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In India, the Wheels of Justice Hardly Move

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Way back when or, to be more precise, way, way, way back when -- an illiterate meat cutter, Abdul Waheed, filed a lawsuit against his next-door-neighbor, a stubborn milk merchant named Mohammad Nanhe.

The milkman had built a brick wall at the edge of his property, inserting two small drains that emptied into Mr. Waheed's front yard. Though only rainwater escaped from the spouts, the meat cutter was furious. He had hopes of adding a third room to his modest cement house. With those new drains loomed the probability of irksome seepage.

Quite appallingly, though not so atypically, that was 39 years and several hundred court dates ago.

Mr. Waheed and Mr. Nanhe are long dead, but their litigation has plodded onward, moving with all the speed of a creaky bullock cart through perhaps the most overburdened justice system in the world. Those troublesome drains, while promptly ruled illegal, have remained open while the case moseys along on appeal.

If, as the adage goes, justice delayed is justice denied, then India's courts can be said to customarily live in a state of denial. Some 25 million cases are pending, a breathtaking pileup of the untried accused and unsatisfied aggrieved. By one expert's calculation, if no new actions are filed, 324 years would be needed to clear the dockets.

"We are a poor country, immersed in debt, and it takes money to get more courthouses, equipment and staff," said Ram Jethmalani, the nation's law minister. "I'm told we need five times as many judges, but I don't know where we'd put them."

Here in Moradabad, a city 110 miles east of New Delhi and the locus of Waheed v. Nanhe, the courtrooms are spare and shabby, with bare light bulbs, broken furniture and overtaxed ceiling fans. Frayed wires dangle like old yarn from peeling yellow walls.

Outside, under trees, documents are produced by men hunched over manual typewriters; copies are made with carbon paper. Lawyers work out of open stalls, the more prominent ones laying claim to space with a roof, others merely posting a sign amid the weeds. Cows and goats, much like the plaintiffs and defendants, wander around listlessly, trying to evade the sun. Water is drawn from a hand pump above a tube well.

Proceedings go slowly, if at all. Not all judges or lawyers are persnickety about attendance. Each day, a list of about 50 cases is posted in every courtroom, leaving a crowd of lawyers and clients waiting at the rear of the chamber like frustrated diners at an overbooked restaurant. Most scheduled business is inevitably postponed.

Court clerks wield immense power, inching forward a paper flow that would otherwise be entirely stagnant. For each service, a bribe of 10 rupees -- about 25 cents -- is an expected courtesy, given and accepted without camouflage. This is known as "speed money," though it would more accurately call it a "somewhat-less-slow toll."

Like lawyers worldwide, the ones here have alert eyes, wide as checkbooks. But while some are highly paid and masterful, the vast majority earn about \$2,000 to \$3,000 a year. They commonly enter the profession because their test scores are low.

"Law college is the easiest to get into," said Rajesh Talwar, author of several books about the court system. "If you can't become an engineer, you become a lawyer."

Whatever the attorneys' skills, they are all proficient dawdlers. Continuances are easily granted by overwhelmed judges, and lawyers quickly learn the art of delay -- the well-timed absence, the challenge to routine paperwork, the misplacement of evidence.

"Barring expedited circumstances, it's unlikely a civil case would come to a decision in less than 10 years," said A. M. Ahmadi, the former chief justice of the supreme court and a man who has written with exasperation about the legal backlog.

"We need systemic change -- and more judges. In India, 75 percent of all cases go to trial, but the ratio of judges to the population is 10 or 12 per million. In the West, it's 50 to 100 per million. And many of our judges don't have the best of work habits."

Much of Indian law is a ponderous holdover from colonial days. One judicial commission after another recommends a system-wide overhaul, but little comes of it.

Recently, the government proposed new limits on adjournments and appeals, but lawyers considered this an abridgment of rights and, like outraged longshoremen, they are a group prone to go on strike. In response to these and other changes, they boycotted the courts in late February and protested in the streets of New Delhi. The police considered them unruly and attacked them with bamboo clubs and water canons.

That mayhem was front-page news, a rare flash of limelight for the anemic courts. As a rule, judicial delays only make for novelty items in the press, with antique cases yielding stories of the ironic and the sad and the preposterous.

Last December, 75-year-old Ajay Ghosh was released from a Calcutta jail after waiting 37 years to be tried on murder charges. In 1963, a doctor had found him to be of unsound mind. The case was then shelved and Mr. Ghosh forgotten. The charges are now unlikely to be pursued. The witnesses and investigating officer are all dead.

"It is an astounding thing, how often people in this country go on trial after they have already served the maximum sentence for their alleged crime," said a lawyer, Sankar Sen, who studied the courts for the National Commission on Human Rights. "Of course, the poor are at a disadvantage. They are the ones who cannot afford to put down bail."

India has a low crime rate. In a nation of one billion people, only 325,000 are in prison, though of those inmates a mere 25 percent have been convicted of a crime, according to the commission's statistics. The rest are "undertrials," awaiting their day in court. The wait, which can often be years, is especially troubling because the "acquittal rate is almost 90 percent," said Mr. Ahmadi, the retired chief justice.

L. K. Advani, the nation's home minister and one of its most powerful politicians, recently won an acquittal. He had been accused of improperly changing his voter registration. While he served no jail time, the case did hang over his head for 18 years. Afterward, he said his faith in India's justice system had been reaffirmed.

Indeed, despite its sluggishness, the judicial system generally maintains the faith of the masses. They show their trust, voting their approval by filing ever more cases.

Presumably, Abdul Waheed, the meat cutter, had faith when he sued to have those annoying drains removed in 1961. But with the scales of justice still teetering, he died in 1980. His son, Mohammad Umar, inherited the case and died in 1988. Mr. Umar's sister, Niazni Begum, the next heir, died in 1997. The two-room house, as well as the lawsuit, now belongs to her nephew, Abdul Wazid, himself a meat cutter.

Mr. Wazid's current lawyer is Prem Saran Mathur, a beaten-down old-timer who accepted the case in perpetuity for a \$45 fee. Recently, looking back on his 42 years as a lawyer, he glumly summed it up: "There is no justice in India. The judges don't care. They work maybe three or four hours a day."

Like other advocates, Mr. Mathur wears a black jacket and a white cardboard tie, something of an official uniform. He keeps the Waheed v. Nanhe case file in his outdoor stall, which is notable in this milieu for having two chairs as well as a bench. The olive green folder itself is wilted and torn, held together with a shoelace.

Waheed v. Nanhe would seem to be a straightforward matter, and indeed the court decided in Mr. Waheed's favor in 1963. Objections were filed by Mr. Nanhe, and when those were rejected in 1966, the decision was appealed to the high court in Allahabad.

There the case waited 13 years for a hearing, which would have been fine if the paperwork had only been allowed to gather dust. Instead, after the lawsuit's 15th birthday in 1976, a clerk performed his statutory obligation and "weeded out" the less-important documents. At the hearing, the judge then ruled he lacked enough information to decide.

For 21 years the case has been back in the lower court, which has been ordered to reconstruct the file. Each piece of paper is open to challenge, an invitation for delays that makes the defense lawyer, Sunil Kumar Rastogi, grin at the thought of it, his mouth opening wide to show teeth stained red from an overindulgence of betel juice. "The file will never be complete," he said confidently.

Nevertheless, the case appears on the docket once or twice each month only to be adjourned for this or postponed for that. From 1979 to 1990, 15 hearing dates were wasted by lawyer strikes and 13 more when the judge took an unscheduled holiday.

Every time the case is scheduled, both the plaintiff and defendant feel obliged to go to court. Clients cannot depend on their lawyers to show up, and, if no one is present, the lawsuit may be forfeited entirely.

It is a cumbersome burden for Mr. Wazid, who has meat to cut and customers waiting. He is a bony, gray-haired man. On occasion, he meets his opponent in court and they shout at each other. That would no longer be Mr. Nanhe, who died in 1986. His son, Tahir Mohammad, now carries the burden of the bequeathed litigation.

Mr. Mohammad is a chain-smoking man, easy to anger. His wife talks to the Wazids and even uses their refrigerator. The women try to be neighborly. But the men are prideful and snappish. While Mr. Wazid bears legitimate concerns about the free use of his land, the matter is more one of honor for Mr. Mohammad: no one tells his family where to put their drains.

"We will fight this case forever," he commented loudly, not just demonstrating his determination but, most likely, offering a reasonable prediction of when the lawsuit may end.

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