

## General Studies-2; Topic: Separation of powers between various organs dispute redressal mechanisms and institutions

### Pendency of Cases in Indian Courts

#### 1) Background

- According to several legal scholars, the Supreme Court's pendency problem originated in the late 1970s.
- In the decade before the Emergency, the Supreme Court had an annual backlog of around 10,000 cases.
- In the decade after the Emergency, this ratio increased which peaked in 1991 at more than 100,000 pending cases.

#### 2) Present Status

- Supreme Court has seen nearly two million cases disposed and more than 50,000 judgements delivered since its inception.
- Yet the Supreme Court continues to be plagued by pending cases.
- Latest figures reveal that there are 54,013 pending matters in the Supreme Court.
- In the high courts, at the end of 2017, there were more than 4.2 million pending cases.
- Over 22 lakh cases, which are over a decade old, are pending in various subordinate courts of the country, latest official data shows.
- These cases constitute 8.29 per cent of the total nearly 2.5 crore cases pending in the lower courts.
- The criminal cases are more compared to civil cases.

#### 3) Reasons

- Inordinate delay in filling up the vacancies of judicial officers.
- The Supreme Court's increased activity is being driven by appeals from lower courts.
- The special leave petition (SLP) which the Constituent Assembly hoped would be used sparingly, but which now dwarfs the work of the Supreme Court.
- Increasing number of state and central legislations.
- In addition to judicial shortages, courts are underfunded.
- Frequent adjournments and indiscriminate use of writ jurisdiction.
- Due to Government Litigation. According to the Ministry of Law and Justice, government departments are a party to around "46 percent" of court cases.

#### 4) Consequences

- Right to justice, which is a fundamental right, would stand denied to litigants due to delay in the disposal of cases.
- Due to the backlog, most of India's prison population are detainees awaiting trial.
- Courts in Mumbai are clogged with decade-old land disputes, hindering the city's industrial development.
- The pursuit of justice has been made more expensive by chronic delays.
- 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.
- The impunity that criminals may enjoy because of slow legal system.

## 5) Various Initiatives

- The e-Committee of the Supreme Court had launched the National Judicial Data Grid (NJDG) to provide data on cases pending in the district courts across the country.
- The NJDG is a part of the on-going e-Courts Integrated Mission Mode Project.
- The NJDG works as a monitoring tool to identify, manage and reduce pendency of cases.

## 6) Recommendations

- The 229th Law Commission report proposed establishing separate benches to hear appeals and constitutional matters.
- The report also suggested the establishment of regional Supreme Court benches to hear appeals from high courts.
- The Law Commission had also recommended increase in the number of judges to 50 judges per 10 lakh people.

## 7) Concerns / Challenges

- India has 19 judges per 10 lakh people on an average, according to a Law Ministry data which also states that the judiciary faces a shortage of over 6,000 judges, including over 5,000 in the lower courts itself.
- According to Markandey Katju, a retired Supreme Court justice, judges should have no more than 300 cases pending at any one time, but backlogs for individual judges stretch into the tens of thousands.
- Because of large caseload of ordinary cases, the Supreme Court is finding it difficult to schedule important constitutional cases that require larger benches.

## 8) Way Forward

- The chief justices of the 24 high courts must fast-track cases that are pending for more than 10 years.
- Increasing the number of judges or creating additional benches.
- Chief justices of the 24 high courts must speed up recruitment of judicial officers for the lower judiciary.
- A long-term goal to Keep courts open 365 days a year.
- A committee of retired judges should be appointed to find out the problems that lead to the stalling of cases, their remedies and implement them.
- Supreme Court can have special benches across India so that the poorer citizens can have greater access.
- Our courts should be fully digitised and technical experts should be brought in to streamline the whole process right from when a person files a case, to updating it, to the final verdict.
- We have to do a major overhaul of "de-Britishising" of the system i.e. overhaul of archaic laws.
- Having four to five clerks for each judge to help filter out appeals, write memos, and draft decisions, which is the norm in countries such as South Africa or the United States, could greatly reduce the judges' workload.
- Brazil disposes of about 100,000 cases each year with far fewer judges. To take on such a large load, clerks and other staff take a central role in drafting decisions for the many routine matters.
- Judicial process needs to be streamlined. Lawyers need to be penalised for delaying matters without reason.
- A multi-pronged approach needs to be adopted to tackle the issue of "government litigation".

### 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.

