

The clogged state of the Indian judiciary

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Manifest Pedagogy:

Indian Judiciary is plagued with a huge pendency of cases which goes against the spirit of providing justice to the citizens. Need of the hour is Judicial reforms to improve the quality of justice and the efficiency and effectiveness of the judiciary. Judiciary's independence should be protected and at the same time their accountability must also be ensured.

In News: Chief Justice of India (CJI) N. V. Ramana recently remarked on pendency and vacancies in the judiciary at a joint conference of CMs and High Court Chief Justices.

Placing it in Syllabus: Polity

Static Dimensions

- Gravity of the situation

Current Dimensions

- Steps taken by the Government
- Causes for the huge backlog of cases
- Probable Solutions

Content:

Gravity of the situation-

- The latest data from the **Department of Justice**, reveals that the current cumulative number of **47 million (4.7 crore) cases** are pending in various courts.
 - **Subordinate courts:** Subordinate courts, comprising district and lower courts, have a record backlog of 4.15 crore cases at present. This includes **3.06 crore criminal cases and 1.08 crore civil cases.**

Over **1.1 lakh** cases have been pending for more than **30 years** in district and lower courts.

- **High Courts:** Of the **5.9 million (59 lakh)** cases pending in the 25 High Courts of India, **42 lakh are civil cases** while around **72,000 cases are more than 30 years old.**
- **The Supreme Court:** The pendency of cases was **70,572** as of May 2, 2022.

Causes for the huge backlog of cases-

- **Shortage of Judges**-The shortage of judges and the impact of the pandemic are considered the top reasons for high pendency of cases.
 - Vacancies increased from 18% to 21% across courts between 2010 and 2020, an analysis by PRS Legislative Research reveals.
 - The **25 High Courts in India** have a sanctioned strength of 1,104 judges. But the Department of Justice data shows that there are **387 vacancies** with a working strength of 717, as of April 2022.
 - This implies that India currently has only 717 HC judges to clear a backlog of 59 lakh cases, which roughly translates to one judge for 8,200 cases.
 - There are over **5,000 vacancies** in subordinate courts against the total sanctioned strength of 24,490.

Inadequate infrastructure has resulted in overburdened courts, which in turn has led to a massive backlog of cases. The situation is grim in subordinate courts where lack of basic infrastructure is already a big concern.

- **Low Judge to population ratio**– There are merely 20 judges per lakh population in the country.
- **Increase in litigation**-Amid the rising trend of litigation, more people and organizations are approaching courts. This spike, however, is not

reflected in the number of judges available to hear these cases.

- **Pandemic**-Disruptions due to the coronavirus pandemic further clogged the Indian judicial system. There was a drop in new cases as courts went digital, but with lockdown restrictions in place, a slower disposal rate resulted in more pending cases.
 - According to PRS Legislative Research, pending cases saw an increase of 20% in High Courts and 13% in subordinate courts during the pandemic period (2019 to 2020).
- **Undertrials**-As per the Prison Statistics-2020, released by the National Crime Records Bureau (NCRB), **undertrials accounted for 76% of the total inmates** in around 1,300 prisons across the country.
 - The NCRB report showed that 3.7 lakh inmates were undergoing trial, while 1.12 lakh were convicted during 2020. In 2019, over two-thirds of a total of 4.8 lakh prisoners were undertrials.
- **Frequent adjournments and other procedural delays** in the court.
- **Rigid Procedural Requirements:** A lot of paperwork needs to be done on every case which sometimes creates unnecessary delays.
- **Poor Conduct of Lawyers:** They are sometimes found indulging in collusive corruption especially at subordinate levels in order to drag the case. Moreover, the lawyers also demand frequent adjournments for not valid reasons.
- **Government is one of the largest litigants**– According to the Ministry of Law and Justice, government departments are a party to around 46 percent of court cases.

Probable Solutions-

- **Improve the judge-to-population ratio**– The Chief Justice underlined the need to improve the judge-to-population

ratio to reduce the workload of judges .Unless the foundation is strong, the structure cannot be sustained.

- **Filling up the vacancies**-An urgent resolution of the issue of unfilled vacancies in the judicial system.
 - This would require developing a consensus over a memorandum of procedure between the executive and judiciary.
 - Fast Tracking the appointments in the lower judiciary.
- **International arbitration centre** -The presence of international arbitration centers will not only boost India's global position as an investor-friendly nation but also facilitate the growth of a robust legal practice.
 - This will also provide a fresh avenue for young lawyers to indulge in the practice of international commercial law.
- **Strengthening the subordinate judiciary**– means providing it with administrative and technical support and prospects for promotion, development and training.
- **120th Law Commission of India report on Manpower Planning in Judiciary, 1987** suggested a judge strength fixation formula.
 - It suggested that the judge-population ratio in India be increased immediately from the then **ratio of 10 judges to 50 judges per million.**
- **Promoting Alternative Dispute Resolution-Mechanisms** such as ADR (Alternate Dispute Resolution), Lok Adalats, Gram Nyayalayas should be effectively utilized.
- **Utilizing the retired judges**-The Supreme court has recommended that retired high court judges having domain expertise should be placed back as Ad Hoc judges. This will fast track the disposal of cases.
- **Integrated digital system**-An integrated digital system is required in the judiciary to streamline the process.
 - This digital system will allow smooth interaction between various institutions through a digital

platform. It will normalize the format and content of data across all the systems.

- **Role of Media**-The media as the 4th pillar of democracy should do periodic and constructive reporting on the pendency of cases. This will have a dual benefit.
 - Placing better accountability on judges
 - Bringing the pendency to the public domain.

Steps taken by the Government-

- **E- court mission mode project** has been taken up for universal computerisation of district and subordinate courts.
- Repealing obsolete and redundant laws.
- Enactment of **commercial courts, commercial division in High courts act 2015** for speedy disposal of commercial cases.
- Cabinet approved a centrally sponsored scheme for development of Infrastructure facilities for Judiciary.
- **Draft National litigation policy** to make government responsible litigants.
- Promotion of ADR mechanism through National Legal Services Authority.
- The Centre had set up tribunals and special courts to address the pendency, but cases continue to climb in these forums also.
- Similar is the case with fast track courts (FTCs) which were set up to dispose of long-pending cases. As of September 2021, over 10 lakh cases were pending in more than 900 FTCs. As many as 6,28,908 cases were pending in FTCs in Uttar Pradesh alone.
- Centre had suggested measures like increasing the number of working days of courts, establishment of fast track courts and Indian Courts and Tribunal Services (ICTs) to increase the productivity of the court system.

Way Forward-

- Laws to cut unnecessary judicial interventions.
- Prescribe time limits for all court cases to reduce pendency.
- Create all India Judicial Services to centralize the recruitment of judges at district level.
- Specialized agency to manage Judiciary's administrative functions.
- Recently CJI proposed to establish a **National Judicial Infrastructure Corporation** to drastically improve judicial infrastructure across the country. This must be given a serious thought.

'Justice delayed is justice denied'. Hence in no case, the judiciary can allow delay in the adjudication of justice. It must be reformed at the earliest to uphold its constitutional role as the protector of constitution.

Mould your thought:

1. 'Justice delayed is Justice denied'. In light of the given statement, discuss the issues haunting the Indian judiciary. What steps need to be taken to tackle this menace. (250 words)

Approach to the answer –

- The extent of the problem
- Causes of Pendency of cases
- Probable solutions
- Steps taken by government so far in this direction
- Way forward and conclusion.