, Criminal Manual and Civil Procedure Code, Criminal Procedure Code often. Very rare case that is 0.3% never updates their knowledge about Civil Manual, Criminal Manual and Civil Procedure Code, Criminal Procedure Code

Table No.6.51

Specialized training relating to department

Training	Frequency	%
Yes	55	13.8
Not applicable	188	46.9
No	157	39.3
Total	400	100.0

Diagram No.6.51

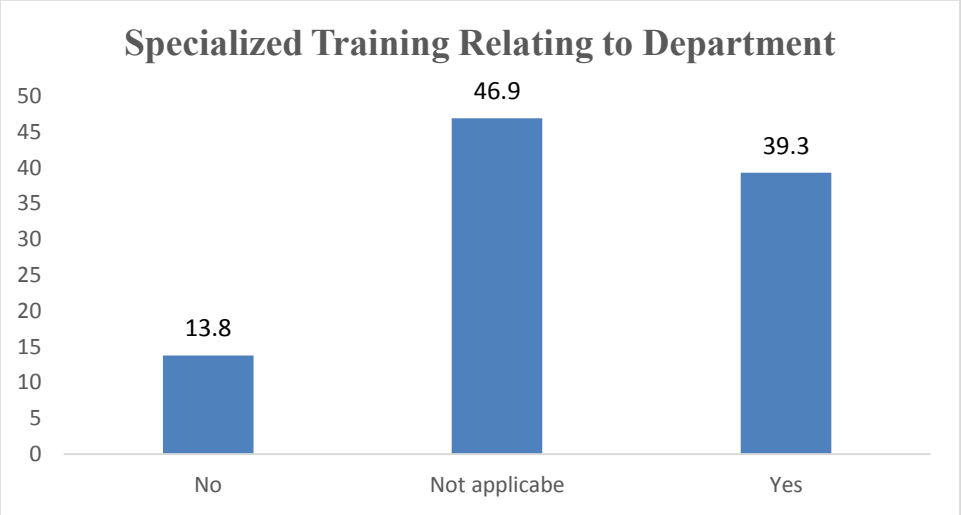


Table number 6.51 and diagram number 6.51 shows whether specialized training given in a department. According to half of them respondents that is 46.9% training is not applicable to them. While 39.3% administrative staffs are going under the training of department and 3.8% staffs are not taking any training under department.

Table No.6.52

Percentage of Co-operation between lawyers, judges, and Administrative Staff

Cooperation	Frequency	%
0-25	40	10.0
25-50	104	26.1
50-75	154	38.6
75-100	102	25.3
Total	400	100.0

Diagram No 6.52

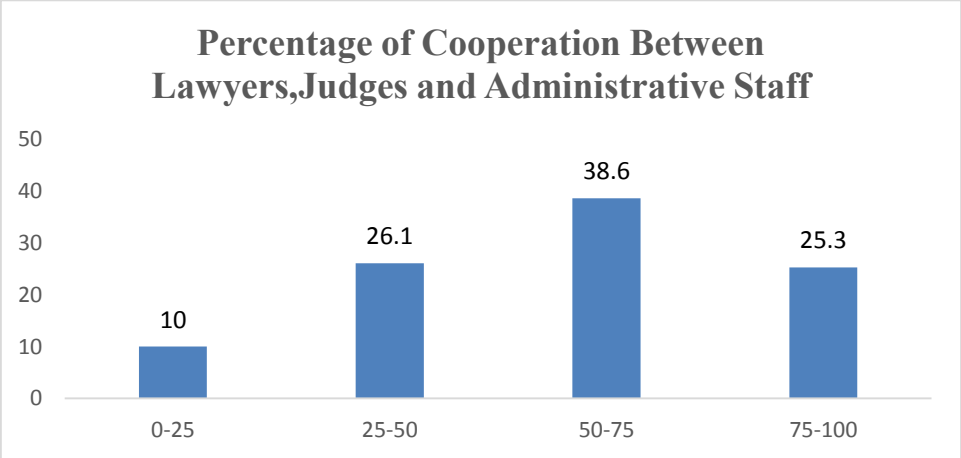


Table number 6.52 and diagram number 6.52 shows the percentage of cooperation between lawyers, judges and administrative staff. According to 38.6% respondents shows there is 50 to 75% cooperation between lawyers judges and administrative staff. Only 25.3% respondents are agreeing with opinion that cooperation between lawyers and administrative is 75 to 100. It means there is good quality of cooperation between lawyers, judges and administrative staff.

6.5.10) Opinion on Innovative Solution and related tables

To tackle the problem of delayed justice is the biggest task. Government through its commissions and committees tried to solve the problem. Today in the technology era many ways are available for speedy disposal of cases. These new techniques save time and money involved in the proceeding. Researcher tried to find out these new solutions and their awareness among respondents.

Table No.6.53

Alternative dispute resolution mechanism, Lok-Adalat as innovative solutions

Innovative solution	Frequency	%
No	54	13.5
Yes	346	86.5
Total	400	100.0

Diagram No.6.53

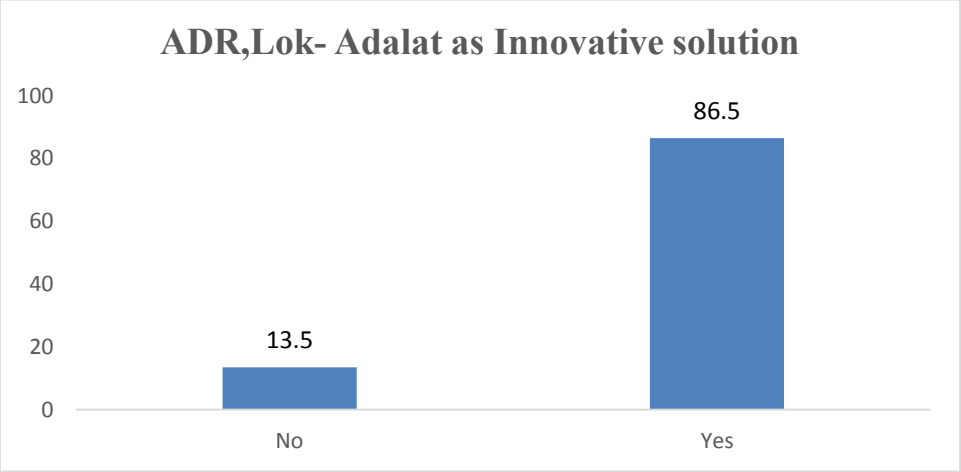


Table number 6.53 and diagram number 6.53 shows adoption of Alternative dispute resolution mechanism, Lok-Adalat are innovative solutions to reduce time for judicial proceeding. Majority of respondents are agreed with adoption of Alternative dispute resolution mechanism, Lok-Adalat are innovative solutions to reduce time for judicial proceeding with 86.5%. While 3.5% are disagree with adoption of Alternative dispute resolution mechanism, Lok-Adalat as innovative solutions to reduce time for judicial proceeding.

Table No. 6.54

Video conferencing, Legal-aid clinic as an innovative solution

Innovative solution	Frequency	%
No	55	13.8
Yes	345	86.2
Total	400	100.0

Diagram No.6.54

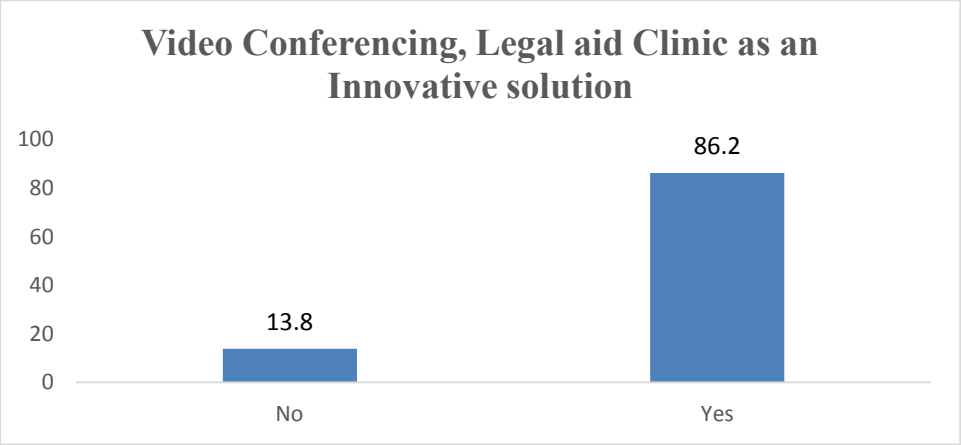


Table number 6.54 and diagram number 6.54 shows video conferencing, organization of legal-aid clinic will be an innovative solution to solve the issue of delay in disposal of cases. Most of that is 86.2% respondents are agreeing with video conferencing, organization of legal-aid clinic will be an innovative solution to solve the issue of delay in disposal of cases. While 13.8% respondents not agree to video conferencing, organization of legal-aid clinic as innovative solution to solve the issue of delay in disposal of cases.

Table No.6.55
Use of fast-track courts, Gram Nyayalaya to save time of court

Saving time	Frequency	%
Agree	271	67.9
Disagree	32	8.0
Neutral	46	11.5
Strongly Agree	27	6.8
Strongly Disagree	23	5.8
Total	400	100.0

Diagram No.6.55

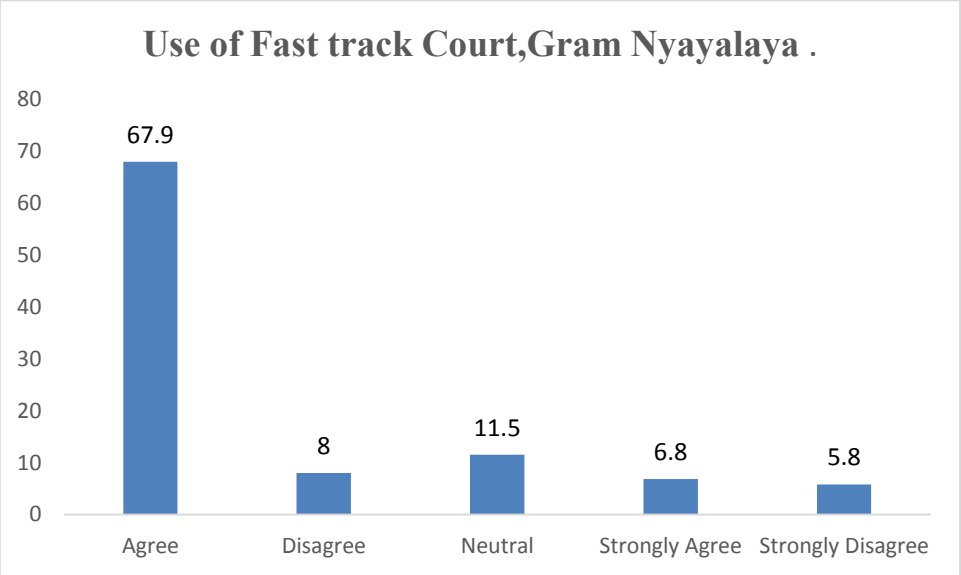


Table number 6.55 and diagram number 6.55 shows Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court. Majority of respondents that is respondents with 67.9% are agree with Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court but 5.8% respondents are strongly disagree with the statement. At the same time 6.8% respondent are strongly agreed with the same. 8% respondents are disagreeing with Constitution of fast-track courts, setting up of Gram Nyayalaya as an innovative solution to save the time of court. Sum of agree and strongly agree shows that constitution of fast-track courts, setting up of Gram Nyayalaya is a good solution for pendency.

Table No. 6.56

Other innovative solution for reducing pendency in litigation

Innovative solution	**Frequency**	**%**
Case management and court management.	239	59.75
Court should work in 2 shift System (i) Morning shift (ii) Evening shift	102	25.5
Increasing the retirement age of judges	105	26.25
Legislature should fix a time limit for each proceeding.	270	67.5
Reduction in days of vacation of courts.	222	55.5

Diagram No. 6.56

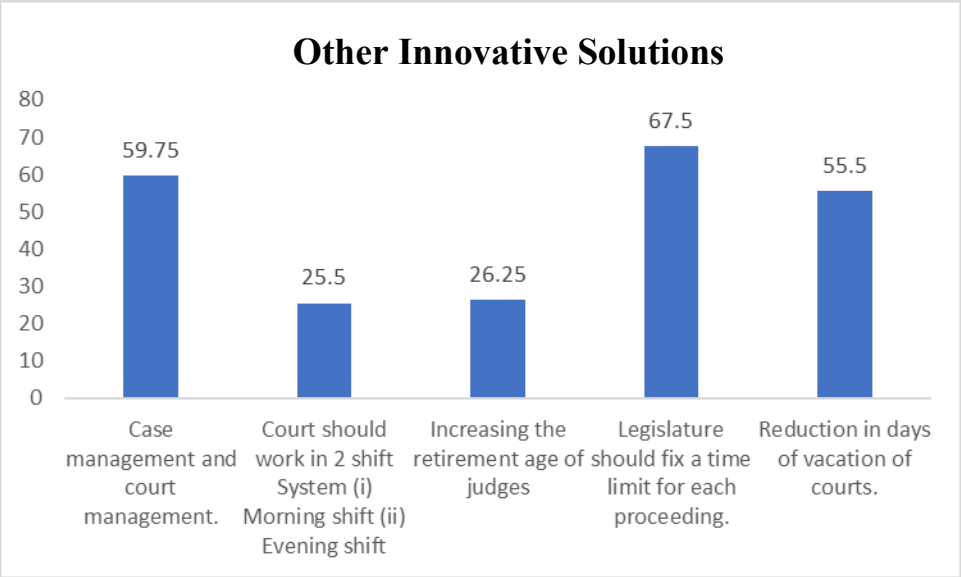


Table No. 6.56 and diagram No.6.56 shows various innovative solutions for reducing pendency in litigation. Most of the respondents that are 67.5 are suggested Legislature should fix a time limit for each proceeding to reduce pendency followed by Case management and court management with 59.75%. According to 55.5% respondent Reduction in days of vacation of courts is also one of the innovative solutions to reduce pendency. Nearly quarter of respondents that is 26.25 and 25.5% agree with increasing the retirement age of judges and Court should work in 2 shifts System (i) Morning shift (ii) Evening shift will reduce pendency respectively. So it proposes that all above solutions are useful to reduce pendency of cases.

Table No. 6.57

Effective solutions for reducing Pendency.

Effective solution (Summary Trial and Plea Bargaining)	Frequency	%
Agree	277	69.4
Disagree	34	8.5
Neutral	52	13.0
Strongly Agree	28	6.8
Strongly Disagree	9	2.3
Total	400	100.0

Diagram No 6.57

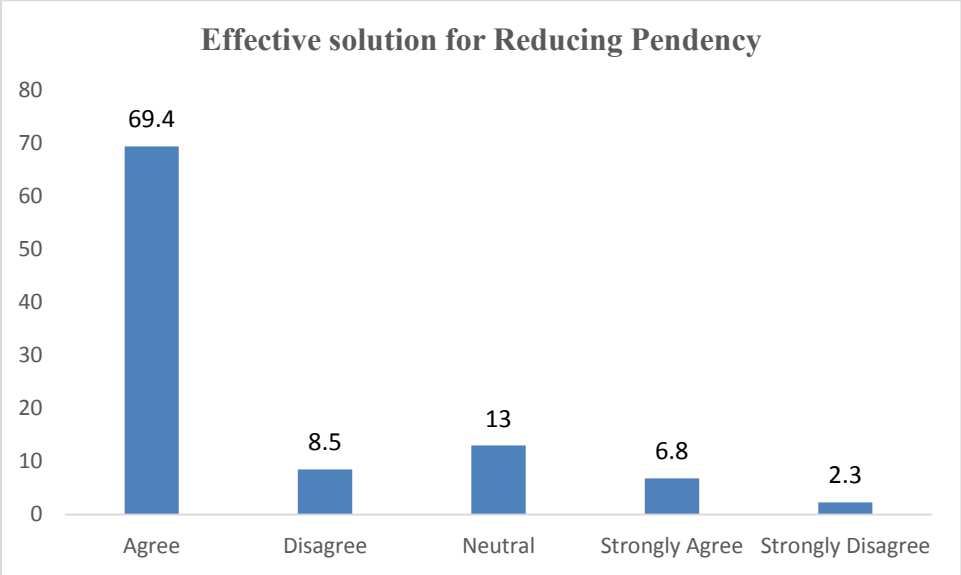


Table No. 6.57 and diagram No. 6.57 shows the summary trial and plea bargaining are effective solutions to reduce time for judicial proceeding. Most of the respondents that is 69.4% are agrees with the summary trial and plea bargaining as an effective solution to reduce time for judicial proceeding. But 2.3% respondents are strongly disagreeing with the summary trial and plea bargaining as an effective solution to reduce time for judicial proceeding. While 6.8% are strongly agree with the summary trial and plea bargaining as an effective solution to reduce time for judicial proceeding.

Table No.6.58

Challenges for disposal of cases

Challenges	Frequency	%
Absence of parties lawyer at a fixed date.	72	18.0
Frequent adjournment application in the case.	184	46.1
Inadequate number of courts.	102	25.3
More attention in disposal of appeal rather than regular trial.	42	10.5
Total	400	100.0

Diagram No 6.58

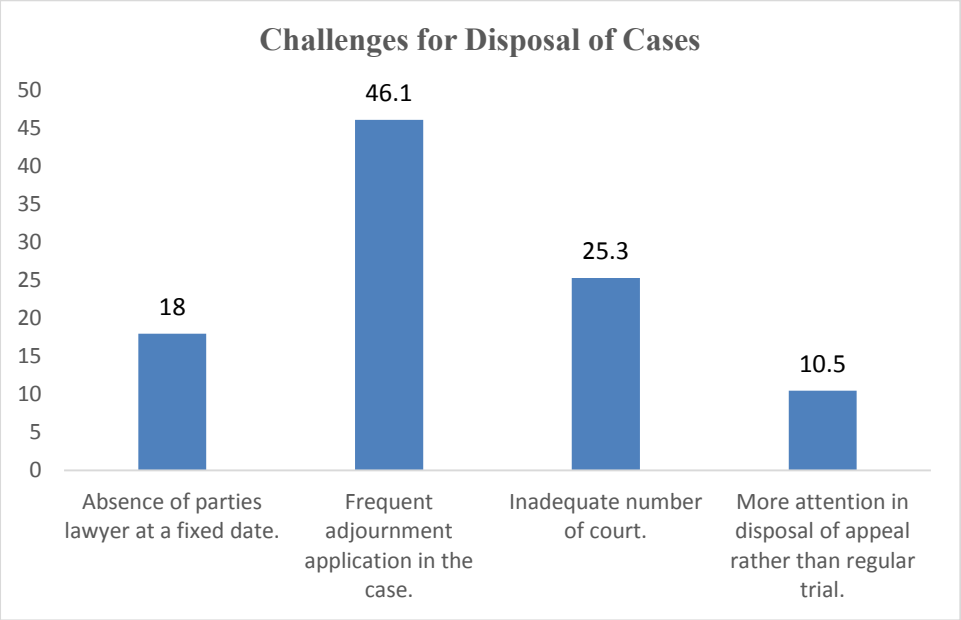


Table No. 6.58 and diagram No.6.58 shows different challenges faced by respondents while disposal of cases. Nearly half of respondents that is 46.1% are facing frequent adjournment application in the case as a challenge. Similarly, inadequate number of courts is also one of the challenges faced by respondent with 25.3% respondent. Absence of parties lawyer at a fixed date and more attention in disposal of appeal rather than regular trial is also challenge faced by respondent with 18 and 10.5% respectively. So more or less all are the challenges faced while disposal of cases.

Table No.6.59
Recommended policies for reducing court pendency

Policies	Frequency	%
Application of provision under section 89 of civil procedure code.	210	52.5
Avoid unnecessary adjournment.	180	45
Improvement of court infrastructure.	120	30
Training of judges and administrative staff.	220	55

Diagram No. 6.59

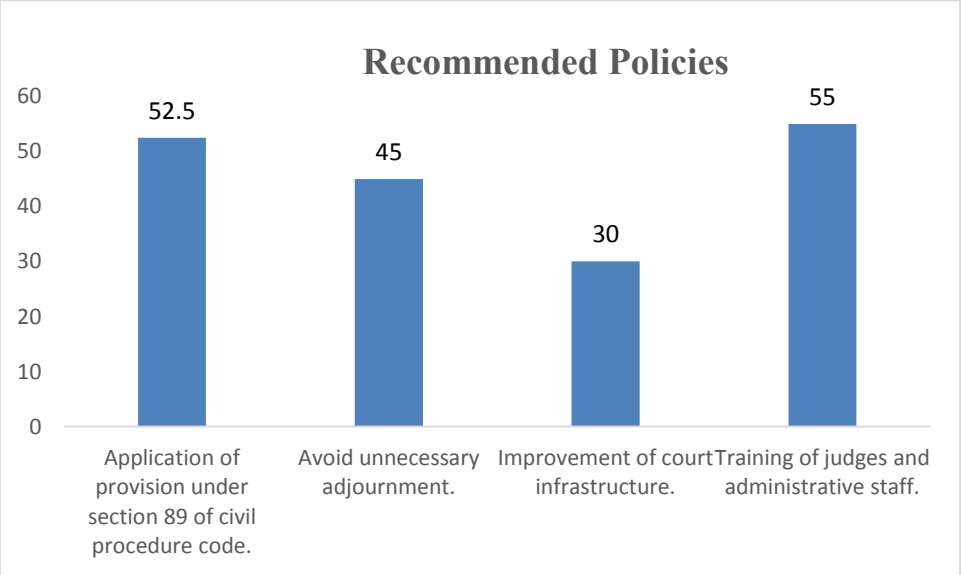


Table No. 6.59 and diagram No.6.59 shows policies recommended for reducing court pendency. 55% that is more than half respondents recommended Training of judges and administrative staff for reducing court pendency. Nearly half that is 52.5% respondents recommended application of provision under section 89 of civil procedure code. According to 45% respondent, avoiding unnecessary adjournment is also useful to reduce pendency. Improvement of court infrastructure is also one of the recommendations to reduce court pendency with 30%.

6.6 Testing of Hypothesis

Hypothesis I

Numbers of judicial officers are inadequate in the ratio of population

H_0: Number of judicial officers is adequate in the ratio of population.

i.e., $P=P_0=0.5$

H_1: Number of judicial officers is inadequate in the ratio of population.

i.e., $P\neq P_0$

The above hypothesis has been tested with z test for proportion.

The significance level is 0.05.

To test the hypothesis, we use proportionality test as,

z = p-P/ (sqrt (PQ/n))

Where p= 102/400 =0.25, P=0.5 Q=0.5, n=400

Table No.6.60

Number of judicial officers is adequate in the ratio of population

Adequate	Frequency
No	298
Yes	102
Total	400

(Source: Table No. 6.3 Field Data)

Calculated z =10 and Tabulated z at 5% l.o.s. is 2.68

Since cal. z > tab. z

Hence, we reject null hypothesis at 5% level of significance.

Number of judicial officers is inadequate in the ratio of population

Hypothesis II

Absence of attentiveness and lack of knowledge in recent technology amongst lawyers is responsible for delay in disposal of case

H_0**:** Absence of attentiveness and lack of knowledge in recent technology amongst lawyers is not responsible for delay in disposal of case

H_1: Absence of attentiveness and lack of knowledge in recent technology amongst lawyers is responsible for delay in disposal of case

The above hypothesis has been tested with Chi square test for association. The significance level is 5%.

To test the hypothesis, we use Chi square test statistic as,

$\chi^2 = \sum(Oi - Ei)^2/Ei$

where O is observed frequency, E is expected frequency

Observed frequencies

Table No 6.61

Lack of Knowledge of Recent technologies and absence of attentiveness as a cause for delayed justice

	Yes	No	Total
Absence of attentiveness	124	32	156
Lack of knowledge	160	84	244
Total	284	116	400

(Source: Field Data)

Expected frequencies

	Yes	No	Total
Absence of attentiveness	124	32	156
Lack of knowledge	160	84	244
Total	284	116	400

Oi	Ei	Oi - Ei^2	(Oi - i)^2/Ei
124	110.76	175.2976	1.582679668
160	173.24	175.2976	1.011877165
32	110.76	6203.1376	56.00521488
84	173.24	7963.7776	45.96962364
			104.5693954

Calculated χ^2 =104.56 and Tabulated χ^2 = 5.991 at 5% l.o.s. with 1*1=1 degree of freedom is

Since cal. χ^2 > tab. χ^2

Hence, we reject null hypothesis at 5% level of significance and accept alternative hypothesis.

Absence of attentiveness and lack of knowledge in recent technology amongst lawyers is responsible for delay in disposal of case

Hypothesis III

Public and litigants are not aware about their right relating to speedy disposal of cases.

H_0: Public and litigants are not aware about their right relating to speedy disposal of cases.

i.e., $P=P_0=0.5$

H_1: Public and litigants are aware about their right relating to speedy disposal of cases.

i.e., $P\neq P_0$

The above hypothesis has been tested with z test for proportion.

The significance level is 0.05.

To test the hypothesis, we use proportionality test as,

$z = p-P/(\text{sqrt}\ (PQ/n))$

Where p= 120/400 =0.30, P=0.5 Q=0.5, n=400

Table no 6.62

Public and litigants are not aware about their right relating to speedy disposal of cases.

Awareness	Frequency
No	380
Yes	120
Total	400

(Source: Field Data)

Calculated z =8 and Tabulated z at 5% l.o.s. is 2.68

Since cal. z > tab. z

Hence, we reject null hypothesis at 5% level of significance.

Public and litigants are not aware about their right relating to speedy disposal of cases.

6.7) Findings

After pursuing the research work the researcher has following findings.

- Majority of respondents in the survey are literate in Kolhapur and Sangli district. In both the district proportion of Post graduate litigants is minimum as compared to other qualification. Proportion of graduate litigants whose case is pending is more in both district Sangli and Kolhapur with 33% and 48.5 % respectively (Table no.6.1)
- Majority of the respondents in the survey (age wise distribution) are between 30-60 age for Kolhapur with 69.5% and for sangli with 73% and Proportion of litigants whose age is above 60 for Kolhapur and Sangli district is very low with 18.5% and 17% respectively. (Table no.6.2)

- Table no.6.3 to 6.16 and 6.30 to 6.43 are related to reasons for delay in disposal of cases. Out of these reasons the Inadequacy of number of judges is the main reason for delayed justice. The objective no 1 is fulfilled and Hypothesis 1 has been tested and findings are drawn accordingly.

Hypothesis 1

Number of judicial officers is inadequate in the ratio of population.

Finding of table no.6.3 (inadequacy of number of judges) are as below

- According to 89.9% respondents stated that inadequacy of number of judges is a cause for delay in disposal of cases. From table number 6.60 and hypothesis no.1 suggest that number of judges is inadequate in the ratio of population. It means that according to the Higher percentage of respondents inadequate number of judges is responsible for the delay.

- Already judges having other non-judicial work, that's why they may found challenges to clear the judicial work in time.

- Table no.6.17 and 6.52 is related to co-operation between lawyers, judges and administrative staff. After study researcher has found that there is average co-operation between lawyers, judges and administrative staff. Table no. 6.50, 6.51 and 6.52 are related to working of administrative staff. Only 39.6% respondent updated their knowledge of Civil manual, Criminal Manual and Procedural laws. In addition to that no specialised training is given to administrative staff. Thus objective no.2 is fulfilled. It proves that lack of updated knowledge, average co-operation among related human resources and no specialised training are harmful for the disposal of cases in time.

- Table no. 6.18 to 6.19, 6.20, 6.21 and 6.44 to 6.48 is related to the knowledge of ICT and Cyber Crimes, Alternative dispute resolution, Constitution of India among respondent. It is found that respondents has average knowledge of it.

- Table no. 6.49 is related to attentiveness of respondent. After Study it is found that absence of attentiveness among respondent during working hours. Hypothesis no. 2 has been tested and findings are drawn accordingly as follows

Hypothesis 2

Absence of attentiveness and lack of knowledge in recent technology amongst lawyers is responsible for delay in disposal of cases.

Finding of table no. 6.44(lack of knowledge) and table no. 6.49 (absence of attentiveness)

Table no 6.44

- 34.8% respondents are aware about computer, internet, MS. Office.
- 21.3% respondents are unaware about ICT.
- 13%respondents have knowledge of computer only.

Table no. 6.49

- 98% respondents take leave on working days.
- Only 2% respondents don't take leave on working days.
- This huge number of respondents mentality to take leave on working days affect overall procedure and delay of the case. There is solution suggested by research for effective court work. Two times schedule-morning and evening is useful to reduce the impact happened due to leaves taken by lawyers and administrative staff on working days.
- This average knowledge of ICT, Cyber Crimes, ADR, Constitution of India take respondents away from to be aware about their right of speedy and fair trial. Improving their awareness about all these motivates them to use their right of disposal of case in proper way.
- From table number 6.61 and hypothesis number 2 suggest that absence of attentiveness and lack of knowledge in recent technology amongst lawyers is responsible for delay in disposal of cases.
- Table no. 6.22 is related to knowledge of right to speedy trial to respondent which clearly indicate the absence of awareness of their rights to speedy trial in respondent. Hypothesis no. 3 has been tested and findings drawn as follows.

Hypothesis 3

Public and litigants are not aware about their rights relating to speedy disposal of cases.

Finding of the table no 6.23(litigants are unaware about their rights)

- 89% litigants unaware about their rights.
- 11% litigants are aware about right available to them.

  From table number 6. 62 and hypothesis number 3 suggest that public are not aware of their right relating to speedy disposal of cases.
- 89% litigants unawareness about their right is one of the major hurdle for reducing delayed justice. When litigants become aware about their own rights, they will definitely put out their matter in better way in front of lawyers and judges. Thus, through the legal way they could get the disposal of case in stipulated time, which is indirectly mentioned in constitution as their fundamental right. So, increasing awareness about right of disposal in time among litigants is necessity of time and law.
- Table no. 6.23 to 6.29 and 6.53 to 6.59 are related to challenges, innovative solution for reducing pending litigation. After study it is found that these solutions are helpful in reducing time for disposal of cases. Thus objective no.3 has been fulfilled. It is found that respondent has average knowledge of it. Solutions provided by the researcher got good support by respondents, that is why implementation of these innovative solutions may helpful in the solving of problem of delay in disposal of cases in time.

6.8 Conclusion

This chapter comprises the data collection through the Google form and the analysis done by using tests and methods. The hypotheses are tested and the figures and charts are used for describing the data by the researcher.

CHAPTER VII
CONCLUSION AND SUGGESTION

7.1 - Introduction

This chapter has accumulated the conclusions and suggestions based on the Data Analysis and interpretation. The conclusion is evident from the finding which are result of the interpretation and inferences drawn from the data collected and processed with statistical tools.

7.2 Glimpse of Chapters

Being a democratic country to maintain law and order, the smooth functioning of judiciary is of much importance. Judiciary should function by taking into consideration the common people in the country. We have the oldest judicial system since ancient time. With the passage of time judiciary evolves, through its precedents. Constitution of India makes judiciary independent so that it will work more efficiently. It upholds the fundamental rights of every citizen. In India there is hierarchy of courts, so that if individual is dissatisfied with the decision of lower court, he can move the upper court. In India the concept of delay in disposal of case is not mentioned in constitution or in any other statute. It is the judiciary who paved the way for the development of right of speedy justice through its judgement. We do not have specific legislation in relation with prevention of delay. Judiciary and other related factors took effort to prevent unnecessary delay and set an example for fair and timely justice.

Every country in the world has their own judicial system. The Pakistan Judiciary resembles with Indian judicial system. Indian judicial system that we have today is received from the British Colonial Legacy. As it is based on common law system, the decisions of apex courts are binding on the lower court. India is the largest populated country. It is judiciary on which the millions of people are keeping faith for delivery of justice. The justice delivery within stipulated time is matter of concern in India. There is huge pendency of cases in the court of law. Attitude of Lawyers, Litigants, Staff, and Judges should be changed. Their cooperation is necessary for timely disposal of cases.

Indian Constitution has not expressly provided for right to speedy justice. But it is the integral part and parcel of the Article 21 of Indian Constitution. Supreme Court through its precedent recognizes it as fundamental right of the citizen. Like the American Constitution we do not have direct provision for expedious disposal of cases. Various statutory provisions indirectly lay emphasis on the right to speedy justice. Quality justice is of much importance. We do not have definite either statutory or Constitutional law for speedy justice. There is need to form firm legislation for disposal of cases within fixed period.

It is human right of individual, which should be protected under specific legal provision. Due to lack of dedicated law in relation to the right to speedy justice, huge pendency cannot be tackled. It is a great need to add a provision directly related to the speedy justice as one of the finest solution for dealing with the huge backlog and pendency of cases.

In spite of various efforts made by central and state government, pendency remains to be solved. It is the biggest threat to the democracy. India being the member of international conventions and treaties recognises right to speedy justice as human right. Indian governments efforts are not recommendable. They failed to frame the definite law to protect the right to speedy trial.

As per the committees which are constituted by the government from time to time some changes should be made which are as follows

i) Introduction of Case Management System in working of judiciary.
ii) To increase the number of judges in proportion to the population.
iii) Training should be given to the administrative staff for the quick disposal of cases.
iv) Infrastructure of the court should be improved.
v) Adoption of Alternative dispute resolution methods for reducing burden on courts.

Litigants are unaware of their right to speedy disposal of cases. They consider delay as a part and parcel of the proceeding. Such misconception needs to be removed from mind set of litigants. Democracy will be only strengthen, if citizen keep their trust on judicial work.

Judiciary plays vital role in the justice delivery system. Precedents are significant because as a common law of country the decision of apex courts are binding on subordinate courts. Supreme Court with various judicial pronouncements tried to protect right to speedy justice as a fundamental right. Even though only judicial decision may not be effective to solve the problem of huge pendency, the other two wings i.e., executive and legislature must participate to deal with it.

Only judge made law will not be able to solve the huge pendency, the appropriate legislation must be framed.

7.3 Conclusion

After conclusion of chapters and having findings, the researcher would like to conclude the points which are result of the present research.

- The number of judges is inadequate in the ratio of population Various law commissions constituted, for time to time suggested the requirement of appointment of number of judges for tackling the pending litigation problem. But the efforts of the government are not recommendable. It is the need of the hour now to have timely disposal of cases.
- Already judges having other non-judicial work, that's why they may found challenges to clear the judicial work in time.
- No statutory or constitutional provision is in existence relating to the speedy justice. Indirect provisions are there in various acts which are insufficient to meet the problems. Thus, the specific and definite provisions should be made for the speedy justice, as early as possible without wasting time.
- Again, with the new challenge of pandemic situation it is not possible to settle this problem of huge pendency in India. It has added again in the number of pending litigations. It may cause threat to the faith of the people in the judicial system.
- Absence of attentiveness and lack of knowledge in a recent technology amongst lawyer is responsible for delay in disposal of cases.

Having the knowledge of present technology that i.e., computer, MS office, Internet is the requirement of technology era. Lawyers as an integral part in litigation should have knowledge about the recent technology. The pandemic has introduced again the importance of E-filing. That is why the lawyers must equip themselves with this technical tool that may help them to save time. Unfortunately, due to economic conditions or other disabilities they do not have knowledge in a recent technology. Lack of attentiveness amongst the lawyer is another cause for the delayed justice. The lawyer should attend their daily work on a priority basis being important factor of litigation. Huge number of lawyers, administrative staff mentality to take leave on working days affect overall procedure and delay of the case. Lawyers sincerity towards handling the matter within the time is necessary.

- Two times schedule-morning and evening is useful to reduce the impact happened due to leaves taken by lawyers and administrative staff on working days.

- Lack of updated knowledge, average co-operation among related human resources are harmful for the disposal of cases in time.
- Public and litigants are not aware about their right relating to speedy disposal of the cases.

  Litigants are not aware of their rights available in the constitution of India and other statutory provisions. Illiteracy among the common people relating to lack of legal knowledge leads for non-disposal of cases within stipulated time. The awareness needs to be created in the common people, so that they can exercise their right. Now days they consider, delay as a part and parcel of litigation. This mindset in common people may frustrate the whole legal system and its aim to become welfare state.
- This average knowledge of ICT, Cyber Crimes, ADR, Constitution of India take litigant away from to be aware about their right of speedy and fair trial.

7.4. Suggestions

Based on my research work I furnish the following suggestions-

1. Information Communication Technology (ICT)

- **AI-Artificial Intelligence** Artificial Intelligence (AI) can help to reduce pendency of cases and increase the efficiency of judiciary. But before application of the artificial intelligence in the disposal of the cases there is need to identify where various legal process and the application of this technology can be used effectively. The pros and cons should be assessed by the research in relation with this technology like data threat, right to privacy and ethical issues etc. Research for this subject should be encouraged by the government or the mechanism concerned.
- **e-Court System** The e-Courts project drafted by the National Policy and Action Plan for inclusion of information and communication technology (ICT) in the Indian courts. The report was submitted in 2005 by e-Committee. The main purpose of committee and Supreme Court behind the project is to convert all courts into ICT. Transformation of courts into ICT makes the justice delivery system speedy, and inexpensive. For the implementation of the project necessary funds must be provided to courts by Government.
- **Virtual Court** In virtual courts dispute between the parties are adjudicated online. Virtual Courts are inexpensive and time saving. Easy access to justice is furnish by these courts. The burden on traditional courts can be reduce by transferring pending cases to these courts. It helps to reduce burden of pending litigation in Indian Courts. Digital courts provide equal justice to everyone without any distinction in less time. For implementation of digital justice proper infrastructure should be provided to all courts.
- Provision should be made for supplying court order copies, FIR, disposition, and other court documents in a soft copy through Email or WhatsApp or any other e-mode to the advocates and litigants or the party related thereto. It can save the time of adjournment and other side can be well prepared. Digitalization of court documents or records can be made for avoiding unnecessary delay.
- Adoption of new technologies for service of Notice and Summons. The old system of service of summons kills a lot of time of proceeding. New techniques

and technology of electronic mode of communication will save the time of the court.

- E-filing, E-payment and E-court services should be made available to the litigants for comply of formality of judicial administration by giving wide publicity through information by way of digital posters on conspicuous part of the court building, by advertising in local newspaper etc.
- **Alternate Dispute Resolution (ADR)** Frequent organization of Legal Aid, Lok Adalat etc. helps to the client for speedy disposal or speedy redress. This mechanism should reach at grass root level by the way of an advertisement. For the same the local government like Gram panchayat, taluka administration, students from schools and colleges are need to take participate for better functioning of this system. More matters need to be transferred before Lok-Adalat. It helps to regular court for reducing huge burden of pendency. Summary trial, plea bargaining, fast track court, setting off Gram Nyayalaya will help to reduce time of court procedure.

2. **Infrastructure-** Improvement in the courts infrastructure helps to reduce the pendency of the cases. Honorable judges and administrative staff must be equipped with latest office tools and equipments for e-administration. Taluka and District court should provide latest infrastructure in the view of e-administration by making available strong signal broadband facility, and for the same necessary funding should be provided by the government mechanism. Implementation of the recommendation of e-Committee of the Supreme Court should be reached in lower court.

Increase the number of special tribunals

- In India we have various special tribunal to deal with particular matter. There is urgent need to increase the number of these special tribunals because they are cost effective, they have special knowledge in that particular subject and they are free from technicality. Thus, they help in preventing unnecessary delay in disposal of cases.

Training

i. **To the Client/litigants/society at large**-Litigants awareness is necessary by organizing awareness workshops, seminars, lecture series at rural areas for the working of court proceeding and e-court system. For that non- governmental organizations help can be taken or NGOs who are fighting for the cause of speedy disposal and keen enough about the human rights and fundamental rights can be involved in the awareness campaign.

ii. **To the Judicial Officer**- A proper practical training to newly appointed judges is must. Inadequate practical knowledge of newly appointed judge also leads to delay in order and judgment. Newly appointed judges hesitate to pass a simple order which is a result in prolonged litigation. That is why practical training of judicial work should be given to them. Also, for the post of junior judges three years practice as an advocate should be mandatorily made.

iii. **The specialized training to the Judicial administrative Staff-**Though they are required to have a regular training of the department. But the specialized training is not given to them. It is helpful to get updated knowledge about all things related to law and court. Such training may help to reduce pendency. As for the successful working of the judiciary administrative staff also should work with the adequate knowledge that may prevent delaying disposal of cases. E-administration should be conduct for the post of judicial administration. Along with that they must train with the civil manual and criminal manual.

iv. **To the upcoming and newly registered lawyers** Training should be given to the junior advocates. This is similar with that training provided to honorable judges during their probation period. In fact, the compulsory Internship program should be provided to the newly registered lawyer. Practical training for junior lawyers should be given so that they can adjust with the procedures and reduce the court pendency. Such training can be arranged by the government with the help of judiciary and judicial academy. Lawyers should train in the recent technologies like computer, MS office, use of e-portal of the court administration to save time and expenses.

4. **Judicial Audit** Judicial audit in view of strength of judicial officer in population ratio, number of disposal of cases, pendency ratio, etc. should be done once in a three year and it must be done by the supervising authority of the

court administration like Registrar of Apex court or the committee headed by the Retired Judge of the Apex Court. The statutory time for each proceeding should be fixed and that should be strictly monitored by creating a special post as an Observer who must be retired judge should be appointed for that purpose.

5. **Adjournment Policy** There should be fixation of concrete policy of adjournment. Uncontrolled adjournment practice yield pendency of the huge number of cases. It should not be based on the discretionary power of the court. There must be universal policy.

6. **Classification of the cases** There should be clear classification of the cases and necessary days for the disposal of cases. So that the case management and court management should be properly planned to save time of court. There should be introduction of citizen charter for the disposal of the cases according to the classification of the case. e.g., The matters which are of civil in nature must be disposed of within two to three years, Miscellaneous Appeal are to be decided within six months and regular appeals within one year, etc. The board relating the Citizen Charter should be fix at the conspicuous part of every court premises.
7. **Judges Transfer** Transfer policy of judges must be changed by honorable High Court. Transfer of Judges is the one of the prominent causes for the pending litigation. It takes valuable time of judges who are newly transferred to understand the cases before them. In turn adds for delayed justice. Thus, such policies need to be reframed i.e., transfer of judicial officer should be after five years tenure.

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QUESTIONNAIRE FOR LITIGANT

AN ANALYTICAL STUDY OF DELAY IN DISPOSAL OF CASES FORM LOWER JUDICIARY WITH SPECIAL REFERENCE TO SANGLI AND KOLHAPUR DISTRICT

आदरणीय सर/मॅडम, मी स्वाती अशोक हजारे, शिवाजी युनिव्हर्सिटी येथून वर नमूद केल्याप्रमाणे विषयासदर्भात शोध प्रबंध तयार करत आहे. सदर शोध प्रबंधासाठी आपल्या मतांची आवश्यकता आहे. खाली नमूद केलेले प्रश्न तुम्ही तुमच्या माहितीप्रमाणे उत्तरीत केल्याने माझा शोध प्रबंध पूर्ण होणेस अमुल्य अशी मदत मिळणार आहे. तरी, आपण आपला अमुल्य वेळ देऊन खाली नमूद प्रश्नावली पूर्ण करावी. या प्रश्नावली आधारे मिळालेली माहिती केवळ शैक्षणिक कार्यासाठी वापरण्यात येईल. प्रतिसादकर्ता यंची वैयक्तीक माहिती, उत्तरे, अनुमान, अभिप्राय शेरा इत्यादी गोपनीय ठेवण्यात येईल.

१) **नांव**

.....

२) शिक्षण

( ) दहावी किंवा त्यापेक्षा कमी (S.S.C. OR BELOW)

( ) बारावी (H.S.C.)

( ) पदवीधर (Graduation)

( ) पदव्युत्तर शिक्षण (post graduation)

३) वय

( ) १८ ते ३०

( ) ३० ते ४५.

( ) ४५ ते ६०

( ) ६० पेक्षा जास्त.

४) **जिल्हा**

( ) कोल्हापूर

( ) सांगली

५) **न्यायाधीशांच्या संख्येत कमतरता हे न्यायालयात प्रलंबित प्रकरणांचा निकाल लागणा–या विलंबाचे कारण वाटते का ?**

( ) हो

( ) नाही.

६) **न्यायाधीश यांच्यावर खूप प्रमाणात लादलेले न्याय प्रकरणांचे ओझे हे प्रलंबित न्यायालीन प्रकरणांचे कारण आहे असे आपणांस वाटते का ?**

( ) हो

( ) नाही.

७) **न्यायाधीश हे त्यांचा कार्यालयीन वेळ कोणत्या कार्य क्षेत्रासाठी जास्त प्रमाणात खर्च करतात ?**

( ) न्यायलयीन प्रकरणात.

( ) प्रशासकिय कामात.

( ) इतर

( ) Other ----------

८) **न्यायालयांच्या संख्येत कमतरता हे न्यायालयात प्रलंबित प्रकरणांचा निकालास विलंब लागण्याचे कारण असल्याचे आपणास वाटते का ?**

( ) नेहमी

( ) वारंवार

( ) कधीतरी

( ) क्वचितच

( ) कधीही नाही.

९) वकीलांचे काम चालवण्यासाठी मुदत घेण्याचे मुख्य कारण आपणांस खालीलपैकी कोणते वाटते ?

( ) शारीरिक आजार.

( ) वैयक्तीक कारण.

( ) कामाचे ओझे

( ) पक्षकारांची गैरहजेरी

( ) साक्षीदारांची गैरहजेरी

( ) कामा संबंधातील कागदपत्र उपलब्ध नसल्याने.

( ) इतर

१०) न्यायालयात प्रकरणात वारंवार मुदत दिली जाते का ?

( ) नेहमी

( ) वारंवार

( ) कधीतरी

( ) क्वचितच

( ) कधीही नाही.

११) पक्षकारांच्या अशिक्षितपणा हे न्यायालयीन प्रलंबित प्रकरणांचे कारण आहे का ?

( ) हो

( ) नाही.

१२) दहा वर्षाच्या कालावधीत न्यायाधीशांची बदली किती वेळ झाली ?

( ) एक ते दोन वेळा.

( ) तीन ते चार वेळा.

( ) पाच ते सहा वेळा.

( ) सात ते आठ वेळा.

( ) माहिती नाही.

१३) न्यायाधीशांची वारंवार बदली हे न्यायालयीन प्रलंबित प्रकरणांचे कारण आहे असे आपणांस वाटते का ?

( ) हो

( ) नाही.

१४) वकिलांचा संप हा न्यायालयीन प्रकरणाचे विलंबासाठी किती टक्के जबाबदार आहे.

( ) एक ते पंचवीस टक्के

( ) २६ ते पन्नास टक्के

( ) ५१ ते ७५ टक्के

( ) ७६ ते १०० टक्के.

१५) न्यायालयीन कामकाजाचे अयोग्य नियोजन हे प्रलंबित न्यायालयीन कामकाजाच्या संख्येत भरत घालते असे आपणास वाटते काय ?

( ) पूर्णपणे असहमत

( ) असहमत

( ) तटस्थ.

( ) सहमत

( ) पूर्णपणे सहमत.

१६) न्यायाधीश हे त्यांनी निर्धारीत केलेल्या दिवशीच न्याय निर्णय देतात का ?

( ) वारंवार

( ) कधीकधी

( ) क्वचित वेळेस

( ) कधीच नाही.

१७) तुम्ही न्यायालयीन कामकाजाच्या वेळेचे पालन करता का ?

( ) हो

( ) नाही.

१८) **न्यायाधीशांची न्यायालयीन कामकाज व्यतिरिक्त अन्य कामकाजाकरीता नियुक्ती ही न्यायाधीशांच्या कामगिरीवर परिणाम करते का ?**

( ) हो

( ) नाही.

१९) **तुमच्या वैयक्तीक मताने किती टक्के न्यायालयीन प्रलंबित प्रकरणे संपवण्यासाठी वकील न्यायाधीश व प्रशासकिय कर्मचारी यांचे एकमेकांशी सहकार्य असते.**

( ) शून्य ते २५ टक्के

( ) २५ ते ५० टक्के

( ) ५० ते ७५ टक्के

( ) ७५ ते १०० टक्के.

२०) **आपणांस खाली नमूद कोणत्या माहिती तंत्रज्ञानाचे ज्ञान आहे ?**

( ) संगणक

( ) एम. एस. ऑफिस.

( ) इंटरनेट

( ) इतर

२१) **तुम्हाला संगणकीय गुन्हा (Cyber Crime) याविषयी ज्ञान आहे का ?**

( ) हो

( ) नाही.

२२) **तुम्हास भारतीय संविधानाचे ज्ञान आहे का ?**

( ) हो.

( ) नाही.

२३) **तुम्हाला पर्यायी तंटा निवारण (Alternative dispute resolution) याविषयीचे ज्ञान आहे का ?**

( ) हो

( ) नाही.

२४) **तुमचे न्यायालयीन प्रकरण जलदगतीने निपटारा (Right to speedy trial) करणेबाबत पक्षकारांना असणा–या हक्कांचे ज्ञान आहे का ?**

( ) हो

( ) नाही.

२५) **पर्यायी तंटा निवारण यंत्रणा (Alternative Dispute Resolution), लोकअदालत या न्यायालयीन प्रलंबित प्रकरणांसाठी लागणारा वेळ कमी करण्याचे उत्तम पर्याय आहे असे आपणांस वाटते काय ?**

( ) हो

( ) नाही.

२६) **दूरचित्रवाणी परिषद (Video Conferencing) तसेच कायदेशीर मदत चिकित्त्सालय (Legal aid Clinic) यांची स्थापना न्यायालयीन प्रलंबित प्रकरणांचा निपटारा करण्यासाठी कल्पक पर्याय असू शकतात असे आपणांस वाटते का ?**

( ) हो

( ) नाही.

२७) **जलदगती न्यायालय (Fast track court), ग्राम न्यायालय स्थापना केल्याने न्यायाधीशांचा वेळ वाचण्यास मदत होईल असे आपणांस वाटते का ?**

( ) पूर्णपणे असहमत.

( ) असहमत

( ) तटस्थ

( ) सहमत

( ) पूर्णपणे सहमत

२८) खालीलपैकी कोणते पर्याय हे प्रलंबित न्यायालयीन प्रकरणांचा निपटारा करण्यासाठी योग्य आहेत असे आपणांस वाटते ?

( ) न्यायाधीशांच्या सुट्टयांचे दिवस कमी करणे.

( ) न्यायालयीन प्रकरणांची निपटारा करण्यासाठीची वेळ कायद्याने निर्धारीत केलेने.

( ) न्यायालयीन कामकाजाची वेळ वाढवणे.

( ) न्यायाधीशांचे सेवानिवृत्तीसाठी वयोमर्यादा वाढवणे.

( ) न्यायालयीन प्रकरणाचे व कामाचे योग्य नियोजन.

२९) सारांश सुनावणी (summary trial), याचिका सौदे (Plea Bargaining) हे न्यायालयीन प्रलंबित कामासाठी प्रभावी उपाय आहेत.

( ) पूर्णपणे असहमत.

( ) असहमत

( ) तटस्थ

( ) सहमत

( ) पूर्णपणे सहमत

३०) खालीलपैकी कोणत्या अडचणी तुम्हाला न्यायालयीन प्रलंबित प्रकरणांचा निपटारा करण्यासाठी येतात.

( ) वारंवार कामात येणारे मुदतीचे अर्ज.

( ) दावा ऐवजी अपील निकालाला जास्त महत्व देणे.

( ) ठरलेल्या तारखेस वकील, पक्षकारांची अनुपस्थिती.

( ) न्यायालयांची संख्या कमी असणे.

( ) इतर.

३१) तुम्हाला न्यायालयीन प्रलंबित प्रकरणांचा जलदगतीने निपटारा करण्यासाठी कोणती धोरणे योग्य वाटतात ?

( ) न्यायाधीश व प्रशासकिय कर्मचारी यांना विशेष प्रशिक्षण देण.

( ) न्यायालयाच्या पायाभूत सुविधेमध्ये (infrastructure) बदल करणे.

( ) न्यायालयीन प्रकरणे निकाली काढण्यास दिवाणी प्रक्रिया संहिता कलम ८९ प्रमाणे अर्ज करणे.

( ) अनावश्यक मुदती टाळणे.

TRUE AND CORRECT TRANSLATION OF MARATHI QUESTIONNAIRE FOR LITIGANTS

AN ANALYTICAL STUDY OF DELAY IN DISPOSAL OF CASES FORM LOWER JUDICIARY WITH SPECIAL REFERENCE TO SANGLI AND KOLHAPUR DISTRICT

Respected Sir/Madam, I am. Swati Ashok Hajare Perusing Ph.D. form Department of Law, Shivaji University Kolhapur. Please help me to complete this survey which is strictly used for academic and research purpose only. Your information will be kept confidential and your name never be revealed in any situation. Your cooperation is highly appreciated

*Required

1.Name

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2. Education

---

3) District

Tick Mark ☑ only one oval.

( ) Kolhapur

( ) Sangli

4) Age Group

Tick Mark ☑ only one oval.

( ) 18-30

( ) 30-45

( ) 45-60

( ) Above 60

5) Do your think inadequacy of number of judges is reason for delay in disposal of cases?

Tick Mark ☑ only one oval.

( ) Yes
( ) No

6) Do you think overburdening of cases on judiciary is the cause for pending litigation?

Tick Mark ☑ only one oval.

( ) Yes
( ) No

7) In what area the judges spend their more time?

Tick Mark ☑ only one oval.

( ) Litigation
( ) Administration
( ) Any Other

8) Do you think inadequacy of number of courts leads for non-disposal of cases within time?

Tick Mark ☑ only one oval.

( ) Always
( ) Often
( ) Sometimes
( ) Rarely
( ) Never

9) What is the reason for taking adjournment by lawyers?

Answer in single option or multiple as per your choice

Check all that apply.

( ) Physical illness

( ) Family issues

( ) Overload of Litigation

( ) Absence of Litigant

( ) Absence of witness

( ) Non availability of case related documents.

( ) Any other

10) How Frequently adjournment is given in case?

Tick Mark ☑ only one oval.

( ) Always

( ) Sometimes

( ) Never

( ) Often

( ) Rarely

11) Does illiteracy of litigants is reason for pending litigation?

Tick Mark ☑ only one oval.

( ) Yes

( ) No

12) How many times judges have been transferred within past ten years?

Tick Mark ☑ only one oval.

( ) 1 to 2 times
( ) 3 to 4 times
( ) 5 to 6 times
( ) 7 to 8 times
( ) none

13) Do you think frequent transfer of judge is the reason for delay in disposal of cases?

Tick Mark ☑ only one oval.

( ) Yes
( ) No

14) What is the percentage of delay by the strike of lawyers?

Tick Mark ☑ only one oval.

( ) 1% to 25%
( ) 26% to 50%
( ) 51% to 75%
( ) 76% to 100%

15) Mismanagement of daily work added the number of pending litigations.

Tick Mark ☑ only one oval.

( ) Strongly disagree
( ) Disagree
( ) Neutral
( ) Agree
( ) Strongly agree

16) How many times judges deliver their judgment on fixed date.?

Tick Mark ☑ only one oval.

( ) Often

( ) Sometime

( ) Rarely

( ) Not at all

17) Do you observe the working Hours of court?

Tick Mark ☑ only one oval.

( ) Yes

( ) No

18) Do you agree that deputation of judges for non-judicial work affect the performance of judges.

( ) Yes

( ) No

19) What is the percentage of co-operation between lawyers, judges, and Administrative staff as per your personal judgment?

Tick Mark ☑ only one oval.

( ) 0-25

( ) 25-50

( ) 50-75

( ) 75-100

20) Do you have the following information Technology knowledge? Please tick mark ☑ your choice.

Answer in single option or multiple as per your choice

Check all that apply.

( ) Computer

( ) M. S Office

( ) Internet

( ) Any Other

21) Rate your knowledge of cybercrimes.

tick Mark ☑ only one oval.

( ) Poor

( ) Below Average

( ) Average

( ) Above Average

( ) Excellent

22) Do you have knowledge of Constitution of India?

( ) Yes

( ) No

23) Rate your knowledge of Alternative dispute resolution.

Tick Mark ☑ only one oval.

( ) Poor

( ) Below Average

( ) Average

( ) Above Average

( ) Excellent

24) Do you have legal knowledge relating to Speedy trial right available to litigants?

( ) Yes

( ) No.

25) Do you think adoption of Alternative dispute resolution mechanism, Lok-Adalat are innovative solutions to reduce time for judicial proceeding.

Tick Mark ☑ only one oval.

( ) Yes

( ) No

26) Do you think video conferencing organisation of legal-aid clinic will be innovative solution to solve the issue of delay in disposal of cases?

Tick Mark ☑ only one oval.

( ) yes

( ) No

27) Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court?

Tick Mark ☑ only one oval.

( ) Strongly Disagree

( ) Disagree

( ) Neutral

( ) Agree

( ) Strongly Agree

28) Do any of the following will be innovative solution for reducing pendency in litigation. Please Tick mark ☑ your choice?

Answer in single option or multiple as per your choice

Check all that apply

( ) Reduction in days of vacation of courts.

( ) Legislature should fix a time limit for each proceeding .

( ) Court should work in 2 shift System (1) Morning shift

(2) Evening shift

( ) Increasing the retirement age of judges.

( ) Case management and court management.

29) The summary trial & plea bargaining are effective solutions to reduce time for judicial proceeding?

Tick Mark ☑ only one oval.

( ) Strongly Disagree

( ) Disagree

( ) Neutral

( ) Agree

( ) Strongly Agree

30) What are the challenges you face while disposal of cases?

Tick Mark ☑ only one oval.

( ) Frequent adjournment application in the case.

( ) Absence of parties lawyer at a fixed date.

( ) Inadequate number of court.

( ) More attention in disposal of appeal rather than regular trial.

31) What policies would you recommend for reducing court pendency?

Answer in single option or multiple as per your choice

Check all that apply.

( ) Training of judges and administrative staff.

( ) Improvement of court infrastructure.

( ) Application of provision under section 89 of civil procedure code.

( ) Avoid unnecessary adjournment.

QUESTIONNAIRE FOR OPINIONS OF LAWYER AND ADMISTRATIVE STAFF

AN ANALYTICAL STUDY OF DELAY IN DISPOSAL OF CASES FORM LOWER JUDICIARY WITH SPECIAL REFERENCE TO SANGLI AND KOLHAPUR DISTRICT

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*Required

1. Email

2.Name

---

3. Education

---

4. Works as

Tick Mark ☑ only one oval.

( ) Presiding Officer

( ) Advocate

( ) Judicial Staff

( ) Litigant

5) District

Tick Mark ☑ only one oval.

( ) Kolhapur

( ) Sangli

6) Age Group

Tick Mark ☑ only one oval.

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Answer in single option or multiple as per your choice
Check all that apply.

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Tick Mark ☑ only one oval.

( ) Yes

( ) No

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( ) Rarely

( ) Not at all

18) Do you agree that deputation of judges for non-judicial work affect the performance of judges.

( ) Yes

( ) No

19) Mismanagement of daily work added the number of pending litigations.

Tick Mark ☑ only one oval.

( ) Strongly disagree

( ) Disagree

( ) Neutral

( ) Agree

( ) Strongly agree

20) Do you think your transfer affect your performance?

( ) Yes

( ) No

( ) Not applicable

21) Do you have the following information Technology knowledge? Please tick ☑ mark your choice.

Answer in single option or multiple as per your choice

Check all that apply.

( ) Computer

( ) M. S Office

( ) Internet

22) Rate your knowledge of cybercrimes.

Tick Mark ☑ only one oval.

( ) Poor

( ) Below Average

( ) Average

( ) Above Average

( ) Excellent

23) Rate your knowledge of Alternative dispute resolution.

Tick Mark ☑ only one oval.

( ) Poor

( ) Below Average

( ) Average

( ) Above Average

( ) Excellent

24) Do you have adequate knowledge of judicial work?

Tick Mark ☑ only one oval.

( ) Yes

( ) No

25) Do you keep low knowledge up to date?

Tick Mark ☑ only one oval.

( ) Yes

( ) No

( ) Not sure

( ) Not Applicable

26) Do you observe the working Hours of court?

Tick Mark ☑ only one oval.

( ) Yes

( ) No

27) Do you update yourself about Civil Manual, Criminal Manual and Procedure Code, Criminal Procedure Code?

Tick Mark ☑ only one oval.

( ) Always

( ) Often

( ) Sometime

( ) Rarely

( ) Never

28) Do you have specialized training relating your department?

Tick Mark ☑ only one oval.

( ) Yes

( ) No

( ) Not applicable

29) What is the percentage of co-operation between lawyers, judges, and Administrative staff as per your personal judgment?

Tick Mark ☑ only one oval.

( ) 0-25
( ) 25-50
( ) 50-75
( ) 75-100
( ) Any Other

30) Do you think adoption of Alternative dispute resolution mechanism, Lok-Adalat are innovative solutions to reduce time for judicial proceeding.

Tick Mark ☑ only one oval.

( ) Yes
( ) No

31) Do you think video conferencing organisation of legal-aid clinic will be innovative solution to solve the issue of delay in disposal of cases?

Tick Mark ☑ only one oval.

( ) yes
( ) No

32) Constitution of fast-track courts, setting up of Gram Nyayalaya will help to save the time of court?

Tick Mark ☑ only one oval.

( ) Strongly Disagree
( ) Disagree
( ) Neutral
( ) Agree
( ) Strongly Agree

33) Do any of the following will be innovative solution for reducing pendency in litigation. Please Tick ☑ mark your choice?

Answer in single option or multiple as per your choice

Check all that apply

( ) Reduction in days of vacation of courts.

( ) Legislature should fix a time limit for each proceeding .

( ) Court should work in 2 shift System (1) Morning shift

(2) Evening shift

( ) Increasing the retirement age of judges.

( ) Case management and court management.

34) The summary trial & plea bargaining are effective solutions to reduce time for judicial proceeding?

Tick Mark ☑ only one oval.

( ) Strongly Disagree

( ) Disagree

( ) Neutral

( ) Agree

( ) Strongly Agree

35) What are the challenges you face while disposal of cases?

Tick Mark ☑ only one oval.

( ) Frequent adjournment application in the case.

( ) Absence of parties lawyer at a fixed date.

( ) Inadequate number of court.

( ) More attention in disposal of appeal rather than regular trial.

36) What policies would you recommend for reducing court pendency?

Answer in single option or multiple as per your choice

Check all that apply.

( ) Training of judges and administrative staff.

( ) Improvement of court infrastructure.

( ) Application of provision under section 89 of civil procedure code.

( ) Avoid unnecessary adjournment.

DR. SWATI GAVADE

Assistant professor

B.S.L., LL.M., SET, PGDHR, PGCADR, PH. D (LAW)

She has been working at Shahaji Law College since the first of June 2016 as an Assistant Professor of Law. She is also a faculty member for the post-graduation course. She is graduated from Shahaji Law College Kolhapur. She has completed her LL.M. from Shivaji University Kolhapur with a first-class. She cleared the State Eligibility Test in 2015. She has completed a post-graduate certificate course in Alternative Dispute Resolution and a Diploma in Human Rights. She has 8 years of teaching experience. Her areas of interest are insurance law, human rights, intellectual property law and research methodology. She is a author of a book on International Human Rights. She has been selected for Golden Jubilee Research Fellowship in the Department of Law by Shivaji University, Kolhapur. She has participated and presented papers at more than 15 National, International and State-level Seminars, Conferences, and Workshops. She was invited as a resource person for the subjects like Cyber law and intellectual property law. She is actively involved in university examinations. She has been awarded a Doctor of Philosophy degree under the Faculty of Law by Shivaji University, Kolhapur.

Publisher:
Shahaji Law College, Kolhapur
1090 'E' ward shahupuri, kolhapur – 416 001
www.shahajilawcollege.com
swatigavade9990@gmail.com
call: 8007459990

ISBN: 978-81-972236-7-9