

## 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.