

General Studies – 2 Topic: Functioning of judiciary

Funding the Judiciary

1) Introduction

- Statement by Chief justice of India about how the judiciary is not receiving enough funds once again brings to the fore the friction between the judiciary and the government.
- The demand for more resources to the judiciary is not new.
- Even back in the 1980s, the 127th Law Commission had lamented the poor quality of infrastructure

2) How much India spends on Judiciary?

- Although judiciary is independent in its functions, it is dependent on legislature for fulfilling its financial needs.
- India currently spends about Rs12,000 crore a year on the judiciary
- This amounts to about 0.01% of the gross domestic product (GDP).
- One could compare this with the national defence allocation of around 2% of GDP which is the other large sovereign function.
- A committee of the Supreme Court compared it to allocations for health and education and found it to be much lower
- The judiciary is funded mostly by the states—that historically haven't had too much to spend at their discretion given the Centrally-sponsored schemes of the Union government.
- Out of the special grant of Rs5,000 crore by the 13th Finance Commission for improving judicial infrastructure and services, almost 80% remained unspent.
- 14th Finance Commission urged state governments to use the additional fiscal space provided by the commission in the tax devolution to meet such requirements
- The onus is now completely on state governments to prioritize funding to the courts.

3) Recommendations

- “Report of the Task Force on Judicial Impact Assessment” had asked that a judicial impact office be created in Delhi and state capitals to estimate the extra expenditure on the courts to be incurred by Central and state legislation, respectively.
- There is a need to move from outlay-based budgeting to outcome-based budgeting.
- To improve the efficiency of courts or access to justice there is a need for re-engineering, re-imagining court processes, widespread use of technology and reforms in substantive law.
- There is a need to increase the number of judges at all levels and encourage the use of Information and Communication technology to make the process speedier. Government is going well in setting up e-courts.
- There should be a mechanism to regulate frivolous litigations. An efficient litigation policy will help a lot.
- Civil court fees structure must be suitably modified and it must be made mandatory for state governments to spend the entire fees so collected on building judicial infrastructure.
- strengthening judicial infrastructure and increasing the judge-population ratio
- Frivolous cases that consume too much court time should be dealt with a heavy hand and exemplary costs should be imposed on such litigation.
- The same must be done for cases where corporates file frivolous cases against their business rivals.

4) Raising the judges strength

- In 1987, the Law Commission of India pointed out that the judge-population ratio in India was only 10.5 judges per million population (it is now 12 judges per million)
- The ratio was 41.6 in Australia, 50.9 in England, 75.2 in Canada and 107 in the United States.
- The Commission recommended that India required 107 judges per million populations.
- The judge strength could be raised five-fold (to 50 judges per million populations) in a period of five years.
- There is need for more transparency in appointment of high court judges. Everything should be in the public domain.

5) Challenges

- More judges, more courts, more computers alone may not do much to improve the efficiency of courts or access to justice
- Judicial infrastructure, it is clear, hasn't kept pace with the rate of litigation.
- Courts in the US have been aggressively pursuing budgetary allocations for quite some time now. While we have not yet reached such a situation in India
- Barring the metros and state capitals, most of the subordinate courts lack basic infrastructure for judges, court staff and litigants.
- If the Judiciary is not independent resource-wise and/or in relation to funds, from the interference of the Executive, judicial independence will become redundant and inconsequential.

6) Need of the Hour

- The judiciary should be made responsible to present its own financial needs in a professional and competent manner, documenting its requirements
- the judicial allocation should be in a transparent and accountable manner
- The budget should be as such that it should be considered a mean to increase both judicial capacity and judicial accountability.
- Adequacy of judicial infrastructure is a pre-requisite for reduction of pendency and backlog of cases in courts
- The quantum of allocation needs to be increased to accommodate increasing manpower and information technology-related infrastructure needs.
- The administrative capacity of the judiciary with respect to budget-making needs to be enhanced.
- High Courts and the Law Ministry should consider the idea of transparent budget-making process based on public inputs and presenting the same separately from the general budget.