



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 3 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 3 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-3-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserved with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

LEGAL REFORMS REQUIRED IN JUDICIARY

AUTHOR – AKSHIT DWIVEDI, B.A. LL.B. (HONS.), HIDAYATULLAH NATIONAL LAW UNIVERSITY, RAIPUR

BEST CITATION – AKSHIT DWIVEDI, LEGAL REFORMS REQUIRED IN JUDICIARY, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (3) OF 2024, PG. 194-200, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

What challenges the Indian judiciary is a system hailed earlier as a robust protector of the rule of law and fundamental rights. The case of Vishnu Tiwari vs. the State of UP presents such challenges by showcasing the human cost due to judicial flaws and systemic inefficiencies. The present paper mirrors the structural and functional problems of the system, including case backlogs, corruption, and lack of accountability. In this context, it engages in an in-depth analysis of the Indian judicial system with an emphasis on demonstrating the urgent need for comprehensive reforms in the judiciary by bringing out the Vishnu Tiwari case. It recommends improving judicial accountability through evaluation, setting up an independent Judicial Appointments Commission, improvement in case management systems, and augmentation in legal aid services. Comparative lessons from jurisdictions such as the UK, the US, and Canada offer valuable insights for reforming the Indian judiciary. Finally, the paper concludes that this meaningful reform is not only a requirement for speeding up justice delivery, but it is also required for regaining public confidence in the judiciary's effective and just delivery of justice.

Keywords: Indian Judiciary, Judicial Reforms, Vishnu Tiwari case, Case backlog, Judicial accountability, Legal aid case management, Judicial appointments, Comparative analysis, Justice delivery.

Introduction

The Indian judiciary, in its formative years, was considered to be a strong protector of the rule of law and a protector of the fundamental rights of the citizenry by many globally. However, for recent decades it has been bogged by a few flaws, many of which have been brought into sharper relief due to a number of cases that underscore the urgency of reforms. One of these would be the case of Vishnu Tiwari vs. the State of UP³⁸¹. This is beyond narrating how an individual went through so much suffering for so many years; rather, this reveals deeper underlying weaknesses within the judiciary's framework and mechanisms.

No doubt, the problems faced by the judiciary in the present times are complex and concern

accessibility, efficiency, accountability, and integrity. With the growth and development of India, burdens on its legal system are bound to grow, and the available infrastructure falls woefully short of the needs. The challenge, hence, would be to pick apart these issues and find genuine reforms solutions that can bring back public belief in the judiciary and ensure that justice is indeed delivered in a prompt and just manner. This paper, hence refers to the case of Vishnu Tiwari, further elaborates on how inefficiencies in the judiciary translate to real-life consequences and hence, the urgency for reform.

1. Overview of the Indian Judicial System

1.1. Structure of Judiciary

The process of the judicial system in India is rooted in the Constitution, which provides for a hierarchical social order whereby justice is dispensed from the grassroots level to the apex of justice in the land. Sitting on top of the

³⁸¹ Diganth Raj Sehgal, Wrongful convictions in prison in light of the case of Vishnu Tiwari v. State of UP - iPleaders, iPleaders (2021), <https://blog.iplayers.in/wrongful-convictions-prison-light-case-vishnu-tiwari-v-state/> (last visited Aug 19, 2024).

pyramid is the Supreme Court, the ultimate arbiter of the law with jurisdiction over all courts and vested with the powers of reviewing legislation. The High Court is the highest State Court and supervises the Lower Courts on issues of law. They hear appeals against decisions of the Lower Courts, as well as significant constitutional cases and cases involving public interest.³⁸²

Under the High Courts come the subordinate judiciary, which includes District and Sessions Courts, which in turn deal with most of the civil and criminal cases. In turn, these are further divided into Civil Courts (comprising of District Courts, Civil Judge Courts) and Criminal Courts (Sessions Courts, Magistrate Courts). The judiciary and its structure in each level have been fashioned so that a multi-level system of review and appeal does in fact exist, and people do have enough avenues to seek justice. This, however, portends a challenge in this hierarchical structure. The huge number of cases, combined with the many complicated layers of appeals and reviews that each holds, ends up delivering literally slow justice. Moreover, the subordinate judiciary is generally under-resourced and overburdened, thus there are inefficiencies at this low level that sometimes have a trickle-down effect to taint the whole system.

1.2. Role and Functioning

This is extrapolated because the job of the judiciary is not merely confined to only disbursing its role of settling these disputes. It acts more like a guardian of the Constitution, interpreting the provisions of that great document and ensuring that all laws and all executive actions conform to constitutional principles. This is further empowered with the power of judicial review, through which the judiciary invalidates such laws and executive orders on the ground of their constitutionality.

The Judiciary does much more than it is constitutionally required to: It has contributed to

social justice through Public Interest Litigation, and many times has played a key role in protecting the environment, human rights, and social welfare. However, smooth functioning is being impeded by several factors in the functioning of the Judiciary itself, including procedural inefficiencies, lack of infrastructure, and insufficient manpower. One of the most serious problems is that of a shortage of judges; however, India has one of the lowest judge-to-population ratios in the world, where judgment is given by only about 21 judges per million individuals against the recommended ratio³⁸³. An enormous delay primarily caused by a shortage of judges in the face of an overly heavy workload results in the reduction of the quality of judgments. Besides, these problems are exacerbated by dated processes and lesser technological integration.

2. Problems before the Judiciary

2.1. Backlog of Cases: One among the biggest issues before the Indian Judiciary is the huge backlog of cases. With over 40 million cases pending in various courts, the system is not at par to give justice in an effective manner. This becomes worsened at the lower courts, where cases just keep dragging for years, if not decades. Justice delays also push the individuals involved into acute problems and ruin public confidence in the legal system.

2.2. Corruption and Integrity Issues: The judiciary has yet another critical issue raking at its integrity, and that is corruption. Numerous allegations regarding the judiciary, in particular judicial officials, have often been brought to the fore, marring the very tenets of impartiality and fairness bound with the judicial process. Corruption erodes citizens' trust in the judiciary and compromises the principle of the rule of law, engendering a perception that justice can be bought or manipulated.

2.3. Accountability: This is among the prime concerns which loom large on the judiciary in today's date. The system of appointment of judges has always been an opaque system. The

³⁸² Nishtha Jaswal & Lakhwinder Singh, Judicial Activism in India, Bharati Law Review (2017), <https://docs.manupatra.in/newsline/articles/Upload/0BD8A AF5-4031-484F-AB92-2B84EFE0ABCA.pdf>.

³⁸³ Sneha Mahawar, Functions of judiciary - iPleaders, iPleaders (2022), <https://blog.iplayers.in/functions-of-judiciary/> (last visited Aug 19, 2024).

appointment process of the judges, especially in the higher judiciary, has not been transparent at any point in time. The Collegium system that appoints the judges to the apex Court and the High Courts does it without any formal guideline or criterion. This has often led to many allegations of nepotism and favoritism. Again, there is no mechanism by which the judges can be held accountable for their performance or conduct; therefore, acts of judicial misconduct can often go scot-free.

3. *The Case of Vishnu Tiwari vs. State of UP*

3.1. Case Background:

The case of Vishnu Tiwari may represent what is seen as going on in the Indian Judiciary. Arrested in 2000 on charges of rape and atrocities under the SC/ST Act, he was convicted based on testimony from the complainant alone, without thorough investigation or corroborative evidence. This conviction is all due to a flawed judicial process wherein due diligence was not exercised and the defense was poorly represented. The case is an illustrative example of risks in cases where conviction is rested only on testimonies, without a proper investigation of the facts. This is also how the whole process of justice gets warped by social biases and the urge to dispense Justice, in so many cases, especially those downward along society's scale. Flaws in the system from which Tiwari had to suffer included 20 years in prison bars before his final release on acquittal.

3.2. Legal Proceedings and Imprisonment

The proceedings in the case of Vishnu Tiwari did not provide justice in due consideration. As the case progressed with years and years of dragging, his pleas went to deaf ears where barely any progress was made. In the absence of any legal aid that was made available and the appellate courts not expediting the case, Tiwari was left thrown in prison to suffer his life for no crime committed by him. The discharging of the Sedition case against him by the Allahabad High Court in 2021 came as a victory, but one that cost two decades of freedom. This case is a glaring reminder of the

consequences of a slow and burdensome justice system. The long imprisonment of an innocent man should point the way to reforms that could assure a swifter disposition of cases, particularly of very serious crimes and the poor. In so doing, it will underscore the importance of judicial oversight and the need to establish mechanisms that can quickly identify and rectify the judicial errors involved in wrongful convictions.

4. *Judicial Failures Evident in the Case*

The case of Vishnu Tiwari itself reveals some very serious lapses in the process of justice delivery: inadequate investigation, lack of effort to find corroborative evidence, and no adversarial testing of the testimony of the complainant. This goes on a larger plane of the criminal justice system, where investigations are most often made only to fulfill formalities and could lead to convictions for wrongs.

4.1. Poor Legal Representation: Tiwari's case demonstrated poor representation, which pointed towards the systemically flawed arrangement of providing legal aid under the Indian regime. Most accused persons, especially those coming from marginalized sections, have no access to adequate legal representation, which seriously impairs their chances of ensuring an effective defense.

4.2. Delayed Justice: Because of the delays that are experienced with the appeal system, Tiwari was made to be in prison for long though the court had no evidence to show that he was the killer. This is an example of a case of much-delayed justice is no justice at all.³⁸⁴

5. *Legal Reforms Needed in the Courts*

5.1. Accountability And Transparency Of The Judiciary

Accountability within the Judiciary can best be addressed by mechanisms that ensure judges are held to account for whatever their deeds and decisions may be. These include the judicial performance evaluation system as an

³⁸⁴ Namita Bajpai, Falsely accused of rape, UP man freed after spending 20 years in jail, The New Indian Express (2021), <https://www.newindianexpress.com/nation/2021/Mar/03/falsely-accused-of-rape-up-man-freed-after-spending20-years-in-jail-2271749.html> (last visited Aug 19, 2024).

effective way through which judges can be rated or ranked in consideration of cases handled, time frames within which these cases were handled, and ethical standards. The system would help in enhancing the performance of judges and restore public confidence in the Judiciary.

Second, the entire judicial appointments process has to be reformed, with much more transparency and fairness at all levels. The current Collegium system, clearly very well intentioned, is not transparent and has come in for charges of being opaque. Hence, the setting up of an independent Judicial Appointments Commission with representation from judiciary, executive, and civil society will ensure that appointments are made on the basis of merit and integrity rather than on the anvil of personal nexus or political patronage.

5.2. Case Management and Fast-Track Justice

Case management needs to be strengthened to avoid any case backlogs and make sure that justice is delivered without any delays. These can be brought in through computerized case management systems. These systems will allow tracking of the case status, setting timelines, and even organizing the prioritizing of cases. Further, it needs to be backed by technology adoption in the form of e-filing, digital records management, and virtual hearings to be put into place in order for the judicial process to be fast-tracked and expedited.

Another very important reform that has to be put in place in order to achieve a substantial reduction in time delays relates to the fast-tracking of courts, with sensitization and orientation for the elimination of delays, particularly in the case of serious crimes, women, and children. There should be adequate resourcing of fast track courts, with well-established manning levels of seasoned judges to elapse cases most efficiently and effectively.

Access to justice is a basic right, yet for a huge cost of the legal process, it is far from the reach of many because of the high cost of legal

services and lack of awareness regarding legal aid. One has to strengthen the system of legal aid so that persons like Vishnu Tiwari get competent legal assistance regardless of their socioeconomic status. This could be achieved with increased funding for the institutions offering legal services in some countries, the training of lawyers employed there, their oversight, and public awareness of accessibility to legal aid.

Moreover, the legal aid services shall become more proactive in identifying and covering the most deserving cases among the rural and least privileged communities. This might mean outreach programs, legal literacy campaigns, and networking with CSOs to ensure that legal aid is accessible to the really needy.³⁸⁵

6. Procedural Reforms

Innocent miscarriages must be stopped, and major ways to do so lie in procedural reforms. First, there should be an introduction of much stricter standards for the admissibility of evidence, more so in very serious crimes. This will ensure that convicted persons are convicted based on firm and reliable evidence, therefore lessening the possibility of wrongful conviction.

Similar review mechanisms should be put in place regularly for long-pending cases, with a view to ensuring that no one is unjustly kept in custody for long periods without trial or appeal. One would go a step further in terms of improving the system by having better programs of training for judges and lawyers to better equip them for the most current level of legal developments and procedural requirements. This may help reduce the occurrence of errors and enhance and upgrade the quality of justice.

7. Comparative Analysis with Other Jurisdictions

7.1. Judicial Reforms in Other Countries

Countries like the United Kingdom, the United States, and Canada have been implementing judicial reforms that can be followed by India.

³⁸⁵ Vajiram Ravi, *Judicial Reforms*, Vajiram Ravi (2024), <https://vajiramandravi.com/quest-upsc-notes/judicial-reforms/> (last visited Aug 19, 2024).

These jurisdictions have devised ways to hold the judiciary accountable and have transparent appointments, which also have effective control on case management to ensure that the judiciary can deliver effectively and equitably.

The burden is upon the Judicial Appointments Commission to ensure appointments to judicial office in the UK are made on merit and transparently. A Commission independent of political pull and sway, it follows an arduous process to guarantee that the better-qualified and suited individuals are appointed on to the bench in a judiciary office.

Judicial technology has also gained widespread use in the United States and contributed to the change of paradigm in the system of providing law. Systems of electronic filing, case management online or similar technologies, and video conferencing facilities have become almost normal and have ensured further backlogs are reduced while making access to justice efficient. The United States judiciary also has a very rich tradition of systems that provide for holding judges liable for their conduct and adherence to ethical standards.

An example that can be followed by India is the legal aid system in Canada. Canada has plentiful legal aid services for people who need them, and special importance is given to the supply of competent legal representation for weaker sections of the society. The Canadian system also gives greater emphasis to early case disposition by providing mechanisms to avoid prolonged battles in the courts, thus reducing the burden on the same.

o **Lessons for India**

Some lessons that India can learn from international examples include: a fully independent Judicial Appointments Commission along the lines seen in the UK; ensuring that appointments of judges are based on merit and integrity; and the use of technology, as in the U.S., that might help in modernizing the Indian judiciary and bringing down the huge delays in the system. Strong legal aid services as in Canada will ensure

equal access to justice for all citizens, irrespective of their financial condition.

8. Policy Recommendations

8.1. Proposed Policy Changes

The following are some of the important policy changes required for reforming the Indian judiciary based on the analysis in the preceding sections:

i. A judicial performance evaluation system is needed to bring accountability:

An independent judicial appointments commission to make transparent choices and to make appointments, setting up modern case management systems and increasing the use of technology in courts. Strengthening legal aid services so that competent legal representation is within reach of every citizen. Procedural reforms to prevent miscarriage of justice by way of more rigorous standards for evidence, etc, and periodical review of long-pending cases.³⁸⁶

9. Implementation Strategies

For these reforms to be implemented, synchronized efforts of the government, judiciary, and civil society are needed. The government should primarily take the lead, enact the required legislation, and provide the wherewithal to implement the reforms. The judiciary itself has to accept change and work toward improvement in its functioning. Civil society organizations can play a very constructive role in advocating for the reforms and holding the system accountable.

The Vishnu Tiwari case versus State of UP is a startling reminder of the inherent defects that lie within the contemporary judicial setup of India. His wrongful conviction and 20 years in jail are a stark reminder of how deeply lives can be affected by judicial inefficiency, lack of accountability, and systemic bias. That the acquittal of Tiwari on all counts is a victory but, one that came too late, clearly underlines the need for complete overhaul of judicial reforms. It is not an isolated incident but points to deeper

³⁸⁶ Richard Nobles & David Schiff, From understanding miscarriage of justice to reform, Oxford University Press eBooks 229 (2000), <https://academic.oup.com/book/2555/chapter-abstract/142882684?redirectedFrom=fulltext> (last visited Aug 19,2024)

systemic concerns crying out for immediate notice.

The present state of the judiciary, with its massive backlog of cases, long delays, and charges of corruption, puts a question mark on the dispensation of justice. An old saying is that justice delayed is justice denied. These long-pending inefficiencies in the system have not only eroded public trust in the system but also ensured that social and economic inequalities continue to persist. In a country where the judiciary is often viewed as the last recourse of the commoner, its failures can be devastating.

SUGGESTIONS

In my opinion, the changes required in the Indian judiciary are not those that would speed up the system or reduce the pendency of cases. It is to make the people believe in the system again—the system that should be the very basis of democracy and that safeguards people's rights. The Vishnu Tiwari case is a perfect example of the human cost of such an imperfect judicial process. His two decades behind bars would be an adversity not only personally but also bequeathed upon the very design of the system.

Accountability is a need that merits no overemphasis. Judges enjoy enormous power, and with power, there comes the duty to exercise it in a manner whereby rendered verdicts are just, equitable, and above all, according to law. However, the current opacity in appointments to the bench and the lack of an effective mechanism for ensuring that judges are held accountable for their actions reduce the integrity of the judiciary. Establishing a judicial performance evaluation system, as this paper proposes, would go a long way in ensuring that judges not only possess the required qualifications but are also committed to upholding the highest standards of judicial conduct.

But delays in the courts are not just logistic, but a denial of denial of justice. Literally, every day a case fails to conclude, the life/lives at risk or in jeopardy hovers in a state of suspense. For

people like Vishnu Tiwari, this slow pace of justice just disrupted and stripped him from the most productive years of his life. While fast-track courts, modernization of case management, and use of technology can help reduce such delays, more serious efforts must be made to remove the basic causes of these inefficiencies: the shortage of judges and outmoded procedural norms.

The judiciary will also be alive to and accept socio-economic dimensions of its functioning as enshrined in the provisions relating to legal aid. Inequitable access to competent legal representation unfairly burdens already marginalized communities, which often lack the resources to navigate through the labyrinth of legal procedures. Strengthening legal aid, therefore, is not a question of providing legal representation but of leveling all the fields, ensuring everybody, regardless of socio-economic status, has equal chances for justice.

I believe that the most essential element of judicial reform should be the change in the judicial culture, where the attitude is that there should be a fairly speedy dispensation of justice and the judges should be empathetic and deeply sensitive to the social consequences of wrongful convictions. Judges, attorneys, and court staff must constantly be reminded that behind each folder is a real person whose life is greatly impacted by what they do—or fail to do.

Ultimately, judicial transformation is not about tweaking a broken system but making sure the courts assume their place as guardians of justice. It means creating a system that upholds the rights of individuals, never forgetting the marginalized, and making justice a right for all people rather than a privilege for a few. The Vishnu Tiwari case must shake them, reveal the doings of all individuals with stakes in the judicial process, and make them finally perform the incumbent reforms so that no such miscarriage of justice occurs again.

CONCLUSION

Reforming the judiciary in India is not going to be an easy task. It calls for the collective will of the judiciary, the government, and civil society. It would call for a zeal for the transparency, accountability, and equability of all. Above all, it will need the realization that the judiciary is not simply a regime of law or procedure: rather, it is an institutional pedestal holding within itself the reins of millions of people. The reforms recommended in this paper are but a first step in the pragmatic realization of the demand that has to be made: a proper indicator of success might be that no more cases such as that of Vishnu Tiwari ever occur. The judiciary needs to deliver justice not just swiftly but also sensitively and fairly.

10. Judicial Appointments Commission, Annual Report 2020-2021 (2021), <https://judicialappointments.gov.uk/reports/annual-report-2020-2021>.

REFERENCE

1. INDIA CONST. art. 124.
2. INDIA CONST. art. 136.
3. Legal Services Authorities Act, No. 39 of 1987, § 12, India Code (1987), https://legislative.gov.in/sites/default/files/A1987-39_0.pdf.
4. National Judicial Appointments Commission (NJAC) Bill, 2014, Ministry of Law & Justice, <https://www.indiacode.nic.in/bitstream/123456789/2137/1/a2015-40.pdf>.
5. Supreme Court Advocates-on-Record Ass'n v. Union of India, (1993) 4 S.C.C. 441 (India).
6. Hussainara Khaton & Ors v. Home Sec'y, State of Bihar, A.I.R. 1979 S.C. 1369 (India).
7. Vishnu Tiwari v. State of Uttar Pradesh, Criminal Appeal No. 953 of 2021, Allahabad High Court (India).
8. R.S. Nayak v. A.R. Antulay, (1984) 2 S.C.C. 183 (India).
9. Law Commission of India, Report No. 245: Arrears and Backlog: Creating Additional Judicial (Wo)manpower (2014), <http://lawcommissionofindia.nic.in/reports/report245.pdf>.