



Retirement Age of Judges

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The Ministry of Law and Justice has said there was no proposal as of now to increase the retirement age of **Supreme Court judges from 65 to 67 and of High Court judges from 62 to 65.**

- The Ministry was responding to the recommendation of a **Parliamentary Standing Committee** that raising the retirement age of judges would help retain the existing judges, which in turn would help in **reducing both vacancy and pendency** of cases in short run.
- Another key factor highlighted by the committee was the **life expectancy, which has increased considerably** in the last few years.

Background

- The **Venkatachaliah Report (Report of the National Commission to review the working of the Constitution, 2002)** recommended that the retirement age of the Judges of the High Court **should be increased** to 65 years and that of the Judges of the Supreme Court should be increased to 68 years.
- The **Constitution (114th Amendment) Bill** was introduced in 2010 to increase the retirement age of High Court judges to 65. However, it was not taken up for consideration in Parliament and lapsed with the dissolution of the 15th Lok Sabha.
- Recently Justice Kurian Joseph of Supreme Court also recommended increasing retirement age of judges in higher judiciary to decrease the pendency of cases.
- However, it has also been argued that 65 years is a good enough an age to retire, because at this age, **mental and physical wear and tear start manifesting.**
- As of now, out of a total **approved strength of 1,079 judges in 24 High Courts** (excluding the 25th High Court of Andhra Pradesh) across the country, **only 695 posts are filled.**

The Case in Western Democracies

- A retirement **age of around 70** for judges is commonplace in **most Western liberal democracies**. Some of them even opt for **tenures for life**. E.g.:
 - In the Supreme Court of the **United States**, and in constitutional courts in **Austria and Greece**, judges are **appointed for life**.
 - In Belgium, Denmark, Ireland, the Netherlands, Norway and Australia, the retirement age for **judges is 70 years**.
- India should also consider increasing the retirement age for judges of the High Courts and the Supreme Court.

Need

- The **judge-population ratio in India is among the lowest** in the world at 19.66 judges per million (10 lakh) people as of today. In 2016, the U.K. had 51 judges per million people, the U.S. had 107, Australia had 41, and Canada had 75.
- It is also necessary to increase the number of judges in the pool to enable the judiciary to **deal with the enormous pendency of cases**.
- According to **National Judicial Data Grid data**, more than 2.84 crore cases are pending in the subordinate courts, 43 lakh cases are pending before the High Courts, and 57,987 cases are pending before the Supreme Court.
- Moreover, legislations provide for retired High Court and Supreme Court judges to **man tribunals till the age of 70 as chairman and 65 as members**. There is no reason why these judges should be retired so early.
- One aspect which has not been factored in is that as the **Indian economy grows**, the ratio of litigation to population will increase exponentially. Advanced economies such as Australia, Canada, France, the U.S., the U.K., and Japan have much **higher litigation-to-population ratios**.

Positive Consequences

- This will have significant benefits. Senior serving judges will bring with them **years of experience**.
- It will ensure the continued presence of a **strong talent pool of experienced judges**.
- New judges can be appointed without displacing existing judges.
- It will address the **problem of mounting arrears**.
- It will be a buffer against **impending litigation explosion**.
- It will render **post-retirement assignments unattractive** and, as a consequence, **strengthen the rule of law and the independence of the judiciary**, both of which are crucial to sustain democracy.

Way Forward

- India faces the **perennial issue of backlog of cases**. Increasing the age of Judges will certainly help in addressing this issue. The retirement age of judges of the Supreme Court and High Courts could be increased, but with the **option of quitting before reaching the age of superannuation -- a practice prevailing in Zimbabwe**, where a top court judge is appointed to retire at 65 years but can opt to continue till 70.
- Moreover, merely increasing the retirement age of the Judges is **not a solution for problems** in Indian Judiciary. Other issues like **lack of transparency (particularly in the appointment of judges), under trials of the accused, lack of information and interaction among people and courts must also be addressed**.