



Time for Transformative Judicial Revolution

This article is based upon [“A burdened judiciary needs help”](#) which was published in Hindu Business Line on 23/11/2022. It talks about the Indian Judicial system and issues related to it.

For Prelims: Supreme Court, President, Consolidated Fund of India, Parliament, Chief Justice of India, All India Judicial Services (AIJS), Blockchain technology, Metaverse.

For Mains: Major Legal Norms Related to Judiciary in India, Challenges Related to the Indian Judicial System.

The **Judiciary** is the body responsible for interpreting the law and imparting meaning to it. It is the **defender of the constitution** and the **guardian of democracy**. Under the Indian constitution, the **judiciary is a single integrated system of courts for the Union and the states with the Supreme Court at the apex**.

However, the **Indian judiciary is currently experiencing a number of problems** that are **eroding its legitimacy**. As a result, the **public is losing faith in the judicial system** and is hesitant to turn to this institution for assistance in resolving their issues.

Since **“justice delayed is justice denied,”** it is crucial that the **judiciary solves these obstacles as soon as possible** to ensure that Indian citizens do not hesitate to approach it.

What are the Major Norms Related to Judiciary in India?

- **Security of Tenure:** A judge can **remain in office till he has attained the age of 65 years**. He can be removed by the **President** on the grounds of **“proved misbehaviour or incapacity.”**
- **Security of Salaries and Service Conditions:** Judges’ salaries, allowances, etc., **shall not be changed to their disadvantage during their term of office**. The salaries of the Judges cannot be reduced except during periods of **financial emergency**.
 - Their salaries allowances are charged on the **Consolidated Fund of India** and so are **not subject to vote of Parliament**.
- **No Discussion in the Legislature on the Conduct of Judges:** No discussion can take place in the parliament regarding the conduct of any judge or about the **discharge of his duties except when there is a motion for his removal**.
- **Full Control Over its Procedure of Work and Establishment:** The **Supreme Court** is free to decide its own procedures of work and its establishment as well as the conditions of service of its employees. Thus, it is **free from influence of any outside agency**.
- **Punishment for Contempt of Court:** The Supreme Court can punish for the **contempt of court** if a person or authority makes an attempt to lower its authority.

What are the Challenges Related to the Indian Judicial System?

- **Huge Pendency of Cases:** As many as **30 million cases** are still backlogged in India's court system.
 - Over **4 million of them involve the High Court**, and **60,000 involve the Supreme Court**. The fact that **this figure keeps rising demonstrates the inadequacies of the justice system**.
- **Undertrial Prisoners:** The majority of Indian prison inmates are still awaiting the verdict on their cases, and they are being held there until that time.
 - A majority of people **end up serving a longer sentence in prison than they would have otherwise incurred**, and the **costs, suffering, and anguish associated with defending themselves in court are more costly and painful** than serving the actual sentence.
- **Recruitment Delays:** Judicial posts are not filled as quickly as necessary. For a country of **135 million**, there are only about **25000 judges**.
 - There are almost **400 vacancies in the high courts**. And around **35% of the posts are lying vacant in the lower judiciary**.
- **Favouritism and Nepotism in CJI Appointment:** Because there are no specific criteria for evaluating candidates for the post of [Chief Justice of India](#), nepotism and favouritism is common.
 - Consequently, there is **no transparency in the judicial appointment**, which **negatively impacts the country's ability to regulate law and order**.
 - Also, **they are not accountable to any administrative body** that may lead to the wrong choice of the candidate while overlooking the right candidate.
- **Inequality of Representation:** Another area of concern is the composition of the **higher judiciary**, where [women are fairly underrepresented](#). **Out of 1.7 million advocates registered, only 15% are women**.
 - In high courts, the **percentage of women judges is a mere 11.5%**, while in the Supreme Court there are **four sitting women judges out of 33 in office**.

What Should be the Way Forward?

- **Transforming the Appointment System:** Vacancies must be filled immediately, and it is **necessary to establish an appropriate timeline** for the **appointment of judges** and **to provide the suggestions in advance**.
 - Another significant element that can **unquestionably aid India** in developing a **better judicial system** is the [All India Judicial Services \(AIJS\)](#).
- **Reforming Investigation:** India lacks an **active investigation policy**, which leads to **many innocent people being wrongfully charged and punished**.
 - Therefore, the Indian government needs to frame an investigation policy that is **effective, proactive and comprehensive**, taking into **account all the stakeholders in the justice system**.
- **Innovative Solutions to Justice:** The solution to clearing the massive backlog of cases requires more than just appointing more judges, it also requires innovative solutions.
 - For example, **solving basic civil cases through [Metaverse](#) techniques, using [blockchain technology](#) to store data, researching IT solutions that simplify workflow, and improving courtroom facilities** are some ways to move past the current backlog.
- **Better District Courts:** The **district courts are the primary area of concern** in India's need for judicial reform, which requires a **bottom-up strategy**.
 - In order to improve judicial effectiveness at the lowest level, **judicial audits of lower courts should be taken into account**.
- **Ensuring Gender Parity:** There is a **need to maintain and promote [Gender Diversity in Higher Judiciary](#) with a fixed percentage of its members as women judges** that will lead to the evolution of a **gender-neutral judicial system of India**.

Drishti Mains Question

Discuss the major challenges related to Indian Judiciary. Also suggest some innovative solutions to

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. Consider the following statements: (2019)

1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (b)

Mains

Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to the appointment of judges of higher judiciary in India. (150 words)