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Judicial Pendency: “Justice Delayed”

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“The article is based on **“Justice Delayed”** that published in The Indian Express on 21st August 2019. It talks about the issue of huge pendency of cases in Indian Courts and suggested some reforms.

Context

- According to the **Economic Survey 2018-19**
 - There are about **3.5 crore cases pending in the judicial system**, especially in district and subordinate courts.
 - About 87.54 per cent of the total pendency of cases is in the district and subordinate courts.
 - More than **64%** of all cases are pending for more than 1 year.
 - The average disposal time for civil and criminal cases in Indian District & Subordinate courts in 2018 was **4.4 fold** and **6 fold higher** respectively when compared with the average of **Council of Europe members (2016)**
 - A Case Clearance Rate of 100 percent (i.e. zero accumulation) can be achieved with the addition of merely 2,279 judges in the lower courts, 93 in High Courts and only one in the Supreme Court, which is already within sanctioned strength and only needs filling of vacancies.
- The **Ease of Doing Business Report of the World Bank** for 2018 and 2019 shows that the time taken to decide a case has remained static at 1,445 days.

Problems in the judiciary

- The **government is the biggest litigant**.
 - Poorly drafted orders have resulted in contested tax revenues equal to 4.7 per cent of the GDP and it is rising.
 - **Crowding out investment:** Roughly Rs 50,000 crore are locked up in stalled projects and investments are reducing. Both these complications have arisen

because of injunctions and stay orders granted by the courts primarily due to poorly drafted and poorly reasoned orders.

- **Less budgetary allocation:** the budget allocated to the judiciary is between 0.08 and 0.09 per cent of the GDP. Only four countries — Japan, Norway, Australia and Iceland — have a lesser budget allocation and they do not have problems of pendency like India.

Reforms Suggested

- For enhancing productivity in the judiciary, the **Economic Survey 2018-19** suggests:
 - Increased number of working days;
 - Establishment of **Indian Courts and Tribunal Services** to focus on the administrative aspects of the legal system;
 - Deployment of technology to improve efficiency of the courts, e.g. **eCourts Mission Mode Project** and the **National Judicial Data Grid** being rolled-out in phases by the Ministry of Law and Justice.
- Better **Case and Court Management:**
 - About 30 percent of the life of a case is spent in something as simple as service of notice.
 - For expeditious service of notice and summons, the eCommittee of the Supreme Court launched a mobile application called **National Service and Tracking of Electronic Processes (NSTEP)**.
 - **Computerisation and Automation** (e.g. Virtual Court in Delhi) to make justice delivery more responsive to the needs of litigants.
 - **Professional Court Managers** as suggested by the **13th Finance Commission**. Court managers or equivalent professionals are the need of the hour and justice delivery can improve only if the courts accept and adopt professional help in their administration.
- Setting up of Tribunals, Fast Track Courts and Special Courts to dispense important cases at the earliest.
- Mechanisms such as **ADR (Alternate Dispute Resolution), Lok Adalats, Gram Nyayalayas** should be effectively utilised.

Way Forward

- There should be wide introspection through extensive discussions, debates and consultations to identify the root causes of delays in our justice delivery system and providing meaningful solutions to improve the justice delivery system in India.
- Government rules, orders and regulations should be thorough and comprehensive after wide consultations with stakeholders to avoid unnecessary litigations.
- The recent passage of **The Supreme Court (Number of Judges) Amendment Bill, 2019** that increased the number of Judges in the Supreme Court from 31 to 34, including

the Chief Justice of India, is a welcome step.

- Speedy Justice is not only a fundamental right but also a prerequisite of maintaining the rule of law and delivering good governance. In its absence, Judicial system ends up serving the interests of the corrupt and the law-breakers.
- **Judicial reforms**, if taken seriously, **expeditious and effective justice** can see the light of day and improve India's standing in the reports of the World Bank and other institutions and organisations that study judicial processes.

Drishti Input

“Critically examine the issue of high pendency of cases in Indian courts and suggest measures to improve the justice delivery system in India.”
