

Need for a National Judicial Infrastructure Authority of India

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Manifest pedagogy:

Days after Chief Justice of India N V Ramana pressed for establishing a new body to improve judicial infrastructure, the government on Friday said it has received a proposal from him to set up the National Judicial Infrastructure Authority of India (NJIAI). In this context let us explore the issues pertaining to Judicial Infrastructure in India.

In news: CJI sends proposal to set up National Judicial Infrastructure Authority of India

Placing it in syllabus: Governance

Static dimensions:

- What is judicial infrastructure?
- State of judicial infrastructure in India
- How is judicial infrastructure built and maintained in India?

Current dimensions:

- What is NJIAI?
- NJIAI's solution to problems of Judicial Infrastructure

Content:

What is Judicial Infrastructure?

- Judicial infrastructure is the basic physical and organizational structures and facilities (e.g. buildings, power supplies, computers etc) needed for the operation of the judicial system.

- Without these resources (such as personnel, buildings, or equipment) justice cannot be served.
- Judicial infrastructure is important for improving access to justice

Does Judiciary Mean Judges?

- First off, there is this popular perception, that Judiciary means the Judges and therefore, building courts and allied infrastructure is the sole responsibility of the judges. – This is called “Judge centric view”
- But, Judiciary is a holistic institution including within its ambit – the courts and tribunals over which the courts have administrative control, litigants, including the beneficiaries under various Legal Services schemes, Paralegal volunteers Court Staffs, and most importantly, Advocates and their institutions – Bar Associations and Councils.
- National Judicial Infrastructure Authority of India , therefore, is about this rainbow constituency who are its end users and/or ultimate beneficiaries.
- Today all these constituents of the judiciary are collectively and wholly dependent upon the Executive for their fiscal needs

State of Judicial Infrastructure in India:

In November 2021, Chief Justice NV Ramana said that Indian “courts still operate with dilapidated structures”, making it difficult for the judiciary and the lawmakers to perform effectively.

Some of the facts about the judicial infrastructure are as follows:

- The total sanctioned strength of judicial officers in the country is 24,280 and the number of court halls

available is 20,143 (including 620 rented halls).

- 26% of court complexes do not have separate ladies toilets and 16% do not have gents toilets.
- Only 54% of court complexes have purified drinking water facilities.
- Only 5% of court complexes have basic medical facilities.
- Only 32% of courtrooms have separate Record Rooms.
- Only 51% of court complexes have a library.
- Only 27% of courtrooms have computers placed on the Judge's dais with video-conferencing facilities.

CJI's comments on poor judicial infrastructure?

- "This is not the fault of any institution or organ of the state but is emblematic of a deeper structural problem that has plagued judicial infrastructure development in our country since independence," CJI had said.
- Poor infrastructure is severely detrimental to the experience of litigants and lawyers.
- It is an unpleasant work environment for Court staff and Judges, making it difficult to effectively perform their functions.

Reasons for the poor judicial infra in India:

Low budgetary allocation leading to poor infrastructure:

- India spends only about 0.09% of its GDP to maintain the judicial infrastructure.
- Infrastructure status of lower courts of the country is miserably grim due to which they fail to deliver quality judgements.
- A 2016 report published by the Supreme Court showed that existing infrastructure could accommodate only 15,540 judicial officers against the all-India sanctioned strength of 20,558.

Lack of planning:

- The judicial infrastructure for courts in India has always been an afterthought, said CJI recently
- Due to this lack of planning the infrastructure is overburdened as the future needs are not adequately addressed during the construction itself.

Complexity of the Financing:

- The issue of financing judicial infrastructure is a complex task which requires coordination between various departments of the state government including the district collectorate, the Public Works Department and the Finance Ministry.
- it also involves coordination between the state government and central government to complete the significant paperwork necessary to get funding under the centrally sponsored scheme.

Delays and Underutilisation:

- The primary responsibility of infrastructure development for the subordinate judiciary rests with the State Governments.
- Central Government augments the resources of the State Governments by releasing financial assistance through central schemes
- Unfortunately, some of the States are not giving their share of money as a contributing share. So no infrastructure schemes are taking off.

Judiciary's complete dependence on the Executive:

- There is a major often overlooked challenge that the judiciary is facing today due to its entire dependence on the Executive.
- The project design, monitoring and execution of the infrastructure, mainly the building infrastructure

remains the sole prerogative of the Public Works Departments (PWD).

- Due to this many pertinent aspects cost and space optimisation are being compromised.

National Mission For Justice Delivery & Legal Reforms

- This is a Centrally Sponsored Scheme that aims at improving the physical infrastructure of the Subordinate Courts and also the housing needs for Judicial Officers of District and Subordinate Courts in the country with a view to facilitate better justice delivery.
- The scheme covers all States and UTs and it does not cover construction of High Court buildings.
- The scheme allows new construction and upgradation or renovation of such existing court buildings but does not allow routine maintenance or upkeep.
- The central assistance to States/UTs is restricted to the budgetary provision of the Department of Justice available under the scheme during the financial year.
- However, States/UTs are free to spend additional amounts as per their requirement from their resources.
- This scheme is not a reimbursement scheme.
- This scheme has been under implementation since 1993.

What is NJIAI?

- NJIAI is thought of as an “umbrella national organisation” that would take care of the need for judicial infrastructure.
- It will be a special purpose vehicle solely responsible for developing judicial infrastructure
- According to the proposal, there will be a governing body with CJI as patron-in-chief.

The other salient features in the proposal are that NJIAI will act as a central body in laying down the roadmap for:

- planning,

- creation,
- development,
- maintenance and management of functional infrastructure for the Indian court system.

Besides, it will also create identical structures under all the (25) high courts.

Rationale behind NJIAI

- **Judicial Independence / Financial autonomy:** NJIAI makes the judiciary more fiscally independent from the Executive. Therefore, it can address judicial needs quickly.
- **Expert Project Monitoring and Evaluation:** NJIAI can be the part of the answer to complexities ensuring entrustment of Project Monitoring & Evaluation (PME) function to the experts available across the nation or even beyond.
- **Bringing Standardisation:** NJIAI would bring the uniformity and standardisation required to revolutionise judicial infrastructure
- **Ensuring sufficient funding for Legal Services Authorities:** Most of the State Legal Services Authorities are severely understaffed and are dependent on the grants from National Legal Services and State Law Departments. The fiscal plight of Legal Services Authorities has a direct bearing on the availing of legal services by the beneficiaries. Overall financial independence of the judiciary alone can ensure the independence of the Legal Services Authorities.
- **Reducing Pendency of cases:** Strengthening the judicial infrastructure is the most important tool to reduce pendency of cases.

Criticisms of NJIAI:

- Infrastructure projects inevitably include tedious

processes such as procurement, tendering and auditing of building contracts. And judges cannot be expected to do a better job than other experts.

- Judges cannot sit over the drafting of RFPs (Request For Proposals) and tenders, negotiate with state governments for land allotments and conduct site inspections to monitor the progress of building construction.
- Parliament does not have sufficient power to force states to fund the NJIAI.
- Issues are also being raised about fixing the accountability of the funds spent by NJIAI.

Mould your thought:

1. Explore the Infrastructure bottlenecks plaguing the Indian Judiciary. Critically evaluate the role of NJIAI in solving these issues.

Approach to the answer-

- Define Judicial infrastructure
- Briefly mention the present problems of Judicial Infrastructure in India
- Mention what is NJIAI and its envisaged role
- Discuss how it can solve Judicial Infrastructure problems
- Discuss the criticism of the proposal
- Conclusion