



Transforming India's Judicial Landscape

This editorial is based on “[Case for compassion guiding the judiciary](#)” which was published in Hindustan Times on 09/10/2024. The article brings into picture the urgent need for judicial reform by integrating compassion into the justice delivery system, emphasizing its role in addressing child sexual abuse cases and the plight of marginalized undertrials. It proposes measures like compassion training for judicial officers and a "compassion quotient" to enhance accessibility and fairness in legal proceedings.

For Prelims: [Indian judiciary](#), [Supreme Court](#), [e-Courts project](#), [National Judicial Appointments Commission](#), [National Crime Records Bureau](#), [Anoop Baranwal case](#), [Election Commissioners, Centrally Sponsored Scheme](#), [Lok Adalats](#), [FASTER](#), [National Company Law Tribunals](#)

For Mains: Current Major Issues Related to Indian Judiciary, Key Recent Initiatives Related to Judicial Reforms in India.

The [Indian judiciary](#) stands at a critical juncture where the **principles of justice and compassion must converge** to address the mounting challenges in the legal system. While the framework of laws and institutions forms the backbone of justice delivery, it is the human element, the compassion of those within the system, that **truly breathes life into these structures**. The alarming increase in pending [child sexual abuse cases](#), from **71,000 in 2017 to 236,000 by the end of 2023**, along with the plight of undertrials from marginalized sections languishing in jails, underscores the urgent need for reform.

At the heart of this reform lies the **integration of compassion into the justice delivery mechanism**. The proposal to incorporate **compassion training for judicial and police officers**, evaluating their performance based on a "**compassion quotient**," and ensuring that legal interpretations uphold human rights without compromising on principles, presents a transformative approach to judicial reform.

What are the Current Major Issues Related to Indian Judiciary?

- **Pendency of Cases:** The Indian judiciary is grappling with an enormous backlog of cases, severely impacting the timely delivery of justice.
 - The **current backlog** in the [Supreme Court](#) stands at nearly **83,000 cases**, the highest ever recorded.
 - The average pendency of a case in Indian courts is now estimated to be **around 3-5 years**, with some cases dragging on for decades.
 - This **massive backlog not only denies timely justice** to litigants but also erodes public faith in the judicial system.
- **Judicial Vacancies:** The [shortage of judges](#) across all levels of the judiciary continues to be a pressing concern, contributing significantly to case backlogs.

- The **Supreme Court is currently operating with 32 judges**, two short of its sanctioned strength (**As of July 2024**) while India has **25 High Courts** with a sanctioned strength of **1,114 judges**, but only **782 positions** are currently filled, leaving **332 judge posts vacant**.
- The situation is even **more dire in lower courts**, with **over 5,000 vacancies** reported in district and subordinate courts as of **February 2023**.
- This shortage **not only increases the workload** on existing judges but also **slows down the entire judicial process**. The delay in appointments, often due to disagreements between the judiciary and the executive, further compounds this issue.
- **Infrastructure and Technological Gaps:** Despite efforts to modernize, **many Indian courts still lack adequate infrastructure and technological support**, hindering efficient justice delivery.
 - For the sanctioned strength of 25,081 judges in the district judiciary, there is a shortage of **4,250 courtrooms and 6,021 residential units**.
 - Notably, **42.9% of the total courtrooms** have been under construction for more than 3 years
 - The **e-Courts project**, aimed at digitizing court processes, has made progress but faces challenges in implementation and adoption, **particularly in lower courts and rural areas**.
 - Bridging this digital divide is crucial for improving access to justice and reducing case pendency.
- **Lack of Judicial Accountability:** The absence of a **robust mechanism for ensuring judicial accountability** has been a point of concern, potentially affecting public trust in the judiciary.
 - The current system of **impeachment for removing judges** is rarely used and is seen as inadequate for addressing misconduct that falls short of impeachable offenses.
 - The proposal for a **National Judicial Appointments Commission (NJAC)** to replace the collegium system was **struck down by the Supreme Court in 2015**, leading to ongoing debates about judicial independence versus accountability.
 - Recent controversies, such as **allegations of corruption against some judges and questions about post-retirement appointments**, have intensified calls for greater transparency in judicial functioning and appointments.
- **Access to Justice Barriers:** Barriers to accessing justice remain a significant issue, particularly for marginalized and economically weaker sections of society.
 - Over the past decade, Indian prisons have increasingly had more undertrial prisoners, with **their share increasing from 66% of prisoners in 2012 to 76% in 2022**, as revealed in the **Prison Statistics India report** released by the **National Crime Records Bureau**, with a disproportionate number coming from disadvantaged communities and facing caste-based discrimination.
 - On **3rd October, 2024**, the Supreme Court delivered a comprehensive judgment, ruling that the provisions in **Prison Manuals permitting caste-based discrimination are unconstitutional**.
 - The high costs of litigation, complex legal procedures, and language barriers often deter many from seeking legal recourse.
 - Although legal aid services are accessible, they frequently remain overlooked.
 - As per the **India Justice Report 2019**, over **80% of India's 1.3 billion population qualifies for legal aid**, yet only **15 million** people have benefited from it since **NALSA's inception in 1995**.
- **Executive Interference and Judicial Independence:** The delicate balance between judicial independence and executive oversight continues to be a contentious issue.
 - Recent years have seen **several instances of perceived executive interference in judicial matters**, raising concerns about the erosion of judicial autonomy.
 - The controversy surrounding the **transfer of Justice S. Muralidhar from the Delhi High Court in February 2020**, is often cited as an example.
- **Representation and Diversity:** The lack of diversity in the Indian judiciary, particularly in terms of **gender, caste, and regional representation**, remains a pressing issue.
 - As of 2023, in the High Courts and Supreme Court, women constitute **13.4% and 9.3% of judges** respectively, far below the desired level of representation.
 - The representation of judges from **Scheduled Castes, Scheduled Tribes, and Other Backward Classes** also remains low.

- A recent report found that in the six states examined, 142 (**84.5%**) of the total 168 seats reserved for the ST category **remain unfilled**.
- This **lack of diversity not only affects the perception of the judiciary but also potentially impacts** the understanding and interpretation of cases involving marginalized communities.
- **Judicial Overreach and Activism:** The fine line between judicial activism and overreach continues to be a subject of debate.
 - While **judicial activism has led to landmark judgments** protecting fundamental rights, critics argue that it sometimes encroaches upon the legislature's domain.
 - A key case involves the [Anoop Baranwal case \(2023\)](#), where the Supreme Court ruled on the **appointment process for Election Commissioners**, prescribing a selection committee that includes the Prime Minister, Leader of Opposition, and the Chief Justice of India.
 - Critics argue that this judgment infringes on the executive's domain and alters the balance of power within India's democratic framework.
 - These interventions, **while often well-intentioned, raise questions about the separation of powers** and the judiciary's role in policymaking.
- **Enforcement of Judgments:** The challenge of enforcing court orders and judgments effectively remains a significant issue.
 - A large number of court orders, especially those against government bodies, remain unenforced.
 - Despite numerous court orders directing the **government to clean up the Yamuna River**, pollution levels continue to be alarmingly high.
 - This is due to a combination of factors, including inadequate infrastructure, lack of political will, and the involvement of powerful interests.
 - This not only **undermines the authority of the courts** but also **denies justice to litigants who have successfully pursued their cases**.
 - The lack of a streamlined mechanism for monitoring and ensuring compliance with court orders contributes to this problem, affecting the overall efficacy of the judicial system.
- **e-filing and Digitisation of Case Records:** As of **31st July 2023**, 18,36,627 cases have been e-filed of which 11,88,842 (65%) were e-filed in District Courts. However, as per data submitted by judicial officers on [ijuris](#), only **48.6% of District Court complexes have a functional e-filing facility**.
 - According to the **e-Committee of the Supreme Court of India**, as of November 22, 2022, around **12 billion pages**, mostly comprising legacy records of disposed cases, need to be digitally preserved.
 - However, progress on this preservation has been slow.

What are the Key Recent Initiatives Related to Judicial Reforms in India?

- **National Mission for Justice Delivery and Legal Reforms:** Established in **August 2011**, it seeks to enhance access to justice by reducing delays and arrears while improving accountability through structural changes and performance standards.
- **Infrastructure Development**
 - The [Centrally Sponsored Scheme \(CSS\)](#) for Judicial Infrastructure has been pivotal in building court halls, residential quarters for judicial officers, lawyers' halls, and digital computer rooms.
 - As of **2023**, the government has released ₹9,755.51 crore since the scheme's inception in 1993-94.
- **Digitalisation Efforts:**
 - **e-Courts and IT Enablement:** The **e-Courts Mission Mode Project** aims to enhance justice delivery through digital solutions. Achievements as of 2023 include:
 - **Computerized courts:** 18,735 district and subordinate courts.
 - **Video conferencing:** 3,240 courts connected to 1,272 jails.
 - **e-Sewa Kendras:** As of 2023, 689 centers providing case information, judgments, and e-filing support.
 - **Virtual courts:** 21 virtual courts in 17 States/UTs, handling over 2.53 crore cases and collecting ₹359 crore in fines by January 2023.

- **Legislative and Policy Reforms:** To reduce pendency, several laws have been amended, including:
 - **Fast Track and Special Courts:** The government, under the **Fourteenth Finance Commission**, established **Fast Track Courts** for heinous crimes and cases involving vulnerable groups like senior citizens, women, and children.
 - As of **2023**, **843 Fast Track Courts** are operational.
 - **1023 Fast Track Special Courts (FTSCs)** for rape and POCSO Act cases have been approved, with 28 States/UTs joining the scheme.
 - **Commercial Courts (Amendment) Act, 2018**
 - **Arbitration and Conciliation (Amendment) Act, 2019**
- **Alternative Dispute Resolution (ADR) Mechanisms:** Promoting ADR, the **Commercial Courts Act, 2015** was amended in 2018 to mandate **Pre-institution Mediation and Settlement (PIMS)**.
 - **Lok Adalats**, organized nationwide, have settled millions of cases, with **7.53 crore** cases resolved between 2021 and 2023.
- **Tele-Law and Pro Bono Initiatives:** The **Tele-Law programme** (launched in 2017) provides legal advice to disadvantaged groups via **Common Service Centres (CSCs)**.
 - As of February 2023, **34.28 lakh cases** have been registered under Tele-Law.
 - A **Pro Bono Advocates** panel is in place, with lawyers volunteering to provide free legal services through platforms like **NyayaBandhu**.

What Measures can be Adopted to Enhance India's Judiciary?

- **Streamlining Case Management through Technology:** India can significantly reduce case pendency by fully implementing and expanding the **e-Courts project**, focusing on digitization of court records, online case filing, and **AI-assisted case management**.
 - The **Singapore** judiciary's success with its **Integrated Case Management System (ICMS)** serves as an excellent model.
 - In India, the launch of the **FASTER (Fast and Secured Transmission of Electronic Records) system** by the Supreme Court in 2022 for quick transmission of bail orders is a step in the right direction.
 - Expanding such initiatives to all levels of courts, **coupled with comprehensive training for judicial staff and lawyers**, can dramatically improve case management efficiency.
- **Alternative Dispute Resolution (ADR) Mechanisms:** Promoting and strengthening **ADR mechanisms** like mediation, arbitration, and Lok Adalats can significantly reduce the burden on formal courts.
 - **India's recent Mediation Act, 2023**, provides a statutory basis for mediation, but its implementation needs to be accelerated.
 - Establishing more **mediation centers, training professional mediators, and incentivizing ADR through tax benefits or faster enforcement** of settlements can encourage litigants to opt for these faster, less adversarial methods of dispute resolution.
- **Judicial Appointments and Vacancies:** Addressing judicial vacancies requires a two-pronged approach: **streamlining the appointment process and increasing the sanctioned strength of judges**.
 - **Chief Justice D.Y. Chandrachud's** recent remark that **“Collegium is not merely a search committee”** and a call for a report on **pending appointments from the Attorney General** reflects the urgent need for transparency and efficiency in the process, addressing systemic delays that hinder judicial effectiveness.
 - The current collegium system could be reformed to include a more diverse selection committee, similar to the **UK's Judicial Appointments Commission**, which includes lay members.
 - Additionally, **increasing the retirement age of judges, as done in the UK (to 75 for Supreme Court judges)**, could help retain experienced jurists and reduce vacancies.
- **Specialized Courts and Tribunals:** Establishing more specialized courts and tribunals can expedite case resolution in specific areas of law.
 - For instance, **India's National Company Law Tribunals (NCLTs)** have shown success in resolving corporate disputes efficiently.
 - The recent establishment of **special POCSO courts** is another positive step.
 - **Learning from Germany's system of specialized courts for various legal**

domains, India could expand this model to areas like **environmental law, cyber crimes, and intellectual property rights**, ensuring faster and more informed judgments through judges with domain expertise.

- **Legal Aid and Access to Justice:** Enhancing legal aid services is crucial for improving access to justice. India can draw inspiration from the **Netherlands' system, where every citizen is entitled to subsidized legal aid based on income levels.**
 - Strengthening the **National Legal Services Authority by increasing its funding, expanding its reach through mobile legal clinics (as seen in some Indian states),** and partnering with law schools for **pro bono services** can make legal aid more accessible.
 - The introduction of the **Tele-Law service**, providing free legal advice through video conferencing, is a **positive step that can be further expanded and publicized.**
- **Judicial Performance Metrics and Accountability:** Implementing a **transparent system of judicial performance evaluation** can enhance accountability and efficiency.
 - The **United States'** use of judicial performance evaluations in many states, offers a model.
 - India could develop a similar system, **tailored to its context**, a comprehensive, objective evaluation system covering **all levels of judiciary would be beneficial**, ensuring it does not compromise judicial independence.
- **Court Infrastructure and Resource Management:** Improving court infrastructure is crucial for efficient justice delivery.
 - **Japan's investment in modern court facilities** with advanced technology can serve as an inspiration.
 - The **Union Government's Centrally Sponsored Scheme (CSS)** to develop infrastructure in district and subordinate courts, with a total outlay of **₹9,000 crore**, is a positive step, but implementation needs to be accelerated.
 - Focus areas should include **creating more courtrooms, improving facilities for litigants and witnesses**, and ensuring all courts have basic amenities and technology.
 - Efficient resource management, including optimal utilization of court hours and proper case scheduling, can further enhance productivity.
- **Implementing Compassion Training for Judicial Officers:** Implementing comprehensive compassion training programs for judicial officers at all levels can significantly enhance the quality and perceived fairness of justice delivery.
 - Such training could include **modules on emotional intelligence, cultural sensitivity, and understanding of social contexts.**
 - In India, the **National Judicial Academy** could incorporate mandatory compassion training in its curriculum for judges, focusing on real-case scenarios and role-playing exercises.
 - Regular refresher courses and evaluation of judges based on their **empathy quotient, alongside legal acumen, can ensure sustained focus on compassionate justice delivery.**
 - Also, Mandatory continuing legal education for judges and lawyers can significantly improve the quality of legal services and judicial decision-making.
 - Singapore's mandatory **Continuing Professional Development (CPD) scheme** for lawyers, is an excellent model.
 - The **Bangalore Principles of Judicial Conduct** provide a framework for **ethical** conduct among judges, emphasizing integrity, impartiality, and accountability.
- **Judicial Outreach and Public Education:** Improving public understanding of the legal system can reduce unnecessary litigation and improve compliance with court orders.
 - The Indian Supreme Court's recent initiatives like **live streaming of proceedings and publishing judgments** in regional languages are commendable steps towards transparency.
 - Expanding these efforts **through public lectures, open court days, and educational programs** in schools and colleges can foster better public engagement with the judiciary.

Conclusion:

Indian judiciary stands at a pivotal moment where embracing compassion alongside legal principles can profoundly transform justice delivery. Integrating compassion training and improving public understanding

of legal processes can foster a more **empathetic and effective judicial framework**. Through these comprehensive reforms, India can ensure that **justice is not only served but is also perceived as fair, equitable, and accessible to all citizens**.

Drishti Mains Question:

The Indian judiciary has been hailed for upholding constitutional values, but recent challenges of pendency, judicial overreach, and infrastructure limitations have raised concerns. Discuss the role of judicial reforms in addressing these issues, citing specific initiatives and their impact on access to justice and judicial efficiency.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims

Q. Consider the following statements: (2019)

1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

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: (b)

Q. With reference to National Legal Services Authority, consider the following statements: (2013)

1. Its objective is to provide free and competent legal services to the weaker sections of the society on the basis of equal opportunity.
2. It issues guidelines for the State Legal Services Authorities to implement the legal programmes and schemes throughout the country.

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 judgment on 'National Judicial Appointments Commission Act,

2014' with reference to the appointment of judges of higher judiciary in India. **(150 words)**

Q. Who are entitled to receive free legal aid? Assess the role of the National Legal Services Authority(NALSA) in rendering free legal aid in India **(2023)**

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