

TIMELY JUSTICE: EXPLORING SPEEDY TRIAL PRINCIPLES AND PRACTICAL REALITIES, WITH A FOCUS ON THE STATE OF JHARKHAND

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ABSTRACT



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Timely access to justice is a cornerstone of legal systems worldwide, embodying the adage "justice delayed is justice denied." This abstract underscores the critical importance of expeditious trials in safeguarding individual rights, supporting victims, and upholding public confidence. Drawing on case studies, including significant trials in India, the US, and the UK, it elucidates the far-reaching impacts of trial delays on stakeholders. The abstract advocates for efficient trial management strategies and reasonable timelines as vital measures to expedite justice delivery without compromising due process. Ultimately, it argues that ensuring a prompt trial process is indispensable for fostering fairness, equity, and societal trust in the legal framework.

Keywords: Justice Delayed, Timely Access, Legal Proceedings, Due Process, Fairness

INTRODUCTION

The maxim "justice delayed is justice denied" resonates deeply within legal systems globally, emphasizing the critical importance of prompt access to justice. This principle highlights that undue delays in legal proceedings can have serious repercussions, fundamentally undermining the essence of justice itself. The concept of a speedy trial has long been revered as essential for ensuring fair and equitable legal processes, guaranteeing that defendants, victims, and society are not subjected to prolonged uncertainty and unresolved cases. In criminal justice, the significance of expeditious trials cannot be overstated. Swift determination of guilt or innocence not only safeguards the rights of the accused but also upholds the integrity of the judicial system. Moreover, it provides closure to victims and their families, sparing them prolonged emotional distress. Timely justice is not merely an abstract ideal; it is a fundamental human right recognized and protected by legal systems worldwide. A fair trial is a cornerstone of many legal systems globally and is enshrined in numerous international human rights instruments. It ensures that all parties involved are treated impartially, equitably, and without bias. This principle guarantees that every individual, irrespective of their background or the nature of the accusations against them, is entitled to a transparent and just legal

process*.

Key elements of a fair trial include

Impartiality: The trial must be conducted by an unbiased and impartial judge or tribunal. This ensures that all decisions are based on the law and evidence presented, rather than personal bias or prejudice.

Equality before the Law: All individuals involved in the trial, including the accused, witnesses, and victims, should be treated equally under the law, with no discrimination based on race, ethnicity, gender, religion, or any other characteristics.

Right to Legal Representation: The accused has the right to legal counsel and should have access to competent defence lawyers who can advocate on their behalf throughout the proceedings.

Presumption of Innocence: The accused is presumed innocent until proven guilty beyond a reasonable doubt. It is the prosecution's burden to present evidence that establishes guilt.

Right to Confront Witnesses: The accused has the right to confront and cross-examine witnesses presented by the prosecution. This allows the defence to challenge the credibility and reliability of the evidence.

Right to Remain Silent: The accused cannot be compelled to testify against themselves and has the right to remain silent during the trial. The right against self-incrimination is a fundamental protection.

Right to Due Process: The trial process must adhere to established legal procedures, ensuring that the accused has adequate time to prepare a defence, present evidence, and respond to the charges.

Public and Transparent Proceedings: In many jurisdictions, criminal trials are conducted in open court to ensure transparency and public scrutiny of the legal process.

Protection from Double Jeopardy: The accused cannot be tried twice for the same offense, protecting them from multiple prosecutions for the same alleged crime.

Right to an Interpreter: If the accused or any witnesses do not understand the language used in court, they have the right to an interpreter to ensure effective communication[†].

The idea of a fair trial is essential for upholding the rule of law and protecting individuals' rights within a legal system. It not only safeguards the rights of the accused but also ensures that victims receive justice in a transparent and impartial manner. A fair trial is a cornerstone of a just society, promoting confidence in the legal system and respect for human rights.

* <https://www.sciencedirect.com/science/article/abs/pii/S0144818820301666>

† <https://www.amnesty.org/en/wp-content/uploads/2021/06/pol300022014en.pdf>

Meaning of Speedy trial

A speedy trial refers to a legal proceeding in which a defendant's case is brought to trial and resolved promptly, without undue or unreasonable delays. The right to a speedy trial is often considered a fundamental[‡] human right, recognized and protected in many legal systems and international human rights conventions.

The concept of a speedy trial serves several important purposes:

Protection of Rights: A speedy trial protects the rights of the accused by ensuring that they are not subjected to prolonged pretrial detention or uncertainty about their legal status.

Preservation of Evidence: Swift resolution of a case helps preserve the integrity of evidence and ensures that witnesses' memories are fresh and reliable.

Fairness and Due Process: A timely trial is crucial for upholding the principles of fairness and due process, allowing the accused to present their defence while evidence and witnesses are still available.

Judicial Efficiency: Conducting trials promptly helps manage court dockets and prevents unnecessary clogging of the legal system.

Deterrence: The prospect of a speedy trial can act as a deterrent to potential offenders, discouraging them from engaging in criminal activities.

The right to a speedy trial does not necessarily mean that a trial must be rushed or conducted without careful consideration. Instead, it implies that the legal process should proceed efficiently and without unnecessary delays. The specifics of what constitutes a "speedy" trial may vary from one jurisdiction to another. Different legal systems have their own rules and guidelines concerning the timeframe within which a trial should be conducted. Some countries have statutory time limits for various stages of a criminal case, while others rely on case law and constitutional principles to determine whether a trial has been unduly delayed. Overall, the right to a speedy trial is a fundamental aspect of ensuring justice and protecting the rights of individuals accused of crimes. It aims to strike a balance between the interests of the accused and the need for an efficient and effective legal system.

Review of Literature

Makhubela et al. (2015), The purpose of this study is to investigate the cases of “delayed and denied” justice that resulted from a lack of or poor record-keeping in the South African courts and police service with a view to encouraging proper records management. Proper records management plays a significant role in supporting the justice system. Records provide the critical evidence that a particular action or transaction took place and can be used as evidence in a court of law. Without reliable and authentic records, government cannot administer justice and, as a result, offenders can be set free while the victims are denied justice.

[‡] <https://fija.org/library-and-resources/library/jury-nullification-faq/what-is-a-speedy-trial.html>

Burstyner et al. (2014), This article considers issues in the justice system that are related to timeliness and the interconnectedness of the definition of delay and contends that the nature of delay in the current justice environment is contingent on many aspects and mechanisms utilised by the modern justice system. These elements include information technology ('IT') and electronic support, proactive intervention and management including case management systems as well as alternative dispute resolution ('ADR') for the resolution of civil, family and other disputes. The question of whether justice delayed is justice denied appears to depend on whether delay is inappropriate, out of proportion or avoidable.

Gould et al. (2013), In the last year, researchers released two reports about capital cases and habeas corpus. Together, these studies offer a contemporary snapshot of postconviction review and illustrate the influence of state collateral processes on capital habeas litigation in the federal courts. This essay examines those new findings, seeking to pair the studies to understand how the processing of capital habeas petitions has changed since the last wave of national reform and to explain why the courts differ in the time and attention they give these cases. Although capital habeas-corpus petitions now take twice as long to complete in the federal courts as they did over a decade ago, the new studies report considerable geographic disparities in the processing of capital habeas petitions and also point to sources that lie in state, not federal, litigation. The federal courts must not only pick up the pieces when states fail at collateral review, but also, in occasionally taking their time to review habeas matters more thoroughly, ensure that due process means as much in practice as it does in theory.

Gupta et al. (2019), The Courts by using interpreting the laws to enhance justice to the individual and the society at large. With the speedy boom inside the population in addition to technological and industrial development, the workload of the judiciary has extended especially. The poor consequences of those trends have triggered extreme trouble of regulation and order in society in various approaches. There has been extraordinary growth in fee of crimes in society; the character of crime, approach and methods of committing crimes have also notably modified. All this has posed a number of troubles to law enforcement organizations. One of the offshoots of this infamous development is an inordinate delay in disposal of cases, a development that's critically jeopardizing administration of criminal justice. The final item of any judicial system is to added justice. Justice is of huge connotation and must be administered by the courts in step with law and technique. In each civilized society, there are units of laws: Substantive law and Procedural regulation. Substantive regulation decides the rights and obligations of citizens. But the efficacy of significant laws depends upon the procedural legal guidelines. In a country like the US, for defensive and enhancing the rights of the people, the judiciary except for the legislature and the government performs an important function. For the enforcement of rights of residents and treatments thereto, in case of violation thereof, Courts were hooked up in any respect levels inside the Country.

Shafiq et al. (2022), The access to justice is a serious issue in the developing countries. It is worse, if we talk about Pakistan. The purpose of the study is to investigate different reasons for delay in court trials and access to justice in Pakistani courts. This qualitative study was conducted through structured interviews of law practitioners and media personnel working in Lahore, the capital of the

largest populated Punjab province of the country. The data comprising five different themes was analysed using the technique of thematic analysis. The study results revealed that there were seven reasons of delayed justice; including lawyers' strikes and non-professional behaviour, long procedure, unavailability of petitioners and respondents, carelessness of court staff, a smaller number of judges, frequent transfers of judges and shortage of courts. Talking about solutions, the participants suggested that the Supreme Judicial Council should come up with specific laws for lower courts. The use of information technology can be one of the best options as it can help establish electronic courts (E courts) which can be very helpful for case hearings from distance (distance hearing). The traditional and social media can play role by spreading awareness to stress upon the need of speedy justice.

Gasana et al. (2022), Improving judicial performance to ensure speedy resolution of conflicts is a matter of great importance to many countries especially post-conflict settings like Rwanda. Based on its 2003 constitution especially in its article 15 which states that all citizens are entitled to equal protection of the law, Rwanda is committed to ensuring constitutional protection of its citizens. However, this commitment could remain meaningless if justice is not dispensed in a timely manner. Since the aftermath of the 1994 genocide against the Tutsi, both transitional and permanent mechanisms have been established by the Government of Rwanda to ensure equal protection of the law. Transitional justice mechanisms included the gacaca courts which tried crimes related to the 1994 genocide against the Tutsi, while permanent mechanisms include among others Access to Justice Bureaus which were established in 2007 to help citizens have equal access to justice— in relation to constitutional commitment of equal protection of the law. Therefore, using John Broome's fairness theory, this study answers a major question of whether the establishment of Access to Justice Bureaus has played any role in the speedy resolution of conflicts. In doing so, the study conducted 10 individual interviews with access to justice lawyers, 10 in-depth interviews with 10 local leaders, 10 in-depth interviews with 10 local conflict mediators, 01 officer in the ministry of justice, 10 in-depth interviews with beneficiaries of access to justice services and 05 focus group discussions with 40 access to justice beneficiaries. Subsequently, study findings revealed that Access to Justice Bureaus ensure speedy resolution of conflict through mediation of conflicts, legal orientation and guidance, timely legal representation of the poor in courts, speedy court decision enforcement and finally training of citizens on Electronic Case Management system.

Abdul et al. (2011), One of the problems that influence the quality of administering justice is the duration of court proceeding. This problem has been significantly recognized in many countries. In Malaysia, the lengthy duration of court proceedings pertaining to divorce cases of Muslim couples is particularly considered to be a problem in Malaysian shariah court. In fact, this is the most prevalent complaint ever lodged by the public to Shariah Judiciary Department (JKSM) every year. While it is true that delay indicates inefficiency in management, the interpretive standard used by the JKSM concerning delay is applied for cases which reach settlement after 360 days. Therefore, what is deemed to be delay by laymen, is perhaps not so by the shariah court's standard. There is still far lack of empirical and extensive academic studies on divorce case management especially concerning

delay in case settlement. The objective of this research is to examine whether delay exists in case management in Shariah court, how extensive and critical it is by looking at the contributing factors. Dissolution of marriage cases are chosen as the sample of the study as these cases are frequently bogged with delays.

Vincze et al. (2021), This, of course, could not have happened without the backing of the Constitutional Court which, unlike the German Federal Constitutional Court, despite avoiding full-blown conflicts with the European Court of Justice, shows resourcefulness in ways of sabotaging the full effect of Union law: instead of requesting a preliminary ruling (which could be to some extent binding) it adjourned its proceedings (and waited for a decision which was later declared to be of no importance) and, instead of deciding the case in line with the judgment because of which the proceedings had been said to be adjourned, it rather awaited the imposition of the judgment in order to be able to declare that the legal situation had been profoundly changed. Instead of actually making use of the dialogue and rationally addressing the national constitutional sensibilities (in contrast to many other national constitutional courts), the Hungarian Constitutional Court delayed the whole proceedings in order to make things factually irreparable, undermining the spirit both of the infringement proceedings and of the constitutional dialogue.

Historical prospective

The concept of justice delayed is justice denied can be found in the Magna Carta, a historic document signed in 1215, which laid the foundation for constitutional law and individual rights in England. The Magna Carta included provisions guaranteeing that "to no one will we sell, to no one deny or delay right or justice." This clause emphasized the importance of timely access to justice and has influenced legal systems worldwide.

Roman Law and Justinian Code

In ancient Roman law, the principle[§] of justice without delay was also recognized. The Justinian Code, a compilation of Roman laws ordered by Emperor Justinian I in the 6th century, included provisions emphasizing the need for swift resolution of legal disputes. Delays in the administration of justice were seen as detrimental to social order and fairness.

Early Modern Legal Systems

During the Enlightenment era in the 17th and 18th centuries, the concept of justice delayed is justice denied gained further prominence. Philosophers and legal scholars, such as John Locke and Montesquieu, emphasized the importance of speedy and fair trials to protect individual rights and prevent abuse of power by the state.

[§] <https://www.britannica.com/topic/Roman-law/The-law-of-Justinian>

Influence on Modern Legal Systems

The idea of a speedy trial and the principle of justice delayed is justice denied have been enshrined in various legal instruments and constitutions. For example, the United States Constitution's Sixth Amendment guarantees the right to a speedy trial for criminal defendants. Similarly, many other national and international legal documents recognize the importance of timely access to justice.

Human Rights and International Law

In the realm of international law, the principle of justice delayed is justice denied finds expression in various human rights treaties and declarations. The Universal Declaration of Human Rights, adopted by the United Nations in 1948, states that "everyone has the right to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

Modern Challenges and Advocacy

In contemporary legal systems, ensuring a speedy trial can be challenging due to factors such as backlogged courts, complex cases, and resource constraints. As a result, there have been ongoing efforts by legal experts, policymakers, and human rights advocates to address these challenges and strengthen the right to a timely trial. Overall, the historical perspective of justice delayed is justice denied underscores the enduring importance of timely access to justice and its crucial role in safeguarding individual rights and maintaining the rule of law. It continues to shape legal systems worldwide and remains a fundamental principle in the pursuit of justice for all.

Case study

This is the longest trial in the history of India. It started in the year 1878 and continues till now, more than over a century compared to others. started in 1870s and though a verdict was delivered in 1981, it was never implemented. Till as recently as 2014, the two sides, Shias and Sunnis of Doshipura, were seeking further clarifications and filing fresh applications on their grievances. At the heart of the issue are nine plots in Doshipura which Shias claim as theirs, given to them by the Maharaja of Varanasi for holding religious discourses and recitations during Muharram while Sunnis claim that part of the area was their graveyard.

The disputed plots include a mosque, a baradiri and an imambara, all of which are used by both sects. There is permanent police presence in the area, which gets intensified during Muharram. Courts have ruled in favour of the Shia community with plenty of back and forth and even the state administration has been caught in the crossfire. In 1981, the Supreme Court too upheld the rights of Shias. The two graves, it was later ordered, were to be shifted with boundary walls constructed around the contested plots. In 1986, the state administration cited fear of sectarian conflict and the court put its order in abeyance for the next decade, calling for a peaceful resolution. In 1996, the abeyance was extended by another 10 years. In 2013, the court asked Advocate General Irshad Ahmad why the dispute has been allowed to linger while in 2014, a bench comprising Justices RM Lodha, Kurian Joseph and to

screen Fali Nariman declared themselves ‘satisfied’ that the two graves had been enclosed by a permanent masonry wall and as such ‘no further order needs to be passed’. The bench did however grant the applicants liberty to make a fresh application ‘narrating facts and the subsisting grievances of the applicants’^{**}.

The longest trial in the US was the McMartin preschool abuse trial which continued for seven years and its cost of the investigation was \$15 million and the lengthiest trial in the United Kingdom was the Jubilee line corruption trial which continued for 21 months and the cost of the trial was £60 million^{††}.

Conclusion

In conclusion, the principle of "justice delayed is justice denied" highlights the critical need for timely access to justice within any legal framework. A fair and efficient trial process is essential to uphold the fundamental rights of individuals, protect the interests of victims, and sustain public trust in the rule of law. Through case studies, we have observed how trial delays profoundly impact the accused, victims, witnesses, and the community at large. Extended pretrial detention can cause significant psychological and emotional strain for defendants, hindering their ability to mount a robust defence. Meanwhile, victims and their families are deprived of closure and justice as cases linger, prolonging their anguish and impeding the healing process.

Furthermore, prolonged trials risk the loss of crucial evidence, fading memories of witnesses, and logistical hurdles in securing testimonies. As legal proceedings drag on, witnesses may become unavailable or their recollections less reliable, obstructing the pursuit of truth. Moreover, delays in high-profile cases can erode public confidence in the judicial system, suggesting inefficiency and raising doubts about equitable justice delivery. To prevent justice from being denied, legal systems must prioritize strategies that expedite trials while upholding due process. Implementing effective case management techniques, establishing reasonable trial timelines, and addressing underlying causes of delays are crucial steps toward ensuring prompt case resolutions. Ultimately, a speedy trial framework is foundational to a fair and impartial legal system, where the rights of individuals are upheld, victims find closure, and societal trust in justice is preserved.

By acknowledging and mitigating the impacts of trial delays, we can advance toward a more efficient and equitable legal system that promotes fairness, equality, and timely access to justice for all.

^{**} https://brill.com/display/book/9789047417170/Bej.9789004149274.i-250_007.xml

^{††} Linder, D. (2007). The McMartin preschool abuse trial. Available at SSRN 1030559.

References

- 1) Chronowski, N., & Vincze, A. (2021). The Hungarian Constitutional Court and the Central European University Case: Justice Delayed is Justice Denied: Decision of the Hungarian Constitutional Court of 6 July 2021 and the Judgment of the ECJ of 6 October 2020, Case C-66/18. *European Constitutional Law Review*, 17(4), 688-706.
- 2) Gasana, J., Gachihi, M. W., Amatsimbi, H. M., & Ruvebana, E. Justice Delayed is Justice Denied: Examining the Role of Access to Justice Bureaus in Ensuring Timely Conflict Resolution in Rwanda. *Available at SSRN 4258656*.
- 3) Gould, J. B. (2008). Justice Delayed or Justice Denied? A Contemporary Review of Capital Habeas Corpus. *Justice System Journal*, 29(3), 273-287.
- 4) Governatori, G., & Rotolo, A. (2011, July). Justice delayed is justice denied: Logics for a temporal account of reparations and legal compliance. In *International Workshop on Computational Logic in Multi-Agent Systems* (pp. 364-382). Berlin, Heidelberg: Springer Berlin Heidelberg.
- 5) Gupta, B., & Agarwal, A. (2019). Justice Delayed is Justice Denied. *Available at SSRN 3335923*.
- 6) Ngoepe, M., & Makhubela, S. (2015). "Justice delayed is justice denied": Records management and the travesty of justice in South Africa. *Records Management Journal*, 25(3), 288-305.
- 7) Pistone, M. R. (1999). Justice delayed is justice denied: a proposal for ending the unnecessary detention of asylum seekers. *Harv. Hum. Rts. J.*, 12, 197.
- 8) Sourdin, T., & Burstyner, N. (2014). Justice delayed is justice denied. *Victoria University Law and Justice Journal*, 4(1), 46-60.