



## Challenges for the New Chief Justice of India

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This article is based upon “**A Court in Crisis**” which was published in the Indian Express on 24 April, 2021. It talks about the issues in the judiciary and what is the way forward for the new CJI, Justice NV Ramana to fulfill his oath.

Justice is the concept of making decisions based on moral rightness, rationality, equity and fairness and the onus of delivering timely justice to the citizens of a country lies majorly on the shoulders of the supreme judge of the country.

In India, this role is played by the **Chief Justice of India (CJI)**; the ‘**Paterfamilias**’ of the Judiciary and the ‘**Master of the Roster**’.

Recently, Justice Nuthalapati Venkata Ramana (**NV Ramana**), the most senior judge of the **Supreme Court** after former CJI, **Justice S A Bobde**, took his oath as the 48th CJI.

Designated as CJI at such a time when India is going through a major crisis due to Covid-19 pandemic, a lot of potential challenges stand in the path of fulfilling his oath of delivering timely justice to all.

### Current Issues with the Judiciary

- **Inefficiency of the Supreme Court:** The SC has not only **stopped being the protector of the fundamental and other constitutional rights**, but has also failed to act as the guardian of the rule of law.
  - In the context of politically sensitive cases involving citizens, opposition parties, and activists, the Court has virtually deferred to the executive instead of stepping in to restore constitutional rights and values in letter and spirit.
  - The recently retired, 47th CJI was perhaps the only Chief Justice to have not made a single recommendation of a judge to be appointed to the Supreme Court.
- **Low Judge to Population Ratio:** The judge-population ratio in the country which stands at only **20 judges per million people** is not very appreciable.
  - While for the other countries, the ratio is about 50-70 judges per million people.

- **Pendency and Vacancies in High Courts:** The numbers both in respect of pendency of cases and vacancies in the High Courts are quite concerning — a backlog of **over 57 lakh cases, and a vacancy level of 40%**.
  - The Madras High Court has 5.8 lakh cases against a relatively low level of vacancy at 7%.
  - As many as 44% of the posts in the Calcutta High Court are vacant, but the cases in arrears stand at 2.7 lakh.
- **Recruitment Delays:** The posts in the judiciary are not filled up as expeditiously as required. For a country as populous as 135 million, the **total strength of judges is only around 25000**.
  - Almost 400 posts are vacant in the high courts.
  - Around 35% of the posts are lying vacant in the lower judiciary.
- **Inadequate Representation of Women and Minorities:** The **apex court** currently has only **one woman as judge** despite the fact that virtually half the population comprise women and gender sensitive cases have also seen a sharp rise.
 

The Supreme Court has only one Muslim judge and no Sikh, Buddhist, Jain or a person from tribal community as a judge.
- **Lesser Strict Actions Taken for Judicial Delay:** Though there is widespread acknowledgement of the problem of judicial delay, there is only limited effort within the judiciary taken to understand, through research, the nuances of the problems and ways to resolve it.

## Challenges for the New CJI

- **Keeping the court functioning during the present unprecedented crisis** due to the Covid-19 Pandemic.
- **Revamping the administrative machinery of the apex court** and streamlining the functioning of the collegium.
- Strengthening the judicial infrastructure and **clearing the massive backlog of cases**.
- The Supreme Court will have around 13 vacancies during Justice Ramana's tenure as many judges are due to retire by the end of 2021.
 

The biggest challenge will be to **streamline the appointment process in the Supreme Court as well as in the High Courts** which have been struggling with the pendency of a huge number of cases due to a lack of judges.
- The possibility of courts reopening for physical hearing, at such a time, looks bleak now, given the massive spike in Covid-19 infections in the Capital.
 

The **hearings of courts will have to be digitised which is further criticised by lawyers** on multiple instances due to technical faults.

## Way Forward

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- **Role of the Supreme Court:** A country of a billion+ population needs its highest court to stand for the people as the power of the judiciary, just like the legislature and the executive, comes from the people of the country.
  - The SC is expected to **seek strict accountability from the legislature and executive** and any infraction of the Constitution and laws must be corrected.
  - The Supreme Court collegium of the five senior-most judges should act more transparently and be made more accountable in order to inspire confidence and trust in the judiciary.
- **Role of CJI:** The new Chief Justice must **stringently introspect and review the actions of his immediate predecessors**, free himself of the bias in constituting benches and allocating cases and take concrete steps to revitalise the administration of justice. Only then will the rule of law be restored and the Constitution served.
- **Streamlining the Appointment System:** The vacancies must be filled without any unnecessary delay.
  - A proper time frame for the appointment of judges must be laid down and the recommendations must be given in advance.
  - The Constitution of the **All India Judicial Services (AIJS)** is also an important factor which can definitely help India establish a better judicial system.
- **Fair Representation of All:** Women and the minority communities deserve a fair representation in the Apex Court.
 

The collegium is duty-bound to diversify the Bench to give adequate representation to all sections of society so that public trust, which is the greatest strength of the judiciary, could be restored.

## Conclusion

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- The Chief Justice of India on account of the position he holds as the Paterfamilias of the judicial fraternity is bound to deliver undelayed and unbiased justice to its citizens in order to restore and maintain the faith of the people in the judicial system of India.
 

However, besides the challenges inside the court, surge in Covid cases remains as of the biggest challenges in his way, outside the court.
- A sound judicial system is one based on an objective enquiry, practical and unbiased analysis of evidence and delivery of timely and even-handed justice to all citizens.
 

Time has come for the Supreme Court collegium to assert its primacy in judicial appointments of judges and thus reduce the pendency of cases.

### ***Drishti Mains Question***

Discuss the role of the Chief Justice of India (a) as the Paterfamilias of the judicial fraternity and (b) in delivering a sound and timely justice to the citizens and restoring their faith in the judicial system of the country.

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