



## Reducing Supreme Court's Case Overload

This editorial is based on [“It’s time to revamp the structure of the Supreme Court”](#) which was published in The Hindu on 28/11/2023. It argues that it is time to revamp the structure of the Supreme Court of India, which is currently a single apex court.

**For Prelims:** [Government of India Act, 1935](#), [Supreme Court](#), [Article 124](#), [CJI](#), [e-filing](#), [Law Commission of India](#), [Public interest litigations](#), [Special Leave Petitions \(SLPs\)](#), [Article 145](#), [Article 143](#), Evolution of the Supreme Court

**For Mains:** Pending cases before Supreme Court: Stats regarding pending cases, Reasons behind pendency and Way Forward to reduce pendency of cases

Currently, there is a considerable backlog in the judicial system, with a staggering 80,000 cases awaiting resolution before the 34 judges of the Supreme Court. This backlog reflects a significant challenge that has prompted a recurrent call for structural reforms within the apex court. The sheer volume of pending cases not only highlights the strain on the existing judicial infrastructure but also underscores the need for a more efficient and streamlined legal process.

### What do we Know About the Supreme Court?

- The [Supreme Court](#), established under [Article 124](#) of the Constitution, is the **highest judicial authority** in the country.
- It has the power to hear and decide cases involving the interpretation of the Constitution, the validity of laws, and the protection of fundamental rights.
- It also acts as the **final court of appeal** for all civil and criminal matters.
- It consists of the [Chief Justice of India](#) and up to 34 other judges, who are **appointed by the President of India**.
- The Supreme Court has its own rules and procedures, and it can issue various types of orders and judgments.

### How has the Indian Supreme Court Evolved?

- During colonial times, **there were three Supreme Courts:** in Bombay, Calcutta, and Madras.
- The Indian High Courts Act of 1861 **replaced the Supreme Courts with High Courts** for separate regions.
- The [Government of India Act, 1935](#), **created the Federal Court of India** as an appellate body for the Privy Council and High Courts.
- India adopted the Constitution in 1949. The [Supreme Court](#), as we know it now, was **founded on 28<sup>th</sup> January 1950**, under [Article 124](#) of the Constitution, two days after India became an independent, democratic republic.
  - It came into being in Delhi (current seat) as a result of **Article 130**.

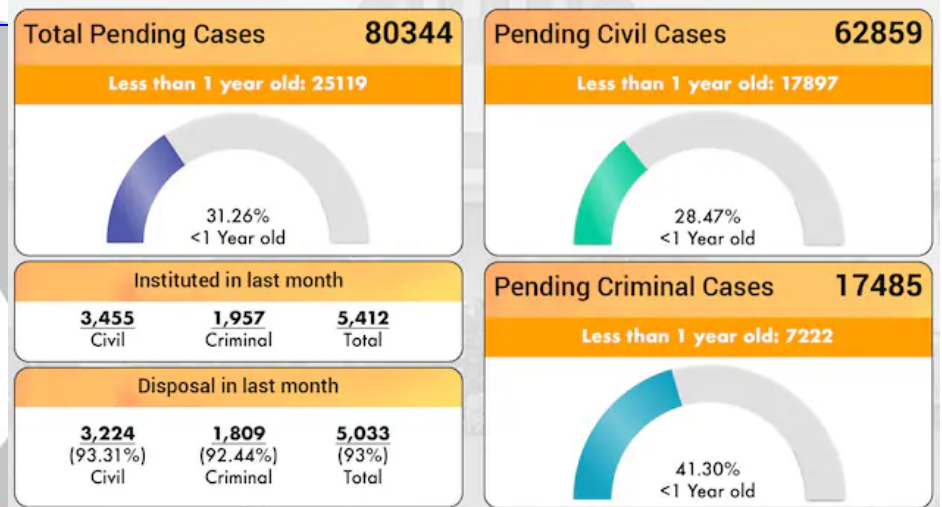
- The first Supreme Court after independence included eight judges, including the [CJI](#).
  - As the workload rose year after year and arrears of cases began to accumulate, Parliament increased the number of judges from eight in 1950 to 11 in 1956, 14 in 1960, 18 in 1978, 26 in 1986, 31 in 2009 and 34 in 2019.
  - The Constitution under **Art 124 confers the power to increase the strength of the Supreme Court** on Parliament.

## How Many Jurisdictions Does the Supreme Court Have?

- The Supreme Court of India has **three jurisdictions** under the Constitution: original, appellate, and advisory.
- The Supreme Court serves as a **Constitutional Court as well as a Court of Appeal**. The Court sits in benches of varying sizes, as determined by the Registry on the directions of the [Chief Justice of India \(CJI\)](#), who is the **Master of the Roster**.
- Constitution Benches of the Supreme Court typically **comprise five, seven, or nine judges** who deliberate on a specific issue related to constitutional law.
  - [Article 145\(3\)](#) of the Constitution provides for the setting up of a Constitution Bench.
  - It says a minimum of five judges need to sit for deciding a case involving a “substantial question of law as to the interpretation of the Constitution”, or for hearing any reference under **Article 143**, which deals with the power of the President to consult the Court.

## How Many Cases are Pending Before the Supreme Court?

- Till September 2023, as per data provided by National Judicial Datagrid:
  - The number of cases pending before the top court of the country is: **80,344**.
    - Of this, **78% are civil matters, 22% criminal**.
  - Interestingly, the Supreme Court has till date disposed of 36,164 of the total 37,777 cases filed so far in 2023. [//](#)



- More than 4,000 cases pending before the Supreme Court are over a decade old.

## What are the Reasons Behind this Staggering Number of Pending Cases?

- **Low Strength of Judges:** The Supreme Court has a **sanctioned strength of 34 judges**, but as of August 2023, there were **only 32 judges in office**. This means that there are two vacancies that need to be filled urgently.
  - The judge-to-population ratio in India is also very low compared to other countries.
  - According to a response provided by the law minister in [Rajya Sabha](#), India has approximately **21 judges per million population**.
    - This is far below the global average of 50 judges per million people.
  - Moreover, the recommendations made by the collegium for the appointment of judges are often delayed by the government.
- **Absence of Judges:** The Supreme Court judges often have to **attend various official and non-official functions, such as conferences, seminars, inaugurations, etc.**, which take up their

valuable time and affect their availability for hearing cases.

- Moreover, the judges also have to take leave for various reasons, such as health, personal, or vacation.
  - The Supreme Court breaks for its **annual summer vacation, which is typically for seven weeks** starting at the end of May.
- According to a report by the [Law Commission of India](#), The Supreme Court has **193 working days** a year for its judicial functioning.
- **Lack of Infrastructure:** The Supreme Court faces a shortage of adequate infrastructure, such as courtrooms, staff, technology, etc., which hampers its efficiency and productivity.
  - For instance, the Supreme Court has only **17 courtrooms**, which are not enough to accommodate all the benches and cases.
  - The court staff also face problems such as **low salaries, poor training, and high workload**.
  - Though the Supreme Court has introduced modern technologies, such as **video conferencing, e-filing, digital libraries, etc.**, to facilitate faster and smoother disposal of cases but they aren't very popular amongst the common public.
- **Appeals from High Courts:** It was reported that appeals in the top court mostly comprised matters **from High Courts that are closer to the Supreme Court**.
  - That is, appeals from the Punjab and Haryana High Court, Allahabad High Court, and Delhi High Court formed the major chunk of matters, whereas courts far away from the apex court had fewer appeals filed, due to both difficulties in accessibility and costs.
- **Filing of Frivolous Cases:** The Supreme Court is the **highest court of appeal in India**, and it has the power to hear appeals from any judgment or order of any court or tribunal in the country. However, this power is often misused by litigants who file frivolous or vexatious appeals in the Supreme Court.
  - Under its very broad jurisdiction, the Supreme Court has entertained frivolous **public interest litigations**, such as demands that passages be deleted from the Quran or secularism be removed from the [Preamble to the Constitution](#).
  - According to a report by the PRS Legislative Research, the Supreme Court admitted 86% of the [Special Leave Petitions \(SLPs\)](#) filed in 2016.
    - This is significantly higher than the 25% admission rate recommended by the Law Commission of India in its 2009 report on access to justice.

## What Reform Measures Should be Taken to Reduce the Pendency of Cases?

- **Split the Supreme Court into Two Divisions:** The **Tenth Law Commission of India** proposed that the Supreme Court be **split into two divisions: the Constitutional Division and the Legal Division**. The proposal stated that only issues pertaining to constitutional law would be brought to the proposed Constitutional Division.
  - Reiterating this, the **Eleventh Law Commission stated in 1988** that dividing the Supreme Court into parts would make justice more widely available and would significantly decrease the fees that litigants have to pay.
- **Establish a National Court of Appeal for SLPs:** In **Bihar Legal Support Society v. Chief Justice of India, 1986**, the Supreme Court stated that it was **“desirable” to establish a National Court of Appeal** that would be able to entertain special leave petitions. This would allow the Supreme Court to only entertain constitutional and public law-related questions.
- **Establish the Regional Benches of Supreme Court:** As a step towards making the Court more accessible, the **229<sup>th</sup> Law Commission Report, 2009 recommended four regional benches to be located in Delhi, Chennai or Hyderabad, Kolkata, and Mumbai** to hear non-constitutional issues.
  - It recommended six judges from each region at four regional benches take up appellate responsibility, with a Constitution Bench in New Delhi working on a regular basis.
  - By dividing the heavy backlog of non-constitutional cases among regional benches, the Supreme Court, it said, could “deal with constitutional issues and other cases of national importance on a day-to-day basis.”
- **Increase the number of Work Days:** The [Malimath Committee](#) suggested that the **Supreme Court should work for 206 days** and it also recommended that the period of **vacation should be reduced by 21 days**, keeping in mind the long pendency of cases.
  - The **2009 Law Commission, in its 230<sup>th</sup> report** suggested that **court vacations be cut**

down by 10-15 days at all levels of the judiciary to help cut the backlog of cases.

- **Establish a Final Court of Appeal and a Permanent Constitution Bench:** The work of the Supreme Court **could be split so that there is a Final Court of Appeal and a permanent Constitution Bench.**
  - This would ensure greater judicial stability and consistency by explicitly distinguishing cases filed under constitutional authority from those filed under appellate and review jurisdiction.
- **Establish a Dedicated Authority for Infrastructure:** Former CJI NV Ramanna proposed to set up the National Judicial Infrastructure Authority of India (NJIAI) which will help improve judicial infrastructure which currently needs urgent attention.

## Conclusion

The Supreme Court's overwhelming case backlog highlights the need for urgent reforms. Addressing issues like a shortage of judges, inadequate infrastructure, and frivolous appeals is crucial. Measures such as increasing workdays, establishing regional benches, and exploring specialized courts can enhance efficiency and accessibility. Embracing these reforms can create a more responsive and effective judiciary in India.

### **Drishti Mains Question:**

Q. Discuss the factors contributing to the staggering backlog of cases in the Indian Supreme Court. Discuss key reforms needed to address the challenges faced by the Supreme Court.

## Legal Insights

Read comprehensively about the [Supreme Court](#)

[www.drishtijudiciary.com](http://www.drishtijudiciary.com)

## UPSC Civil Services Examination, Previous Year Question (PYQ)

### **Prelims**

**Q. With reference to the Indian judiciary, consider the following statements: (2021)**

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

**Which of the statements given above is/are correct?**

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

### **Mains**

**Q. Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act,**

2014' with reference to the appointment of judges of higher judiciary in India. (2017)

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