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Sansad TV- Perspective: Indianisation of Judiciary

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Why in News

The Chief Justice of India (CJI) - N.V. Ramanna has called the indianisation of the country's legal system the need of the hour. He also said it is crucial to make the justice delivery system more accessible and effective.

Key Points

- **Indianised Judiciary:**
 - According to the CJI, **courts need to be litigant-centric** while simplification of justice delivery should be the pressing concern.
 - The CJI specified that the **Indianisation of Judiciary means the localization of the justice delivery system.**

- **India's Age-Old Judiciary System:**

- India has the oldest judiciary system in the world dating back to 5000 years.
- In history, **India has had a very effective, trustworthy and democratic judicial system** but most of the statements in judgements nowadays are taken from **western jurisprudence**.

India's own ancient system of delivery of justice is given much less recognition.

- **Related Recommendations:**

- **Malimath Committee Report: Malimath Committee (2000)** on reforms in the Criminal Justice System of India (CJS) submitted its report in 2003.

The Committee suggested that a **Schedule to the Code be brought out in all regional languages** so that the accused knows his/her rights, as well as how to enforce them and whom to approach when there is a denial of those rights.

- **Law Commission, 1958:** The All India Judicial Services (AIJS) was first proposed by the **14th report of the Law Commission in 1958**.

A Law Commission report (1987) recommended that **India should have 50 judges per million population** as against 10.50 judges (then).

Initiatives Taken for Improving the Judicial System

- **Judicial Infrastructure:**

- The number of court halls has increased from 15,818 in 2014 to 20,218 in 2021 and the residential units have also increased from 10,211 in 2014 to 17,815 in 2021.
- 2,693 court halls and 1,852 residential units are currently under construction.
- The **Centrally Sponsored Scheme (CSS)** for **Development of Infrastructure Facilities for Judiciary** has been extended till FY 2025-26.
- Lawyers halls, toilets, computer rooms in the courts have also been increased.

- **e-Courts Project and Computerised Courts:**

- The government is implementing the **e-Courts Project** in mission mode.
- Virtual courts have been set up in 12 cities to **try traffic offences**.
- Computerised courts have also increased from 13,000 in 2014 to 18,000 in 2021.
- Judicial service centers in computerised courts and e-courts have also increased; **the litigants can access case status of over 18,000 cases now**.

- **Video Conferencing:**

- Video conferencing has been the mainstay during the lockdown. More than 96,000 virtual hearings in the **Supreme Court** have taken place in the span of one year.
- Video conferencing in 3,240 court complexes and 1,272 jails has been implemented.

- **AI based SUPACE Portal:**
 - In May 2020, the Supreme Court launched an Artificial **Intelligence (AI)** based portal '**SUPACE**' in the judicial system aimed at assisting judges with legal research.
 - CJI Ramanna inaugurated a system whereby the **criminal appeals in Bombay and Delhi HC will be solved with the help of SUPACE.**

Issues Associated

- **Pendency of Cases:**
 - Despite the introduction of the above mentioned measures, the **pendency of cases has been increasing.**
 - As of today, there are more than **4.5 crore cases pending** in the judiciary.
 - Above **65,000 cases are pending in the Supreme Court** alone and about 60 lakh cases are pending with the various High Courts.
 - Even if no new cases are filed, the act to clear the existing vacancies and the backlog itself will take the judiciary almost a 100 years.
- **Unavailability of Judges:**
 - The strength of judges is increasing but the number is not up to the desired level as it is in European countries.
 - Currently **India has only 19.78 judges per million people.**
- **Extremely Less Representation of Women in Higher Judiciary:** The first-ever **woman judge** (Justice Fatheema Beevi) in the Supreme Court (SC) was appointed in 1989, **39 years after the apex court came into existence.**
 - Since then, **only 10 women have become judges in the apex court.**
 - In High Courts, **women judges account for only 11%.**
 - In five HCs (Patna, Meghalaya, Manipur, Tripura and Uttarakhand high courts), **no woman served as a judge.**
- **Lengthy Judgements in Foreign Language:**
 - Parties from a rural place fighting a dispute are usually made to feel out of place in court.
 - Judgements and Pleadings in English (a language foreign to them) makes it quite harder for them to understand what is written in the petitions and gain awareness about their own rights.
 - The **lengthy judgements further complicate the position** of litigants and the parties to understand the implication of judgement.

- **British Origin of Indian Judiciary:**

- The genesis of India's current judicial system can be traced back to the **Colonial system of judiciary** which was established more or less from the master-servant point of view and not from the public's point of view.
- Moreover, the working and the style of courts do not sit well with the complexities of India.

The systems, practice and rules being colonial in origin, are not exactly best suited to the needs of the Indian population.

Way Forward

- **Role of Panchayati Raj Institutions:** The **Panchayati Raj Institutions** have to be empowered and all the small cases should not be allowed to clog the normal court system but shall be given to them.

- **Accelerating Reforms:** All the reforms which have taken place need to be accelerated.

The judges shall **lay down the timelines within which the argument should be finished.**

- **Role of Advocates:** Advocates are supposed to play an important role in the justice delivery system because they are the officers of the courts.

They must **ensure that unnecessary adjournments are not sought** so that the **cases can be decided as expeditiously as possible** without compromising the justice delivery system and the basic principles of natural justice.

- **Indianisation at the Grass-Root Level:** The use of Indian/regional languages in courts at grass-root level becomes more significant in a sound judicial system for a country like India.

- The use of local languages in courts is permitted but it is not used by most of the judges.
- The complexities in the proceedings and judgements must be removed and made as simple as possible.
- The local conditions also have to be taken into account, for instance, what particular kind of cases are coming from a certain region. All these measures will give the local conditions the due importance.

- **Mediation as a Saviour:** Mediation can help in coming out of the procedural delays, complex processes of the CPC and CrPC and reach an immutable solution. It is also a cost effective method.

- The SC under **Section 89 of the CPC** established four types of dispute resolution mechanism; **arbitration, conciliation, judicial settlement and mediation.**
- **Mediation is a win-win situation** as the process not only reduces the pendency of cases but also works up to the satisfaction level of both the parties as in mediation, they are the one taking a decision.

- **Changing Patriarchal Mindset:** The need of the hour is to correct the patriarchal mindset in recommending and approving the names of those who are to be elevated as high court judges and come out with **more representation to worthy women** lawyers and district judges for elevation.

No reforms in the judiciary can effectively take place unless it is inclusive of women.

Conclusion

Indianisation in the judiciary is the need of the hour. Concise and timely judgements in a familiar language are required for the effective delivery of justice.