



# The Big Picture: Accessible and Affordable Judicial System

## Why in News?

- The Vice President of India has recently raised concerns over making the entire judicial system more accessible and understandable for the common man.
  - He said that “inordinate delay, cost of legal processes and inaccessibility are impeding the effective delivery of justice to the common man”.

## Key Points

- **Equal Justice:** Accessible and Affordable Justice has been enshrined in DPSP under [article 39 \(A\)](#).
  - However, due to various structural and systematic challenges, the aspiration to meet this objective looks blur.
- **High Pendency of Cases:** The total pendency of cases in the several courts of India at different levels, sums up to a total of **about 3.7 crores** thus increasing the demand of a better and improved judicial system.
- **Inferences from Pendency of Cases:** In 2010, Justice VB Rao (Andhra Pradesh HC) estimated it to take **320 years to clear the backlog of 31.28 million** (3.12 crore) pending cases (the then rate of pending cases) in various courts.
  - The **National Court Management**, a report of the [Supreme Court](#) in 2012, studied the data of pendency of cases and vacancy of judges.
    - It showed that in the last 3 decades, the number of cases increased by 12 folds while the number of judges increased only by 6 folds.
- **Widening Gap:** The gap between the number of judges and cases is widening.
  - In the next 3 decades, the number of cases is expected to rise by approximately **15 crores requiring a total no of judges about 75000**.
    - In fact, currently the 25 high courts have the strength of **less than 1200 judges**.

## Article 39 (A)

- Article 39 (A) of the Constitution directs the State to ensure that the operation of the legal system promotes justice on a basis of equal opportunity and shall, in particular, provide free legal aid by suitable legislation or schemes or in any other way.

## The Poor Judicial System of India

- **Judge to Population Ratio:** The judge-population ratio in the country is not very appreciable.
  - While for the other countries, the ratio is about 50-70 judges per million people, in India it is **20 judges per million heads**.
  - Although it is an increase from 12 judges per million people in the past, it does not make us anywhere close to an affordable judicial system.
- **Involvement of Technology:** It is only since the pandemic that the court proceedings have

started to take place virtually too, earlier the role of technology in the judiciary was not much larger.

- **Recruitment Delays:** The posts in the judiciary are not filled up as expeditiously as required.
  - India is a country with a population of more than 135 million and total strength of judges with only around 25000.
    - Almost 400 posts are vacant (40%) in the high courts.
    - Around 35% of the posts are lying vacant in the lower judiciary.
    - However, there are not too many vacancies in the Supreme Court. The total number is 34 with only 2-3 vacancies.
- **Procedural Delays:** Frequent adjournments are granted by the courts to the advocates which leads to unnecessary delays in justice.
  - The process of judicial appointment is delayed due to **delay in recommendations** by the **collegium** for the higher judiciary.
  - **Delay in recruitment** made by the state commission/high courts for lower judiciary is also a cause of the poor judicial system.

## Challenges Associated

- **More Awareness More Cases:** As far as increasing awareness of the citizens about their rights and laws is concerned, it is undoubtedly very necessary and appreciable but more knowledge of rights means an increased number of cases.
  - The increasing awareness can and must not be discouraged but the increasing cases should be dealt with efficiently.
- **Overlapping of Laws:** A number of laws exist in India at central and state levels many of which are quite similar in nature.
  - This creates clumsiness and chaos, these laws must be codified and the redundant ones must be repealed.
- **Complex Language of the Laws:** Language used in the laws are responsible for most of the litigations.
  - In case the legislations are drafted in a simpler language, probably the number of cases being filed in court specifically related to taxation matter can also be reduced.
- **Lack of Assessment:** When a new legislation is formed, there is no judicial impact assessment done by the government on how much burden is going to be casted on the judiciary.
  - The probabilities of generating more litigations or requirement of more judges is not taken into account.

## Way Forward

- **Streamlining the Appointment System:** The vacancies must be filled without any unnecessary delay.
  - A proper time frame for the appointment of judges must be laid down and the recommendations must be given in advance.
  - The Constitution of the **All India Judicial Services** is also an important factor which can definitely help India establish a better judicial system.
- **Use of Technologies:** People are becoming more and more aware of their rights and which is why the number of cases filed in court are also increasing.
  - To deal with that **judicial officers need to be trained, vacancies for the judges must be filled up expeditiously** and in addition the **use of technology particularly artificial intelligence** must be encouraged.
- **Dispute Resolution:** The adjudication of disputes within a **short time frame** is important to ensure the trust of the people within the judicial system.
  - Delayed justice erodes faith in the system and it can lead to **vigilantism**.
- **Out of Court Settlement:** Resolving every case within the court premises is not mandatory; other possible systems must also be accessed.
  - There is also a need to promote the alternate dispute resolution mechanism for which the **arbitration and conciliation** act has been amended three times to ensure that people go for commercial litigation mode and sort it out either by mediation, conciliation or arbitration.
- **Use of Local Languages:** For making the entire judicial system more understandable to the

common man, one way the use of the local languages in courts.

- The use of local language in court provides the common man a better understanding of his rights, the laws created and the hearings of court proceedings too.
- The local languages in the court is already permissible right upto the district level. Some of the high courts are also working in the local languages.

### **All India Judicial Services (AIJS):**

#### ▪ **About:**

- The government is in the process of finalising a bill to establish an **All-India Judicial Service to recruit officers for subordinate courts through an entrance test.**
- Those who clear the **pan-India** test would be appointed by high courts and the State governments.
- The AIJS exams will be conducted in four zones; East, West, North and South.

#### ▪ **Constitutional Provision:**

- The provision of AIJS was included in [Article 312](#) of the Constitution through the **42<sup>nd</sup> Amendment in 1976.**

#### ▪ **Background:**

- The move is in line with the present [UPSC examination](#) pattern, where such exams are conducted in multiple languages.

#### ▪ **Language:** The government plans to conduct AIJS examinations in **22 languages.**

#### ▪ **Related Issue:**

- Since cases in lower courts are argued in local languages, there have been apprehensions as to how a person from a particular state can hold hearing in another state that has completely different language.
  - But the government is of the view that even IAS and IPS officers have served in different States overcoming the language barrier.

### **Conclusion**

- A sound judicial system is one based on an objective enquiry, practical and unbiased analysis of evidence and delivery of timely and even-handed justice to all citizens.
- The government must take hard and fast actions on reducing the pendency of cases as the justice delayed is justice denied.

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