

REFORMING THE INDIAN JUDICIAL SYSTEM

GS 2, MAINS: Structure, organization and functioning of the Executive and the Judiciary Ministries and Departments of the Government.

IN NEWS: Acting on his assurance to bring in plans for reducing pendency of cases, Chief Justice of India Ranjan Gogoi has begun by trying to discipline the judiciary. Justice Gogoi had highlighted two main problems that concerned him—huge pendency of cases and inability of poor to access justice. Justice Gogoi has now interacted with collegium members of each high court through video conferencing to prescribe some strong medicine for the burgeoning pendency of cases—ban on leaves on working days, unless in case of an emergency.

WHY REFORMS ARE REQUIRED IN JUDICIARY?

- The very foundation of civilised society rests on justice. Corrupt elements in government, business, politics flout the law with impunity and without fear of punishment.
- The decline in political discourse is evident in the language and imagery used by politicians to belittle their rivals. Judiciary has failed to rein in such people. Defamation cases are filed, but the utterances get the speakers free airtime but no punishment.
- Judicial ineffectiveness is to a great extent responsible for the increase in crimes like rape, murder, looting, cheating and so on.
- Currently, 50 per cent of India's population is younger than 25 and more than 65 per cent of the people are below the age of 35. These are young people armed with little to no skills, educated but unemployable, exposed to opportunities of the world but no avenues at home, high aspirations but without the effective tools to achieve them. If the judiciary fails to effectively implement the rule of law, these impressionable minds may get lured to crime and easy money.
- Speedy justice is not only our fundamental right but also a prerequisite for maintaining the rule of law and delivering good governance. In its absence, the judicial system ends up serving the interests of the corrupt and the law-breakers. Failed attempts in the past to secure this right have, over the years, led to erosion in people's faith in the judicial system, signs of which are visible in the growing vigilantism.

PROBLEMS PREVAILING IN THE JUDICIARY:

- The judiciary is groaning under the weight of a mammoth 3.3 crore pending cases. Thousands of innocent undertrials are languishing in jails awaiting justice.

- Shortage of judges: The present judge strength is sufficient just to handle the fresh cases filed each year which ensures constancy of pendency figures. It is necessary to understand and predict that case filing patterns would change in future and device methods to keep pendency in manageable limits.

- Judicial overreach: Judicial Overreach refers to an extreme form of judicial activism where arbitrary, unreasonable and frequent interventions are made by judiciary into the legislature's domain, often with the intention of disrupting the balance of powers between executive, legislature and judiciary.

JUDICIAL REFORMS

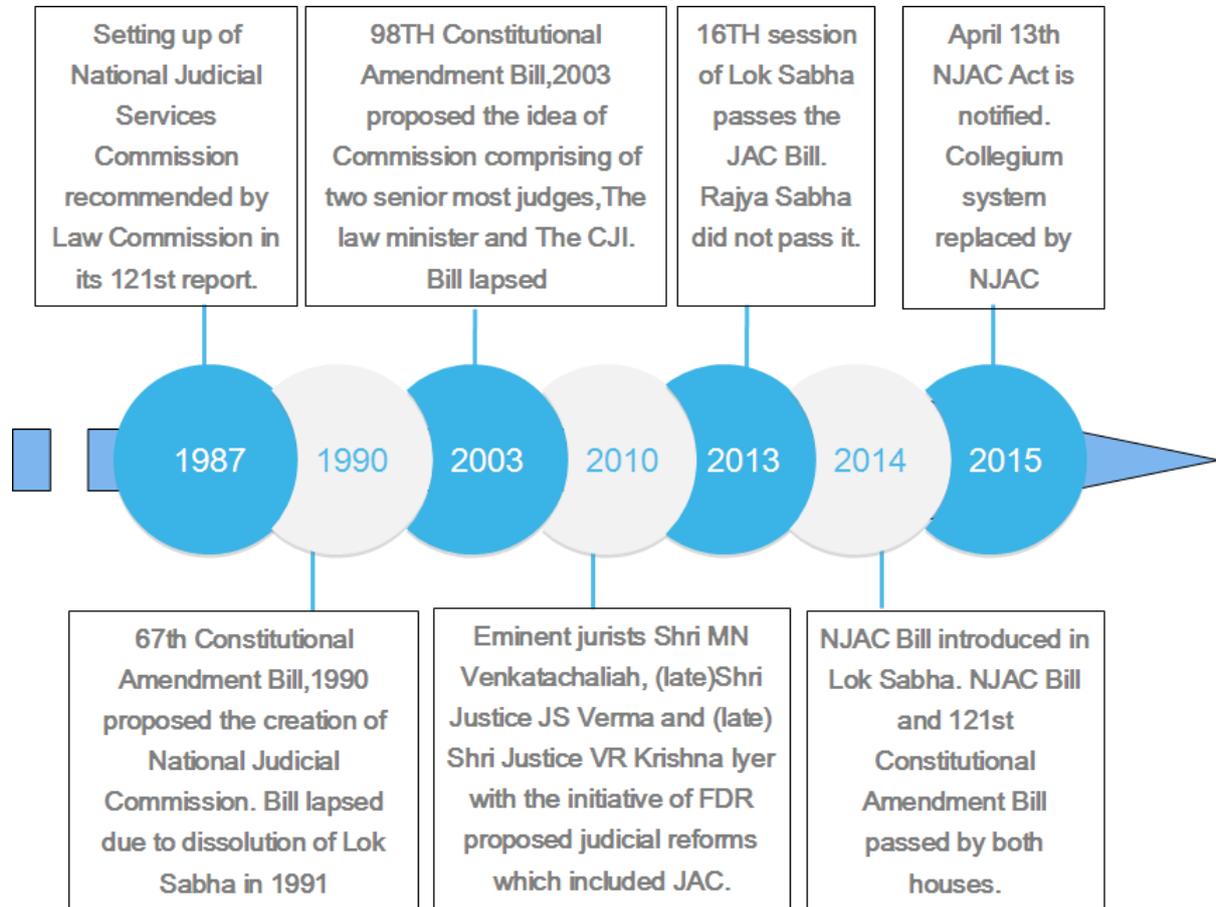
"TRUE FREEDOM REQUIRES THE RULE OF LAW AND JUSTICE, AND A JUDICIAL SYSTEM IN WHICH THE RIGHTS OF SOME ARE NOT SECURED BY THE DENIAL OF RIGHTS TO OTHERS."
-JONATHAN SACKS

INDIAN JUDICIARY - POINTS TO PONDER

- Increased pendency of cases and delay in justice delivery.
- Complex procedures, Inaccessibility and high costs.
- Loss of faith in judiciary.
- Marginalization of poor and illiterate.
- Need for speedy justice in cases related to ill-treatment of women and others.
- Increased violence against women in urban areas.
- Decline in the quality of judicial officers in subordinate judiciary

- Judicial corruption: Inadequacy in legislative mechanisms to tackle judicial corruption: There are legislative difficulties such as IPC section 77 and Judges(Protection) Act, 1985 in implicating and prosecuting judges.
- Less use of technology: Litigants routinely miss court dates, causing hearings to get repeatedly postponed. If government officials and litigants could appear in court via secure video conferencing links, it could save everyone precious time, effort, and money.
- Weak Subordinate Courts: We can think of Supreme Court and Many High courts as Strong institutions but at day to day level most of the cases are handled by the subordinate level which do not have well specialized manpower and hence are weak.

REFORMING THE JUDICIARY:



- More investment is needed in judiciary which should be govt top priority. Creation of a large number of nyaya panchayats and nyaya samitis in rural and urban areas both as mandated by the Nyaya Panchayat Act, 2009 but probably on a larger scale.
- Archaic laws and sections in the CrPc and IPC should be permanently amended. Moreover judicial practices that are time consuming should be given up.
- We need to recruit experienced, well trained and competent judges and judicial staff. This can be done by reforming the recruitment system. Judges need to be more strict and should ensure that the court time is not wasted.
- A major reform would be removing the age bar of retirement for high court and Supreme Court judges as in the USA so that more judges are available at the district level. This will also ensure more experience in the judiciary.
- Digital techniques and tools are at our disposal, to collect information from an entire database from the time a case is instituted in a court of law to the final stages of

appeal. Building up a judicial database will enable us to assess the performance of the courts as an institution, and the Chief Justices will be able to use it to assess the individual performance of judges.

- Creating an Indian Judicial Service to create a large pool of trained, dedicated judges who would enlarge the pool of talent available for elevation to the higher judiciary would be a big step forward.

(Q) Examine the urgency of reforming the judicial system of the country in the backdrop of challenges facing it.

PREVIOUS YEARS UPSC MAINS QUESTIONS:

- Critically examine the Supreme Court's judgment on National Judicial appointments Commission act, 2014 with reference to appointment of judges of higher judiciary in India. (2017)
- What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution? (2016)
- What is quasi judicial body? Explain with the help of concrete examples. (2016)
- Staring from inventing the 'basic structure' doctrine, the judicial activism in achieving the ideals of democracy. (2014)
- 'The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution.' Discuss critically. (2013)