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**PROBLEM OF PENDENCY IN COURTS: A CRITICAL APPRAISAL
FROM TECHNO-LEGAL APPROACH**

Dheeraj kumar¹

ABSTRACT

As on May 2021, the total pendency before the Subordinate Courts across India is 38293489 cases, including 28031014 Criminal and, 10262475 civil cases. The prevalent situation is not so appreciable even at the High courts, as the total pendency there ranges over 5761046 Cases, including 4129641 Civil and 1631405 Criminal Cases. Moreover the Pendency before the Supreme Court is over 67,279 cases. In view of the disheartening statistics, the most famous and widely discussed among the legal fraternity, the fundamental “right to speedy trial” as categorically and explicitly recognised by the Supreme Court in Hussainara khatoon’s case to be integral part of “right to life” under article 21, seems to have been almost forgotten or to a certain extent being impliedly infringed. Various reasons are attributable to this grave and most pertinent cause before the entire legal and judicial system of the greatest democracy of the world, despite of having the most powerful Supreme Court under the comprehensive constitutional framework. This paper examine the feasibility to incorporate adaptable changes in the functional approach and manner of working of the Indian judicial system, from traditional to a modern one, in spite of blaming one-another for the most common reasons. It emphasises upon the critical appraisal of complexities in the existing legal framework and their societal impact from the socio-legal perspective. It puts forth the necessity of inculcating the scientific temperament and technological approach for just and proper solutions, in addition to due attention towards the most genuine causes affecting the fair administration of justice without unnecessary delay.

¹ Junior Research Fellow, Post Graduate Department of Law, Patna University, Patna (Bihar).

KEYWORDS: delay, pendency, fair and speedy trial, administration of justice, scientific, technological, temperament, approach

INTRODUCTION

An aggrieved person moves to the court in the hope to get justice administered fairly and without unnecessary delay, but the existing sorry state of affairs disheartens the aggrieved persons, when they face the problems of unnecessary delay and several forms of unfairness in their dealings with the system of administration of justice. One of the most common causes responsible for the delay is huge pendency in the courts. The problem of pendency prevents the courts from administering justice fairly, properly and, without unnecessary delay. In such a complex situation courts are also helpless, in spite of the fact that several recommendations and suggestions were made by various commissions and committees, including the law commission. Several efforts were attempted and some are in the process of implementation to reduce the pendency, but in effects they seem to be futile or less effective. This paper examines the problem of pendency and other inseparably connected issues preventing the courts and obstructing the divine function in furtherance of administration of justice. The paper critically examines the gravity of the problem, evaluates the intensity of causes and, explores the possibility of effective and workable solutions with the help of feasibility and implication of scientific temperament and, technological approach in their dealings with the contemporary socio-legal problems from techno-legal perspective.

CONCEPTUAL BACKGROUND

Justice is one of the noble and pious ideals in legal and judicial system of every civilized and developed as well as developing country around the world. Administration of justice is the central idea behind the establishment, existence and continuance of the courts. The faith and confidence of the people reposed on the legal and judicial system get frustrated and invites abhor criticism, when justice is not administered within reasonable time frame so as to meet the people's expectations from the system. One of such instances appears, when inordinate delay is caused due to various reasons including the huge pendency of cases.

Securing justice to all its citizens in social, economic and political sphere of their lives is one of the prominent goals as reflected from the mirror of the constitution². It includes ensuring

² CONSTI INDIA, Preamble.

administration of justice within reasonable time, otherwise of no relevance. The state thereby is duty bound to fulfill the constitutional objective by striving to attain the aforesaid goal. Moreover it is specifically incorporated³ under article 38 as a part of directive principles of state policy⁴, which although not justiciable but fundamental in the governance of the country⁵, whereby the state is guided and expected to adhere, while enacting laws, laying down the policies as well as implementing those laws or policies.

Rule of law is a basic constitutional principle for ensuring of which the constitutional provisions are designed and directed towards. Maintenance of rule of law and observance thereto is the constitutional as well as moral obligation of the state authority. Administration of justice fairly, without unnecessary and unreasonable delay is one of the facets of, and a step towards maintenance of rule of law.

Equality before law is one of the fundamental aspects or features of the doctrine of rule of law, also incorporated under the Indian constitution⁶. The constitutional mandate of equality before law is equally applicable in relation to the administration of justice, which requires that similar cases involving equal nature, pecuniary value, gravity of offence or severity of punishment as well as their impact on society, should be disposed of within equally reasonable time without unnecessary delay. In the form of negative mandate to the state, it is obligation on the concerned authorities to prevent discrimination in the form of disproportionate and inordinate delay in disposal of similar cases.

Equal protection of law as another facet of rule of law explicitly recognized under the constitution⁷ in the form of positive mandate to the state, requires affirmative steps on the part of the concerned authorities to ensure administration of equal justice within reasonable period of time having regard to fairness, absence of arbitrariness, in cases of similar nature and kind. Several legislations are examples of the efforts of the state in this direction.⁸

Right to speedy trial recognized as integral part of right to life⁹ in *Hussainara Khatoon's case*¹⁰, is required to be enforced by the state without failure, otherwise it would result into miscarriage of justice by the state authorities leading to infringement of fundamental right to life. In case

³ *Id.*, art. 38.

⁴ *Id.*, Part IV.

⁵ *Supra* note 1, art. 37.

⁶ CONSTI INDIA, art. 14.

⁷ *Ibid.*

⁸ The POCSO Act, 2012; The Juvenile Justice (Care and Protection of Children's) Act, 2015, etc.

⁹ CONSTI INDIA, Art. 21.

¹⁰ AIR 1989 SC 1360.

of such infringement the constitutional courts must immediately rush to the rescue of the aggrieved person, and should ensure the enforcement of such crucial right, by issuing any order/directions/writs, through appropriate proceeding in suitable cases. Such dynamic and courageous steps would strengthen the people's faith and confidence in the legal and judicial system, which in turn will ultimately conscientiously empower the courts to come forward for the cause in furtherance of justice without unreasonable delay.

Equal justice & free legal aid is one of the important and sincere obligations of the state under the constitution.¹¹ It has to be ensured that the legal system operates in a manner to promote justice, on the basis of equal opportunity. For that state should provide for free legal aid, by enacting suitable legislation or framing schemes or in any other manner to prevent denial of opportunities for securing justice to any citizen by reason of economic or other disabilities.

Independence of judiciary: in terms of material, manpower and other resources, as well as judicial infrastructures including court rooms, accommodation for judges and other court-staffs, autonomous funds for development, repairing and management of judicial administration. These are issues located at the very core of the constitutional vision¹² for impartial, independent and fearless judiciary, aimed at fair and efficient administration of justice without unnecessary delay.

ISSUES RELATING TO PENDENCY

Huge pendency is one of major factors causing heavy obstruction in the efficient and expeditious functioning of the legal and judicial system including courts. It has the effect of creating mental pressure and physical tiredness on the individual judges, which indirectly affects their intellectual ability to apply their legal acumen in course of deciding a matter pending before him. The graph of Pendency is surprisingly rising day by day. Since the independence due to tremendous increase in the heterogeneous population of Indian, the present situation in terms of pendency of cases seems to be or may be referred to as *litigation explosion*.

Moreover the advent of era globalization, liberalization and privatization has also significantly contributed to the gravity of the issue of pendency. Due to enormous increase in and widening the scope of functions of government on account of development in various spheres of life of

¹¹ CONSTI INDIA, art. 38.

¹² CONSTI INDIA, art.50.

the public, in most of the pending litigation government is one of the parties. No doubt, another facet of this issue is also evidence of the fact of increase in awareness among the people about their legal rights and remedies for grievances.

Although howsoever good or bad and for whatsoever reason, the problem of huge pendency has by and large affected the fair trial without unnecessary delay, which impliedly results into infringement or deprivation of right to speedy trial. More particularly inordinate and unnecessary delay in criminal trial has more cascading effect and very adverse impact on life and personal liberty of the accused, victim and their dependents also.

Several causal factors may be attributed to the vital and contemporary issue of pendency before courts, which has significant bearing on the smooth functioning of legal and judicial system of a constitutional democracy. These issues may be briefly discusses below as:

RELUCTANCE TO TRADITIONAL WAY OF FUNCTIONING

The court staffs as well as some of the judicial officers are not familiar with the operation and functioning of contemporary technology, and more particularly technology relating to the functioning and management of court affairs. Moreover even after introduction of the technology, many of the staffs are reluctant to the traditional manner of function, some of them are not interested nor do they want to learn and adapt themselves with such technology. Due to this reason still the courts are functioning in orthodox manner, resulting into increase in pendency.

INADEQUATE PHYSICAL AND MATERIAL INFRASTRUCTURE

The infrastructure relating to or in terms of courtrooms, for proper maintenance of records of judicial proceeding and other records, for properly and safely housing the technological equipment used in court, for accommodation of judicial officers and other auxiliary court staffs is another barrier in the speedy disposal of cases. These factors are contributing towards the increase in pendency.

INSUFFICIENT TECHNOLOGICAL RESOURCES

The courts in India, particularly those located in remote area is also facing the problem of scarcity or insufficiency of the technical resources such as Desktop, Monitor, CPU, keyboard, Printer, Photocopy Machine, Scanner, Laptops, CCTV cameras, other resources used for,

recording of evidences, copying of documents, storage of data, conduct of judicial proceeding through virtual mode including video-conferencing, and maintenance of judicial records.

LACK OF ADEQUATE AND PROPER TECHNICAL TRAINING

Lack of Adequate & proper technical training to the judicial officers and court staffs for properly and efficiently operating the technological equipment is another facet of the problem. Some of the staffs either do not undergo such training or take it lightly as a part of formality. On this point, the court administration as well staffs both are equally obliged. But in absence of compulsion for training or proper assessment of their technical efficiency, a large number of auxiliary court staffs are technically untrained or inefficient.

DELAY AND DEFECTS IN POLICE REPORT AND CASE DIARY

In most police stations across the country case diary or police report is prepared manually. It is well known fact that everyone can't be able to write legibly and accurately, same is the case with police officials also. Therefore many times a case diary or police report is not so legible or precise, as to enable someone to understand its true and accurate meaning, using ordinary skill and prudence within reasonable time. Moreover even after preparation of such case diary or police report, enormous delay happens in production of such documents before the courts. There is no existing mechanism to submit these documents to court through online mode. These factors jointly and severally contribute to the delay in judicial proceeding.

DELAY IN PROCESSING WITHIN COURT REGISTRY

The processing of a case within the registry is a slow process on account of several aforesaid and other reasons, which cause unexpected delay in listing the case for admission/ hearing/ disposal/ order, etc. This aspect also contributes significantly toward the graph of pendency.

DELAY IN GETTING COPY OF BAIL/INTERLOCUTORY ORDERS

Due to lack of staff as well as insufficiency of technical resources and required skill to efficiently operate such resources, enormous delay occurs in uploading, serving or communicating such order to the proper parties. Moreover, when a party requires a copy of such order, it also takes some time ranging to weeks and months due to inability or improper maintenance of records of judicial proceeding. In most of courts no mechanism exists to obtain such copy through online mode, which may reduce some sort of delay.

DELAY IN JUDICIAL SCRUTINY OF POLICE REPORT

After the completion of investigation, a police report is submitted before the court of judicial magistrate competent to take cognizance of the offences alleged in the report.¹³ It takes much time to scrutinize the submitted police report in order to take appropriate action on the report. Moreover the cognizance is taken in mechanical manner, but it is required to be taken judiciously. It is well established rule of procedure and judicial prudence that the magistrate is not bound to agree with and accept the police report as it is. Therefore he may either take cognizance or refuse to accept the report and direct further investigation.¹⁴ In all these processes it takes much time, which results in unnecessary delay in the process of trial, contributing to the pendency.

DELAY IN SERVICE OF NOTICE OR OTHER PROCESSES

After taking cognizance of the matter court issues process in the form of summon or warrant as the case may be. In suit or other civil proceeding summon is issued to the concerned party.¹⁵ In criminal proceeding, generally the court issues summon to the accused, but if the court is otherwise satisfied of the necessity, may issue warrant also to procure the attendance of accused.¹⁶ Even after the issuance of such process, in absence of any instantaneous mode of service of summon or warrant to the appropriate person or authority, it takes much time in service thereof to the party concerned, so as to procure their attendance or representation at the earliest opportunity, either in person or through pleader as the case may be, which ultimately delays the initial process before trial, thereby causing delay in the commencement of trial.

DELAY IN ATTENDANCE AND EXAMINATION OF WITNESSES

Even after the issuance and service of summon or warrant, due to various reasons delay occurs in the attendance or examination of witness. Some of the reasons may be the complex lifestyle, being busy in some other important work, or may be the fear in appearing before the court due to lack of adequate awareness about the legal processes and their importance. In addition to these factors absence of adequate technological resource and required skill to properly operate them so as to ensure the attendance and examination of witnesses through virtual mode through

¹³ The code of criminal procedure, 1973, § 173(2).

¹⁴ *Id.*, § 156(3)

¹⁵ The Code of Civil Procedure, 1908, §§. 27-31, read with. Order V & XVI

¹⁶ The code of criminal procedure, 1973, § 204,

video-conferencing or any mode other than physical appearance, in order to enable the conduct of judicial proceeding smoothly, within reasonable time and without unnecessary delay.

DELAY IN PRODUCTION OF EVIDENCE AND DOCUMENTS

The production of evidences and relevant documents during the process of inquiry or trial at the appropriate time as and when called upon, contributes significantly a lot towards the expeditious disposal of the cases. But traditional way of functioning judicial system, particularly physical mode of production of evidences or relevant documents takes much time resulting in to delay in judicial process. Moreover, even after providing legal recognition and validity to the use of electronic-records or documents or signature under the IT Act, 2000¹⁷ as well as incorporation of provision for electronic evidence under the evidence Act, 1872¹⁸, the absence of any instantaneous mode or other mechanism for production of evidences or relevant documents including through online or very few acceptance in digital form, causing the inordinate delay in judicial process and contributing a lot to the huge pendency.

LACK OF COORDINATION AMONG AGENCIES

The system of administration of justice comprises of various stake holders such as courts, prosecution, police, prison and other person or authorities connected therewith and relating thereto either directly or indirectly. For the smooth functioning of the entire judicial system and expeditious conducting of judicial process, proper coordination among them is of great significance to produce fruitful and effective outcome in the form of administration of justice without undue delay. But in spite of existence of various facets of application of information and communication technology, there is grave lack of effective coordination among the constituent agencies of justice delivery system, which is largely resulting in to delay contributing to pendency.

SOCIO-LEGAL IMPLICATIONS

The pendency before courts is not only a problem of or pertaining to the judicial system only, rather it has quite wide amplitude and ramifications over and throughout the other legal as well as social institutions of the society, which has various social, legal and, socio-legal implications

¹⁷The Information technology Act, 2000, §§ 4-6.

¹⁸The Indian Evidence Act, 1872, § 3.

affecting vividly the individual life and societal perception with respect to justice administration system. Some of the implications may be briefly illustrated as:

DELAY IN DISPOSAL OF CASES

Due to the huge number of pendency of cases, the speed of disposal get reduced, which results into delay in disposal and deficiency in quantum as well as the rate of disposal of cases. It is so happening because each and every case is required to be considered on their own merits in view of their peculiar facts and circumstances, and to be decided judiciously, which consumes considerable amount of time. During all these exercises as part of judicial process, due to prevalent rate of disposal the already existing pendency is not cleared within a particular duration, rather the rate of filing of new cases is increasing day by day, which adds to the existing dockets of pendency of cases, resulting into more and more delay in disposal of previously pending cases, posing increased amount of burden on the judges.

INCREASED BURDEN AND PRESSURE ON JUDGES

More and more filing of fresh cases and rise in the graph of pendency has effect of causing and tends to cause increased burden of workload resulting into physical as well as mental pressure on the judges. The existence of feeling of burden and effect of pressure cumulatively affects in conveniently acting in judicious manner and all around professional efficiency of judges to dispose of cases expeditiously.

HURRY IN DECISION MAKING

Considering the huge pendency of cases and regularly increase in backlogs, judges burdened with workload, therefore out of feeling of pressure, in order to avoid delay in disposal, they act hurriedly in course of the decision making process. Avoiding delay is quite good for the smooth functioning of judicial system, but hurry in decision making may result in to failure or miscarriage of justice. In such situation the famous saying “justice hurried is justice buried” seems to be coming true.

DENIAL OF OPPORTUNITY OF ADEQUATE AND FAIR HEARING

The litigant or parties to case are unable to get the opportunity of adequate and fair hearing on account of several disheartening factors such as lack of time, extreme urgency to dispose

quickly, and some others like the above discussed. Thus the parties are unable to press their contentions properly and substantially so as to convince the court in order to arrive at a rightful and fair conclusion in relation to the matter in controversy. Therefore the feeling of being aggrieved is developed in their mind, which hurts their conscience and thereby tends to result into loss of their faith and confidence towards the justice delivery system.

LOSS OF RELEVANCE OF DECISION

The expectation of any person aggrieved by injustice caused to him starts growing more and more right from the day on which he or she firstly approached the system for justice. But such expectations begins turning into frustration or feeling of hate against the system, when administration of justice to him gets delayed day by day. If justice were administered within reasonable time, that would have of great relevance to him. But as much as justice gets delayed, it loses relevance to him and left to be merely as a decision that means nothing to him. That is also quite far away from the administration of justice in real sense, which could have satisfied him conscientiously and emboldened his faith and confidence in the system.

WASTE OF TIME AND MONEY OF PUBLIC

As it is well known fact that like other affairs of the daily life of human being, litigation also requires the investment of considerable time as well as sufficient money to diligently and efficiently pursue the matter in order to and in the hope of administration of justice within reasonable time. However unnecessary delay on account of several factors including huge pendency in courts spoils the expectation, and ultimately appears to be resulted into the wastage of time and money of common man, particularly to those having insufficient means.

MENTAL TRAUMA TO THE AGGRIEVED PARTIES

The aggrieved person approaches the court in the hope and expectation of justice. When the matter gets delayed day by day frequently the parties go through mental trauma in the expectation of justice in the form of the decision in the case. Their hope from the system degrades, which causes severe tension in the mind resulting into mental trauma. Due to which they are unable to think more effectively about the progress in their family life. That ultimately causes obstruction in the social as well as national development.

IMPLIED DENIAL OF JUSTICE

Huge dockets of pending cases one of the obvious reasons and a substantial cause of delay in the administration of justice. It means due to the pendency of cases, some of the cases fail to get adequate judicial attention or get very few amount of judicial time, thereby decision making in those cases gets delayed unnecessarily. Particularly those cases in which parties are not adequately represented by efficient advocates who are paying due attention and very keenly interested in the matter. Thereby inordinate delay in those matters results into the implied denial of justice, because of inability of party to pursue the case attentively in absence of requisite financial or other resources for that purpose. In view of these facts and circumstances, the widely quoted phrase “justice delayed is justice denied” appears relevant.

DISSATISFACTION AMONG THE AGGRIEVED PARTY

When enormous delay occurs in deciding a case on account of huge pendency or otherwise, the party loses the hope of justice to him, thereby for that reason they feel aggrieved. The feeling of being aggrieved due to excessive delay is considered equivalent to implied denial of justice, which develops or promotes or results into dissatisfaction with respect to the working of the judicial system, among the party aggrieved thereby.

LOSS OF PUBLIC FAITH & CONFIDENCE

When the parties are aggrieved by the delay in deciding of cases, they are dissatisfied with the functioning of the justice delivery system. Therefore they often used to express their dissatisfaction as well as bitter experience about the judicial system and share it with the fellow members of the society. Due to which by and large population of that society appears to be losing faith in the system, thereby their confidence reposed on the system get frustrated.

BAD IMPRESSION OF JUDICIAL SYSTEM: NATIONAL & GLOBAL

Dissatisfaction among the aggrieved party on account of inordinate delay in disposal due to huge pendency is expressed in various modes through several means of social interaction in various walks of social life with the fellow members of the society at various platforms at national as well as global level. After listening about dissatisfaction and suffering of and by the aggrieved person, the other member of public gets wrong message and thereby form bad picture in their mind about the functioning and performance of judicial system. Thereby national and

international community gets the bad impression about the performance and manner of functioning of the judicial or legal system.

HUGE PUBLIC CRITICISM

All these factors such as grievance of the aggrieved person, dissatisfaction among the parties and their relatives, loss of public faith and confidence in the system, and the bad impression thereabout at national and international level, cumulatively leads to the attraction of huge public criticism of the legal and judicial system on account their inability or implied failure to administer justice without unnecessary delay.

IMPACT ON CAREER PROSPECT OF THE ACCUSED

In case where a criminal case is pending against any person particularly those who are preparing for their career in public services, even after securing their final selection, they are either not allowed to join the service or terminated from the service during probation period. Thereby severe prejudice is caused to them in respect of his career prospect in terms of public employment as well as other opportunities beneficial to their career.

TECHNO-LEGAL APPROACH

A. SCIENTIFIC TEMPERAMENT

Scientific temperament refers to an individual's attitude of logical and rational thinking as well as application of logic and rationality in order to solve the problems before him. An individual is considered to have scientific temper if someone employs a scientific method of decision-making in everyday life. The term "Scientific temperament" was first coined by India's first Prime Minister, Jawaharlal Nehru, in his book *The Discovery of India*.¹⁹

A Statement on Scientific Temper prepared by a group of scholars and issued on behalf of the Nehru Centre, Bombay, in July 1981, mentions that "Scientific Temper" involves the acceptance, amongst others, on the following premises²⁰:

- (i) "The method of science provides a viable method of acquiring knowledge;²¹

¹⁹ KAMP, Knowledge & Awareness Mapping Platform, available at: <https://kamp.res.in/Info/Common?Page=ScientificTemper>. (Accessed on 07.07.2021 at 06:14 p.m.).

²⁰ *Ibid.*

²¹ *Ibid.*

- (ii) The human problems can be understood and solved in terms of knowledge gained through the application of the method of science;²²
- (iii) The fullest use of the method of science in everyday life and in every aspect of human endeavour from ethics to politics and economics is essential for ensuring human survival and progress; and²³
- (iv) That one should accept knowledge gained through the application of the method of science as the closest approximation of truth at that time and question what is incompatible with such knowledge; and that one should from time to time re-examine the basic foundations of contemporary knowledge.”²⁴

CONSTITUTIONAL VISION

The Indian constitution envisages the development of scientific temper, humanism, spirit of inquiry and reform which is incorporated by the Constitution (Forty Second Amendment) Act, 1976 under article 51A (h) as a part of fundamental duties.²⁵ India is the first and only country to explicitly adopt scientific temper in its constitution. The first major programme under the Government of India to popularise “scientific temper” among the people was the *Vigyan Mandir* (temple of knowledge/science) experiment in 1953.²⁶ It was created by S. S. Bhatnagar, at the time Head of the Council of Scientific and Industrial Research (CSIR), in Delhi and launched by Nehru on 15 August. Its purpose was to “disseminate scientific information of interest to the rural population” and the centres were furnished with scientific tools, films, and books.²⁷

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ INDIA CONSTI. art. 51A cl. (h).

²⁶ G. S. Rautela and Kanchan Chowdhury, “Science, Science Literacy and Communication”. Indian Journal of History of Science. 51 (3) (Sep., 2016): 494–510, available at: https://insa.nic.in/writereaddata/UpLoadedFiles/IJHS/Vol51_2016_3_Art05.pdf.

²⁷ Rautela, G. S.; Chowdhury, Kanchan (1 September 2016). "Science, Science Literacy and Communication" (PDF). Indian Journal of History of Science. 51 (3): 494–510. doi: 10.16943/ijhs/2016/v51i3/48850. Available at: https://en.wikipedia.org/wiki/Scientific_temper#:~:text=The%20first%20major%20programme%20under%20the%20Government%20of,Delhi%20and%20launched%20by%20Nehru%20on%2015%20August.

RELEVANCE IN PRESENT CONTEXT

Lord Denning gave a piece of advice to judges that they should never lose their temper. The reason is obvious that an angry and agitated mind cannot do justice evenly and fairly. According to him, judges must have scientific temper. It is important for a judge to discipline his mind and temper. Different and difficult situations arise in court from time to time. Therefore, a judge should be able to deal with such situations with a cool mind. Only then justice can flow equally and smoothly.²⁸ Judicial patience is also part of judicial temperament. Lawyers and Judges are part of the coparcenary and both must understand each other. Temperament is never one sided, therefore must inculcate scientific temper in order to ensure the smooth and efficient functioning of judicial system so as to administer justice without undue delay.

APPLICATION OF TECHNOLOGY

There are various facets of technology in general and ever growing and dynamic arena of information and communication technology in particular, which is being widely used at a very scale across the world, for various purposes in daily life. Some of the facets of such technology can also be used to solve many socio-legal problems. Broadly speaking one of such issues or problems is the huge pendency in courts, which can be solved or reduced to a certain extent, with the help and the application of techno-legal approach in a diligent and sincere manner. Some of the instances of application of various facets of technology for the aforesaid purpose may be briefly discussed below as follows:

(1) SMS

The term “SMS” stands for the expression *Short Message Service*. It is a mode text messaging available over telephone, internet, and mobile as well as other electronic device. It can be used as a potential and efficient means to communicate to the parties, their advocates, witnesses and other person or authority concerned or required in the matter as the case may be, to whom and whenever it is necessary to inform. The SMS should contain the information regarding the next date of hearing, date of appearance, date for examination of witness, or other information

²⁸ Balram K. Gupta, From The Desk of Chief Editor, CJA e- Newsletter of Chandigarh Judicial Academy, Vol. 3, Issue 2 (Feb., 2018).

including the case no., court or place and time of appearance, name of parties, person or witnesses required to appear, and any other information relevant thereto.

(2) Voice Call

Even after widespread use and application of technology there are some people belonging to a section of society who are still not acquainted or conversant or not use the mobile application or other similar technology, except for making or receiving a call. In such cases it becomes imperatively necessary to communicate them with some traditional means of communication to provide adequate information about the matter pending before court. For that purpose making a call to such person would avoid unnecessary delay caused because of their ignorance, and would enable him in order to get adequate opportunity of hearing.

(3) E-Mail

The term “e-mail” stands for the expression *electronic mail*”. It is a mode of exchanging messages which is referred to as “mail” between the people using electronic devices connected with internet. It can also be used to instantaneously serve a copy of notice or Summon or warrant or order or judgment to any person or authority or the concerned party or their advocate or concerned police officer or investigating officer by the appropriate authority or by staff or officer of the court authorized in this behalf. It can also be used for the purpose of production of evidences or relevant document which are instantly necessary in course of the judicial proceeding.

(4) WhatsApp

WhatsApp Messenger is a mobile application. It allows users to send text messages and voice messages, make voice and video calls, and share images, documents, user locations, and other contents. It can also be used for the purpose of service or copy of a Summon or Warrant or Order or important document to any person or authority or the concerned party or their advocate or concerned police officer or investigating officer by the appropriate authority or by staff or officer of the court authorized in this behalf. One of such instances was witnessed, when the Delhi High Court²⁹ has approved the use of technology and social networks like WhatsApp, SMS, and email to serve a summons in judicial proceedings in the matter of *Tata Sons v. John Doe(s) and Ors.*³⁰ Taking a positive lesson from such de novo initiative, it is being widely used

²⁹ Speaking through Hon'ble Mr. Justice Rajiv Sahai Endlaw, Delhi High Court.

³⁰ CS(COMM) 1601/2016, vide Order dated 27 April, 2017.

for the aforesaid and related purposes by various courts situated within the territory of India in furtherance of cause of the administration justice to avoid undue delay.

(5) Mobile Applications

A mobile application, most commonly referred to as an “app” is a type of application software. It is designed to run on a multimedia electronic device such as mobile, smartphone or tablet or computer, etc. Mobile applications frequently serve the purpose to provide its users with similar services as those who access on PCs. Mobile Apps are generally small, individual software units with limited function.³¹ Thus it can also be useful for the purpose of facilitating requisite information about the status of pending cases.

One such instance of recognition and approval of the using a mobile application was witnessed, when the Hon'ble Chief Justice of India and Hon'ble Minister for Law & Justice, and, Electronics and Information Technology, Government of India in the presence of Hon'ble Chief Justices of all the High Courts launched a Mobile Application “e-Courts Services” on 22.07.2017. It is available for android and iOS users. Besides Mobile Application, National Judicial Data Grid for High Courts and e-filing application for District Courts and High Courts are also launched. With the launch of the app, all the data available on the National Judicial Data Grid (NJDG) for district and taluka courts is now available on mobile phone. The e-Courts Services app is available both on Google Play and Apple Store. It serves as a source of information both for the judicial delivery system and for lawyers, litigants, police, government agencies and other stakeholders as well.³² In this regard Justice Madan B Lokur³³ said that this app is extremely helpful and beneficial to lawyers and litigants. The App provides information related to Cases filed in the Subordinate courts and most of the High Courts in the country. One can use this exclusively for District Courts or High Court or both. By default the app is set for District Courts however you can change to High Court or Both.

(6) Websites

It is a collection of web pages and related content that is identified by a common domain name and published on at least one web server. For example “google.com” is also a website. All the websites accessible to general public collectively constitute the World Wide Web. There are also private websites that can only be accessed on a private network, such as a company's

³¹ What does mobile Application mean? Techopedia, available at: <https://www.techopedia.com/definition/2953/mobile-application-mobile-app> (Accessed on 11.07.2021).

³² E-Court Mission Mode Projects, available at: <https://districts.ecourts.gov.in/download-e-court-services-app> (Accessed on 20th Feb 2021 at 5:40 a.m.).

³³ Justice Madan B Lokur, Judge-in-Charge of the Supreme Court's e-Committee.

internal website for its employees. Websites are generally dedicated for a particular purpose, such as news, education, commerce, entertainment, or social networking. Websites can be accessed users over a range of devices, such as desktops, laptops, tablets, and smartphones. The app used on these devices is called a web browser.

It can also be used for the purpose of uploading and retrieving relevant information relating to pending cases such as FIR, Police Report, Notice, and Order, judgment, and other information related thereto, in order to facilitate smooth functioning of the judicial system for reducing or cutting short the delay usually caused on the pretext of communicating such information. This approach would definitely help a lot in order to reduce the pendency in courts and administering justice without unnecessary and inordinate delay. Although there are several websites of various courts and a common website for all courts, but those websites are required to be functionally improved, properly and regularly maintained and updated with relevant information for the smooth functioning of the judicial system.

(7) Video-Conferencing

Video conferencing is an online meeting between two or more participants using a camera and a microphone so attendees can see and hear each other. Businesses and individuals can use video conferencing to communicate with each other quickly and easily and to collaborate on projects as a group. It can be used generally for the purpose of conducting the judicial proceeding and particularly for the trial of cases, appearance of parties or any person, examination of witnesses whose presence cannot be ensured without unreasonable delay or expenses or inconveniences. There are various platforms used in India for conducting judicial proceeding and virtual hearing of the cases such as *Webex*, *Zoom*, *Google meet*, etc. Like the aforementioned, there are many others platforms that can be used for virtual hearing of cases.

(8) Artificial Intelligence

In General terms as a common man, Artificial Intelligence can be defined as a branch of computer science that can simulate human intelligence. It is implemented or demonstrated in and by machines to perform such tasks that actually require the use of human intelligence. Some of the primary functions of artificial intelligence include reasoning, learning, problem-solving and quick decision making or other complicated task requiring the use of intelligence.³⁴

³⁴ Tathagata Das, What is Artificial Intelligence (AI)? Available at: <https://tech4fresher.com/what-is-artificial-intelligence-ai/> (Accessed on 11.07.2021 at 01:35 p.m.).

A well trained artificial intelligence algorithm would be a very useful and reliable tool in the hands of the judges in highlighting the facts of a case, summary of the documents and oral or documentary evidence. It would greatly enhance the capability of the judges in handling the complicated matters involving voluminous records smoothly and efficiently.³⁵ In the United States, artificial intelligence has already been used in the courtroom and data analytics at various points and stages within the justice delivery system. Another instances thereof such as predictive policing to the pre-trial risk assessment, sentencing, parole and probation are already utilizing various facets of artificial intelligence and data technology in course of the courtroom proceeding.³⁶ For the Indian courts artificial Intelligence can be helpful to a great extent in order to reduce the huge pendency of cases, and to increase efficiency of judiciary as well as effectiveness of judicial proceeding in many aspects. However before adopting it into in the Indian legal system, some challenges related to privacy, data protection and other issues of ethical or legal importance need to be addressed.³⁷

(9) Use Of Scientific Tools & Technique In Investigation

Even after the emergence of the era of advancement of science and technology, in most of the cases the investigation is generally conducted in a traditional and very casual manner without using appropriate scientific tools and adopting suitable scientific technique properly. Therefore it is the need of the hour that for the purpose of expeditious and fair investigation, suitable scientific techniques needs to be necessarily adopted using the appropriate scientific tools, so as to prepare a scientifically accurate report and complete the investigation within a reasonable time in order to expedite the process of trial. This would ultimately help to a great extent in reducing the pendency and administering justice by avoiding unnecessary delay in trial on account of delayed investigation.

(10) Technical Training To The Staffs

For the proper and efficient use of appropriate scientific tools and adoption of suitable scientific techniques the judicial officers, other auxiliary court staffs, investigating officers, and police officers or any other person or authority concerned with the administration of justice should be given proper technical training in order to yield desired positive result, in order to avoid the

³⁵ Tripaksha Litigation, Artificial Intelligence in Judiciary, Available at: <https://tripakshalitigation.com/artificial-intelligence-in-judiciary/> (Accessed on 11.07.2021 at 02:00 p.m.).

³⁶ Staff Writer, Digital Justice: The use of Artificial Intelligence in the Courtroom, BOLD BUSINESS, And Available at: <https://www.boldbusiness.com/digital/digital-justice/> (Accessed on 11.07.2021 at: 02:13 p.m.).

³⁷ Kartik Pant, AI in the courts, The Indian Express, Available at: <https://indianexpress.com/article/opinion/artificial-intelligence-in-the-courts-7399436/> (Accessed on 11.07.2021 at 7:00 a.m.).

unnecessary consumption wastage of the time on account of non-application of technology, which could have been avoided if done so. It would be much helpful in the smooth functioning and increased efficiency of justice delivery system.

The above discussed instances of applications of various facets of technology are not the exhaustive because of ever-growing and dynamic ambit of science and technology. There are many others existing and growing facets of technology yet to be adopted for this purpose.

CONCLUSION

In view of the above discussion on the various aspects of issue of pendency in courts including the contributing factors and impacts thereof in the society, in various sphere of individual as well as social life of the parties related to the matters pending before the courts, it may be concluded that huge pendency in court results into the grossly flagrant violation of right to fair and speedy trial in particular and relative deprivation of right to life and personal liberty in general. The scientific temper needs to be inculcated among the members of the justice delivery system, so as to efficiently utilize the existing as well as emerging technology in the forms of various scientific tools, techniques and their applications as above discussed briefly, in order to substantially reduce the huge pendency of cases in our courts and ultimately realize the constitution vision of access to justice fairly without unnecessary delay. Moreover it is humbly suggested that if the suggestions made in this paper is properly taken into consideration by the appropriate person or authority concerned with the justice delivery system, it would be definitely and necessarily much helpful in order to efficiently overcome the problem of pendency in courts in a very effective manner.
