

## General Studies-2; Topic: Functioning of judiciary

### Judicial Reforms in India

#### 1) Introduction

- The justice system is the principal instrumentality in satisfying the undertakings in the Constitution.
- The average citizen has greater trust and confidence in the judiciary.
- Speedy justice is a prerequisite for maintaining the rule of law and delivering good governance.
- Therefore, judicial reforms should be made the prime development agenda.

#### 2) Present Issues

- Delay in Justice
- Low Performance of India on ease of doing business because of lag in 'enforcement of contract' largely due to the inefficient judicial system
- The National Judicial Data Grid shows there are 2.54 crore cases pending in subordinate courts.
- The system is unable to keep pace with new cases being instituted in our diverse economy.
- Barring the metros and state capitals, most of the subordinate courts lack basic infrastructure for judges, court staff and litigants.
- Judicial procedure is very complex and costly putting the poor at a distance from justice.
- Judicial overreach
- Six High Courts in the country are without regular Chief Justices for the past several months.
- Judicial ineffectiveness is to a great extent responsible for the increase in crimes like rape, murder, looting, cheating and so on.
- Supreme Court had quashed the government's attempt to form National Judicial Appointments Commission (NJAC) to expedite the appointment process
- The logjam between Judiciary and Executive can only result in distress for the public.
- Financing of the judicial system has not been adequate.
- An increase in crimes against women and increase in the reporting of criminal activities, have contributed to rise in the workload of the judiciary.
- Thus reforms both at lower and higher levels of judiciary are urgently required to keep the pillars of democracy stronger and powerful.

#### 3) Recommendations

- Need for speedy delivery of justice and unburdening higher courts.
- Making the judicial system accessible and effective for the poor, accountability of judges and transparency in court proceedings
- Time limits for taking decision are to be prescribed like Slovak republic where disposal of cases in less than 60 days.
- More judges, streamlining procedures using information technology and increase the judge-population ratio to reduce delays and cut costs.
- Just like automation powered by Artificial Intelligence is already helping doctors, it can also be leveraged to assist judges and lawyers.
- State and Union governments should work hand in hand to address the shortage of basic infrastructure such as courtrooms and essential facilities for judges.
- Constitute a Performance Commission with powers to take consequential action. Many U.S. States have such commissions, which examine complaints about the conduct of judges.

- Set up specialized commercial fast track courts to expedite the enforcement
- The judiciary should be made responsible to present its own financial needs in a professional and competent manner, documenting its requirements
- 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.
- Appointment of ad hoc or additional judges to clear pending cases
- Creation of a transparent, full-time independent judicial complaints commission to investigate complaints against judges
- Alternative Dispute Resolution mechanism, Lok Adalats etc should be explored on greater scale to reduce the burden of the judiciary at all levels.
- **Law Commission Recommendations**
  - a. Equal role for judiciary, executive in appointment of judges
  - b. Post of Chief Justice should not be transferable
  - c. Judges must deliver judgments within a reasonable time
- These changes must be brought on urgent basis as justice delayed is justice compromised.

