General Studies – 2: Topic: Functioning of judiciary

Improving Judicial Efficiency

1) Introduction
   - The Indian judicial system has a pendency problem.
   - Chief Justice of India Dipak Misra recently flagged rising pendency in appeals lying with High Courts.

2) Present Status
   - Lower courts are where most cases get stuck.
   - Most cases drag on for several years, without reaching a conclusion.
   - Justice delayed this much is justice compromised.
   - In many cases, undertrials spend more time in jail than the period of punishment.
   - Litigants routinely miss court dates, causing hearings to get repeatedly postponed.
   - Frequent adjournments and indiscriminate use of writ jurisdiction.
   - Because of its large caseload of ordinary cases, the court has had difficulty in scheduling important constitutional cases that require larger benches.
   - In addition to judicial shortages, courts are underfunded.

3) Court Performance
   - For decades, the primary measure of court efficiency has been case disposal rates.
   - Public perception of court performance and individual judges now hinges on the number of cases pending before them.
   - It puts pressure on judges to dispose of as many cases as possible, a situation that does not consider the quality of adjudication.
   - Neither does it shed light on the exact nature of cases that have remained pending the longest, or the stage at which pendency recurs the most.
   - Courts themselves must start analysing historical case data to evolve a better metric for measuring performance and addressing backlogs.

4) Impact of listing techniques
   - Certain cases listing practices has influenced case movement and caused pendency.
   - Matters listed towards the end of the day remained left over.
   - Old pending matters barely made it to court and over 91% of them remained unheard despite being allotted a separate day and specific judges.
   - These cases would never come up for hearing because of the large number of other urgent and routine matters listed.
   - Advocates also tend to become disinterested in older cases in which clients have lost interest with time.

5) Implications
   - Right to justice would stand denied to litigants due to the unduly long delay in the disposal of cases.
   - Due to the backlog, most of India’s prison population are detainees awaiting trial.
   - The pursuit of justice has been made more expensive by chronic delays.
   - As a result, India’s legal system has increasingly become the preserve of the country’s wealthy and well connected.
This exacerbates the discrimination already faced by India’s minority and low-caste groups.

Corruption too, is endemic. People would rather bribe a police officer than go through the lengthy hassle of a trial.

6) **Way Forward**
- The appointment of judges to vacant posts in various courts requires immediate attention.
- Better case management and procedural reforms can go a long way in reducing case pendency.
- It is crucial that a disposal review mechanism is put in place.
- The manner in which judicial performance is measured and accountability is exercised must be revisited.
- One way to accelerate case movement is by making case listing more systematic and scientific.
- Old cases must be disposed on a priority basis and it should be ensured that adjournments aren’t granted for frivolous reasons.
- Categorize writ petitions based on their urgency and have a quarterly performance review.
- Judges should stick to judicial matters and leave administrative issues to other court officials and staff.
- Using information and communication technologies (ICTs) such as video conferencing to streamline the judicial process.
- Setting up of fast-track courts to handle cases that have already gone on for a stipulated amount of time.

7) **Recommendations by 230th report of Law Commission**
- Providing strict guidelines for the grant of adjournments.
- Curtailing vacation time in the higher judiciary.
- Reducing the time for oral arguments unless the case involves a complicated question of law.
- Framing clear and decisive judgements to avoid further litigation.
- Incorporating technology into the system.
- Just like automation powered by Artificial Intelligence is already helping doctors, it can also be leveraged to assist judges and lawyers.

8) **NITI Aayog Recommendations**
- NITI Aayog suggested establishment of a judicial performance index (JPI) to check delay in finalisation of cases in lower judiciary.
- JPI will help the high courts and its chief justices to keep track of performance and process improvement at district courts and subordinate levels for reducing delay.
- Establishing separate administrative cadre in judicial system to reduce workload on judges.
- Automation in courts and use of information and communication technology for e-court and case management.
- Establishing online real time judicial statistics for determining the adequacy of judicial manpower and infrastructure to deal with work load of cases.
- Adopt internationally developed measures such as ‘global measures of court performance’.

9) **Conclusion**
- Addressing the backlog is necessary to maintain India’s “constitutional democracy,” to adhere to “the rule of law” and to “guarantee order and stability in society”.
- The country’s progress depends on a strong judicial system which can provide quick justice because justice delayed is justice denied.