



Role of Judiciary to social Justice in Guwahati city : a social geographic analysis.

Bibeka Nanda Gogoi and Bimal Kumar Kar

Department of Geography, Gauhati University, Guwahati, India

Abstract

The prevalence of social justice is very high among the affluent sections of the society. It is also necessary where the violation of constitutional or legal rights of a large number of people including the poor, ignorant or socially or economically disadvantaged takes place. Further, due to legislative insecurity and lack of appropriate action taken by the administration or authorities in time, people suffer from social justice in a variety of ways and at the same time the people of all ladders, i.e. from the higher to the bottom socio-economic levels cannot fight equally for social justice, when such an occasion arises. Here arises the need to protect the people for social justice and therefore, the role of judiciary is highly crucial for delivering justice to the deprived. Thus, law is the vehicle of social justice and judiciary being the guardian of social justice, executive being the distribution of social justice, legislative shall be for social legislations, the executive and the judiciary together can make untiring efforts for providing the underprivileged and poor for securing social justice in time. In this paper an attempt has been made to throw light on the role of judiciary in access to social justice in Guwahati city, as the state administration as well as judiciary has completely failed to ensure to this group of people in the city of Guwahati both spatially and socially. The paper has been done on the basis of both primary and secondary data.

Keywords: social justice, judiciary, population, justice delivery system.

1. Introduction

The call of Indian Constitution enunciated by its preamble is to secure to the people of India "Justice-Social, Economic and Political; Liberty of Thought, Expression, Belief, Faith and Worship; and Equality of Status and of Opportunity." The Constitution has clearly demarcated with adequate checks and balances, role of the three branches of the Government (a) The legislature is to pass the laws, (b) The executive is to administer it, and lastly (c) The judiciary has the power to review their validity and enforce the laws touching upon and regulating activity in the social, economic, educational and health spheres, etc, indeed all activities touching the lives of the citizens, in particular the weaker and vulnerable sections.

According to former Chief Justice of India V.R. Krishna Iyer (1979), "Social Justice is not an exact,

situated, an absolute concept measurable with precision or fitting into a fixed mould. It is flexible, dynamic and relative. The form it takes varies from place to place and from time to time. The quintessence of social justice is truism justice to the members of the society who receive a law deal new." Social Justice concerns the distribution of benefits and burdens throughout a society and it results from major social institutions, the property system, public organization, etc. Social Justice is to end the class difference by removing inequalities and affording equal opportunities to all citizens in both social and economic spheres; social requirement has to push the individual rights aside and judiciary has to administer social justice by way of balancing individual rights and social needs. Social Justice is thus a democratic polity which stresses to act as a safeguard against abuse or misuse or excess of power on the

part of the executive and to protect the citizens against the governmental lawlessness and the level of quality of public administration. In other words, it denotes a judiciary which discharges its functions in a decisive and vigorous manner to achieve dispensing justice with a view to righting wrongs or fashioning remedies where the rule of law is threatened. More specifically, the quest for justice, i.e. social justice and relief of human suffering are the paramount motivation for judicial activism.

In urban areas of the country like India, where the urban population is increasing so rapidly that the resulting problems, especially in the big metropolises and cities, are reaching alarming proportion. The prevalence of social justice is very high among the affluent sections of the society. It is also necessary where the violation of constitutional or legal rights of a large number of the people including the poor, ignorant or socially or economically disadvantaged takes place. Further, due to legislative insecurity and lack of appropriate action taken by the administration or authorities in time, people suffer from social justice in a variety of ways and at the same time the people of all ladders, i.e., from the higher to the bottom socio-economic levels cannot fight equally for having social justice, when such an occasion arises. Here arises the need to protect the people from having social justice and therefore, the role of judiciary is highly crucial for delivering justice to the deprived. Thus, law is the vehicle of social justice and judiciary being the guardian of social justice, executive being the distribution of social justice, legislative shall be for social legislations, the executive and the judiciary together can make untiring efforts for providing the underprivileged and poor for securing social justice in time.

2. Objectives

The main objectives of this study are

- (i) to study the role of judiciary to social justice among the dwellers of Guwahati city;
- (ii) to assess the role of judiciary with respect to access to social justice in spatio-social contexts in the city; and
- (iii) to assess especially the emerging trends in access to social justice in the city.

3. Methodology

The study has been carried out systematically on the basis of both secondary and primary data collected from various sources. Secondary data have been collected from sources like books, journals, articles,

reports and internet. Information and data so collected have been processed and analyzed in order to arrive at meaningful conclusions. A simple quantitative technique has been applied for analyzing the data collected for the work. The primary data have been collected from different sample areas in the city with the help of a survey questionnaire.

4. The study area

The study area Guwhati city is called "The Gateway of North East". Here, people belonging to diverse ethno-linguistic and religious groups occupying different positions in the social set-up and falling under different economic categories have come and settled during different periods of time.

The city of Guwahati is fast growing and new areas are coming up every other day. At present the Guwahati city with sixty municipal wards has expanded to Dharapur in the west, Chandrapur in the east, river Brahmaputra in the north and Khanapara in the south-east. The city has been experiencing a heavy influx of people from both rural and urban areas. The migration of illiterate and unskilled poor mainly from the remote rural areas has led to the formation of the urban poor in the city. The condition of the roads, public transport facilities, shopping centres, offices, educational institutions, market places, civic amenities, health condition, housing, sanitation, drainage, etc has not developed uniformly across the city. As a result, the city has become breeding ground for many anti-social activities like black-marketing, smuggling, income-tax evasion, food and drug adulteration, cheating, corruption, bribing, gambling, immoral trafficking, etc. which have led to the causes of access to social justice. The problems of socio-economic disparities of diverse nature are also well reflected in gender inequities.

The Guwhati city, like many other cities of the country, is differentiated both spatially and socially. Guwahati, the capital city of Assam, is located in Kamrup Metropolitan District of Assam and it is covered with an undulating plain in the central and western portion, occasionally encroached upon by a large number of hills, viz. Nilachal, Narakasur, Fatashil, Navagraha, Sarania, Kalapahar, Japorigog, Khanapara, etc. in and around them and varying degrees of accessibility prevailing in them, especially from the high hilly areas to their plain counterparts, areas of different land use pattern, distance zones from centre to periphery and also from slum to advanced localities. It is also highly socially differentiated in terms of various religious groups, language groups, social groups

including scheduled castes and scheduled tribes population throughout its length and breadth. Naturally, in such a geographical background access to social justice varies in degree and kind as the above factors greatly influence the delivery or access to the justice system. Apart from these, the political and administrative system, social malfunctioning including corruption at various levels and the nature of judicial functioning greatly affect the access to social justice by people.

Thus, there are thousands of cases in which people have yet to get social justice for one reason or the other. Of course, it is not to deny the fact that many are getting justice from the judiciary and in fact, had the judicial system been not active many cases would have remained unsolved and gone in quandary. But it is clearly not known why the various cases have remained pending and for how long they would remain pending and what factors including political, administrative, judiciary, social, cultural and other geographical factors are operating behind such a situation.

5. Judiciary and social justice

The goal of the Constitution enunciated by its preamble is to secure to the people of India "Justice—Social, Economic and Political; Liberty of Thought, Expression, Belief, Faith and Worship; and Equality of Status and of Opportunity". For achieving this goal, the Constitution of India has clearly demarcated with adequate checks and balances, the role of three branches of the government (a) the legislature to pass the laws, (b) the executive to administer it and (c) the judiciary to review their constitutional validity and enforce the laws touching upon and regulating activities in the social, economic, educational and health spheres, in fact, all activities touching the lives of the citizens in particular the weak and vulnerable sections. Judiciary has been made the balancing wheel of the Constitution. Its function is supervisory. The main functions of the judiciary are (a) to protect the rights guaranteed to the individuals, (b) to maintain the rule of law, and (c) to decide all disputes civil and criminal between citizens and the state.

The judiciary is the 3rd pillar of a democracy and its functioning is embodied with the principles of implementation of the will of the people which is fundamental to giving birth of a democratic state. The judiciary discharges on the functions of the democracy. The aim and object of exercising power is to maintain what is just and equitable by resolving the dispute in

between state and the people or in between people. The independent judiciary can alone guide the sovereignty to function in proper way and it maintains the check and balance by instilling confidence in the people towards indifferent and impartial governance of a state. Thus, judiciary is the brain behind state which ensures a balance in the state of affairs in every sphere and it is the last resort of solution to all discipline in the society. Accordingly, it is the hope of the people in their distress and they expect decision from judiciary for all matters which do not have a solution with them and so the sovereign accepts the resolve of the judiciary. This inevitable role of judiciary in a state more particularly in a democratic state has attired itself the icon of worship. The judiciary is the temple of democracy. As such, the judiciary plays a role in the administration of justice with its independent identity and machinery which runs on the track of the constitutional provisions for mitigations of the problems and hurdles of democracy. The judiciary is part of the democratic administration.

In Judiciary, Public Interest litigation (PIL) is a strategic arm of the legal aid movement intending to bring social justice to reach the poor masses. To promote and vindicate public interest which demands that violation of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position, should not go unnoticed or unrepressed. PIL thus secures distributive justice to the poor, illiterate and weaker sections of the society. Those who cannot move the courts of their own expenses an action is initiated on their behalf by a public-spirited individual or group of individuals.

William Ewart Gladstone (1809-1898) propounded the theory that 'Justice delayed is justice denied'. During the field survey it has been found that under jurisdiction of the Gauhati High Court, the inordinate delay in justice delivery system has direct impact on the society more particularly social relevance matters like Public Interest Litigation. Criminals and corrupt people have become more fearless since they know that they could buy time from the court with the help of his engaged lawyer by playing some unhealthy tricks.

The concern over a backlog of more than three crore cases in courts across the country, the Chief Justice of India H.L. Dattu asked the Chief Justices of all High Courts to ensure expeditious disposal of cases pending for five years or more years in subordinate judiciary of all states. The Chief Justice

of India came out with an innovative idea of expeditious disposal of cases by setting up a special “Social Justice Bench” to deal with the pendency of cases having social issues which are on rise and needs specialized approach.

6. Role of judiciary to social justice in Guwahati

According to the website of Supreme Court of India, the number of pending cases with the Supreme Court is 64,919 as on December 1, 2014. The data available for the 24 High Courts and lower courts up to the year ending 2013 showed pendency of 44.5 lakhs and whopping 2.6 crores respectively. Out of 44.0 lakh cases pending in the 24 High Courts of the Country, 34, 32,493 were connected to civil matter and 19, 23739 were criminal matter.

It is a matter of deep concern that the main reason for delay in trial and disposal of cases is the insufficient number of judges in various subordinate courts under Gauhati High Court. There are structural obstacles which discourage talented law graduates from the judicial services and over 17 per cent post of judicial officers are remaining vacant in the subordinate judiciary. It is required to be expanded by at least five times in order to meet the judge-to-population ratio for delivering justice. For these reasons filing of cases in Gauhati High Court are diminishing day by day. It is high time to take some effective steps to regain confidence of public upon the judiciary and justice delivery system

The various reasons which delay the process of law may be enumerated as below:

1. The process of judiciary is not simple.
2. The agencies that help a judge to come to the findings are often over burdened.
3. Dispute remains pending even when purpose is over and it becomes in-fractious.
4. Non appointment of judges for years together is another cause of delay.
5. Dependents of fund allocation lead to unfavorable situation and independence of judiciary appears to be subservient to executive.
6. Non-existence of executive agency, namely the police under the control of judiciary.
7. The prevalence of colonial legacy is another cause of delayed justice in our society.
8. Insignificant establishment of Lok Adalat and other Forum.
9. Bandh, Hartal, Strike, Picketing, etc. and other related reasons.
10. Adjournment of cases by the bar is another reason of delayed judgments.

The Legal Services Authority constituted under Legal Services Authorities Act 1987 provides provisions to give free legal aid to certain class of people who are otherwise owing to reason of economic or other disabilities shall not be denied from getting social justice in the cases coming against them or in the cases of their grievances to be placed before court of law by informing and making people aware about legal right through legal awareness camps, legal literacy workshops, seminars and providing Alternative Dispute Resolution Mechanism by way of holding Lok Adalat through conciliation by resolving their disputes.

Table 1: Present Status of Social Justice with respect to number of registered cases, disposed cases and pending cases in the Subordinate Courts of Assam under the jurisdiction of Gauhati High Court, 2005-14

Year	Nature of Cases	Number of Registered Cases	Number of Disposed Cases	Number of Pending Cases	Percentage of Pending Cases
2005	Civil	106506	37188	69318	65.08
	Criminal	317683	158620	159063	50.06
2006	Civil	124300	45877	78423	63.09
	Criminal	379688	207959	171729	45.22
2007	Civil	100338	28487	71851	71.60
	Criminal	288295	141659	146636	50.86
2008	Civil	107132	28992	78140	72.93
	Criminal	473291	252086	221205	46.73

Year	Nature of Cases	Number of Registered Cases	Number of Disposed Cases	Number of Pending Cases	Percentage of Pending Cases
2009	Civil	120010	23596	96414	80.33
	Criminal	348033	112276	235757	67.73
2010	Civil	66142	33158	32984	49.86
	Criminal	691882	347742	344140	49.73
2011	Civil	17589	3254	14335	81.49
	Criminal	52851	21112	31739	60.05
2012	Civil	20147	8365	11782	58.48
	Criminal	52169	24585	27584	52.87
2013	Civil	17604	4911	12693	72.10
	Criminal	56399	23850	32549	57.71
2014	Civil	16637	6075	10562	63.48
	Criminal	60252	34133	26119	43.34
Total	Civil	696405	219903	476502	68.42
	Criminal	2720543	1324022	1396521	51.33
	Total	3416948	1543925	1873023	54.81

Source: Gauhati High Court, Statement Section, 2014.

It is observed that out of total cases registered in different courts of Assam during 2005-2014 (34, 16,948), so far 45 per cent cases have been disposed. It is a matter of serious concern that the proportion of criminal cases has been as high as around 80 per cent and its disposal is only 49 per cent (Table 1). The reason behind low rate of instituting civil cases is long time taken (3-10 years) for disposal of such cases.

Although there is a gradual decline in the number

of registered cases (both civil and criminal) particularly after 2010, the proportion of pending cases has still remained as high as 54.81 per cent (68.42 per cent for civil and 51.33 per cent for criminal cases) due to accumulation of pending cases (Table 1). The high incidence of criminal cases in Guwahati city is largely associated with insurgency, extortion, dacoity, dowry death, domestic violence, theft, immoral trafficking and land grabbing.

Table 2: Lok-Adalat in Session Court, 1998-2014

Year	No. of Lok Adalats	No. of cases taken	No. of cases disposed	Percentage of cases disposed	Total No. of MACT cases disposed	Percentage of MACT cases disposed	Compensation Awarded (in Rs.)
1998	05	200	176	88.0	104	52.0	34,13,700/-
1999	31	8839	5728	64.8	1248	14.11	560,04,550/-
2000	22	11012	9814	89.12	1329	12.06	27,76,14,920/-
2001	60	31768	12530	39.44	2197	6.91	11,15,32,519/-

2002	481	42676	16131	37.79	2909	6.81	13,93,65,381/-
2003	374	42676	17864	41.85	2518	5.90	12,21,91,085/-
2004	501	55745	24388	43.74	2446	4.38	18,86,42,465/-
2005	330	38882	23996	61.71	1823	4.68	6,50,68,995/-
2006	515	67520	32987	48.85	1434	2.12	10,44,25,275/-
2007	222	49306	20709	42.0	1517	3.07	8,57,13,952/-
2008	271	61924	28548	46.10	2371	3.82	6,07,000/-
2009	195	60980	25641	42.04	882	1.44	1,07,070/-
2010	293	88774	48157	54.24	1397	1.57	12,88,89,936/-
2011	48	11216	4231	37.72	276	2.46	2,81,63,600/-
2012	52	14780	4676	31.63	1099	7.43	16,82,83,157/-
2013	48	113131	61931	54.74	3505	3.09	29,17,66,668/-
2014	63	153434	98762	64.36	2917	1.90	96,43,80,756/-
Total	3511	852863	436269	51.15	29972	3.51	27,36,170029/-

Sources: Assam State Legal Services Authority, 2014.

To lessen the burden of the high court, Lok-Adalats are being held to resolve small cases in various subordinate courts. The number of Lok-Adalats held during 1998-2014 was 3,511, wherein 8, 52,863 cases had been taken up, but only 51 per cent of the cases could be disposed (Table 2). This is even more so in the case of MACT (Motor Accident Claims Tribunals) cases. Such Lok-Adalats have made it possible to award compensation on motor accident cases to the tune of as high as Rs. 274

crores during 1998-2014 (Table 2).

Secondary information has been collected regarding cases of holiday court cum Lok-Adalat held in the office of the Chief Judicial Magistrate on Sundays during 2012-2014. From the data collected it has been found that the number of referred cases has been varying from 3,283 to 8,050 during 2013-14 with disposal rate varying between 57 per cent and 78 per cent (Table 3). Accordingly, fine amounting to around Rs. 2 lakh has been realized.

Table 3: Fine realized in the Holiday Court-cum- Lok-Adalat held in the office of the Chief Judicial Magistrate, 2012-14

Date of Session	Total Cases Referred	Total Cases Disposed	Percentage of cases disposed	Fine Realized (in Rupees)
05.03.12	4225	2626	62.15	48,240/-
24.03.12	4653	3032	65.16	66,405/-
22.09.12	5356	3886	72.55	1,62,530/-
25.05.13	5765	4534	78.64	2,98,210/-
22.06.13	3283	2363	71.97	1,04,720/-
25.05.14	8050	6034	74.95	157,250/-
09.08.14	6934	3960	57.10	82,270/-
27.09.14	5090	3749	73.65	92,110/-

Source: Chief Judicial Magistrate, Kamrup (Metro), Assam.

It is seen in recent years that Lok-Adalat and Holiday Court cases held in various courts definitely have been able to lessen the burden of pending cases which help the city dwellers to access social justice. This definitely helps establish a healthy democracy in Guwahati and other parts of Assam.

The judiciary has also been getting helpless with respect to according justice to the city dwellers because of fast increasing number of cases for disposal. There is a backlog of more than three crore cases in courts across the state. In Guwahati city too there are large numbers of pending civil and criminal cases. The main reason for delay in trial and disposal of cases is the insufficient numbers of judges in various subordinate courts under Gauhati High Court. This has resulted in delay in the process of justice and decline in interest

and faith among the public upon the judiciary system.

7. Conclusion

From the above discussion it is clear that judiciary has to provide justice to all people irrespective of their affiliation to any religion, language, social groups, or social status. Steps should be taken to dispose a large number of long-pending cases in different courts under the jurisdiction of Gauhati High Court. It is a matter of great concern that reason for delay in trial and disposal of cases is insufficient number of judges in various subordinate courts and High Court. In view of this filing of cases in Gauhati High Court is on the decline day by day. It is high time to take some effective steps to regain confidence of public upon the judiciary and justice delivery system.

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