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ADMINISTRATION OF JUSTICE IN INDIA: AIMS, CHALLENGES AND ALTERNATIVES

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FOREWORD BY

PROF. (DR.) G.S. BAJPAI

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ADMINISTRATION OF JUSTICE IN INDIA: AIMS, CHALLENGES AND ALTERNATIVES



INDIAN COUNCIL OF SOCIAL SCIENCE RESEARCH

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FOREWORD

The book “*Administration of Justice in India: Aims, Challenges, and Alternatives*” is a significant step toward meaningful dialogue on one of the most pressing issues of our time—the efficient and equitable administration of justice. It is a privilege to introduce this volume, which brings together insightful discussions, critical analyses, and innovative solutions aimed at strengthening India’s justice system.

At the heart of this initiative is the commitment of the *Centre for Comparative Studies in Personal Laws at National Law University, Delhi*. The Centre has consistently played an instrumental role in fostering academic discourse and legal reform. The papers within this volume continue that tradition by engaging with contemporary concerns surrounding judicial backlogs, transparency, and accountability—issues that demand urgent attention.

Our legal system, vast and intricate, is often weighed down by inefficiencies and delays. These challenges have far-reaching consequences, affecting not only the dispensation of justice but also the trust that citizens place in our institutions. It is through dialogues like this that we can collectively examine systemic flaws and explore practical, forward-thinking reforms. The deliberations herein emphasize how an efficient justice administration system enhances societal trust, ensures economic stability, and strengthens the rule of law—key drivers of national development.

One of the defining aspects of this book is its focus on solutions. The papers presented not only critique existing challenges but also propose actionable reforms, whether through streamlining judicial processes, integrating new technologies, or expanding alternative dispute resolution mechanisms. As we move forward, it is imperative to consider how digital innovations—such as artificial intelligence and blockchain—can revolutionize case management and significantly reduce delays.

This collection is more than an academic exercise; it is a blueprint for reform. It compels us to reflect on the future of justice delivery in India and the steps necessary to achieve systemic change. As you engage with the ideas presented in this volume, I encourage you to think critically about their practical implementation and impact on the legal landscape.

I extend my gratitude to all the scholars, practitioners, and students whose contributions have enriched this book. Your work not only advances legal scholarship but also paves the way for a more just and efficient legal system. May the insights contained within this volume inspire meaningful reforms in the administration of justice in India.

Prof. (Dr.) G.S. Bajpai
Vice Chancellor
National Law University, Delhi

PREFACE

The book “*Administration of Justice in India: Aims, Challenges, and Alternatives*” is a crucial contribution to the ongoing discourse on judicial efficiency and the need for innovative reforms in India’s justice system. In a time when judicial backlogs and delays have become a persistent challenge, it is imperative to explore and implement mechanisms that ensure the timely and effective dispensation of justice. India’s justice system, while rooted in a rich legal tradition, faces significant hurdles due to an overwhelming caseload and procedural complexities. The sheer volume of pending cases in courts at various levels underscores the urgency for reform. While the judiciary continues to work towards clearing these backlogs, it is evident that traditional litigation methods alone cannot serve as the sole means of justice delivery.

This book highlights various initiatives and alternative methods that can be employed to enhance judicial efficiency. Measures such as fast-track courts, Lok Adalat, and arbitration and mediation have already shown promise in expediting dispute resolution. The growing integration of technology, including e-courts and artificial intelligence in case management further opens new avenues for reducing pendency and improving accessibility to justice. Beyond procedural enhancements, a shift towards alternative dispute resolution mechanisms can play a transformative role in justice delivery. Mediation and arbitration provide efficient, cost-effective, and amicable resolutions, reducing the burden on courts while ensuring that justice is both swift and equitable. Strengthening these mechanisms and encouraging their widespread adoption is essential for a more resilient and responsive judicial system.

One such initiative is the Major Research Project, undertaken in association with the Indian Council for Social Sciences Research (ICSSR), the title of which is ‘*Indigenous Mechanism for Dispensation of Justice in India: An Analytical and Comparative Study with UK and China.*’ This project seeks to analyze the

challenges faced by India's judicial system, particularly focusing on delays and the accumulation of arrears. This book is in furtherance of the research undertaken for ICSSR Project, as it brings together discussion, analysis and comparison of various jurisdictions including the legal and judicial system of ancient India which align with the Project's objective of exploring indigenous mechanisms and insights for enhancing justice dispensation in India. This initiative not only enhances academic understanding but also contributes to pragmatic policy-making, reinforcing the Centre's commitment to impactful legal research. Through its commitment to academic inquiry and policy engagement, the Centre has contributed significantly to shaping perspectives on justice delivery in India. By fostering meaningful dialogue and innovative solutions, the Centre continues to support efforts aimed at reducing judicial pendency and enhancing alternative dispute resolution mechanisms.

This volume not only examines these pressing issues but also offers practical solutions, making it an invaluable resource for policymakers, legal professionals, and scholars. The insights provided herein serve as a roadmap towards a more effective and inclusive justice system in India.

I commend the authors and contributors for their efforts in bringing forth such a timely and pertinent discussion. It is my hope that the ideas and recommendations in this book will inspire actionable reforms and help shape the future of justice dispensation in India.

Prof. (Dr.) Anupama Goel

Research Director

Centre for Comparative Studies in Personal Laws
National Law University, Delhi

ABOUT NATIONAL LAW UNIVERSITY DELHI

National Law University, Delhi is one of the premier law universities in India, accredited with 'A' Grade by NAAC and is ranked second (for the last consecutive five years) in the National institutional Ranking Framework (NIRF), Ministry of HRD, Government of India. It aims to impart comprehensive and interdisciplinary legal education. The primary objective of the University is to evolve and impart legal education that is socially relevant. Its chief mandate is to promote legal and ethical values, objectives enshrined in the Constitution of India and to foster rule of law. The University hereby, plans to organize a National Conference on Administration of Justice in India: Aims, Challenges and Alternatives.

society.

TABLE OF CONTENTS

1. The Journey of Technology in the Administration of Justice - <i>Ms. R. Arulmozhiselvi</i>	3
2. Comparative Analysis of Justice Administration Systems During Emergencies: India And Beyond - <i>Gaurav Chaudhary & Sahildeep Singh</i>	22
3. Legal Technicalities, Procedural Hassles, And Administration of Justice in India - <i>Sucheta Mondal</i>	41
4. Leveraging AI for Mitigating Pendency in Indian Courts - <i>Shivani Pundir</i>	61
5. Innovative Strategies for Enhancing Efficiency and Effectiveness in Rural and Urban Legal Systems: Overcoming Legal Barriers in Rural and Urban Areas: A Comprehensive Analysis - <i>Kishori Goswami & Srijia Singh</i>	81
6. Judicial Delays: Its Causes, Consequences and Redressal - <i>Aditi Tiwari & Prachi Sahani</i>	109

7. Unburdening of Indian Judiciary from the Shackles of Hierarchy: Trajectory to the Efficient Administration of Justice in India - ***Ananya Gunjan & Raj Krishan Srivastava*** 126
8. The Indian Justice System: Barriers and Reforms - ***Maria Robin*** 142
9. Integration of AI in Judiciary: International Scenario, Domestic Applications and The Way Forward - ***Bomkesh Mandal*** 155

THE JOURNEY OF TECHNOLOGY IN THE ADMINISTRATION OF JUSTICE

*Ms. R. Arulmozhiselvi**

I. INTRODUCTION

With the introduction of technology, the legal system, which had primarily relied on manual procedures, has undergone a swift change. The Indian judiciary has embraced technology in recent decades to improve efficiency, simplify procedures, and increase the general public's access to justice. This paper examines how technology is being injected into the administration of justice under the legal system, with a particular emphasis on how citizens can now access and get the legal information systems using online citizen-centric services through portals and applications embedded through the technology in the Indian Legal system including the more recent developments like artificial intelligence (AI), video conferencing, and e-filing. It also addresses the challenges that still need to be overcome in this digital transformational journey of the Indian court systems.

II. JOURNEY OF TECHNOLOGY IN JUDICIARY: AN OVERVIEW

Due to its large and complex structure, the Indian courts face several difficulties, such as a backlog of cases, inadequate facilities, and problems with accessibility. Technology has come to light as a crucial component in solving these issues,

** District Judge/Member (Human Resources, e-Committee, Supreme Court of India*

offering instruments that speed up legal proceedings and improve accessibility and transparency.

The e-Courts Project marked the beginning of the transition to digital instruments. This project aimed to increase judicial productivity and improve the court system's litigant-friendliness by injecting technology. This initiative has developed over time, bringing innovations like e-filing, online legal services, case management systems, and AI technologies, all of which have entirely changed the access to justice and judicial administration in Indian courts.

III. E-FILING AND ITS IMPACT

E-Filing has played a significant role and is one of the major innovations in the e-Courts project. It has completely revolutionised the way cases are filed and managed. Earlier, documents had to be manually submitted to file a case. It was a time-consuming process and involved the travel of the litigant and the advocate to the particular court for filing the case. With the onset of e-Filing 3.0, it has become easier for advocates and litigants to submit their cases online without spending the crucial time and effort required to register a case.

E-Filing has gained widespread acceptance nationwide, with over 49 Lakh documents filed through the system. It also allows the users to file cases from any location, thus eliminating the need to travel physically. It is a big saviour, especially for those living in remote parts of the country. The integrity of the judicial process is maintained by using digital

signatures to ensure the security and authenticity of the documents.

Now, the key question which comes to the thought of the reader is how a person who is digitally illiterate or who does not have digital gadgets or equipment can utilise this e-filing or other digital initiatives aimed at providing access to justice through digital mode. The key challenge in implementing e-initiatives is the digital divide across the country, as the internet and digital literacy are pretty limited, particularly in rural areas. This fundamental challenge was addressed under the e-Courts project by establishing e-Sewa Kendra across India, as these centres, which are aimed at every court complex of the country, will assist with e-filing, checking case status and facilitating video conferencing for those who lacked access to digital tools. As of 31.07.2024, a total of 1088 e-Sewa Kendras are functional with 28 High Courts implementing the e-Sewa Kendras,¹ The e-Sewa Kendras in all the court complexes can cater to the digital divide where any citizen can step into for all the e-Courts related digital needs

IV. VIDEO CONFERENCING AND VIRTUAL COURTS: A RESPONSE TO COVID-19

The COVID-19 pandemic stalled the entire world; the Indian Judiciary answered the pandemic with its digital infrastructure, which was in place thanks to the e-courts

¹ e-Committee, Supreme Court of India, Newsletter (July 2024), <https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2024/09/20240903645460327.pdf> (statistics of virtual courts, p. 59).

project and seamlessly shifted to using Video conferencing hearings. Earlier, Video conferencing for judicial proceedings integrating the court and jails was in place as part of e-Courts project phase I, wherein the remand of the under-trial prisoners by the magistrate was taking place through Video conferencing, saving the manual travel of the prisoners to the courts just for remand. It saved a lot of fuel and human resources used in the transit of prisoners and secured in particular for the High-security prisoners. The pandemic witnessed a more extensive use of videoconferencing. To conduct case hearings, record testimonies of witnesses, remand extension, etc. As of 30 th July 2024, a total number of 32,715,518 cases (High Courts - 8,804,621 and District Courts - 23,910,897)² were dealt with through virtual hearings on video conferencing using the digital infrastructure provided by the e-Courts Project. This makes India a global leader in conducting cases through video conferencing.

The capacity to hold hearings virtually ensured that the administration of justice continued during the lockdown. Numerous Indian courts adjusted to the new standard using video conferencing to keep thousands of hearings. This demonstrated the potential of virtual courts to lessen the load on the judiciary and ensure continuity. The e-Committee, Supreme court of India has released model rules for Video

² e-Committee, Supreme Court of India, Newsletter (July 2024), <https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2024/09/20240903645460327.pdf> (statistics of VC hearings, p. 56)

conferencing hearings and many High Courts have now also notified their Video conferencing rules.

Besides video conferencing hearings, the virtual courts to handle particular case categories, like traffic challans is also where technology injection has made tremendous impact. As on 31.07.2024, the Virtual Courts received over 54.7 million cases, processed 50.2 million proceedings, and recorded over 5.8 million contested payments, generating a total challan amount exceeding ₹5,960 crore.³ This data highlights the significant role played by the virtual courts in reducing backlogs, especially in traffic-related matters. The requirement for in-person court appearances has been significantly reduced because of this technology, saving the time and money of the judiciary and litigants.

V. LIVE STREAMING OF COURT PROCEEDINGS:

Another major technological achievement is the live streaming of the court proceedings. Before live-streaming started, for any law student or junior Advocate, there was no chance to see the actual proceedings of the Supreme Court except to come in person and sit in the court halls of the Supreme Court of India. But now, with the advent of live streaming of the Supreme Court of India, one can watch the arguments and the court proceedings of the constitutional benches and other benches of the Supreme Court of India, even sitting in the remotest place in the country or a small

³e-Committee, Supreme Court of India, Newsletter (July 2024), <https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2024/09/20240903645460327.pdf> (statistics of virtual courts, p. 61).

town. This has paved the way for equal opportunity for law students and advocates across the country to have an enriching learning experience by watching the court proceedings and watching the brilliant brains of the legal fields battling the legal nuances before the constitutional bench of the apex court. Thus, the live streaming of court proceedings is an important technological breakthrough, opening wider doors towards the concept of the open court and access to justice.

VI. E-PAY: STREAMLINING THE PAYMENT OF COURT FEES

Court fees and other associated charges can now be quickly paid online because of the Indian judiciary's E-Pay system, which significantly increases the effectiveness of court transactions. Before it was implemented, payment had to be made in person at court offices, which frequently caused delays and extra administrative work for litigants and legal practitioners. Users can now finish these transactions conveniently from their homes or offices.

Instant payment confirmation, which gives users quick reassurance that their fees have been paid, is one of the main features of the E-Pay. This function guarantees a more seamless flow of court proceedings and helps prevent delays in case processing. The E-Pay system, which is accessible to courts all around the nation, is an essential step in the direction of digitising court procedures and improving the justice system's accessibility and usability of judicial services.

VII. NATIONAL JUDICIAL DATA GRID: ENHANCING TRANSPARENCY AND ACCOUNTABILITY

A significant technical development in the field of judicial administration is the National Judicial Data Grid (NJDG), a real-time data platform made available for all in three tiers of the court system: (i) Supreme Court NJDG; (ii) High Court NJDG; (iii) District and Taluk court NJDG. The National Judicial data grid gives the pendency and disposal of cases across the above three-tier courts. One can also find out the category-wise cases pending, years-wise pending cases, the delay reason for every case pending for more than two years, the drill-down option of the entire case list and many other details at the click of the mouse on the public platform. With the help of this initiative, judicial workload can now be transparently monitored, and case disposal bottlenecks can be easily identified. It has now become an efficient court and case management system for its Policymakers, Judges, and court administrators. Public access to this data promotes increased openness and transparency.

Judicial officers can respond promptly to effective management of the court and cases by using the NJDG's real-time data on case pendency, disposal rates, and the causes of delays. They can check in seconds what is the oldest pending case, what is the stage of the oldest pending case, in which stage more cases are pending, how many cases pending for want of service of summons, how many cases are pending as accused absconding, whether more civil cases are pending

or more criminal cases are pending. An administrative judge can even digitally inspect the courts under his/her jurisdiction using NJDG. The National Judicial Academy and the State Judicial Academies can take the aid of NJDG to draw their training calendar to pinpoint what type of training is required for which state/district of the country. For example, if a state judicial academy wants to propose a training, they can take the aid of the NJDG, find out the top category of cases, and focus trainings on those subjects.

Similarly, it can aid the court administration also effectively. Let us see a simple example: in case of regular transfer of staff the administrative judges / principal district Judges (PDJs) can now have a first-hand knowledge of the workload of a particular court, the disposal of the specific judge per month and can take note of it while transferring stenographers from one court to another. These data are now made available through NJDG and can be harvested for the effective administration of courts at all levels.

The impact of NJDG has been significant; apart from enhancing court and case management, the NJDG has also helped India leap eight places in the World Bank's "Ease of Doing Business" report because of the increased openness and transparency poured into the Indian court systems. So this NJDG is a court and case management tool that is in the command of every judicial officer. The National Judicial Data Grid, the real-time data bundle, comes in aid differently for its stakeholders in administering justice for the courts.

VIII. DIGITAL COURT VOICE-TO-TEXT (ASR) IN REGIONAL LANGUAGES: ENHANCING JUDICIAL ACCESSIBILITY

With the integration of Automatic Speech Recognition (ASR) technology, the Digital Court Voice-to-Text system is transforming the documentation of court processes. This cutting-edge instrument transcribes spoken words into text, expediting the transcription process and guaranteeing precise and effective record-keeping. In addition to English, the ASR system supports seven Indian languages, including Hindi, Bangla, Marathi, Tamil, Telugu, Kannada, and Gujarati. This enables the real-time transcription of court proceedings in several regional languages, increasing inclusivity and accessibility for participants who do not understand English.

One of its most notable advantages is that this system automatically downloads orders and judgments using pre-made templates, ensuring that court documents are formatted quickly and consistently. This feature increases productivity and lessens the human labour needed to formulate and distribute decisions. The Indian courts are taking giant steps towards modernising courtrooms and guaranteeing a more transparent and accessible justice system for all citizens by incorporating voice-to-text technology and multilingual support.

IX. CASE INFORMATION SYSTEM (CIS)

The Case Information system software is the lifeline running across the district/ taluk courts and High courts, connecting

every court digitally. It works on the core and periphery modules, which are key features. The core part remains the same across the country, with the High Courts given the flexibility to customise according to the state's needs and add peripheral requirements to the software. CIS has come in various upgraded versions, from CIS 1.0 to CIS 4.0. CIS is a powerful system that manages case data for courts and incorporates cutting-edge technological innovations. Its security compliance guarantees the protection of sensitive court data, as sensitive cases like matrimonial parties' names are masked.

To further protect sensitive data and uphold security the system also features data encryption. Additionally, the system is cloud-enabled, which improves accessibility across different courts by enabling scalable and flexible data management and storage.

Additionally, the CIS system allows integration with other government systems like parivahan, treasury, police, and prison systems through ICJS (Interoperable Criminal Justice System). This integration facilitates smooth data sharing and strengthens the judiciary's cooperation with other government agencies. With CIS in place, the Judge or the court staff of any particular court have their entire caseload data made available under CIS, which in turn helps the courts in their day-to-day effective administration of justice.

This state-of-the-art system is a component of a larger effort to modernize and digitize India's court system, increasing case processing speed and boosting access to justice. With

its emphasis on data security, integration with critical systems, and cloud-enabled capabilities, CIS 4.0 is set to roll down and marks a dramatic advancement in judicial management. It not only increases efficiency but also supports the objectives of accountability, transparency, and better service delivery in India's legal system.

X. NEUTRAL CITATION

With a continuous effort to upgrade the Indian Judiciary in terms of international standards, the neutral citation system was introduced. With the digitisation of courts and court records, another significant milestone of the Indian Judiciary is the introduction of neutral citations for the judgements. A compelling need was felt to have authenticated court-based citations for the judgements, as many different citations were cited for the same judgment. Hence, under the leadership of the Hon'ble Dr Justice D.Y. Chandrachud, the neutral citation, a unique court-assigned reference number for a judgment, was introduced. The said neutral citation is in practice in the international scenario in many countries. Many high courts have now adopted neutral citations, and the Supreme Court of India has also implemented neutral citations, which will help its stakeholders have one standard authenticated citation for the judgements.

XI. E-SCR - JUDGMENT SEARCH PORTAL

The Supreme Court of India launched the E-SCR Portal, which is available 24x7 and contains the judgments of the Supreme Court and the High Courts. The portal helps legal professionals access the decisions of the Supreme Court and

High Courts without spending hefty fees for subscription-based legal search portals. The E-SCR Portal contains over 1.5 crore High Court judgments and 36,000 reportable judgments of the Supreme Court of India. These judgments are also translated into regional languages, making them accessible to the people. This gradation came as a game-changer, especially for junior lawyers and law students who could not afford subscription-based private legal search portals. This is because many such portals require users to pay substantial subscription fees, ranging between Rs 20,000/- to Rs 30,000/-, making it quite expensive for young legal professionals who have just entered the legal field. This free portal also comes in handy for law students for all their legal research and citation.

The E-SCR Judgement and orders portal is nationally recognised for its massive contribution to legal research and its user-friendly interface, which provides powerful search options like Phrase, Any word, and All word search. It also comes with further search within search on multiple parameters. A litigant, a law student, and a young advocate can also easily search for any citations through the E-SCR Judgement Search Portal, which has made access to legal citations user-friendly, cost-effective and affordable.

XII. AI-BASED INITIATIVES IN THE INDIAN JUDICIARY: DRIVING EFFICIENCY AND ACCESSIBILITY

The Indian judiciary has adopted artificial intelligence (AI) to increase productivity, simplify procedures, and expand

access to justice. SUPACE (Supreme Court Portal for Assistance in Courts Efficiency), a case management system intended to help judges with legal research, is one of the most prominent AI-driven instruments. By assisting in organising vast amounts of data, SUPACE shortens the time needed for case analysis while allowing judges to concentrate on essential areas of decision-making.

SUVAS (Supreme Court Vidhik Anuvaad Software), which translates rulings into regional languages so non-English speakers can access them, is another noteworthy AI project. This AI-powered translation technology guarantees that legal material is accessible to a wider audience throughout India while also promoting inclusion.

Additionally, the Supreme Court of India has implemented an AI transcription system that enables the real-time transcription of oral arguments made in court. This innovation guarantees accuracy in court proceedings and documentation and enhances record-keeping. These artificial intelligence (AI) projects demonstrate the judiciary's continuous dedication to harnessing the latest technology to increase efficiency and transparency and increase everyone's access to justice.

To further boost the efficiency and transparency of the judiciary, some more tech-driven initiatives have been taken, such as the Su Swagatam Online Visitor Portal, issuing online visitor passes for entry into the Supreme Court, thus streamlining visitor management. Further, the e-office

initiative encouraged working from anywhere, promoting an agile and efficient workflow for the court administration.

The communication with the Advocates has now been revolutionised with the dissemination of the WhatsApp Alerts from the Supreme Court of India. WhatsApp Alerts have been introduced to the advocates to disseminate messages regarding cause lists, case filings, etc.

XIII. RTI ONLINE PORTAL

The Supreme Court of India's RTI Online Portal marks a significant step towards promoting transparency and streamlining the process of RTI application filings. This portal allows users to file RTI applications online with a simple one-time registration, giving users a paperless experience. Even fees and printing charges can be quickly paid through debit cards, net banking and UPI. Thus, the online RTI portal makes it easier to access public information, reducing administrative delays.

XIV. SUPREME COURT & E-COURTS MOBILE APP: ENHANCING ACCESSIBILITY TO JUDICIAL INFORMATION

The Smartphone app for the Supreme Court of India marks a significant advancement in access to judicial information. The app offers an extensive range of functions, including case status, cause lists, office reports, and judgments, all readily available with a few clicks. It was created in response to the increasing demand for real-time access to case-related information. With its availability on Android and iOS, the

app guarantees that users can stay up to date on their device of choice. The app's feature of five vernacular languages—Hindi, Marathi, Telugu, Tamil, and Kannada—in addition to English expands its user base to include non-English speakers throughout India. The Supreme Court's dedication to diversity is shown in its multilingual service, which enables people of different linguistic origins to obtain crucial legal information in their mother tongues. Millions of people may now easily access vital court-related data from anywhere at any time thanks to the smartphone app, which puts the Supreme Court's resources at their fingertips. The app promotes accessibility and transparency in the legal system by fortifying the bond between the public and the judiciary.

XV. E-COURTS MOBILE APP

The e-Courts Services Mobile App was awarded the Digital India award and serves as a transformative tool that helps access court-related information. It is available on both Google Play Store and Apple App Store. The users can easily retrieve case status, cause lists and court orders 24x7 with the help of this app. Further, its integration with the National Judicial Data Grid (NJDG) also enhances its transparency.⁴

XVI. JUSTIS MOBILE APP

The electronic case management tool available for judges includes the JustIS mobile app developed for judicial

⁴ eCourts Services Mobile Application, e-Committee, Supreme Court of India, <https://ecommitteesci.gov.in/service/ecourts-services-mobile-application/> (last visited Oct. 8, 2024).

officers. Using it, the judicial officer can digitally manage his/her court, which provides complete details of every case in the particular court. The Judicial officer can get the case type-wise, stage-wise, and year-wise, monitor cases, and track their status. It also has other useful options like note-taking, marking essential cases, and report generation. This App is available on both android and IOS platforms and is quite accessible.⁵

Judicial Officers must log in with their JO Code and authenticate via OTP sent to their registered mobile number. Using this digital tool, the judicial officers can get complete details of the court cases, which throws a digital light on where the focus is required for bringing down the pendency, which helps make easy strategies to bring down the pendency. The administrative Judges can also use the JustIS app to monitor and manage the courts under their respective jurisdictions effectively.

XVII. FASTER AND NSTEP: STREAMLINING THE SERVICE OF SUMMONS AND COURT ORDERS

Much is talked about bringing down the delay in the disposal of the cases. In this regard, even the law commission has flagged one of the reasons for the delay in the cases involved in the service of summons. The E-courts project has developed the technological answer through the National Service and Tracking of Electronic Processes (NSTEP). The

⁵ e-Committee, Supreme Court of India, *Court Management through JustIS Mobile App* (2018), <https://ecommitteesci.gov.in/publication/court-management-through-justis-mobile-app/> (last visited Oct. 8, 2024).

summons is issued from the CIS software, and it reaches the handheld devices of the process server and the process servers are tracked through the GPS-enabled handheld devices. The process server can now take a picture of the person to whom the summons is served and, if the door is locked, can photograph the same. Once the summons are served, it is immediately reflected to the court software. And this National Service and Tracking of Electronic Processes NSTEP is a digital game changer for the district judiciary.

Similarly, FASTER (Fast and Secure Transmission of Electronic Records) facilitates the secure and prompt delivery of court orders and judgments to the appropriate authorities. For example, bail orders, which formerly took several days to reach the relevant jail authorities, can now be sent quickly, guaranteeing the release of inmates without unnecessary delay. FASTER has already tremendously impacted transmitting bail orders, thereby curbing the transit delay between the courts and the prison. Thus, FASTER is an efficient digital tool in the criminal administration of justice, connecting the courts and the prisons.

XVIII. LIVE STREAMING OF COURT PROCEEDINGS: A STEP TOWARDS TRANSPARENCY

Live streaming of court proceedings is another noteworthy advancement to improve public access to justice and transparency. Under Chief Justice Dr. D.Y. Chandrachud's direction, the Supreme Court of India has adopted live streaming, enabling the public to see court sessions as they happen. This has been especially helpful for the general

public, researchers, and law students interested in learning more about the legal system. Live broadcasting has also contributed to the idea of open justice, strengthening the idea that justice must not only be done but also seen to be done.

Although many people favour live streaming, there are significant concerns regarding privacy, unauthorised recording and the exploitation of the footage. As live broadcasting in Indian courts is gaining popularity, striking a balance between privacy and transparency is much needed for the hour.

XIX. CHALLENGES AND FUTURE PROSPECTS

Even while the judiciary has made significant progress in using technology, several challenges remain to be overcome. For many citizens, the digital divide still restricts their access to electronic tools, especially in rural areas. Furthermore, because the judiciary depends much on digital infrastructure, ongoing investments must be made to maintain and improve this infrastructure.

With an eye towards the future, the judiciary intends to further incorporate technology into its operations. These include the application of blockchain technology to protect court records and the use of AI for predictive analytics, which may help judges to forecast the result of cases. The development of real-time speech transcription techniques and the growth of virtual courts are also anticipated to improve the accessibility and efficiency of the legal system.

XX. CONCLUSION

For the Indian judiciary, incorporating technology into the administration of justice represents a significant advancement. These technological advancements, which range from AI-powered legal research tools to e-filing, have revolutionised the administration of justice and have made it more effective, transparent, and easily accessible. To ensure that the advantages of these technologies reach every citizen, regardless of geographical boundaries cutting across the digital divide. In the last 11 years, as per the eTaal portal ⁶, the eCourts platform has recorded over 18 billion e-transactions, indicating the impact of technology and the extensive utilisation and pivotal role in the administration of justice and the reach to the citizens.

⁶ eTaal (Electronic Transaction Aggregation & Analysis Layer) portal <https://etaal.gov.in/etaal3/#/web/home>

COMPARATIVE ANALYSIS OF JUSTICE ADMINISTRATION SYSTEMS DURING EMERGENCIES: INDIA AND BEYOND

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I. INTRODUCTION

“..... and I pray to God that it will be deleted from this article”¹

- H. V. Kamath (One of the ranking members of the
Constituent Assembly) on insertion of the President’s
rule during the Emergency.

In the words of Granville Austin, *“Perhaps the most colourful objection came from H. V. Kamath, who informed the assembly that he foresaw the possible end of democracy in India in the form of Hitler-like takeover by the Union Government.”*² Similar other opposing remarks were hurled by the ranking members on the floor of the Assembly.³ Despite the condemning remarks on the floor, it was yet to be realized and accepted that in the need of the hour, the only Constitutional functionary in power to overcome the emergency and safeguard the States & the Constitution is the

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¹ Austin, G. (2021). *The Indian constitution: Cornerstone of a nation*.

² Ibid.

³ Fundamentally, vesting too much power in the hands of the President was seen as problematic, impractical & unfederal. Other members of the Constituent Assembly, however, condemned the provisions of emergency as ‘far too sweeving, thus, ‘reducing provincial autonomy to farce. H. N. Kunzru said, “The Central Government will have the power to intervene to protect the electors against themselves”.

‘Central Executive’.⁴ And there was no escape from it. The Constitution was supposed to be a document that aids governance, protects fundamental rights, provides remedies, and much more; thereby, not incorporating Emergency Provisions was not an option.

The insertion of Emergency Provisions into the Constitution of India shows the peculiar situation that India had at the time of partition. Thereby sensing the need to prioritise the integrity and security of India, the framers of the Constitution utterly understood and accepted the mandate of providing a Unitary form of Government during an emergency. Emergency provisions significantly help in effective governance and aid the State in maintaining peace & tranquillity in case of war-like situations, internal disturbances or financial crises. Our Constitutions’ Part XVIII provides for National Emergency, failure of State machinery i.e., State Emergency and Financial Emergency under Articles 352, 356, and 360, respectively.⁵ These provisions vest the Union Government with all the powers and authority to make calls fit for safeguarding national security, peace and order while overriding existing law and the norms of governance. So, it would not be a misrepresentation to say that India has a quasi-federal structure for governance while allowing for a unitary form of government under exceptional circumstances such as emergencies.

The researcher draws a comparative study, weighing the emergency provisions of India with the U.K. & US. The Constitution of India allows for a temporary shift to a Unitary form of Government during an emergency. In contrast, the UK’s

⁴ Ibid.

⁵ (1950) The Constitution of India.

legal landscape goes through legislative control, ensuring democratic governance. In the United States, the National Emergencies Act (NEA) formalizes the president's power during a crisis subject to scrutiny by Congress, thereby striking a balance of power between the organs of the government for smooth governance. These legal landscapes reflecting different frameworks to tackle emergencies shows the influence that Constitutionalism, Constitutional Principles and socio-legal culture had on the framing of these laws.

During an emergency, Fundamental Rights stand fully compromised, they are kept in abeyance until normalcy is restored. In India, originally, the Constitution provided for the suspension of all the Fundamental rights under Part III but after Justice H.R. Khanna's dissent⁶ and the 44th Amendment, it was put into practice that Articles 20 and 21 could never be kept in abeyance. On the other hand, the US follows judicial review, whereas the UK sticks to the Human Rights Act, thereby signifying accountability during any unforeseen event. The concluding section connects these analyses to privacy rights and data protection, particularly under frameworks like the GDPR. As seen during the COVID-19 pandemic, balancing emergency governance with individual rights like privacy remains critical.⁷

II. FUNDAMENTAL RIGHTS DURING EMERGENCY

The Indian Constitution, through its emergency provisions outlined in Part XVIII, empowers the state to centralize authority

⁶ ADM Jabalpur v. Shivkant Shukla; AIR 1976 SC 1207

⁷ Ventrella, E. (2020, December). Privacy in emergency circumstances: data protection and the COVID-19 pandemic. In *Era Forum* (Vol. 21, No. 3, pp. 379-393). Berlin/Heidelberg: Springer Berlin Heidelberg.

during crises, ensuring the nation's security and unity. There are three types of emergencies under the Indian framework: National Emergency, Constitutional Emergency, and Financial Emergency. Articles 352 and 353 allow the President to proclaim an emergency, which suspends several civil liberties, including Fundamental Rights, during the specified period.⁸ Such measures, while aimed at national stability, significantly affect individual freedoms, raising critical concerns about their impact on constitutional democracy and justice administration.⁹

Under Article 359, the President can suspend the enforcement of Fundamental Rights, with Article 358 specifically suspending the provisions of Article 19 during emergencies. This suspension grants the state-wide powers to enact laws or take actions that would otherwise infringe upon these rights. Notably, the *Makhan Singh v. State of Punjab*¹⁰ case highlighted the suspension of the right to move the courts under Article 359 during the Indo-China war. However, the courts maintained that personal liberties could not be suspended for individuals unlawfully detained, reflecting a nuanced interpretation of the emergency provisions.¹¹

A more contentious episode was the *ADM Jabalpur v. Shiv Kant Shukla*¹² case during the 1975 internal emergency. The Supreme Court ruled that individuals had no remedy against detention orders, even if mala fide, leaving citizens without recourse. This decision underscored the judiciary's restrained role during

⁸ Mangla, P. (2022). Emergency Provisions in India. *Issue 5 Indian JL & Legal Rsch.*, 4, 1.

⁹ Ibid.

¹⁰ 1964 AIR 1120.

¹¹ Supra note 7.

¹² 1976 SC 1207.

emergencies, drawing widespread criticism for undermining civil liberties.¹³

State emergencies, governed by Article 356, allow the President to assume control of state governance if constitutional machinery fails. This provision, while addressing crises, has often been misused for political purposes, threatening India's federal structure. Judicial interventions, such as the *Minerva Mills v. Union of India*¹⁴ case, affirmed the judiciary's role in safeguarding constitutional principles, striking down laws that violate the basic structure doctrine, including misuse of emergency powers.¹⁵

Emergency provisions profoundly impact Fundamental Rights, with implications for justice administration and individual liberties. In comparative terms, while India's framework allows significant suspension of rights, jurisdictions like the US and the UK emphasize proportionality and judicial oversight. Privacy and data protection, particularly relevant in emergencies like the COVID-19 pandemic, further illustrate the delicate balance between public interest and individual rights.

For instance, the European Union's GDPR accentuates the paramountcy of Right to Privacy and signifies that emergency should not become a tool to inappropriately infringe upon Civil Liberties and Fundamental rights.¹⁶

India's emergency provisions provide that Parliament need not be restricted by the 'freedoms' article of the Fundamental Rights from making laws that would be otherwise unconstitutional and

¹³ Supra note 7.

¹⁴ AIR 1980 SC 1789.

¹⁵ Supra Note 7.

¹⁶ Supra note 5.

moreover, the right to move to Courts for enforcing fundamental rights may also be suspended by the President.¹⁷ Such a law has made individual liberties vulnerable during an emergency thereby creating tension between the State and the Citizens. Vesting Central Executives with vast powers and there being no remedy left to take recourse to the Court of Justice calls for the Judiciary's active role during such emergency situations.

III. EMERGENCY IN INDIA VERSUS EMERGENCY IN THE UK

Provisions of emergency being integral and pivotal to the governance of a country during an unprecedented crisis renders wide powers at the disposal of the Union Executive. Both India and the UK have developed their unique legal framework to face and cope with emergencies.

The Constitution of India explicitly provides for an exhaustive framework for emergencies under Part 18 as discussed above. Provisions under this part arm the president with wide powers which was even opposed during Assembly Debates¹⁸. These provisions provide that if the President is satisfied "that a grave emergency exists, whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance"¹⁹ or if "there is imminent danger"²⁰ of such an occurrence. A later proclamation of emergency could revoke an earlier one.²¹ It must be noted that an emergency proclaimed by the President will last only for 2 months and for further extension of the period of emergency the same

¹⁷ Supra Note 1 and The Constitution of India, art. 59.

¹⁸ Supra note 1 at pg. 266.

¹⁹ The Constitution of India, art. 352 (1).

²⁰ The Constitution of India, art. 352 (3).

²¹ The Constitution of India, art. 352 (2) cl. a.

must be laid before the Parliament. If Parliament approves the emergency it will continue to exist and if not approved, the emergency will lapse or cease to exist. When an emergency comes into existence, the Union Government takes charge of enhanced powers effectively transforming the quasi-federal structure into a Unitary one.²² All the Fundamental Rights are automatically suspended except for Articles 20 & 21, a change that was thought to be necessary after the 3rd emergency of India.²³

Around 1975, these provisions, as stood in the original Constitution, turned out to be controversial. In 1975, when the 3rd emergency was declared, the fundamental rights suffered a great blow. All of the fundamental rights under part 3 were suspended and left the citizens with no remedy, even recourse to the Court of Justice had been suspended thereby restraining the enforcement of fundamental rights.²⁴

²² Supra note 7.

²³ The Constitution (Forty Fourth Amendment) Act, 1978.

²⁴ Nariman, F. S. (2010). *Before memory fades: An autobiography*. Hay House, Inc.; While the hearing of the *ADM Jabalpur* case was ongoing in the Apex Court, Justice H. R. Khanna, then SC judge, asked the then attorney general of India, “Whether there would be any remedy if a police officer, because of personal enmity and for reasons which had nothing to do with the State, took into detention a law-abiding citizen and even put an end to his life?” The attorney general then told the judges:

“It may shock your conscience, it shocks mine, but consistently with my submissions no proceedings can be taken in a Court of Law on that score during the Emergency”.

It was a repercussion of suspending Fundamental Rights under Article 21. Justice H. R. Khanna, being the lone dissent, refuses to agree to the majority and denies to rationalize tyranny and he said, “Life and liberty are not conferred by any Constitution, they inhere in men and women as human beings”. Later, the 44th Amendment was brought in to amend Article 58.

The UK has an unwritten Constitution, unlike India. The fundamental law has not been codified at one place or say in one document rather the country relies on a vast number of statutes to form a legal framework. For example, in the Constitution of India, we have Part XVIII providing for emergency provisions whereas the UK relies on statutes such as the Civil Contingencies Act, 2004 to deal with an emergency. This 2004 act has broadly defined emergencies even including public health crises, any natural disasters or threats to national security.²⁵ The act puts the Government in power to mitigate such situations by way of movement restriction, controlling property or by the deployment of the army. It must be brought to light that exercising these powers is subject to strict scrutiny by Parliament and also open to judicial review. Emergency once proclaimed stays in effect for 30 days and requires approval after this period has lapsed or it will cease to exist.²⁶

The UK's legal framework strikes a balance between the State and individual liberties by offering flexibility and proportionality in its governance. To combat COVID-19, the UK Government enacted a statute named the Coronavirus Act 2020 ensuring smooth governance.²⁷

On one hand, India's emergency provisions are comprehensive and exhaustive along with the explicit procedures, rendering great sweeping powers at the disposal of the Union Government. Whereas, the UK's legal system renders a decentralized

²⁵ Das, B. C. (1977). Emergency provisions in the Indian Constitution: A study in comparative analysis. *The Indian Journal of Political Science*, 38(2), 237-252.

²⁶ Supra note 5.

²⁷ Though, the measures taken by the Government under the statutes were largely condemned for imposing excessive restrictions and increased surveillance thereby accentuating the need for tight periodical scrutiny and oversight.

governance during emergencies and also given the absence of a written Constitution, the Government draws out its powers from various statutes thereby availing legislative flexibility.

The fundamental rights are dealt with in different hands in both these nations owing to the differences in procedures and legal framework. While in India, Fundamental Rights get automatically suspended except Articles 20 and 21 thereby giving the Centre enough power to override our rights and liberties with a bare law. Whereas the UK has to adhere to the Human Rights Act, of 1998 and at the same time, any measures taken by the Government are subject to Parliamentary oversight.

Judicial Review plays a significant role but it operates distinctly in both legal spheres. The judiciary's role in India until 1976 has been a dormant one as palpable from the judgment in the *ADM Jabalpur case*. It was only after the 1980s that the judiciary started standing its ground and refusing to succumb to Parliamentary supremacy and ultimately establishing the supremacy to the Constitution of India.²⁸ Whereas, the Courts in the UK have been playing an active role, actively examining the measures taken by the authorities in charge to combat the crisis in order to prevent abuse and protect civil liberties.²⁹

The above-stated comparison highlights the significance of maintaining a balance between emergency powers and a democratic value, the powers should not be such as to erode the democratic safeguards and establish tyranny. No doubt, India's Constitution provides an unequivocal framework but there is always a risk and fear of overreach by those in power considering that history has been a witness. The UK's flexible approach

²⁸ Supra note 5.

²⁹ Supra note 7.

towards tackling the crisis ensures transparency and promises proportionality. Both countries can learn & compare each other's experiences and legal expeditions.

IV. EMERGENCY IN INDIA VERSUS EMERGENCY IN THE US

Considering the Constitutional Principles & Values, the past, the socio-legal context and lastly, the governance model, both nations have developed significantly different legal frameworks to deal with unforeseen events and crises. The legal framework of both countries incorporates phenomenal measures to tackle emergencies while also maintaining a balance between State and the Personal Liberties of Individuals in contrasting ways.

The Constitution envisages the following three types of emergencies under Part XVIII as follows:

1. Article 352: Declared in cases of war, external aggression, or armed rebellion, this grants the central government extensive powers to override state governance.³⁰
2. Article 356: Invoked when the constitutional machinery of a state fails, allowing the central government to take direct control.³¹

³⁰ Ibid; The federal structure temporarily shifts to a unitary one, and Fundamental Rights under Article 19 are automatically suspended. Initially, even Articles 20 and 21 were suspended, but the 44th Amendment Act, of 1978 safeguarded these critical rights, preventing their suspension in future emergencies.

³¹ This provision, often criticized for political misuse, undermines federalism by allowing the dismissal of state governments.

3. Article 360: Declared in situations threatening India's financial stability.³²

India's history with emergencies reflects both the necessity and potential abuse of such powers. The 1975 Emergency, declared under Article 352 by Prime Minister Indira Gandhi, remains a cautionary example. Civil liberties were suspended, political opponents were jailed, and press censorship was widespread.³³ This event underscored the need for constitutional safeguards, leading to the 44th Amendment, which restricted the grounds for declaring emergencies and protected essential rights like life and liberty.³⁴

The U.S. Constitution does not explicitly outline emergency provisions. Instead, emergency powers are derived from statutory laws, inherent executive authority, and judicial precedents. Key mechanisms include:

- *National Emergencies Act (1976)*: This act empowers the President to declare a national emergency, specifying the statutory powers to be activated. It requires the President to report to Congress every six months, and Congress can terminate the emergency through a joint resolution.³⁵
- *Stafford Act*: This statute governs responses to natural disasters and emergencies, enabling federal assistance to

³² Ibid; it has never been invoked but grants Parliament the authority to reduce salaries of public officials and direct state finances.

³³ The judiciary, particularly in *ADM Jabalpur v. Shiv Kant Shukla*, failed to protect citizens' rights, ruling that even mala fide detention orders could not be challenged during the emergency.

³⁴ Hoonka, A. (2022). Suspension of Fundamental Rights during Emergency. *Issue 3 Indian JL & Legal Rsch.*, 4, 1.

³⁵ Supra note 7.

state and local governments. It balances federal and state responsibilities, reflecting the U.S.'s federal system of governance.³⁶ There are two types of disaster declarations provided for in the Stafford Act: emergency declarations and major disaster declarations. Both declaration types authorize the President to provide supplemental federal disaster assistance. However, the events related to the two different types of declaration and scope and amount of assistance differ.³⁷

- *Inherent Presidential Powers:* The President, as Commander-in-Chief, holds inherent powers to respond to threats to national security. These powers, though extensive, are subject to checks and balances through judicial review and Congressional oversight.

Historical examples highlight the broad application and controversy surrounding U.S. emergency powers. For instance, following the 9/11 terrorist attacks, President George W. Bush invoked emergency powers to enhance surveillance, detain suspects at Guantanamo Bay, and authorize enhanced interrogation techniques. These measures, while deemed necessary for national security, sparked debates over civil liberties and human rights violations.³⁸

Even recently, under the *Stafford Act*, President Biden has quickly approved Governor Gavin Newsom's request for a *Presidential Major Disaster Declaration* to support ongoing response efforts

³⁶ Ibid.

³⁷ FEMA (2025, JAN 15). How a Disaster Gets Declared. [www.fema.gov](https://www.fema.gov/disaster/how-declared) . <https://www.fema.gov/disaster/how-declared>

³⁸ Supra Note 7.

related to the major wildfires burning in the Los Angeles area.³⁹ The President can declare a major disaster for any natural event, including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or, regardless of cause, fire, flood, or explosion, that the President determines has caused damage of such severity that it is beyond the combined capabilities of state and local governments to respond.⁴⁰

India's emergency provisions are explicitly outlined in its written Constitution, providing a clear framework for their invocation and implementation. The U.S., by contrast, relies on statutory laws like the National Emergencies Act and inherent presidential powers, reflecting its decentralized governance model.

In India, emergencies are triggered by specific threats like war, armed rebellion, or financial instability. In the U.S., emergencies can be declared for a broader range of issues, including natural disasters and economic crises, allowing for flexibility in response.

In India, a National Emergency centralizes authority, temporarily converting the federal system into a unitary one. Fundamental Rights, especially those under Article 19, are suspended, granting the state sweeping powers. By contrast, U.S. emergencies typically preserve federalism, with state governments retaining significant authority under frameworks like the Stafford Act.

³⁹ Governor Gavin Newsom. (2025, JAN 08). Governor Newsom quickly secures Major Disaster Declaration from President Biden for Los Angeles fires. <https://www.gov.ca.gov/>. <https://www.gov.ca.gov/2025/01/08/governor-newsom-quickly-secures-major-disaster-declaration-from-president-biden-for-los-angeles-fires/>

⁴⁰ FEMA (2025, JAN 15). How a Disaster Gets Declared. [www.fema.gov](https://www.fema.gov/disaster/how-declared). <https://www.fema.gov/disaster/how-declared>

While India's Constitution allows for indefinite extensions of emergency proclamations with parliamentary approval, the U.S. National Emergencies Act requires periodic Congressional review, ensuring time-bound implementation.⁴¹

India's Parliament oversees emergencies, but historical instances like the 1975 Emergency reveal the potential for executive overreach when the legislature fails to act independently. Judicial review has been inconsistent, as seen in *ADM Jabalpur*, where the judiciary upheld executive actions that curtailed civil liberties.

The U.S. system emphasizes checks and balances. Congress has the authority to terminate emergencies, and courts actively review executive actions to ensure compliance with constitutional principles. Cases like *Youngstown Sheet & Tube Co. v. Sawyer*,⁴² exemplify the judiciary's role in limiting executive overreach during emergencies.

India's emergency provisions allow for the suspension of Fundamental Rights, significantly curtailing civil liberties. During the 1975 Emergency, rights to free speech, association, and personal liberty were curtailed, with severe consequences for democracy.

In the U.S., while civil liberties can be restricted, they are rarely suspended outright. Instead, measures like enhanced surveillance and detention are implemented, often sparking public and judicial scrutiny. For instance, post-9/11 measures faced widespread criticism for compromising privacy and due process.

⁴¹ Supra note 5.

⁴² 343 U.S. 579 (1952).

India introduced safeguards like the 44th Amendment to prevent the misuse of emergency powers, ensuring that Articles 20 and 21 remain inviolable. However, the potential for political misuse of State Emergencies under Article 356 persists.

The U.S. relies on its system of checks and balances, with Congress and the judiciary serving as key safeguards. The National Emergencies Act mandates transparency and accountability, though concerns remain about the indefinite extension of emergency declarations.⁴³

The comparison highlights the importance of balancing swift responses to crises with the preservation of democratic principles and civil liberties. India's detailed constitutional provisions offer clarity but risk overreach without robust institutional safeguards. The U.S.'s decentralised approach⁴⁴, while flexible, depends heavily on the effective functioning of its checks and balances.⁴⁵

What India can grasp from the US is the importance of involving an independent judiciary and a timely assessment of measures taken during an emergency. What India can offer to the US is an explicit and detailed legal framework set out in the Constitution of India and does not involve much executive discretion.

Both nations offer a distinct set of governance frameworks to deal with emergencies owing to their conventional constitutional

⁴³ Supra note 7.

⁴⁴ The focus of the Constituent Assembly discussions was on the federal aspect of the Indian Constitution. Dr. Ambedkar, Chairman of the Drafting Committee, emphasized the flexibility of Indian federalism which would become unitary during an emergency and stressed that this virtue was absent in other federal systems like the United States.

⁴⁵ Singhvi, A., Gautam, K., Singhvi, A., & Gautam, K. (2020). Emergency Powers in India. *The Law of Emergency Powers: Comparative Common Law Perspectives*, 175-297.

landscape. No doubt, India has shifted to a Unitary form of Government and therefore it does have to strike a balance between federal and provincial governments, a challenge faced by the US. The US finds it difficult to locate accountability while following a decentralized structure of governance during an emergency. Whereas, India needs strong safety measures to ensure the protection of Fundamental Rights.

Thereby comparing both the legal systems, it could be concluded that both nations lay stress on accountability, proportionality, transparency and due process to uphold constitutionalism and democratic values. Both nations can improve upon their emergency governance by learning from each other's experiences thereby promising peace and tranquility along with protection of Civil Liberties.

V. CONCLUDING REMARKS

However, in the present-day world where data is at the core of governance and individual rights, the relationship between an emergency provision and data protection laws, e.g., the GDPR (General Data Protection Regulation)⁴⁶ becomes critical. Public safety during emergencies sometimes requires extraordinary measures of the same kind, including expanded data collection and surveillance. But this should not be at the expense of individual privacy and civil liberties. The GDPR is a powerful tool

⁴⁶ The European Union's General Data Protection Regulation (GDPR), sets out clear rules for the processing of personal data, even during emergencies. It emphasizes the principles of necessity, proportionality, and accountability. Article 9 of the GDPR specifically addresses the processing of sensitive data, allowing for certain derogations during emergencies but ensuring safeguards to prevent abuse.

through which we can navigate these complexities, to ensure that even in a crisis, we are not losing sight of our fundamental rights.

The General Data Protection Regulation (GDPR) is a regulation established by the European Union (EU) to address information privacy within the EU and the European Economic Area (EEA). As a key element of EU privacy and human rights law, particularly Article 8(1) of the Charter of Fundamental Rights of the European Union, it also regulates the transfer of personal data beyond the EU and EEA borders. The GDPR aims to empower individuals by giving them greater control over their data and streamlining privacy rules for international businesses.

The regulation outlines specific requirements for companies and organizations regarding the collection, storage, and management of personal data. It applies to European entities processing the personal data of individuals in the EU and to non-European organizations that target or provide services to individuals residing in the EU.

Immediate actions are required during emergency situations often involving the processing of sensitive and intimate data. For instance, recently during COVID-19 pandemic, the government utilised contact tracing app services such as Aarogya Setu in India and other biometric data to curb spread of the virus. On the similar note, in natural disasters or other potential security threats such as geolocation, communication logs and medical records are required for quick and effective response. This heavy dependence upon the personal data raises concerns about the potential misuse of such data by way of establishing surveillance over the citizens and thereby impacting the individual privacy in the long run. Therefore, while processing any such data which may have

implications on the right to privacy, States must comply with the principles of proportionality, necessity and accountability as embodied in the GDPR. Article 9 of GDPR particularly addresses this issue that processing and retaining of personal data must be necessary and serves a legitimate public interest. GDPR also allows for certain derogations during emergencies but they can be availed only if measures have been taken to prevent the abuse. GDPR ensures the significance of protecting fundamental rights even in extraordinary circumstances by way of integrating data protection with emergency governance, ensuring that measures adopted are effective and respectful of personal freedoms. Following are the key lessons from GDPR:

1. GDPR mandates that any derogation from privacy rights must be indispensable and time -bound thereby preventing indefinite extension of emergency powers.
2. Showcasing democratic values of transparency and accountability, State actions must clearly communicate with the public about the data usage and its implications.
3. GDPR provides for technological safeguards such as encryption and data minimization so that personal data remains safe even used for critical purposes such as disaster response, contact tracing or location tracing.
4. Emergency situations test resilience of legal frameworks, GDPR renders a blueprint for balancing data protection with emergency measures.

The article concludes that the GDPR provides a robust framework for balancing public safety and individual rights, urging countries like India to adopt similar principles to strengthen privacy protections. By integrating the values and principles enshrined in the GDPR with their local laws, nations can ensure individual

dignity and safety even during emergency situations. The inevitable intersection of data protection and emergency governance is of vital consideration. It stresses that upholding privacy during emergencies is not only a legal requirement but also a moral obligation that preserves democratic values.

LEGAL TECHNICALITIES, PROCEDURAL HASSLES, AND ADMINISTRATION OF JUSTICE IN INDIA

*Sucheta Mondal**

ABSTRACT

India's justice delivery system, while constitutionally robust, struggles with delays, procedural complexities, and administrative inefficiencies that hinder access to timely justice. The landmark Hussainara Khatoon case serves as a stark reminder of these systemic challenges, as the Supreme Court highlighted the plight of undertrial prisoners languishing in jails due to the inefficiencies of the legal system. The case underscored the necessity for a simplified justice process by recognizing the right to a speedy trial as part of the fundamental right to life and personal liberty under Article 21 of the Constitution. It also advocated for reforms such as free legal aid and restructured bail systems to address the inequities faced by the marginalized. Building on this foundation, this paper examines global best practices to propose solutions that address India's challenges of legal technicalities, procedural hassles, and administrative delays.

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I. BRIDGING GAPS IN JUSTICE DELIVERY: LESSONS FROM HUSSAINARA KHATOON ON LEGAL TECHNICALITIES AND ADMINISTRATIVE REFORM

The case of *Hussainara Khatoon v. State of Bihar (1979)*¹ is a landmark judgment that exposed the devastating impact of administrative inefficiencies on undertrial prisoners. Filed as a public interest litigation (PIL), the case highlighted how thousands of undertrial prisoners in Bihar had been languishing in jail for years due to the failure of the state machinery to process their cases in a timely manner.

The Supreme Court of India, in its landmark decision in *Hussainara Khatoon*, revolutionized the criminal justice system by addressing the plight of undertrial prisoners and emphasizing the fundamental right to speedy trial, enshrined within Article 21 of the Constitution. Recognizing that justice delayed is justice denied, the Court ordered the release of undertrial prisoners on personal bonds without imposing monetary obligations. It further held that the right to speedy trial is an essential aspect of the right to life and personal liberty.²

¹ Supreme Court of India. (1979). *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.

² Jujharsingh, R. (2009). *Hussainara Khatoon & Ors V. Home Secretary, State of Bihar, Govt. Of Bihar, Patna. India | Asian Encyclopedia of Law.* <https://india.lawi.asia/hussainara-khatoon-and-ors-v-home-secretary-state-of-bihar-govt-of-bihar-patna/>

Drawing on the Directive Principles of State Policy in Article 39A, the Court emphasized that indigent accused persons are entitled to free legal aid at the state's expense. The State's constitutional obligation to ensure a speedy trial was underscored, particularly for economically disadvantaged individuals. The Court also criticized the leisurely and inefficient functioning of subordinate judiciary systems and state authorities, which contribute significantly to delays in justice delivery.³

To address these issues, the Supreme Court directed the Patna High Court to provide detailed information on case pendency and court infrastructure to facilitate the necessary reforms. Recommendations included appointing additional judges, creating new courts, and enhancing infrastructure to accelerate judicial processes. This intervention led to the **Legal Aid Scheme of 1980**, paving the way for a systematic legal services program to ensure justice accessibility for all.

The Court highlighted the rigidity of the property-oriented bail system, which often denied justice to the poor. It called for a restructured bail framework, mandating magistrates to inform accused individuals of their right to bail and provide state-funded legal assistance to facilitate bail applications. Compliance with Sections 167(5) and 468 of the CrPC was

³ Mate, M. (2013). Public Interest Litigation and the Transformation of the Supreme Court of India. In *Cambridge University Press eBooks* (pp. 262–288). <https://doi.org/10.1017/cbo9781139207843.013>

enforced, ensuring that undertrial prisoners were released if police failed to file chargesheets within the stipulated time.

A particularly notable observation was the critique of "protective custody" for women and children, which the Court deemed violative of Article 21. It ordered the immediate release of such detainees and directed the Bihar Social Welfare Board to ensure proper rehabilitation and maintenance for them. The lack of a Children's Act in Bihar at the time underscored administrative lapses, prompting the enactment of the **Bihar Children's Act, 1982**. The Court also mandated the production of juveniles before a judicial magistrate and appropriate care arrangements for them.

The *Hussainara Khatoon* judgment highlights the critical interplay between procedural bottlenecks, administrative inefficiencies, and delayed justice. It reveals how systemic inertia—manifested in lethargic investigations, lack of adequate judicial infrastructure, and rigid procedural norms—violates fundamental rights.

The reliance on outdated bail systems, delays in filing chargesheets, and inadequate legal aid exemplify how procedural technicalities disproportionately burden marginalized groups. The case also underscores the administrative failures in maintaining welfare systems, such as child care homes, which exacerbate the challenges of justice delivery.

Furthermore, the judgment exposes the disconnect between policy intent and execution, where legislative frameworks

(like Article 39A) remain ineffective due to the absence of proactive measures. By urging states to establish legal aid programs and address infrastructural deficiencies, the Court affirmed its role as a custodian of justice, emphasizing that judicial delays cannot be resolved without addressing procedural and administrative inefficiencies.

Though the court has passed these landmark directions there were doubts about the actual implementation of such directions as the court by its order ⁴dated 28 January 1982 stated that:

“It is not enough merely to give directions, but it is vital to ensure that these directions are carried out and do not remain only paper directions. The time has now come when we must look into this matter and satisfy ourselves that the directions given by us are being implemented.”

II. HOW JUSTICE SYSTEM CAN BE SIMPLIFIED IN INDIA?

This section examines legal systems worldwide to identify best practices that can be adapted to simplify the complex challenges facing India’s justice delivery system.

1. Community-centered justice: Lessons from Rwanda’s Abunzi for popularizing ADR in India

The Abunzi mediation system in Rwanda, rooted in traditional conflict resolution practices, offers

⁴Supreme Court of India. (1981). *Hussainara Khatoon v. Home Secretary, State of Bihar*, Miscellaneous Application No. 6136/1981.

valuable lessons for India in simplifying its justice delivery system. The Abunzi⁵ are community mediators who resolve disputes locally, emphasizing reconciliation over retribution. This approach alleviates pressure on formal courts and fosters community participation and trust in the justice process. India, with its vast population and overburdened judiciary, can draw from the Abunzi model to enhance access to justice and expedite dispute resolution.⁶

In the Abunzi system, ⁷mediators are chosen by the community based on their integrity and conflict resolution skills, ensuring their credibility and acceptability. India could adopt a similar approach by training local leaders or respected community members to act as mediators for resolving minor disputes such as property conflicts, family disagreements, or small civil claims. This would not only reduce the caseload on formal courts but also provide a culturally sensitive and cost-effective alternative to litigation.

⁵ Literally translated *abunzi* means ‘those who reconcile’. The *abunzi* are local mediators in Rwanda who are mandated by the state to use mediation as an approach to resolve disputes with the aim to find a mutually acceptable solution to both parties to the conflict.

⁶ Mutisi, M. (n.d.). *Local conflict resolution in Rwanda: The case of abunzi mediators*. <https://www.accord.org.za/wp-content/uploads/2024/06/Monograph-July-2012-Local-conflict-resolution-in-Rwanda-The-case-of-abunzi-mediators.pdf>

⁷Viebach, J. (2023). Rwanda: Transitional Justice after Genocide. In *De Gruyter eBooks* (pp. 81–148). <https://doi.org/10.1515/9783110796629-004>

In contrast to India's *Khap Panchayats*, the Abunzi system represents a more inclusive and regulated approach to justice. Khap Panchayats, rooted in tradition, operate in specific rural regions of India and often derive their authority from patriarchal norms. Their decisions, which sometimes lack legal grounding, have been criticized for perpetuating caste-based or gender-biased practices, including honor-based rulings that conflict with constitutional values and human rights. Abunzi mediators, on the other hand, are chosen through a transparent and participatory process, ensuring fairness and accountability. They adhere to principles of reconciliation and restorative justice rather than punitive or socially divisive judgments.⁸

For India, adopting aspects of the Abunzi model could address deficiencies in rural justice systems. A regulated, community-driven ADR mechanism, inspired by Abunzi but aligned with constitutional principles, can provide accessible and culturally resonant justice while safeguarding against the social biases often associated with informal bodies like Khap Panchayats. This hybrid model can bridge the gap between traditional practices and modern legal frameworks, promoting fairness and inclusivity in justice delivery.

⁸ Longman, T. (2017). *Memory and Justice in Post-Genocide Rwanda*. Cambridge University Press.

2. *Improving investigations and prosecutions*

Improving investigation and prosecution in the Indian judiciary would have to come from reducing systemic inefficiencies and adopting best practices that exist in countries with advanced judicial frameworks. India faces significant challenges, including an overburdened police force, due to a ratio of only 152.80 per 100,000 as of 2022, substantially lower than the UN-recommended ratio of 222 per 100,000. Political interference often compromises impartiality, and lack of coordination among police, prosecutors, and forensic experts hampers the case in moving forward. Furthermore, the adoption of technology remains limited since less than half of law enforcement agencies possess advanced tools such as AI, data analytics, or blockchain for secure documentation.

Germany's investigative judge system⁹, which supervises police investigations to ensure neutrality and rigora could be adapted in India, particularly for high-profile or politically sensitive cases. The independent judge system, as practiced in countries like Germany and France, and in some civil law jurisdictions, is a cornerstone for guaranteeing neutrality in criminal investigations, as well as

⁹ Wolff, H. J., University of Panama, & University of Michigan. (1944). CRIMINAL JUSTICE IN GERMANY. In *Michigan Law Review* (Vol. 42, Issue 6). <https://repository.law.umich.edu/mlr/vol42/iss6/7>

thoroughness. In Germany,¹⁰ investigative judges (Untersuchungsrichter) have been appointed by the judiciary to supervise investigations run by police forces and prosecuting authorities. These judges have the power to grant important measures like a warrant to search, permission for tapping of phones, and pre-trial detention in cases where these powers were reasonably justified by facts. Such a system is geared toward equilibrating rights of suspects with the requirements of meaningful law enforcement, avoiding a risk of abuse of powers by investigators. The German judicial system's incorporation of lay participation through Schöffengerichte (lay assessor courts) provides an innovative model that could enhance the Indian judiciary. This system blends professional judges with lay assessors, ensuring community representation and a diversity of perspectives in criminal trials. Lay judges actively participate in deliberations, evidence evaluation, and judgment decisions, offering a democratic approach to justice. Adopting this model in India could bridge the gap between the judiciary and the public, fostering trust and accountability. A transparent selection process for lay assessors, as practiced in Germany, could ensure fair representation across

¹⁰ Terry, P. C. R. (2015). LAW AND THE WORLD. In *JUDICIAL INDEPENDENCE IN GERMANY*.

societal sections while excluding individuals with potential biases or conflicts of interest.

Introducing lay participation in India would also require clearly defined roles for lay assessors, allowing them to contribute meaningfully without disrupting the judicial process. For instance, as in Germany, they could engage in deliberations and evidence evaluation but refrain from accessing investigative files to avoid bias. Additionally, tiered appellate mechanisms, such as those in Germany, where decisions can be appealed on factual and legal grounds depending on the court, could strengthen review processes in India. The integration of specialized lay assessors in juvenile courts, another German practice, could align with India's focus on restorative justice for young offenders, ensuring decisions are informed by expertise in child welfare and rehabilitation.

In France, the *juge d'instruction*¹¹ serves the same purpose. Appointed for serious or complex cases, this judge acts as a fair arbiter in the pre-trial stage, supervising evidence collection, and the said investigations must be conducted thoroughly and without bias. The French system is particularly interesting in that it would have an inquisitorial approach, wherein the judge participates actively in

¹¹ Morris Ploscowe, THE INVESTIGATING MAGISTRATE (JUGE D'INSTRUCTION) IN EUROPEAN CRIMINAL PROCEDURE, 33 MICH. L. REV. 1010 (1935). Available at: <https://repository.law.umich.edu/mlr/vol33/iss7/3>

gathering and verifying evidence, rather than just adjudicating the dispute presented by opposing parties, as in the adversarial systems like India or the UK.

Indian judiciary oversight is generally reactive or event-oriented because such intervention occurs only when the case reaches the court, and the oversight is limited to the pre-trial phase, that is arguably the most crucial. A perception of custodial violence, evidence tampering, and to some extent, charging coercion is attached with judicial oversight during the investigation process in India. High-profile cases sometimes get delayed or become biased due to political or other pressures on the investigators.

The UK's Crown Prosecution Service (CPS) , an independent body that reviews evidence before proceeding to trial, demonstrates the importance of prosecutorial autonomy in reducing case backlogs and securing convictions. In Japan, at least 99% of the accused are convicted in courts for the simple reason that prosecutors are thoroughly investigating and preparing cases before filing, which India can emulate by enhancing the capacity of prosecutors on testing evidence and preparing cases. The forensic capability of Australia has advanced technology where the unit works hand in hand with the investigator. India has to upgrade its forensic infrastructure. There are only about 30 functional forensic science laboratories in the country and

analysis of evidence turns tardy sharply. Reforms in India should focus on capacity building through recruiting more investigators and prosecutors—ensuring specialization, including cybercrime and financial fraud—besides building state-of-the-art police academies.

3. *Filtering of Precedents*

The Ratio decidendi of the Supreme Court and the High Courts are binding over the lower courts thus establishing the rule of precedent. By virtue of the Article 141 law declared by the Supreme Court is binding on all courts and authorities within India. Article 141 reinforces the Supreme Court Supremacy, promotes uniformity regarding the interpretation of law and contributes to a fair and efficient judicial precedent system. But, in many cases it has been observed that the same law has been decided or interpreted in a different way by the different Supreme court benches which means the lower judiciary have to spend a lot more time to assimilate the divergent views of the judges and to come to a justifiable conclusion.

Further, as there is no such system to determine whether the decisions are decided only on the facts or is there any question of law has been addressed or it has provided a new interpretation to the existing law all the decisions taken by the Supreme court becomes precedent which actually creates more complexities rather than simplifying the legal

procedures. So, there should be some filtering process to determine whether a particular decision is constituting a precedent or not.¹² While deciding that the rules extracted from the United States DC circuit rules can give a basic understanding in this matter, which are as follows¹³-

- a. Whether it is the first case to resolve a substantial issue of law.
- b. Whether it alters, modifies, or significantly clarifies a previously established legal principle.
- c. Whether it specifically calls attention to an existing rule of law that has been overlooked or forgotten.
- d. Whether it criticizes, questions, or expresses doubt about an existing legal principle.
- e. Whether it resolves an apparent conflict between two divergent decisions or viewpoints.
- f. Whether it reverses a reported decision or affirms a reported decision on different grounds.
- g. Whether it is of general public interest or importance, warranting publication.

These guidelines may help to ensure that only significant and impactful decisions are reported,

¹² Raveendran, R. V. (2009). Rendering judgments – Some basics (decision-making & judgment-writing). *SCC Online Journal*, 10, SCC (J). Retrieved from National Judicial Academy website: <https://www.nja.gov.in>

¹³ Raveendran, R. V. (n.d.). *STRENGTHENING JUSTICE DELIVERY SYSTEM – SOME CHALLENGES & SOLUTIONS*. <https://kjablr.kar.nic.in/assets/articles/StrengtheningJusticeDeliverySystemSomeChallengesandSolutions.pdf>

aiding in the consistency and clarity of legal precedents.

4. Streamlined Administrative Processes in the Indian Judiciary: Insights from the KEI Program of the Netherlands

The great challenges for the Indian judiciary are high case pendency, procedure inefficiency, and administrative delays which often undermine the time-efficient delivery of justice. A way to address the situation is by learning from best international practices, namely from the KEI (kwaliteit en innovatieve rechtspraak) program¹⁴ of the Netherlands.¹⁵ The KEI program focuses on modernizing, digital transformation, and simplifying court procedure to create efficiency and access for everyone and acts as a model for reform in India. Digitization of out-of-court dispute resolution in the Netherlands has brought about great positive changes after the EU Consumer ADR Directive

¹⁴ This project has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (grant agreement No 726032). Information on the ERC consolidator project 'Building EU Civil Justice: challenges of procedural innovations - bridging access to justice' is available at <http://www.euciviljustice>.

¹⁵ Kramer, X., Van Gelder, E., Themeli, E., European Research Council, Erasmus School of Law, Utrecht University, European Union, World Economic Forum, World Justice Project, European Commission, Ministry of Economic Affairs, Klaus Schwab, Legal Aid Board, & Tilburg University. (n.d.). *e-Justice in the Netherlands: The Rocky Road to Digitised Justice*.

2013/11 and ODR Regulation 524/2013¹⁶, combined with innovative private initiatives. The success of the Netherlands in digitizing out-of-court dispute resolution should be a reflection to India, the problems that India faces-thus, the timely access to justice. Inspired by such implementations as Rechtwijzer and E-Court, India can adapt frameworks particular to its legal and social background for enhancing dispute resolution mechanisms.

Rechtwijzer¹⁷, launched in 2005 by the Dutch Legal Aid Board and the University of Tilburg, concentrates on relational disputes through an online application tool that then produces a tailored "Roadmap to Justice." E-Court, begun in 2010, is a dedicated online court for contractual civil disputes that mandates pre agreements between parties to resort to its platform and returns enforceable arbitral awards through entirely online proceedings. These have reduced costs, saved time, and enhanced accessibility while maintaining a user-friendly approach. India can build its digital out-of-court

¹⁶ Cortés, P. (2022). Directive 2013/11/EU on Alternative Dispute Resolution for Consumers and Regulation (EC) 524/2013 on Online Dispute Resolution. In *Edward Elgar Publishing eBooks* (pp. 222–246). <https://doi.org/10.4337/9781800372092.00014>

¹⁷ Van Veenen, J. (2008). Online Integrative Negotiation Tools for the Dutch Council for Legal Aid. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1511704>

dispute resolution platforms inspired by these initiatives and include such features as that of Rechtwijzer for various disputes such as family matters, tenancy issues, or consumer grievances. It can be merged into current structures like the Lok Adalats or Consumer Grievance Redressal forums. Similarly, an Indian model of E-Court might be created that could concentrate on disputes over contracts, with a more efficient and enforceable online arbitration process.

The ODR platform of the European Union,¹⁸ guiding ADR entities to integrate their structures for cross-border dispute resolution, provides India with yet another layer of inspiration. A centralized ODR platform could be established, requiring registration of ADR entities, promoting consistency, and ensuring easy access for users nationwide. Pilot projects, starting in regions with higher digital penetration and caseloads, can help refine the system before a broader rollout. Such technology-oriented solutions incorporated into the judicial framework in India would be a relief to a burdened judicial system in accessing justice and speeding up the resolution of disputes—a transformation power as evident in the Netherlands.

¹⁸Hörnle, J. (2013). Encouraging online alternative dispute Resolution in the EU and beyond. *European Law Review*, 2, 187–208. <https://dialnet.unirioja.es/servlet/articulo?codigo=4213981>

Another striking feature of the KEI program, in relevance to accessibility and user-centricity, would be the plan to simplify complexities in legal language and procedural issues and increase digital literacy programs so that non-specialist people can function effectively in the legal system. Procedural formalities intimidate the litigant in India, and certainly the marginalized communities get terror-struck at the mention of any formality by the court. Simplification of administrative procedures along with multilingual digital platforms would make the judiciary more accessible and inclusive.

India needs to ensure robust safeguards on the lines of the requirements identified by the Netherlands regarding procedural fairness, technical reliability, and data privacy. Building public awareness and making available cost-effective access to digital tools will help overcome unequal access, more especially in rural areas where digital literacy and infrastructure is limited. Funding and developing such systems could involve public-private partnerships, tapping the rich pool of expertise of both technology firms as well as lawyers.

III. CONCLUSION

The Indian Judiciary faces many deep-rooted challenges that require a well-rounded and comprehensive approach to reform. One key step is to clearly define and explain the goals of proposed reforms to avoid misunderstandings

among judges, lawyers, and policy makers. For example, misinterpreting the UK's "court and tribunal services" model shows how poor communication can create resistance or confusion, making reforms harder to implement.¹⁹

Another important aspect is a complete overhaul of administrative processes. Instead of focusing on individual improvements, such as adopting new technologies or upgrading court infrastructure, reforms should look at redesigning how the judiciary operates as a whole. This will ensure that technology is used effectively and that any concerns from the stakeholders are addressed.

Improving the management of judicial processes by setting up specialized agencies that focus on organizing court administration and driving innovation can make the system more efficient and reduce delays. These agencies should be staffed with experts who understand the specific needs of the judiciary and can create solution at work. A transformative idea in this regard, proposed by former Chief Justice of India NV Ramana, is the creation of a National Infrastructure Corporation (NJIC).²⁰ The NJIC would serve as an autonomous body tasked with standardizing and overseeing

¹⁹ Carnegie Endowment for International Peace. (2021). *How to start resolving the Indian judiciary's long-running case backlog*. Retrieved from <https://carnegieendowment.org/research/2021/09/how-to-start-resolving-the-indian-judiciarys-long-running-case-backlog?lang=en>

²⁰The Print. (2021, September 4). *What is NJIC? Agency to monitor infrastructure development in trial courts proposed by CJI*. Retrieved from <https://theprint.in/judiciary/what-is-njic-agency-to-monitor-infrastructure-development-in-trial-courts-proposed-by-cji/738593/>

the development of judicial infrastructure across the country. By centralizing the management and execution of infrastructure projects the NJIC could ensure consistency, efficiency and accountability while addressing the long - standing issue of inequalities in infrastructure between states and courts.

Another pressing area is the better utilization of allocated judicial budgets. Persistent underspending of allocated funds limits the judiciary's ability to function effectively. For instance, between fiscal years 2014 and 2018 Bihar's judiciary constantly spent over 20 % less than the revised budget estimates each year. Since annual budgets are often based on the previous year's expenditures, failing to fully utilize allocated funds can lead to a continuous decrease in judiciary's budget share, creating a recurring cycle of underfunding. In more recent data, ²¹per capita spending on the judiciary varies significantly across Indian states. In the 2018-19 fiscal year, the national average per capita judicial budget was ₹189, with Delhi spending as high as ₹643 and Bihar allocating only ₹97 per capita. This ongoing disparity needs to be addressed to enhance the efficiency in judiciary to meet the growing demands of a complex and dynamic legal landscape.

By addressing these interconnected issues and implementing solutions from the global best practices Indian judiciary can

²¹ Centre for Budget and Governance Accountability (CBGA). (2019). *Memorandum on budgeting for judiciary in India*. Retrieved from <https://www.cbgaIndia.org/wp-content/uploads/2019/01/Memorandum-on-Budgeting-for-Judiciary-in-India.pdf>

become more efficient, transparent and reliable institution that delivers justice promptly and efficiently.

LEVERAGING AI FOR MITIGATING PENDENCY IN INDIAN COURTS

*Shivani Pundir**

ABSTRACT

With the ever-increasing backlog of cases in India, it is important that artificial intelligence (AI) is incorporated to relieve the pressure upon the judicial system, which is already stretched to its limits. The objective of this paper is to highlight, that generative AI holds the key for timebound, efficient, and cost-effective, justice delivery systems in the country. Whether it is the COMPAS system in the USA (predicts the likelihood of reoffending of the convict) or Smartsettle ONE in Britain (provides unbiased & creative solutions to parties in mediation/negotiation), several countries are taking advantage of AI in courtrooms. This technology is not only utilized for automating the administrative formalities of courts but is also being employed for tasks primarily attached to human intelligence only; for instance, mediation, negotiation, and even adjudication of certain types of cases. Therefore, this paper briefly identifies, the various factors that lead to pendency in Indian courts, and an effort is made, to provide remedies for the same, with the incorporation of AI in the Indian judicial system. Additionally, references are made to the showcase best practices, followed worldwide, in tackling pendency, with the use of AI. The paper concludes, by

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advocating, various technological reforms in the adjudicatory system, to ease the burden of judges and also aid the timely disposal of cases, economically.

I. NEED FOR INCORPORATING AI IN THE JUDICIARY

For a generation whose attention span is merely 15 seconds, is data-driven, Judicial Decision-making by AI (hereinafter known as ‘AI’) the way forward?

With the introduction of self-driving cars, smart televisions, watches, fridges, and even speakers, we have entered an exciting phase of human evolution, where the lines between machines and humans are blurring. Intelligent Automation is going to be the driving force in the next decade. In this age of quick commerce, time is of the essence. The age-old proverb, ‘Patience is bitter, but its fruit is sweet,’ seems outdated and most lack the patience and tenacity to go through long-drawn legal battles.

As per the report by the Institute of Economics and Peace,¹ the inability of the Indian State, to deliver timely justice (and ensure the rule of law) resulted in preventable violence which cost India as much as 9 percent of our annual GDP.

¹ Aggarwal Y. (2020, October 10). India Spends 0.1% On The Judiciary As Against 2% Of The GDP On Defence. *National Herald*. Retrieved From <https://www.nationalheraldindia.com/india/india-spends-01-on-the-judiciary-as-against-2-of-the-gdp-on-defence> .

Apart from the lack of infrastructure and manpower, the Indian Judicial system is plagued by various challenges, such as the high cost of litigation, complicated court procedures, and a lack of confidence in ADR (Alternative Dispute Resolution) methods.

With the fast-paced world around us, technology can be a game changer, even in the justice delivery system. The onset of Covid turned out to be a boon, for transforming the legal landscape in India, as the virtual hearings, live streaming of court proceedings, and digitization of courts became a necessity rather than formality.

This paved the way for adopting more advanced technology in court such as SUPACE and SUVAS. Now, it is time to contemplate how AI (both generative & traditional) can be used in the judicial system to assist the judges and court staff, which will in turn reduce pendency.

Firstly, it is important to understand what artificial intelligence (AI) means. Although there is a lot of debate around the subject, Russell and Norvig² define AI as the ability to act rationally rather than in terms of achieving ‘thought’ or ‘human behavior’. The Centre for Internet and Society defines AI as a ‘dynamic learning system that can be used in decision making and action.’³

² Russell S. and Norvig P. (2010). Artificial Intelligence: A Modern Approach (Third Edition). Essex, UK: Pearson Education Ltd.

³ Jujjavarapu G. & et al. (2018, January 6). AI and the Manufacturing and Services Industry in India. *The Center for Internet and Society, India*. Retrieved

Since this technology feeds on patterns and data, it may prove resourceful in judicial decision-making. For instance, an algorithm developed by the Illinois Institute of Technology and the University of South Texas based on the data of the Supreme Court from 1791 to 2015 predicted the decisions and votes of Supreme Court justices from 1815 to 2015 with 70.2% accuracy and 71.9% accuracy, which has surpassed the 66% predictive accuracy of jurists.⁴

It would be prudent to quote the following observation made by Justice DY Chandrachud, Chief Justice of India.

*"The integration of AI in modern processes including court proceedings raises complex ethical, legal, and practical considerations that demand a thorough examination. The use of AI in court adjudication presents both opportunities and challenges that warrant nuanced deliberation"*⁵

As we enter the exciting era of generative AI, this paper focuses on the utility and challenges of adopting AI in Indian courtrooms. Further, this paper attempts to offer viable solutions, to meet the said challenges.

from https://cis-india.org/internet-governance/files/AIManufacturingandServices_Report_02.pdf

⁴ Picard S. & et al. (2019). Beyond the Algorithm: Pretrial Reform, Risk Assessment, and Racial Fairness. *Centre for Court Innovation*. Retrieved from https://www.courtinnovation.org/sites/default/files/media/documents/2019-06/beyond_the_algorithm.pdf.

⁵ Chandrachud D. (2024, April 13). India-Singapore Judicial Conference. *Youtube*. Retrieved from <https://www.youtube.com/watch?v=dvB1lBqew20>.

II. HOW AI CAN BE HARVESTED TO REDUCE PENDENCY

- **Legal Research:** Machine Learning (Algorithm) can provide intelligent analytics and research support to judges and lawyers.⁶ Such AI-powered tools may analyse vast amounts of data, pinpoint relevant precedents and predict case outcomes with considerable accuracy.⁷

Recently, two High Courts in India have used but not referred to ChatGPT, in open court.⁸ Although both courts refrained from basing their opinions on the output of ChatGPT, this fact should not be ignored. It calls for a greater effort to develop an AI-enabled system that may cater to the needs of Indian Judges.

- **Case Briefing:** The ability of Natural Language Processing (NLP) to analyse vast amounts of data and make relevant summaries, can be useful for making case briefs for the judges. So far, this task is

⁶ Mishra A. & Sharma R. (2023). Artificial Intelligence In The Indian Judiciary: Current Applications And Future Prospects. *Journal of Namibian Studies*, 33(1), ISSN: 2197-5523, 3479-3493. Retrieved from

<https://namibianstudies.com/index.php/JNS/article/download/5238/3619/10668?cfchl tk=i9Zj T71IJWHQspHtTd4ipSRYXITTaP8ckmk9.5.tnM-1734267527-1.0.1.1-JX8xt7qi7X6bA1DdcWJDchHwclrKf8Fv968zzR8rJlg>.

⁷ Singh A. (2024). Unmasking the Transformative Impact: Artificial Intelligence in India's Judiciary System. *ResearchGate*. Retrieved from

https://www.researchgate.net/publication/382068909_Unmasking_the_Transformative_Impact_Artificial_Intelligence_in_India's_Judiciary_System.

⁸ Karpuram A. (2024, May 28). Using AI and ChatGPT in Legal Cases: What Indian Courts Have Said. *The Indian Express*. Retrieved from <https://indianexpress.com/article/explained/explained-law/ai-chatgpt-high-courts-judiciary-9356510/>.

undertaken by judges themselves or some support staff like - law clerks cum research associates, in the Supreme Court of India. However, such tools can be introduced across the country's courtrooms, as judges oversee about 80 - 100 cases per day and have only a few minutes to hear each case.⁹

This would free up valuable time for the judges, to concentrate on more complex cases.

- **Alternative Dispute Resolution:** Given Generative AI's vast abilities to come up with innovative solutions, it is being used in various countries to assist parties in negotiations and mediation.

It is further being used to predict the approximate cost of litigation, the expected time for verdict, and the chances of winning the case. This is done to discourage litigants from indulging in a long-drawn legal battle and settle the matter amicably.

For instance, an AI software (Justice Intelligent Project) is deployed in Abu Dhabi to predict the probability of case settlements with up to 94% accuracy.¹⁰

- **Intelligent Legal Query Systems:** In China, 'Xiaofa' (an AI-powered robot), explains

⁹ Narasappa H. & Vidyasager S. (2016). *The State of Indian Judiciary, A Report by Daksh*. Eastern Book Company. 23-24. Retrieved from <https://www.dakshindia.org/wp-content/uploads/2023/02/State-of-the-Judiciary.pdf>.

¹⁰ Supra at 7.

complicated legal terms and guides litigants, as to the best way to resolve the issue, since 2017.¹¹

AI-enabled chatbots, virtual assistants, and expert systems that resolve litigants' queries regarding the law, court procedure, etc., can go a long way toward bringing legal literacy to the country. This democratization of legal knowledge will promote access to justice and foster an inclusive legal system.¹²

- **Improve Court Administration:** The daily process of the registry may be automated with the help of an of intelligent AI software.¹³ To achieve this, task-specific, narrowly tailored algorithms, trained through Machine Learning, can be deployed to aid in administrative functions, such as , creating cause lists, and discovering and reviewing evidentiary documents.¹⁴ It may also be used to flag different documents in a case file (which is still done manually), and automatically detect the defects in filing, sorting, and prioritizing of cases.

¹¹ Anonymous. (2017, October 10). Robot Gives Guidance in Beijing Court. *China Daily*. Retrieved from https://www.chinadaily.com.cn/china/2017-10/13/content_33188642.htm .

¹² Ibid.

¹³ Kinhal D. & et al. (2020, May 1). Virtual Courts in India: A Strategy Paper. *Vidhi Centre for Legal Policy*. Retrieved from <https://vidhilegalpolicy.in/research/virtual-courts-in-india-a-strategy-paper/> .

¹⁴ Julia Brickell. (2020). AI-Enabled Processes: And You Thought E-Discovery Was a Headache!. *New York Law Journal*. Retrieved from <https://www.law.com/newyorklawjournal/2020/01/31/ai-enabled-processes-and-you-thought-e-discovery-was-a-headache/?sreturn=202009110158> .

- **Automated Document Analysis and Evidence Management Systems:** The tools can be used to extract key information from lengthy files, and police reports, identify inconsistencies or gaps in evidence, flag sensitive information, and link related documents across the files.
- **Drafting Orders & Judgments:** India has only 21 judges per million people.¹⁵ By undertaking research work for the judges, appreciating evidence, transcribing speeches, finding similar cases/ precedents & also writing judgments; AI has the potential to significantly ease the workload of judges.
Several matters are routine, requiring very little appreciation of evidence, like transfer petitions, deciding territorial & subject matter jurisdiction of a case, misjoinder of parties, adjournments, orders to engage in ADR, etc. The AI-powered software can hear, analyze, and draft such routine orders, and the judge may approve, reject, or modify the orders.
- **Computation of Fine:** Certain decisions may not require as much appreciation of facts and evidence as serious offenses. An AI system may be deployed

¹⁵ HT Web Desk. (2023, December 8). India's judge-population ratio stands at 21: Law Minister tells LS. *Hindustan Times*. Retrieved from <https://www.hindustantimes.com/cities/delhi-news/indias-judge-population-ratio-stands-at-21-law-minister-tells-ls-101702050805063.html> .

to offer a preliminary assessment of straightforward legal issues.¹⁶

For instance, fines under Rs. 10,000 in various rudimentary cases like- cheque bounce cases, consumer rights cases, certain types of insurance claims, petty offenses, non-payment of dues, and computation of compensation in vehicular accidents cases, etc.

An AI-powered system may come up with an estimate for rational compensation (along with reasons), which may be modified as per the judge's prudence.

- **Enhancing Automation** : Considering the prevalence of virtual hearings, AI can be used to automate certain administrative tasks, such as scheduling hearings, sending reminders to parties, updating case information, etc. Such automation can ease the burden of support staff and avoid chances of error.¹⁷
- **Corporate Solutions:** As the start up culture is rising in the country, AI-assisted mediation or arbitration, before trial may be made mandatory. This will ease the burden of courts and reduce delays in commercial adjudication. Both these factors

¹⁶ Trivedi V. and Nilakshi N. (2024). Artificial Intelligence In The Indian Judiciary: A Systematic Analysis Of Potential Applications And Challenges In Addressing Case Backlogs. *Journal of Trends and Challenges in Artificial Intelligence 1* (03). 91-96. Retrieved from <https://jai.aspur.rs/archive/v1/n3/3.pdf>

¹⁷ Supra at 7 .

contribute to the ease of doing business and will enhance the confidence of investors.

- **Risk Assessment:** The COMPAS system is being used in the USA to compute the chances of recidivism of a convict. The convict is assessed on the basis of various factors like race, age, sex, prior criminal record, socioeconomic conditions, psychological evaluation, etc.¹⁸ Such an assessment helps the court in deciding the appropriate sentence for the convict. Similarly, H.A.R.T. is being used in the U.K. for forecasting the chances of reoffending by the convict and recommends appropriate rehabilitation programs.¹⁹

In India, most judges tend to deny bail by playing it safe.²⁰ These assessment tools may be utilized to ascertain the flight risk of an undertrial, by incorporating various factors like – the number of dependents, annual income & assets of the convict, level of education, etc.

- **Recreating Crime Scene:** With the advanced AI technology enabling facial recognition and video

¹⁸ Supra at 5 .

¹⁹ Singh A. (2024). Unmasking the Transformative Impact: Artificial Intelligence in India's Judiciary System. *ResearchGate*. Retrieved From

https://www.researchgate.net/publication/382068909_Unmasking_the_Transformative_Impact_Artificial_Intelligence_in_India's_Judiciary_System .

²⁰ PTI. (2024, July 28). Judges should use a sense of robust common sense in bail petitions, says CJI. *The Economic Times*. Retrieved from <https://economictimes.indiatimes.com/news/india/judges-should-use-a-sense-of-robust-common-sense-in-bail-petitions-says-cji/articleshow/112088669.cms> .

analytical tools, people can be geotagged to a particular place and time. This may help in creating 3D images that may assist in recreating the crime scene.

- **Analysing Witness Testimony:** With the advent of online hearings, AI-enabled, video analytics can be used to analyse facial expressions, posture, gaze, and demeanour of the witness. Thereby, alerting the judges, of witness tutoring, during online hearings.²¹
- **Case Management:** ‘Automated Docketing’ is a type of AI software, that can be used to identify the case and categorize them based on subject matter, urgency, etc. This system minimizes the risk of errors and saves time. For instance, Austria is using AI as an advanced management system including court document anonymization, while Colombia and Argentina are utilizing AI for identifying urgent cases.²²

²¹ Ashwathappa A. & et. al. (2021, May). Algorithmic Accountability in the Judiciary. Daksh Foundation. *Daksh Foundation* Retrieved from <https://www.dakshindia.org/wp-content/uploads/2022/02/DAKSH-Algorithmic-Accountability-in-the-Judiciary.pdf>.

²² Sengupta A., Jauhar A. and Misra V. (2021, April 15). Responsible AI for the Indian Justice System – A Strategy Paper. *Vidhi Centre for Legal Policy*. Retrieved from <https://vidhilegalpolicy.in/research/responsible-ai-for-the-indian-justice-system-a-strategy-paper/>.

III. INCORPORATION OF AI IN INDIAN JUDICIARY: AN ANALYSIS OF THE STEPS TAKEN SO FAR

The Indian courts have not shied away from harnessing technology to benefit the people. The eCourts Mission Mode Project has laid the foundation for early adoption of AI, in Indian courts.²³ The following initiatives mark the advent of AI in the Indian Judicial System –

- **SUVAS:** The Supreme Court Vidhik Anuvad Software (SUVAS), is an AI-powered tool that translates the judgments and other documents of the Supreme Court from English to multiple Indian vernacular languages and vice-versa. This platform has enabled efficient and accurate translation, minimizing the chance of misrepresentation or manipulation due to language barrier.²⁴ Bearing in mind the linguistic diversity in India, this AI-enabled software promotes accessibility and inclusivity in the judiciary.
- **SUPACE:** The Supreme Court Portal for Assistance in Courts Efficiency (SUPACE), is an AI tool aimed at smart research work for judges. The platform utilizes machine learning to retrieve relevant information such as case overviews, chronology, and judgments.²⁵ The portal collects relevant facts and laws and presents them before the judges,

²³ Ibid.

²⁴ Supra at 7 .

²⁵ Supra at 17 .

looking for input for a decision. Further, an integrated word processor allows seamless document drafting, making SUPACE a seamless end-to-end system. Thereby, reducing the time judges spend on preparatory work.²⁶

- **E-Court Project:** Offering a wide variety of services like – virtual courts, e-filings, and advanced case management tools, the E-Court Project is not entirely AI-enabled as of now. However, with the launch of Phase III, intelligent e-filing will ensure completeness, flag errors, and send automated updates via SMS, email, or mobile apps, to litigants and lawyers.²⁷ This will expedite the hearing, reduce errors, and in turn save time, for court & litigants.

IV. CHALLENGES OF ADOPTING AI IN INDIAN COURT COURTROOMS

With the benefits of AI, the following challenges need to be factored in:

- **Lack of Clear Policy in India:** Unlike the Nordic countries (Netherlands, Wales, and England) and EU, India lacks a dedicated policy concerning Artificial Intelligence. There is a lack of regulatory framework, in assigning accountability, when harm

²⁶ Supra at 7 .

²⁷ PIB. (2023). Cabinet Approves eCourts Phase III for 4 years. Retrieved from <https://doj.gov.in/phase-iii/> .

is caused by bias, data breaches, etc. due to algorithmic error.²⁸ The European Union has come up with legislation named – the EU AI Act²⁹, which will regulate artificial intelligence (AI) to ensure better conditions for the development and use of this innovative technology.³⁰ The act takes on a risk-based approach: higher the risk, stricter the rules.³¹ It allocates various responsibilities to the makers and users of AI. It prohibits the use of AI in social scoring, biometric categorization of sensitive data, predictive policing for individuals, emotion recognition at the workplace, etc.³² Further, the Act imposes fines of up to 35 million euros or 7% of turnover.³³

- **Lack of Common Sense:** One of AI's fundamental limitations is its lack of common intelligence. The ability to reason intuitively about everyday situations and events, which requires rich background knowledge about how the physical and

²⁸ Supra at 22 .

²⁹ European Union Artificial Intelligence Act (2024).

³⁰ European Commission. EU AI Act: First Regulation On Artificial Intelligence. Retrieved from <https://www.europarl.europa.eu/topics/en/article/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence> .

³¹ Council of the EU. (2024, February 2). Artificial Intelligence Act: Council and Parliament strike a deal on the first rules for AI in the world. *European Council*. Retrieved from <https://www.consilium.europa.eu/en/press/press-releases/2023/12/09/artificial-intelligence-act-council-and-parliament-strike-a-deal-on-the-first-worldwide-rules-for-ai/pdf> .

³² Ibid.

³³ Supra at 32 .

social world works.³⁴ AI excels at pattern recognition, but it tends to be worse than humans at questions that require more abstract thinking.³⁵ Therefore, the best systems must employ a combination of AI & human work.

- **Lack of Grievance Redressal and Liability:** As per the recommendation of NITI Aayog, strict liability should be avoided in favour of a negligence test and liability should be limited if a producer of AI tools took necessary precautions during development and implementation.³⁶ However, there is no clarity as to the extent of the relationship between the victim and the producer of the algorithm that is needed for fastening liability upon the producer.³⁷

It is necessary to provide a grievance redressal system for addressing the shortcomings of the AI-powered software and specify the responsibility of the creators and the officer in question.

³⁴ Marcus G. and Davis E. (2015). Commonsense Reasoning and Commonsense Knowledge in Artificial Intelligence, *Communications of the ACM* 58 (9) 92–103. Retrieved

from <https://cs.nyu.edu/~davise/papers/CommonsenseFinal.pdf>.

³⁵ Germain T. (2024, September 23). When Robots Can't Riddle: What Puzzles Reveal About The Depths Of Our Own Minds. *BBC*. Retrieved from <https://www.bbc.com/future/article/20240912-what-riddles-teach-us-about-the-human-mind>.

³⁶ NITI Aayog. (2018). National Strategy On Artificial Intelligence. Retrieved from https://www.niti.gov.in/sites/default/files/2023-03/National-Strategy-for-Artificial-Intelligence.pdf?src_trk=em675ecfd6cd98f4.059749961168467778.

³⁷ Supra at 22.

- **Lack of Tech-Know-how in Judges, Lawyers, Court Staff & Law Students:** As the world becomes more & more AI-enabled, it is essential that all the stakeholders whether judicial or otherwise, understand the workings of this technology. The regulatory body must impart useful training and develop educational material to raise awareness amongst various stakeholders.
- **Bias:** The current Machine Learning and deep learning techniques are heavily reliant on accessible data.³⁸ If the data fed to the program is itself biased, then the AI-generated outcome will also be biased.³⁹ For instance, the racial incarceration of Blacks and Latin Americans in the USA is likely to be reflected in the adjudication by AI. This effect is known as the ‘garbage in – garbage out’. To resolve it, various experts suggest that the data should be actively made unbiased but this premise of feeding doctored data is in itself unethical.⁴⁰
- **Anchoring Effect:** This refers to people’s bias towards computer-generated data. Most judges follow the result generated by AI without making an independent decision. Thus, the judges fall victim to

³⁸ Supra at 22 .

³⁹ Krishna R. & Parul A. (2023, August 8). AI Judges: The Question of AI’s Role in Indian Judicial Decision-Making. Centre for Comparative Constitutional Law and Administrative Law. *National Law University Jodhpur*. Retrieved from <https://www.calj.in/post/ai-judges-the-question-of-ai-s-role-in-indian-judicial-decision-making> .

⁴⁰ Supra at 5 .

bias in the face of unchecked AI outcomes.⁴¹ Since, fair trial is the foundation of justice delivery system in India, it shall be ensured that judges do not become prejudicial.

- **Lack of accountability:** With the appellate authority, legislation, and pressure from the bar and media in place, a human judge is accountable to several authorities, but an AI bot is a machine that cannot be penalized. There is a need of a robust policy framework - fastening liability upon the makers of the technology, ensuring regular screening & adherence to a particular code of conduct, to avoid high-risk behaviour.
- **Need to Enhance Machine Learning:** The current legislation is written in English, but some legislation can be written in a way that it can be processed by computers. This is suggested by Professor Lyria Bennett Moses, Director of the Allens Hub for Technology, Law and Innovation-

“It is much easier for AI systems to give answers to legal questions where the laws are written in a language that computers can understand. If we start with rules written in computer code, then they can be executed by a computer automatically.”⁴²

⁴¹ Santosh P. (2020, May 28). Will Artificial Intelligence replace Judging?. *Bar&Bench*. Retrieved from <https://www.barandbench.com/columns/is-artificial-intelligence-replacing-judging> .

⁴² Dawn L. (2021, October 21). Can AI replace Judges?. *Newsroom*. Retrieved from <https://www.unsw.edu.au/newsroom/news/2021/10/can-ai-replace-judge-courtroom> .

- **Lack of Human Touch:** Despite all the technological advancements in the field of generative AI, it is far from matching the complexities of the human mind. For instance, the quality of the human mind to gauge through emotions like fear, ignorance, deceit, anger, etc. is uncanny. This skill comes in handy in judging the demeanour of the party. Although facial recognition technology (FRT) is an attempt to bridge this gap, its veracity is yet to be tested.
- **Black Box Phenomenon:** This phenomenon refers to the absence of information about grounds of reasoning for arriving at a decision.⁴³ This strikes at the core of due process and transparency in judicial decision-making.

V. WAY FORWARD

Since the Indian judiciary faces mounting pendency and infrastructural limitations, it is important, that technology is relied upon to deal with cases that are devoid of judicial discretion.

The digitization through the e-Courts Project, prevalence of paperless courts & virtual courts, and incorporation of SUVAS & SUPACE may lay the groundwork for a state-of-the-art, justice delivery system. Whether it is case management, case briefing, legal research, computational analysis, predictive analysis, mediation, arbitration or

⁴³ Supra at 40 .

adjudication – generative AI has the immense potential to ease the burden of courts.

The objective nature of AI can be utilized in mandatory pre-trial mediation, as it can find equitable solutions and also calculate the approximate time and money for trial. This way parties can be encouraged to settle the matters outside courts, instead of a time consuming & expensive battle in court..

Further, such a data-driven adjudicatory system will help in identifying the patterns of dispute & crime clusters. This will facilitate in formulation of tailor-made policies for addressing the causes of frequent litigation and resolving the same.

Given the availability of affordable internet connectivity across India, booming economy, it would be a matter of time, that AI-powered softwares finds its way to all areas of work. . In fact, the Stanford AI Index Report (2021), declares that India has the highest AI skill penetration rate in the world.⁴⁴ Therefore, AI may on one hand come across as a cost-effective tool in the justice delivery system but it may also pose several challenges pertaining to data privacy, bias, anchoring effect, etc. However, the need of the hour remains a wholesome policy with respect to AI in India. The legislators must address the said risks and provide clarity on acceptable behaviour of AI systems.

Despite the scepticism around this technology, AI can be a powerful ally with ethical implementation & capacity-building initiatives. Its phased-wise incorporation of

⁴⁴ Artificial Intelligence Index Report. 2021. Stanford University HAI.

technology may set the stage for a responsible justice delivery system, where decisions are churned out at an unprecedented pace and the workload of both judges and their support staff is ameliorated by technology.

INNOVATIVE STRATEGIES FOR ENHANCING EFFICIENCY AND EFFECTIVENESS IN RURAL AND URBAN LEGAL SYSTEMS: OVERCOMING LEGAL BARRIERS IN RURAL AND URBAN AREAS- A COMPREHENSIVE ANALYSIS

*Kishori Goswami**

*Srija Singh**

I. INTRODUCTION

“Injustice anywhere is a threat to justice everywhere”

- *Martin Luther King Jr.*

The Indian judiciary, as the guardian of constitutional values and the rule of law, plays a critical role in maintaining social order and upholding justice. However, the judiciary is burdened by persistent challenges that undermine its efficiency and effectiveness. The most notable issue is the staggering backlog of cases, which has surpassed¹ **47 million** as of **2024**. This backlog often results in delayed justice, violating the fundamental legal maxim that *“justice delayed is justice denied.”* These delays are symptomatic of deeper systemic inefficiencies, including an acute shortage of judges and inadequate judicial infrastructure.

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¹ National Judicial Data Grid. (n.d.). Case backlog statistics. Retrieved December 28, 2024, from <https://njdg.ecourts.gov.in/>

The disparity in access to justice between rural and urban areas further complicates the issue. While urban courts struggle with overcrowding and procedural complexity, rural regions face unique challenges such as limited court infrastructure, lack of legal professionals, and poor legal literacy. In rural India, the geographical remoteness of courts often forces litigants to travel long distances, while in urban areas, high costs and procedural barriers deter marginalized groups from seeking justice. This rural-urban divide highlights the unequal access to judicial resources, raising concerns about equity and inclusivity in the justice system.

Efforts to address these challenges have included technological interventions like the e-Courts initiative and the² *National Judicial Data Grid (NJDG)*, which have introduced digital filing, online case tracking, and virtual hearings. These reforms mark significant progress, but they remain insufficient to tackle the judiciary's systemic and deeply rooted inefficiencies. A holistic and innovative approach is necessary, combining technology, alternative dispute resolution mechanisms, legal literacy initiatives, and infrastructural investments to create a judiciary that is both efficient and accessible to all.

This paper seeks to examine the legal barriers in rural and urban areas, identify the gaps in existing frameworks, and propose innovative strategies to enhance the efficiency and

² Ministry of Law and Justice. (2022). Report on judicial infrastructure. Available at <https://lawmin.gov.in/reports>

effectiveness of the Indian judiciary. By focusing on tailored solutions for the unique challenges in these regions, this discussion aims to contribute to the ongoing dialogue on judicial reform and its role in building a more equitable and just society.

The Indian judiciary is one of the most significant pillars of the country's democratic framework, entrusted with upholding the Constitution, safeguarding individual rights, and ensuring justice. Rooted in the principles of fairness and equality, the judiciary operates independently, free from interference by the legislative and executive branches. Its structure is hierarchical, comprising the Supreme Court at the apex, followed by High Courts in each state or union territory, and subordinate courts at the district and taluka levels. This multi-tiered system aims to ensure the accessibility of justice to all citizens, irrespective of their socio-economic backgrounds.

The judicial system of India is derived from the British legal framework and is guided by a combination of common law principles, statutory laws, and constitutional provisions. At its core, the judiciary is tasked with the interpretation of laws, adjudication of disputes, and safeguarding constitutional values. The Supreme Court serves as the final appellate authority and guardian of the Constitution. Below it is ³**25 High Courts**, each with jurisdiction over a state or

³ Ministry of Law and Justice. (2022). Report on judicial infrastructure. Available at <https://lawmin.gov.in/reports>

group of states. District and subordinate courts form the backbone of the judiciary, handling the majority of civil and criminal cases.

The system also includes specialized tribunals and quasi-judicial bodies that address matters such as taxation, labor disputes, and consumer grievances. This institutional framework reflects the judiciary's effort to address diverse legal needs across a population exceeding **1.4 billion** people. However, the judiciary faces significant challenges, including case backlogs, delays in justice delivery, and uneven distribution of legal resources across rural and urban areas.

An efficient and effective judiciary is indispensable for a functioning democracy and the protection of fundamental rights. Judicial efficiency ensures that cases are resolved promptly, preventing undue delays that often lead to prolonged suffering for litigants. On the other hand, judicial effectiveness guarantees that the outcomes of cases are fair, impartial, and just, reinforcing public trust in the rule of law.

The importance of efficiency and effectiveness extends to the socio-economic fabric of the nation. A delayed justice system affects individual litigants and hampers economic growth by creating uncertainties in contract enforcement, property disputes, and business transactions. Moreover, the rural-urban divide in judicial infrastructure and accessibility often exacerbates existing inequalities, making it imperative to enhance both the speed and quality of justice delivery.

In recent years, steps like the introduction of e-Courts and the use of technology for case management have shown promise in improving efficiency. However, true effectiveness requires more than technological advancements; it calls for reforms in legal procedures, enhanced infrastructure, and increased awareness among citizens to make justice accessible to all.

II. RESEARCH OBJECTIVE

- To **Analyze** the Current State of Judicial Functioning in Rural and Urban Areas: This objective focuses on a comparative analysis of the judiciary in rural and urban regions to understand the structural and operational differences. It involves identifying specific issues like delays in case disposal, procedural inefficiencies, and lack of accessibility to courts in rural areas compared to overcrowding and high litigation costs in urban settings.
- To **Examine** the Root Causes of Case Backlogs and Delays: A deeper exploration into the causes of the massive pendency of cases in Indian courts, such as procedural loopholes, resource constraints, and the absence of modern case management systems, will be undertaken. This objective aims to uncover why existing reforms have not fully addressed these issues.
- To **Investigate** Legal Awareness and Accessibility

Issues in Rural and Urban Areas: A key barrier to justice is the lack of legal literacy, particularly in rural areas. This objective aims to study the levels of legal awareness and the role of grassroots initiatives like legal aid camps and literacy drives in bridging the knowledge gap. In urban areas, it will focus on accessibility issues like high costs and complex procedures that deter marginalized groups.

- To **Evaluate** the Role of Technology in Enhancing Judicial Efficiency: With digital platforms such as the e-Courts project and virtual hearings gaining prominence, this research will examine their impact on reducing delays and improving access to justice. The objective also includes identifying gaps in technological adoption and ways to enhance digital inclusivity, especially in remote regions.
- To **Explore** Disparities in Judicial Infrastructure Between Rural and Urban Areas: This objective involves an in-depth study of the availability and quality of court infrastructure, including courtrooms, judges, and support staff. It will also address the logistical challenges faced by litigants, such as long travel distances in rural areas and overcrowded court complexes in urban areas.
- To **Propose** Tailored Solutions to Address Rural and Urban Legal Barriers: The study will aim to

design innovative, region-specific solutions that cater to the unique needs of rural and urban areas. In rural contexts, this could include mobile courts, village-level dispute resolution centers, and legal literacy drives. In urban contexts, the focus would be on streamlining case management, promoting alternative dispute resolution (ADR), and creating affordable legal services.

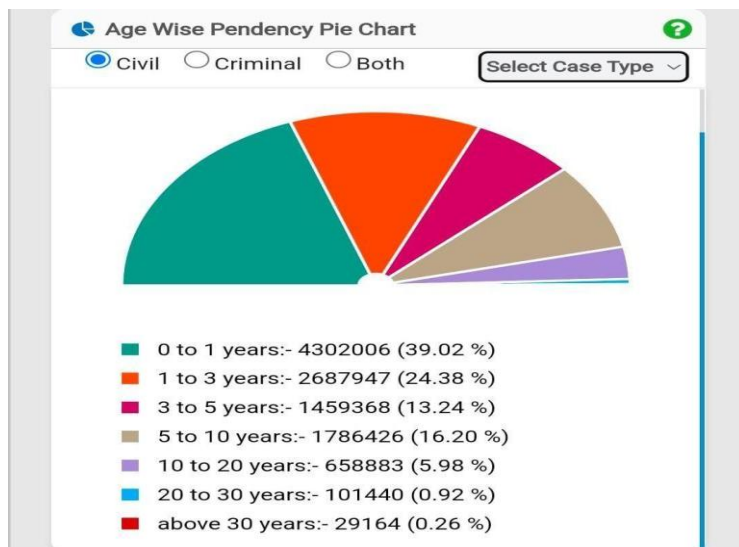
- To **Promote** Equity in Access to Justice Across Rural and Urban Divides: This research seeks to develop strategies to reduce the rural-urban divide in judicial functioning. It will propose policies aimed at equitable allocation of resources, uniform standards for case disposal, and consistent judicial performance across regions.
- To **Foster** Institutional Reforms for Long-Term Sustainability: Beyond immediate solutions, the study will explore institutional reforms needed to ensure the long-term efficiency and effectiveness of the judiciary. This includes the appointment of more judges, training programs, and reforms in procedural laws.

III. PROBLEMS IN THE INDIAN JUDICIARY

1. **Case Backlog:** The backlog of cases in courts across India is one of the most pressing

concerns.⁴ As of 2024, over 4 crore cases remain pending in various courts, including the Supreme Court, High Courts, and subordinate courts. This backlog severely hampers the timely delivery of justice. The primary reasons behind this backlog include the shortage of judges, inefficient case management, procedural delays, and a rising volume of litigation. This leads to long waiting periods for cases to be heard and resolved, causing frustration among litigants and delaying justice. For instance, criminal cases often stretch for years, depriving individuals of a speedy trial and, in many cases, leading to prolonged imprisonment without conviction.

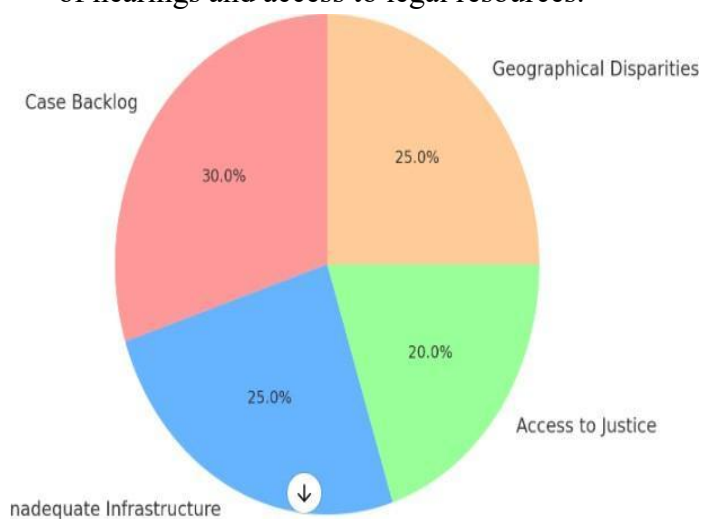
⁴ Ministry of Law and Justice. (2022). Report on judicial infrastructure. Available at <https://lawmin.gov.in/reports>



2. Inadequate Infrastructure: ⁵The judicial infrastructure, particularly in lower courts and rural areas, remains outdated and inadequate. Many courts lack basic facilities like modern technology for e-filing, digital records, and video conferencing facilities. Additionally, judges and court staff often work in overcrowded, under-equipped courtrooms with insufficient support staff. The judicial system's technological integration is still in its nascent

⁵ Ramana, N.V., (2022, March 15), Improving access to justice in India. The Hindu available at <https://www.thehindu.com/opinion>

stage, making it difficult for courts to manage cases efficiently. For instance, e-courts and virtual hearings, while introduced to mitigate delays, face technical challenges such as poor internet connectivity, especially in remote areas. This inadequate infrastructure not only prolongs the process but also affects the quality of hearings and access to legal resources.



Report

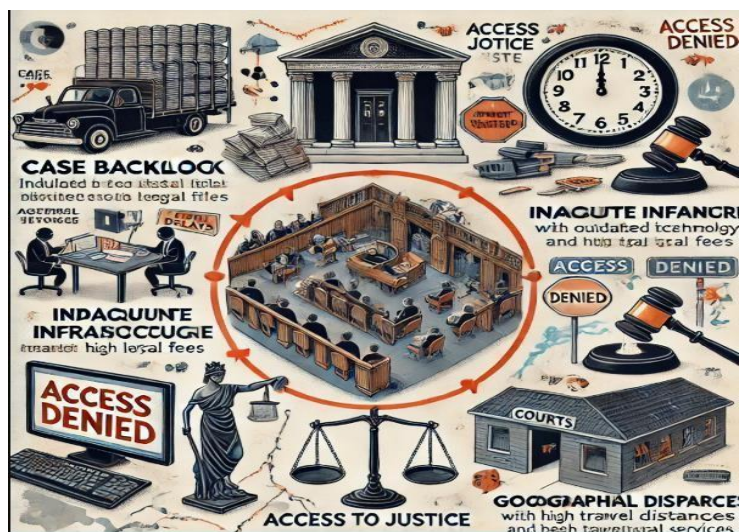
Particulars	Civil	Criminal	Total
0 to 1 Years	4238858(38.68%)	11534550(34.43%)	15773408(35.48%)
1 to 3 Years	2687358(24.52%)	7759827(23.16%)	10447185(23.5%)
3 to 5 Years	1457908(13.3%)	4778432(14.26%)	6236340(14.03%)
5 to 10 Years	1783892(16.28%)	5972439(17.83%)	7756331(17.44%)
10 to 20 Years	659150(6.02%)	2955834(8.82%)	3614984(8.13%)
20 to 30 Years	101711(1.2%)	432525(1.2%)	534236(1.2%)
Above 30 Years	29337 (0.27%)	71302(0.21%)	100639(0.23%)
Total	10958214	33504909	44463123
Original	8203154	30080856	38284010
Appeal	480778	412690	893468
Application	660389	2651452	3311841
Execution	1398986	68162	1467148
Appearance/Service Related	2592453	15349825	17942278
Compliance/Steps/stay	1907946	2123571	4031517
Evidence/Argument/Judgement	4394178	10758109	15152287
Bonding/Leave/Change	1457410	930655	2388065

- 3. Access to Justice:** ⁶One of the core issues plaguing India's judicial system is unequal access to justice. While the judicial system theoretically ensures equality before the law, in practice, many individuals, particularly from marginalized and economically disadvantaged sections of society, struggle to avail themselves of legal remedies. High legal fees, complex procedures, and geographical barriers prevent people in rural and impoverished areas from accessing the courts. Legal aid services, though available, remain underfunded and inadequately

⁶ Law Commission of India. (2015). 254th report on reforms in the judiciary. Available at <https://lawcommissionofindia.nic.in/reports/>

promoted. The growing gap between urban and rural areas regarding legal literacy and access to lawyers further exacerbates this issue.

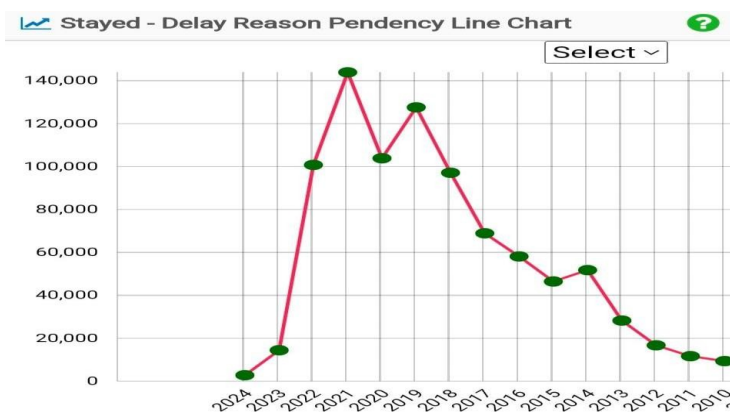
4. **Geographical Disparities:** ⁷The rural-urban divide in the judicial system is stark. Urban areas are more likely to have access to competent legal professionals, better court



infrastructure, and faster processing times, whereas rural areas often face severe deficits in all these areas. In many rural parts of India, people still rely on outdated forms of dispute resolution, such as Panchayats, due to the

⁷ Law Commission of India, (2015). 254th report on reforms in the judiciary. Available at <https://lawcommissionofindia.nic.in/reports/>

inaccessibility of formal courts. The shortage of courts and judges in rural areas has led to delays in dispensing justice. To add to this, geographic isolation and lack of transportation infrastructure further alienate people in remote areas from accessing the judicial system. For example, in many Northeastern and tribal areas, citizens are often forced to travel long distances to reach the nearest court, a burden that many cannot afford, further hindering their ability to pursue legal remedies.



IV. CONCLUSION OF ABOVE DATA

A. Innovative strategies to reduce rural-urban divide

- **Digitalisation of Indian Judiciary:** - The judiciary has worked hard to integrate technology and digitize its operations to modernize them. Solar power backup systems have been installed in 242 court complexes, and 13,606 courts now have BSNL-MPLS WAN access with speeds ranging from 10 Mbps to 100 Mbps⁸. A Case Information System (CIS) based on open-source technology introduced judicial officer codes (JO Codes) to assess judicial performance, unique case number records (CNR) for efficient tracking, and QR codes for convenient access to case materials. To standardize data classification across courts, standardized national codes for laws and case types were put into place. To standardize data classification across courts, standardized national codes for laws and case types were put into place. While the National Judicial Data Grid (NJDG) offered clear access to court information, the Interoperable Criminal Justice System (ICJS) was introduced to link data between law enforcement, correctional facilities, and courts. The National Service and Tracking of Electronic Processes (NSTEP) enabled GPS tracking of process servers, and virtual courts were implemented for traffic-related issues to improve the effectiveness of case

⁸ E-Committee, Supreme Court of India. (n.d.). Scanning & digitization records of district judiciary. December 29, 2024, available at <https://ecommitteesci.gov.in/project/scanning-digitization-records-of-district-judiciary/#:~:text=Digitization%20of%20Approximately%2044.64%20Crore>

settlement⁹. Access to judicial information and case management was further enhanced with e-seva Kendras, information kiosks, and apps like the JustIS Mobile App and eCourts Services App. Access to judicial information and case management was further enhanced with e-seva Kendras, information kiosks, and apps like the JustIS Mobile App and eCourts Services App. To streamline procedures for users, several High Courts and District Courts installed systems for electronic filing and online payments for court fees, fines, and penalties. Information on cases is now widely available on district court websites, and states like Telangana and Himachal Pradesh have given judges dashboards to track the status of their cases daily. Together with smartphone applications for legal aid and case updates in Punjab and Chhattisgarh, these efforts mark a thorough transition to a judiciary that is empowered by technology.

All the digitalization facilities will be efficient only if the issue of connectivity and broadband is resolved in rural areas. Firstly, the government needs to incentivize private companies to improve broadband connections. Recently a project in the

⁹ E-Committee, Supreme Court of India. (n.d.). National Judicial Data Grid (NJDG), Interoperable Criminal Justice System (ICJS), and National Service and Tracking of Electronic Processes (NSTEP): Initiatives for court efficiency. Retrieved December 29, 2024, from <https://ecommitteesci.gov.in/>

U.S. is going on by Elon Musk to improve the connectivity in rural areas by launching a low orbit earth satellite. Improving broadband connectivity requires enormous monetary expenses with an emphasis on government compliance. The government can also include a Digital connectivity enhancing program in its list of CSR activities. Then there is a need to be a capacity building program in rural areas that not only equips and trains judges how to use apps like Jus Mobile App but also lawyers and litigants in using e-courts service app¹⁰. Language in the app must be able to convert into traditional language. India's judicial system is federal, with High Courts autonomously establishing their administrative regulations, which results in a variety of practices. The development of a single data system, which is necessary for national digital projects like e-Courts, is made more difficult by differences in case nomenclatures, forms, and procedures. Although technology must adjust to these variations, the lack of a consistent governance framework compromises accountability and the evaluation of solutions that have been put into place, highlighting the necessity of striking a balance between standardization and flexibility. Courts must completely switch from keeping physical. Registers to digital systems, doing away with the necessity for bailiffs to use NSTEP to file

¹⁰ Supra 9

physical reports or e-cases. Focused and effective execution of digital projects can be ensured by designating specialized regional-level officers to supervise their implementation¹¹. To prioritize eCourt projects, specific roles should be established rather than depending on the part-time efforts of CPCs who are overburdened with administrative and judicial responsibilities. Active participation will be encouraged and usability issues will be resolved by putting in place a strong framework for structured input and frequent interaction with stakeholders, such as attorneys, court employees, and litigants. Pre-hearing conferences should be planned to provide a precise hearing schedule to improve judicial efficiency. To ensure readiness, cases should not be scheduled before a court until all parties have filed their pleadings. Furthermore, allowing digital notice service, provision of e-summons, and combining process fee payment with court fees at the time of filing will greatly cut down on delays, and challenges of traveling in remote areas, and enhance case management in general. By improving technology usage and accessibility in both urban and rural regions, these policies will

¹¹ Ministry of Law and Justice, Government of India(n.d). National service and tracking of electronic processes (NSTEP). Available at <https://doj.gov.in/national-service-and-tracking-of-electronic-processes-nstep/>

guarantee a more effective and inclusive legal system.

- **Introduction of Artificial Intelligence and Machine Learning:** - The introduction of Artificial intelligence and machine learning will not only help to improve judicial efficiency but also bridge the rural and urban gap. Artificial intelligence (AI) can be described as "allowing a machine to behave in such a way that it would be called intelligent if a human being behaved in such a way". This is the definition that John McCarthy, considered to have invented the term "Artificial intelligence", gave to AI in 1956¹². By implementing cutting-edge technologies like computerized text recognition and analysis for organizing and handling complicated cases with copious paperwork, India can improve court efficiency. The eDiscovery system in the US is a pertinent example, where important material is extracted from massive datasets using machine learning algorithms. With the use of this technology, parties can agree on search keywords and coding guidelines, which the court will then examine and approve to *guarantee fairness and*

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¹² McCarthy, J. (2004, January). What is artificial intelligence? ResearchGate. Available at https://www.researchgate.net/publication/28762490_What_is_Artificial_Intelligence

accuracy¹³. Indian courts may expedite pre-trial procedures,

Decrease manual labor, and streamline document inspection by implementing a comparable AI-driven strategy. This will allow for faster and more efficient case management while upholding accountability and transparency. India can adopt AI-powered advisory systems to enhance access to justice and reduce court workloads. Such systems can guide individuals in resolving disputes independently and assist legal professionals by analyzing data and suggesting solutions, enabling better-prepared cases. Tools like the Civil Resolution Tribunal (CRT) in Canada, which provides 24/7 guided legal assistance and dispute resolution pathways, offer a proven model¹⁴. Additionally, experiments like the Dutch study on AI for traffic violations show how data-driven tools can support judicial decision-making¹⁵. By integrating similar technologies, India can simplify legal processes and improve efficiency across its judicial system.

¹³ Conrad, J. G. (2010). E-Discovery revisited: The need for artificial intelligence beyond information retrieval. *Artificial Intelligence and Law*, 18(4), 321–345. <https://doi.org/10.1007/s10506-010-9096-6>

¹⁴ Civil Resolution Tribunal. (n.d.). 24/7 guided legal assistance and dispute resolution pathways in Canada. Available at <https://civilresolutionbc.ca/>

¹⁵ Kolkman, D., Bex, F., & van der Put, M. (2024, June 4). *Justitia ex machina: The impact of an AI system on legal decision-making and discretionary authority*. SAGE Journals. <https://doi.org/10.1177/20539517241255101>

To improve judicial efficiency and handle ethical issues, India can investigate predictive justice techniques. Despite being mistakenly referred to as "justice," predictive AI works more like a prediction, offering probabilities rather than absolutes. For example, utilizing case data and the political tendencies of justices, American researchers created an AI model that can predict Supreme Court decisions with 70.2% accuracy and judges' voting patterns with 71.9% accuracy¹⁶. Similarly, by examining previous rulings, an AI program that predicts European Court of Human Rights (ECHR) verdicts has a 79% accuracy rate, helping judges spot trends that can inform their choices¹⁷. Recidivism risks are evaluated in criminal law using instruments such as the US-based COMPAS to guide choices about imprisonment and punishment¹⁸. Critics contend that overestimating the likelihood of recidivism for African Americans, reinforces racial bias, while supporters point out that it may lower pretrial

¹⁶ Kolkman, D., Bex, F., & van der Put, M. (2024, June 4). *Justitia ex machina: The impact of an AI system on legal decision-making and discretionary authority*. SAGE Journals. <https://doi.org/10.1177/20539517241255101>

¹⁷ UCL. (2016, October). AI predicts outcomes in human rights trials. UCL News. Available at <https://www.ucl.ac.uk/news/2016/oct/ai-predicts-outcomes-human-rights-trials>

¹⁸ Selson, N. J. (2012, August 17). Field guide: How to use a personal computer to support your work. Available at https://njoselson.github.io/pdfs/FieldGuide2_081412.pdf

detention rates¹⁹. To ensure fairness and transparency, such.

Technologies must be carefully tailored to Indian circumstances. Although they are proprietary, private technologies like Ravel examine trends in rulings and judge profiles²⁰. They now supplement LexisNexis's legal research products after being acquired by the latter²¹. If ethical safeguards are in place, India may use similar technologies to detect judicial tendencies, expedite decision-making, and resolve case backlogs.

- **All India Judicial Service examination: -**

Transparency, effectiveness, and public confidence in the court might all be significantly increased by implementing a standardized judicial appointment procedure in India that is based on international best practices. For example, the Judicial Appointments Commission (JAC) of the United Kingdom selects judges at all levels using a merit-

¹⁹ Larson, J., Mattu, S., Kirchner, L., & Angwin, J. (2016, May 23). How we analyzed the COMPAS recidivism algorithm. ProPublica. Available at <https://www.propublica.org/article/how-we-analyzed-the-compas-recidivism-algorithm>

²⁰ xyz. (2015, September 13). Ravel Law: Unraveling justice through big data. Harvard Business Review. Available at <https://d3.harvard.edu/platform-digit/submission/ravel-law-unraveling-justice-through-big-data/>

²¹ LexisNexis, Ravel Law Acquired by LexisNexis to Supplement Legal Research Products, available at <https://www.lexisnexis.com/>

based, politically neutral procedure²². The current system, which combines collegium recommendations with executive approvals and has frequently been criticized for its opacity and susceptibility to bias, may be addressed by adopting a similar model in India. To ensure accountability and openness, judicial appointees in the US are subject to legislative vetting and public hearings. Although there are political components to this strategy, it also introduces a degree of public²³ scrutiny that India might use to increase process trust. A strong framework suited to India's requirements might be offered by a hybrid model that combines the US emphasis on accountability with the UK's emphasis on merit.

The Judicial Advisory Committees in Canada²⁴ place a strong emphasis on objectivity by independently evaluating applicants according to stringent standards and referring them to the proper authorities. This procedure respects regional variation while guaranteeing a consistent standard

²² Judicial Appointments Commission, The Judicial Appointments Commission of the United Kingdom: A Merit-Based, Politically Neutral Procedure for Selecting Judges, available at <https://www.judicialappointments.gov.uk/>

²³ Drishti IAS. (2024, September 2). A call for reform in judicial appointments. Drishti IAS. Available at <https://www.drishtiias.com/daily-updates/daily-news-editorials/a-call-for-reform-in-judicial-appointments>

²⁴ Canadian Judicial Council. (2007, February 20). Judicial appointments: Perspective from the Canadian Judicial Council. <https://cjc-ccm.ca/en/news/judicial-appointments-perspective-canadian-judicial-council>

across jurisdictions. While taking into consideration its federal system and regional representation, India might establish a centralized organization for judicial appointments, guaranteeing uniformity in the selection.

Procedure for the Supreme Court and High Courts. By ensuring that judges nationwide conform to strict criteria and achieve comparable credentials, a unified appointment system would lessen state-to-state differences in judicial competency and decision-making. Judgments would become more predictable as a result of this uniformity, which would also increase public trust in the justice system's impartiality and fairness. Furthermore, by shielding appointees from excessive political interference or favoritism, a transparent and consistent procedure would strengthen judicial independence and enable judges to base their decisions only on the law. India can create a judicial appointment system that improves the caliber and effectiveness of its court while bolstering democratic ideals and public confidence in the rule of law by researching and implementing successful international models.

- **Legal awareness: -**

A multimodal strategy including mobile legal aid clinics, community involvement, local infrastructure, and technology is needed to improve

access to justice in remote places. Motivated by successful models such as South Africa's Justice on Wheels, mobile legal aid clinics²⁵ can go to isolated areas and offer underprivileged communities legal aid, document preparation, and consultations. Similar to Nepal's community-based legal assistance initiatives²⁶, periodic legal aid camps bring specialists and attorneys to remote areas to provide free legal counsel to isolated populations. By creating feedback systems to assess their efficacy and integrating community input to customize services to the particular difficulties faced by rural communities, these programs can be improved.

It is essential to strengthen the local legal system. Legal aid centers at the village level, manned by volunteers or paralegals with training, can offer the community ongoing assistance. These kinds of institutions have been crucial in boosting access to justice and legal awareness in Bangladesh²⁷.

²⁵ Rall, S.-A. (2024, August 25). How law clinics help turn the wheels of justice for those who cannot afford exorbitant legal fees. IOL News. <http://www.iol.co.za/news/crime-and-courts/how-law-clinics-help-turn-the-wheels-of-justice-for-those-who-cannot-afford-exorbitant-legal-fees-581e0cf3-750d-43a7-b5c5-e2bb5f8f3703>

²⁶ Akhilak, K. (2020). The delivery of civil legal aid in Nepal: An assessment of the system and recommendations on the way forward. http://akhilak.com/wp-content/uploads/2020/07/The-Delivery-of-Civil-Legal-Aid-in-Nepal_An-Assessment-of-the-System-and-Recommendations-on-the-Way-Forward.pdf

²⁷ Bangladesh Legal Aid and Services Trust (n.d.), Strengthening Local Legal Systems: Village-Level Legal Aid Centers in Bangladesh, available at <https://www.blast.org.bd/>

Through the local handling of small civil and criminal matters, the revival of traditional dispute resolution procedures, such as the Gacaca courts in Rwanda²⁸ or the Nyaya Panchayats in India can make justice more accessible and culturally relevant.

In terms of access to justice, technology can help close the gap between rural and urban areas. By connecting rural inhabitants with legal specialists via video conferencing, tele-law services lessen the strain of travel. People can better understand and exercise their rights by using online resources, tools, and legal information in their native tongues, such as South Africa's Legal Aid App²⁹. As demonstrated in Sierra Leone's Timap for Justice initiative³⁰, paralegal training of local community people can raise awareness of legal rights, eliminate taboos relating to the judiciary, and establish a grassroots network for legal help. Campaigns for legal literacy, can empower rural people by educating them about their rights and the legal

²⁸ Longman, T. (2009). An assessment of Rwanda's Gacaca courts. Symposium: Post-Genocide Rwanda, 104(2), 304-312. <https://doi.org/10.1080/10402650903099369>

²⁹ CIO Bulletin. (n.d.). My AI lawyer: LegalTax & Microsoft Legal. CIO Bulletin. Available at <https://www.ciobulletin.com/law-ethics-and-legal-services/my-ai-lawyer-legal-tax-microsoft-legal>

³⁰ Open Society Justice Initiative. (March 2015). Innovative efforts, proven results: How Timap for Justice provides legal aid in Sierra Leone. Open Society Justice Initiative. <https://www.justiceinitiative.org/publications/innovative-efforts-proven-results-how-timap-justice-provides-legal-aid-sierra-leone>

services that are accessible. Initiatives from NGOs and the government are essential for successful execution. Legal aid delivery can be improved by making sure government-sponsored legal assistance programs are carried out correctly and collaborating with NGOs for outreach, as is the case in the barrio justice systems of the Philippines³¹. Similar to Canada's circuit court system³² In the northern territories, judicial outreach initiatives like circuit courts and Lok Adalat's can bring the judiciary closer to the people and settle issues swiftly and locally. These initiatives can be strengthened even more through public-private partnerships. Their reach can be greatly increased by partnering with law firms to provide pro bono services, as is the case in Australia³³, and using CSR initiatives to finance legal aid projects in remote areas. Additionally, as Canada's bilingual court system³⁴ demonstrates, language difficulties can be addressed by providing interpreters and using local languages throughout legal procedures. To

³¹ Tiongco, G. J. S. (2021). A rock and a hard place: Challenges of free legal aid in the Philippines. Trust.org. <https://www.trust.org/impact-story/a-rock-and-a-hard-place-challenges-of-free-legal-aid-in-the-philippines/>

³² Department of Justice Canada. (n.d.). How does Canada's court system work? Available at <https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/01.html>

³³ University of Queensland, Pro Bono - R Project, (18 July 2024) available at <https://law.uq.edu.au/pro-bono/rrr-project>

³⁴ Hudon, M.-È. (2017). Bilingual court system. Legal and Social Affairs Division. <https://www.canada.ca/en/services/languages/court.html>

guarantee affordability, rural communities can have access to legal services through sliding scale fees and subsidized legal services, such as those provided by the UK's Legal Aid Agency system³⁶, prevent financial limitations from impeding justice. A comprehensive and inclusive framework for rural legal aid can be established in India by incorporating these international examples and tailoring them to local requirements.

V. CONCLUSION

In conclusion, the Indian judiciary has long faced challenges such as inadequate infrastructure and a growing case pendency, which have been emphasized in the Report on Judicial Infrastructure (2022) and by Justice N.V. Rammana. These issues are particularly acute in rural areas, where access to the judicial system remains limited, exacerbating delays in justice. To tackle these problems, integrating artificial intelligence (AI) and information technology into the judicial framework is essential. AI can streamline administrative processes, assist judges in decision-making, and help reduce the case backlog, as demonstrated in countries like the U.S. and Europe.

Additionally, increasing the number of judicial appointments is crucial. A uniform, merit-based approach to appointing judges at all levels will ensure consistency and competence across the judicial system, as proposed by

Justice Shetty's Commission Report³⁵. The establishment of an Indian Judicial Service could further promote judicial efficiency by providing judges with equal resources and training, regardless of their state.

For rural areas, mobile legal aid clinics and telecommunication services can help bridge the access gap. These initiatives, supported by private companies and NGOs, will allow people, especially marginalized groups such as pardanashin women, to seek legal assistance without the need for travel. Local interpreters and legal literacy camps can also reduce societal taboos and make the judicial system more approachable.

Ultimately, by embracing AI, improving infrastructure, and ensuring equal access to justice, India can create a more efficient, accountable, and transparent judicial system. These reforms will help to reduce case pendency, enhance public trust, and provide all citizens with the opportunity to access justice, regardless of their location or background.

³⁵ Justice Shetty Commission. (n.d.). Report of the National Judicial Pay Commission. Available at <http://lawmin.gov.in/sites/default/files/Justice%20Shetty%20Report%20on%20Judicial%20Pay%20and%20Service%20Conditions%20-%20Full%20Report.pdf>

JUDICIAL DELAYS: ITS CAUSES, CONSEQUENCES AND REDRESSAL

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ABSTRACT

The Indian judiciary has acted as the guardian of the Constitution and carried out justice impartially since its establishment, yet pending cases overburden the judiciary of the biggest democracy in the world. According to the National Judicial Data Grid, as of December 2022, there are approximately 48 million pending cases in the Supreme Court, High Courts, and Subordinate Courts which may take more than 300 years to clear. The efficiency of the judiciary is compromised due to a shortage of judges, lengthy and intricate judicial processes, lack of proper infrastructure, frequent adjournment of cases, and inefficient management. The draconian problem of slow judiciary continues to plague the entire country affecting the country's socio-economic growth and causing mistrust in the minds of the citizens.

This paper tries to identify the determinants and impact of our slow judiciary and possible solutions to this distressing problem. A multifaceted approach is required to address the issue of slow judiciary. Necessary steps such as the

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appointment of more judges in a fast-track manner, limiting the number of adjournments, improvement in infrastructure, effective use of alternative dispute resolution mechanisms, and simplification of the judicial processes are required to strengthen the judicial system and to make justice accessible to everyone. With the advancement of technology, there is a need to keep pace with the changing world, and hence, provisions of e-courts, e-evidence, and e-litigation must also be introduced in the judicial system.

This persistent issue can only be resolved by the collective efforts of the stakeholders such as the judiciary, the government, the bureaucracy, and the society. As it is said, “Justice delayed is justice denied” Timely justice is significant for upholding the principles of the judicial system.

Keywords: *Alternative Dispute Resolution, E-Courts, E-Evidence, Bureaucracy.*

I. INTRODUCTION

“Justice Delayed is Justice Denied, Justice withheld is Justice Withdrawn, and Justice should not only be done but should also appear to have been done.”¹

As one of the world’s largest democracies, India is home to a very complex and non-exhaustive judicial system that is

¹ Junaid, M. (2023). Speedy justice in India: Challenges, reforms, and the road ahead. *International Journal of Law*, 9(5), 190-195.

responsible for protecting individuals' rights and upholding the principles of law. In this complex system, there has been a longstanding quest for swift and efficient dispensation of justice. With time, the judiciary in India has grappled with issues such as slow adjudication which has eventually led to a huge backlog of cases, procedural delays, and delays in the disposal of cases. The lethargic pace with which the case proceeds not only impedes the efficiency of the judiciary but also has a severe effect that extends beyond the courtroom upon the socio-economic growth of the country. It is for this reason that the public has lost their faith in the judicial system, particularly the vulnerable and marginalised section of society who feel that there is no such thing as justice. Therefore, the need of the hour in the Indian judicial system is a mechanism to cope with these issues and primarily speedy dispensation of justice. This paper highlights the causes, consequences and the positive approach to be adopted to proceed further towards a just, fair, efficient, and effective judicial system.

This right is based on the principle justice delayed is justice denied, focusing that the prolonged delays in the judicial proceedings can hamper the efficiency and effectiveness of the legal system and the rights of the citizens. A legal system failing to provide a fair trial and resolution within a reasonable time span is deemed as unjust, unfair and

unreasonable. Article 10² The Universal Declaration of Human Rights also highlighted the right to fair and free trial as an essential part of human rights. The importance of an individual to be tried within a reasonable period of time has been highlighted in Article 9(3) of the International Covenant on Civil and Political Rights. The Constitution of India does not specifically mention the right to speedy justice, but it is extended as a part of Article 21.

The mental anguish, cost, and strain that an accused in a criminal case has to undergo along with the delay may negatively affect their capability to defend themselves. This has persuaded the courts to hold the right to speedy trial a manifestation of fair, just, and reasonable procedure stated in Article 21.³ The case of Hussainara Khatoon⁴ has proved to be a strong base for the right to speedy trials in India. The honourable court accepted the right to speedy trial as a fundamental right in the case of Sheela Barse v Union of India.⁵ The bodies such as National and State Human Rights Commissions play a significant role in ensuring that there is no violation of the victim's rights and timely justice safeguarding their right to speedy trial.

² United Nations. (1948). Universal Declaration of Human Rights | United Nations. Retrieved October 22, 2024, from <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

³ State of Karnataka v. P. Ramachandra Rao, (1999) 7 SCC 604.

⁴ Hussainara Khatoon & Ors v. Home Secretary, State of Bihar, Patna, AIR 1979 SC 1369.

⁵ Sheila Barse v. Union Of India And Ors., 1986 (3) SCC 596.

The legal system has been governed by two saying “Justice Delayed is Justice denied” and “Justice hurried is Justice buried,” and there should be a balance between the two. One cannot be prioritised over the other.

II. CAUSES

1. **Backlog of Cases:** The primary cause of the slow judiciary is the overwhelming backlog of cases. There has been an acute escalation in the number of pending cases across the country, which results in significant delays in adjudication. As stated by Law Minister Arjun Ram Meghwal there are over 5.02 crores of cases pending in various courts namely the Supreme Court, all 25 High Courts, and the subordinate courts. As per the data of the Integrated Case Management System (ICMIS) as of July 1, 2023, around 69,766 cases are pending. As per the data collected from the National Judicial Data Grid (NJDG), 60,62,953 and 4,41,35,357 cases are pending in the High Court and subordinate court respectively as of July 14, 2023⁶. The huge number of cases pending hinders the smooth and speedy disposal of cases.
2. **Shortage of Judges:** India, with regards to its judges-to-population ratio, is among the countries with lowest ratio in the world with fewer than 20 judges per million people. As per data released by the Law Ministry, the

⁶ National Judicial Data Grid High Courts of India. (n.d.). HC NJDG - National Judicial Data Grid. http://njdg.ecourts.gov.in/njdg_public/main.php

judiciary altogether has a shortage of 6000 judges with around 5000 in the lower court itself. On average, there are approximately 21 judges per 10 people in India as per the Law Ministry.⁷ Back in 2016, the then-Chief Justice of India TS Thakur lamented on the government's inaction in increasing the number of judges. He clearly stated that in dealing with an avalanche of litigation, the entire burden cannot be shifted to the judiciary.⁸

3. **Inefficient Case Management:** The judicial system in India still uses outdated technology, manual processes, and bureaucratic hurdles that contribute to inefficient case management and administrative bottlenecks. The problem of the slow judiciary has been further exacerbated due to the absence of modern technology and digital infrastructure.
4. **Complex and Costly Procedures:** The judicial system of India is burdened by outdated laws which lead to prolonged litigations resulting from technicalities and multiple appeals. These lengthy, complex and costly processes of redressal, deter the litigants. As per a study conducted by a non-profit organisation named Daksh in the year 2017, the people in India adopted an informal, non-judicial mechanism for resolutions because they feel the judicial system in India is too complex, expensive, and slow to address their issues. United Nations

⁷ Meghwal, A. R. Government of India Ministry of Law & Justice Department Of Justice. (2024). Number of Judges Per Million Population.

⁸ Chhibber, M. (2016, May 1). Do we need more judges? CJI Thakur's plea to the govt raises key questions. The Indian Express [Do we need more judges? CJI Thakur's plea to the govt raises key questions](#) | India News - The Indian Express

Sustainable Development has access to justice as one of its goals for 2030.⁹

5. **Frequent Adjournments:** The lawyers generally take adjournments to buy time thereby slowing down the judicial process. Another reason for the frequent adjournments can be overburdened courts that are forced to schedule multiple hearings due to the limited number of judges and volume of cases. There are also instances where the adjournment is requested by the lawyers due to their insufficient preparation. Other factors such as administrative inefficiencies, judicial vacancies, and absenteeism, and external factors such as political events, natural disasters, and health crises like COVID-19 also lead to the adjournment of cases.
6. **Lack of Infrastructure:** The courts in India here face a shortage of courtrooms and judges and fail to provide basic facilities such as restrooms, parking lots, and waiting spaces making it inconvenient for the litigants, lawyers, and support staff. Pandemics such as Covid-19 have brought to light the need to have digital infrastructure so that the courts can function virtually which would ensure continuous delivery of justice irrespective of the situations. Out of 25 High Courts, only 9 do live streaming of cases. The Supreme Court itself streams only constitutional cases. There is a need for legal practitioners to update their technological

⁹ Johari, A. (2018, January 24). The Indian justice system is too slow, too complex and too costly, says new study. Scroll.in. <https://scroll.in/article/866158/the-indian-justice-system-is-too-slow-too-complex-and-too-costly-says-new-study>

knowledge to ease the process of the use of modern technology.

III. CONSEQUENCES OF JUDICIAL DELAYS

India's judiciary is burdened with a massive backlog of cases, placing immense pressure on it. An overwhelmed legal system often leads to slower decision-making, burnout, and errors, which further impede the efficiency of the judiciary. On average, a criminal case is pending for 5.1 years and a civil case for 3.5 years in subordinate courts before being resolved¹⁰. When it takes years, and even decades, to resolve a case, the very purpose of the judicial system is undermined. Here are some of the consequences of a slow judiciary:

1. **Loss of Public Confidence:** Timely delivery of justice is indispensable to preserve the faith of the public in the judicial system.¹¹ Delays in the disposal of cases cause people to raise eyebrows, sometimes genuinely, which, if not checked, may shake the confidence of the people in the judicial system¹². It may cause courts to be perceived as ineffective, biased, or corrupt, and can lead to diminishing respect for the rule of law. When the

¹⁰ Vidyasagar, S., Narasappa, H., Tirumalai, R. S., DAKSH. (2017). Approaches to Justice in India. In Approaches to Justice in India (First). DAKSH Society. <https://www.dakshindia.org/wp-content/uploads/2023/02/Approaches-to-Justice-in-India.pdf>.

¹¹ Ram Dhani And Another v. State Of U.P. And 15 Others, AIR ONLINE 2020 ALL 2573.

¹² Anil Rai v. State of Bihar, (2001) 7 SCC 318.

formal legal system is unable to provide justice, people may resort to vigilante justice and establish informal justice systems like khap panchayats, which often deliver unjust decisions.¹³

2. **Impact on Undertrial Prisoners:** A slow judicial process can lead to prolonged pre-trial detention. As per the National Crime Records Bureau (NCRB), at the end of 2022, out of 573,220 prisoners in India, 434,302 were under trial, which means three out of every four prisoners were under trial.¹⁴ The Constitution of India guarantees the right to have a speedy trial and the same cannot be taken away from a person due to the seriousness of the crime.¹⁵
3. **Impact on Victims:** The victims are forced to relive their mental trauma, causing distress, amplifying societal stigma, turning the process itself into a punishment.
4. **Economic Impact:** Prolonged legal battles impose heavy financial burdens on parties, making justice inaccessible to lower-income people. Economic growth is also hindered, as it deters investment.
5. **Increased corruption:** The slow judicial system creates ample opportunities for corruption, enabling bribery of court officials, witnesses, and lawyers to delay

¹³ Khap Panchayats in Transition. (2024, July 9). Economic and Political Weekly. <https://www.epw.in/journal/2024/26-27/review-womens-studies/khap-panchayats-transition.html>.

¹⁴ Tewari, S., & Singh, R. (2024, May 8). Blanket ban keeps out over 4 lakh undertrials from exercising franchise. The Hindu. <https://www.thehindu.com/news/cities/Delhi/blanket-ban-keeps-out-over-4-lakh-undertrials-from-exercising-franchise/article68154705.ece>.

¹⁵ Ramesh Kumar v. State Of Rajasthan, 2024:Rj-Jd:17869.

proceedings, manipulate evidence, evade unfavorable verdicts, or pressure opponents into a favorable settlement.

6. **Impact on Governance:** A slow judiciary can undermine the effectiveness of laws and regulations, as their implementation can be stalled for years, preventing the government from enforcing laws on critical issues.

IV. REDRESSAL

1. **Filling up of vacancies:** Currently, 968 judges have been appointed in High Courts in India, as opposed to the sanctioned strength of 1,114 judges and the working strength of judges in District Judiciary is 20,011 against the sanctioned strength of 25,439.¹⁶ Filling these vacancies and creating more posts can help mitigate the backlog of cases.
2. **Frivolous Litigation:** Frivolous and groundless filings constitute a major threat to the administration of justice, as they consume time and clog the infrastructure. AI tools have the ability to identify cases that are frivolous and lack merit, which allows for greater efficiency in case management.
3. **Fixed Timelines:** About 924,859 civil cases and 433,847 criminal cases have been pending in the High

¹⁶ Meghwal, A. R. GOVERNMENT OF INDIA MINISTRY OF LAW & JUSTICE DEPARTMENT OF JUSTICE. (2024). Number of Judges Per Million Population.

Courts for more than 10 years.¹⁷ A predetermined time limit for the filing of statements, investigation, submission of evidence, examination of witnesses, and delivery of judgment can help with the issue of judicial delays. The new criminal laws prescribe certain time limits to expedite the trial process.

4. **Fine:** Fines should be imposed for unjustified delays. This will also discourage lawyers from prolonging a case due to a bribe or to exploit the parties.
5. **Fast-Track Courts:** The number of fast track courts, Lok Adalats, specialized tribunals, judicial, and quasi-judicial bodies needs to increase to provide dispute resolution in specific areas without overburdening the judiciary. As of October 2024, 750 FTSCs, including 408 exclusive POCSO (ePOCSO) Courts, are operational across 30 States and UTs, and have disposed of over 287,000 pending cases.¹⁸ The 14th Finance Commission had recommended setting up 1,800 Fast-Track courts from 2015 to 2020.¹⁹
6. **Duty of Police and Lower Courts:** The quality of judgments at the lower courts and the investigation held at the primary level has to improve to prevent every case

¹⁷ National Judicial Data Grid High Courts of India. (n.d.). HC NJDG - National Judicial Data Grid. https://njdg.ecourts.gov.in/hcnjdg_v2/

¹⁸ Fast Track Special Courts (FTSCs). (2024, December 2). Department of Justice. Retrieved December 19, 2024 from <https://doj.gov.in/fast-track-special-court-ftscs/#:~:text=As%20on%20October%202024%2C%20750,than%20%2C87%2C000%20pending%20cases.>

¹⁹ Fast track courts (FTCs). (2024, July 1). Department of Justice. Retrieved September 3, 2024, from <https://doj.gov.in/fast-track-courts/>

from being appealed to the higher courts. Currently, 664,205 criminal appeals and 387,979 civil appeals are pending in the High Courts in India²⁰. The lack of proper investigation on the part of the police and failure to collect reliable evidence often lead to wrongful convictions, acquittals, and prolonged trials.

7. **Training:** It is crucial to improve education, training, and incentives not only for court officials and the judges but also for police officers and lawyers. The implementation of compulsory training sessions to accustom them to new rules, methodologies, and technologies will ensure that all parties are well-equipped to handle their responsibilities.
8. **Alternative Dispute Resolution:** Alternative dispute resolution mechanisms, that are arbitration, mediation, and conciliation are more cost-effective, flexible, and efficient compared to traditional legal systems. ADR gives parties a degree of control over the process and the outcome of their dispute resolution. However, due to its non-binding nature, it does not have the same authority as a judgment from a traditional court.
9. **Technology infrastructure:**
 - The e-court Mission mode project launched under “National Policy and Action Plan for ICT in the Indian Judiciary 2005 aims to modernise Indian courts through ICT, by providing efficient,

²⁰Welcome to NJDG - National Judicial Data Grid for High Courts of India. (2022, July 4). NJDG. Retrieved September 3, 2024, from <https://njdg.ecourts.gov.in/hcnjdgnw/>

transparent, and citizen-centric services while enhancing judicial productivity. Phase 1 focused on computerizing district and taluka courts, training personnel, and implementing case information software. Phase 2 introduced upgraded hardware, cloud computing, video conferencing, e-payment gateways, and mobile apps for improved accessibility and service for everyone.²¹

- An AI-based expert system with an online dispute resolution framework assists in resolving disputes by automating initial steps, helping users identify and understand their legal issues, providing information and advice by analysing user inputs and empowering users with tools and resources to address the dispute independently or by directing complex cases to the appropriate ODR process.²²
- SUPACE (Supreme Court Portal for Assistance in Court Efficiency) uses machine learning to process data and assist judges by providing them relevant information while maintaining that the decision-making remains entirely human. It provides chatbot functionality for case summaries, logic gates for data filtering, and a notebook for drafting documents.²³

²¹ Home - eCourt India Services. (n.d.-b). https://services.ecourts.gov.in/ecourtindia_v6/?p=about_us/index&app_token=0806c4697ac7aac3da7108fc09e0471d3cd827ffe436416619452f6691151148

²² Thompson, D. (2015). Creating new pathways to justice using simple artificial intelligence and online dispute resolution. *IJODR*, 2, 4.

²³ Sharma, M. R. (2023). Artificial Intelligence In The Indian Judiciary: Current Applications And Future Prospects. *Journal of Namibian Studies: History Politics Culture*, 33, 3479-3493.

- The Government of India has also launched Tele-Law app, Pro Bono app and a legal literacy and legal awareness program as part of the DISHA (Designing Innovative Solutions for Holistic Access to Justice) scheme to provide pre-litigation advice and pro bono legal services to eligible persons.

V. HARNESSING AI-DRIVEN VIRTUAL COURTS TO STREAMLINE JUSTICE AND REDUCE DELAYS

A virtual court app integrated with AI can significantly enhance the dispute resolution process by providing parties with real-time updates on case timelines, hearing schedules, a checklist of required and missing documents, orders from previous hearings, and notifications about unexpected changes. The app may send automated copies of summons and reminders to different messaging apps. A user-friendly chatbot can provide access to case-related documents stored in a secure cloud storage system, which uses blockchain technology to ensure document integrity by preventing unauthorized modification. The app can have an integrated e-payment option enabling direct transactions between the parties while maintaining a transparent record of payments. The app can provide for the online submission of documents, which AI can first review to identify discrepancies, with final verification conducted by a human. During an online hearing, voice-to-text transcription supporting multiple languages can enhance understanding and maintain accurate records. Furthermore, machine learning algorithms, with the

help of AI tools, can analyze vast data sets to predict outcomes, helping courts identify frivolous and meritless cases or bundle similar cases. It can calculate damages based on contractual agreements or judgments and reduce errors in judicial decisions by eliminating clerical and arithmetical errors. It can support legal research by identifying relevant sections of authoritative sources, highlighting key issues, and offering insights into precedents.

VI. GLOBAL EFFORTS TO ADDRESS JUDICIAL DELAYS

Currently, countries like the USA, China and the UK, among others have already started using AI-powered tools that can help in handling mechanical and routine tasks.²⁴ Beijing has already set up Internet courts in 2018 to deal with disputes over online shopping services and loan contracts, copyright disputes, internet public interest litigation, administrative disputes involving Internet regulation and others. These courts function as a litigation platform that enables 24/7 online case management, mediation, filing, trial, and appeals via mobile devices. The online dispute resolution process minimizes the opportunities for corruption and may also encourage more witnesses to participate in the judicial process. Singapore's judiciary uses digital platforms for managing civil, family and criminal cases through services like eLitigation, Community Justice And Tribunals System

²⁴ Prabhu, A. (2023, August 12). Artificial intelligence in the context of the Indian legal profession and judicial system. Bar and Bench. Retrieved September 3, 2024, from <https://www.barandbench.com/columns/artificial-intelligence-in-context-of-legal-profession-and-indian-judicial-system>

(CJTS), Integrated Family Application Management System (iFAMS), and Integrated Case Management System (ICMS).²⁵ The Brazilian Supreme Court (STF) has developed an AI system, VICTOR, to assist in analysing the large volume of appeals submitted to courts by automating the identification of cases with repercussão geral, a requirement for the processing of an appeal before the STF.²⁶ Netherlands uses a ‘neighbourhood justice’ system which is a community-based approach to address crime by focusing on localised solutions, collaboration and bridging the gap between crime prevention efforts and traditional criminal justice processes.²⁷ UAE has a one-day court which is a judicial mechanism designed to deliver speedy, cost-effective and simplified justice by resolving minor cases within a single session reducing procedural delays and easing the burden on the judiciary.²⁸ India can adopt these innovations to reduce delays and improve access to justice.

VII. CONCLUSION

A slow judicial setup has a profound impact on the socio-economic development of the country. It leads to the

²⁵E-Platforms. (n.d.-b). SG Courts. Retrieved January 24, 2025, from <https://www.judiciary.gov.sg/services/e-platforms>

²⁶ Becker, D., & Ferrari, I. (2020). Victor, the Brazilian Supreme Court’s Artificial Intelligence: A Beauty or a Beast?. *Regulacao 4.0: Desafios da Regulacao Diante de Um Novo Paradigma Cientifico*.

²⁷ Boutellier, H. (1997). Right to the community: Neighbourhood justice in the Netherlands. *Eur. J. on Crim. Pol’y & Rsch.*, 5, 43.

²⁸ Kandeel, M. E., & Khalil, A. (2022). The one-day Court: settling small civil cases in the UAE. *Arab Law Quarterly*, 37(1-2), 175-193.

undermining of the rule of law, impedes public trust, and restricts access to justice. The increasing crime rate, reduced deterrence, and diminished safety and security of individuals are some of the consequences of a sluggish judiciary. The right to speedy redressal is not just a procedural requirement; instead, it is a cornerstone of a just society. The rule of law can be upheld, and the rights of the citizens can be protected by prioritizing timely justice. This would foster a socio-economic environment that promotes growth and equality. An efficient and effective judiciary would not only lead to the timely dispensation of justice but also strengthen the foundation of democracy, ensuring that individuals have access to fair and efficient legal remedies.

UNBURDENING OF INDIAN JUDICIARY FROM THE SHACKLES OF HIERARCHY: TRAJECTORY TO THE EFFICIENT ADMINISTRATION OF JUSTICE IN INDIA

*Ananya Gunjan**
*Raj Krishan Srivastava**

ABSTRACT

The mammoth of cases, a never-ending queue of litigants, vexed and overwhelmed judges, and the case files laminated with dust - best captures the veritable state of the Indian judiciary. The belief that Judiciary is one of the pivotal organs of civil society we put-forth the view that the backlog of cases in the granary of courts poses a direct impediment to the administration of justice in India. We advance this statement by listing reasons for the Indian judiciary being saddled with cases, consequently leading to formation of a roadblock in the administration of justice in India. The major proportion of backlog lies with the district court – the closest to the people at large yet considered to be the farthest in dispensing justice. The polyvocal nature of the higher judiciary emboldens the litigants' unwavering faith in their matter being heard whilst filing for an appeal even if the merits of the case are amiss while lawyers take chances through forum shopping. Although, India does not recognize

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separation of power in the strictest of sense but the judiciary has to mollycoddle the legislature along with the executive where the latter two organs act in a slipshod manner thereby overburdening the judiciary. To clear the backlog of cases and bolster the wellbeing of administration of justice we argue that our model leverages the pool of judicial talent by bringing together Judges of the Supreme Court to sit with their counterparts in the High Courts and the High Court judges to sit with the future pool of judicial talent that is the District Court judges on matters containing circuitous and towering questions of law. Overall we argue that our model would unburden the judiciary from its colonial baggage of hierarchy whilst yielding a more lush administration of justice in India.

Keywords: *Forum-Shopping, Mollycoddle, Polyvocal.*

I. INTRODUCTION

The state of affairs of the Indian Judiciary with a docket filled to its brim, elucidates the overwhelming condition of the judicial organ. The National Judicial Data Grid lays bare the grim reality of India's judicial backlog, with a whopping 4,63,76,713 cases languishing in District Courts, 61,80,981 in High Courts, and a daunting 82,560 still awaiting justice in the Supreme Court¹. This alleged 'inexplicable void' in the justice dispensation system in India cannot merely be

¹ Data of District Court, High Court, Supreme Court on National Data Judicial Grid, As on 13.12.2024 till 10:30 A.M.

explained or even understood by affixing the liability on the ever-existing vacancy in judicial positions, the inadequacy of the currently working judges to meet the demands of one of the largest democracies of the world.

Alongside the enmeshment of the Indian Judiciary with the colonial hierarchical set-up creates a pyramid structure in the most literal sense – which has been followed in India since regaining its independence but the strict adherence to the hierarchical nature of this setup is somehow proving insufficient in efficiently administering justice. The summation of all the perils plaguing the Indian Judiciary desperately needs no less than an introspection of its working.

II. UNHEEDED CONSTITUENTS OF OVERLY-SADDLED JUDICIARY

A. Mollycoddling Of The Indian Legislature & Executive By The Judiciary-

The Indian judiciary, tasked with upholding the Constitution and delivering justice, often finds itself walking a fine line between interpreting the law and legislating from the bench. Over the years, a pattern of judicial overreach or what can be termed as “*mollycoddling the legislature*” has emerged, where courts assume roles that traditionally belong to the legislative and executive branches of government. While judicial activism is celebrated for plugging gaps in governance, this overparenting approach has contributed significantly to the backlog of cases, further straining an already overburdened judiciary.

Separation of Power is a quintessential feature of the model of governance adopted in India. The Executive, Legislature, and Judiciary in India refrain from overstepping their assigned functions so as to avoid causing impediments in the functioning of other organs. However, with regards to the Apex Court of the Indian Judiciary, there has been a recurring pattern in its dealings with cases where one of the parties concerned is state or any of its body – which is filling in lapses and sheer incognizance of the remaining two organs. The assumption of legislative responsibilities by the judiciary has direct implications for its primary role—adjudication. By engaging in exhaustive policymaking, the courts divert time and resources that could otherwise address the growing backlog of cases.

Mollycoddling occurs when courts encroach upon the domains of the legislature or executive, issuing directives that resemble policymaking rather than judicial adjudication. While judicial intervention is warranted to check abuse of power and ensure justice, frequent incursions into policymaking reflect a lack of trust in the legislature's ability to fulfill its duties.

In the earliest case where this pattern can be traced back is in the case of *Vishaka and Others v. State of Rajasthan and Others* (1997)² wherein in the complete absence of any legislative measures to insulate women from any depraved acts especially subjecting them to sexual harassment at their workplaces, the court laid down elaborate guidelines to be

² Vishaka & Others v. State of Rajasthan & Others AIR 1997 SC 3011, (1997).

strictly adhered to until the legislature came up with an act for the same. The case of Vishaka highlights the sheer ignorance of the lawmakers – on one hand, the women were actively entering into the economic workforce but the same workforce with its misogynistic lens was devouring the safety of women at their respective workplaces up until the apex court intervened. Such cases reflect a recurring trend: the Judiciary compensates for executive inaction, but in doing so, creates a dependency that encourages policy laxity.

In another case, *Arjun Gopal v. Union of India (2018)*,³ (*Policy on Firecrackers*) wherein the Supreme Court imposed restrictions on the use of firecrackers, citing environmental and health concerns. While the ruling was well- meanted, it was not the judiciary's role to dictate policies better suited for administrative /legislative debate.

In *Prakash Singh & Ors v. Union of India & Ors (2006)*⁴, a retired IPS officer highlighted how frequent, politically motivated transfers of police officials hindered their duty, making them accountable to unscrupulous politicians instead of the law. Despite committees recommending reforms, the legislature and executive failed to act. Recognizing the gravity of the situation, the Supreme Court issued guidelines, including the establishment of a Police Complaints Authority to address police misconduct and the

³ Arjun Gopal v. Union of India AIR 2018 SC 5731, (2018).

⁴ Prakash Singh & Ors v. Union of India & Ors 2006 8 SCC 1, (2006).

separation of investigative duties from routine law enforcement to improve efficiency.

This case reflects the legislature's apathy and resistance to reforming the outdated *Police Act of 1861*⁵. In a ritualistic manner the apex court once again performed the role of the legislative organ by laying down detailed guidelines concerning the ailing condition of the law enforcement agency.

Another instance where the apex court framed intricate guidelines for the adoption of minor children by foreigners was in the case of *Lakshmi Kant Pandey v. Union of India (1984)*.⁶ This trend of the Apex Court especially coming in as a messiah in cases where its counterpart organs have failed to uphold their duties which creates a blind spot for the law-making and law-implementing organs creating crevices in which the individuals and the entire state of governance fall prey to systemic injustices.

In November of 2024, the Apex Court has yet again set out to frame guidelines against the rampant demolition of homes of the individuals accused in criminal cases⁷. The unmindful bulldozing of homes by the state governments has rendered the supremacy of the rule of law in complete shambles in a manner bearing an uncanny resemblance to the state of the bulldozed homes. This has nudged the apex court once again

⁵ Police Act of 1861.

⁶ *Lakshmi Kant Pandey v. Union of India* 1984 2 SCC 244, (1984).

⁷ *Jamiat Ulama I Hind v. North Delhi Municipal Corporation and Others*, 2024 SCC OnLine SC 2400, (2024).

to lay out detailed guidelines for the demolition of homes of accused persons in a manner that upholds the rule of law *versus* the rule by law.

These case laws shed light on the systemic wrongs and injustices that ensue when the due actions are ideally and rightfully done by the law-making organ and the law-implementing organ brazenly takes a back-seat which inevitably prods the judicial organ to overstep the threshold of its functioning – thereby creating a judiciary with sore shoulders saddled with meeting the expectation of hopeful litigants.

III. FORUM-SHOPPING – APPARATUS OF VICTORY FOR RUTHLESS LAWYERS

Forum Shopping or Bench Hunting is a crafty and scheming move adopted by lawyers or advocates in which they tacitly maneuver the bench before which their case gets listed to secure a ruling, favoring the side they are representing. Forum shopping has become a contentious tactic some lawyers employ to secure favorable client outcomes. While it may seem like a clever legal strategy, its misuse can harm judicial efficiency, often contributing to the burgeoning cases in Indian courts.

It refers to the practice where litigants or their legal counsel deliberately choose a jurisdiction or forum that is perceived to be more favorable for their case. This selection may be based on factors, such as favorable judicial precedents, lenient procedures, or even perceived biases of certain

courts. While choosing the appropriate jurisdiction is a legitimate right, forum shopping transcends this limit when it becomes a manipulative tool.

This although does not directly increase the number of cases pending before the judiciary but undoubtedly increases the time for which a case will remain pending on the chest of the Indian Judiciary. Forum-shopping exacerbates this backlog by creating parallel or unnecessary litigation in multiple forums. This not only delays justice but also misuses valuable judicial resources.

A lucid illustration of the same could be when a defense lawyer wanting to secure bail gets to know that the bench before which their matter would be listed, has a history of granting bail in slim cases, thereby making it an arduous task to secure a bail. Following this, the defense lawyer would put into play how the listing of this case before this particular bench is stalled in any manner.

In the case of *Jagmohan Bahl v. State (NCT of Delhi)* (2014)⁸ it was observed that, “successive bail applications should be heard by the same judge to prevent litigants from filing before different judges until a favorable order is obtained. If unchecked, this practice would encourage forum shopping, which is neither sanctioned nor supported by law.”

Another classic example of forum shopping is when a litigant approaches one Court for relief but does not get the desired relief and approaches another Court for the same

⁸ *Jagmohan Bahl v. State (NCT of Delhi)* 2014 16 SCC 501, (2014).

relief. This occurred in *Rajiv Bhatia v. Govt. (NCT of Delhi)* (1999)⁹, “The respondent mother of a young child had filed a petition for a writ of habeas corpus in the Rajasthan High Court and apparently did not get the required relief from that Court. She then filed a petition in the Delhi High Court also for a writ of habeas corpus and obtained the necessary relief. Notwithstanding, this the Court did not interfere with the order passed by the Delhi High Court for the reason that this Court ascertained the views of the child and found that she did not want to even talk to her adoptive parents and therefore the custody of the child granted by the Delhi High Court to the respondent mother was not interfered with. The decision of this Court is on its own facts, even though it is a classic case of forum shopping.”

Further the Supreme Court categorically held in the case of *Chetak Construction Ltd. v. Om Prakash*, (1998).¹⁰

“No lawyer or litigant can be allowed to intimidate or malign a judge to obtain a favorable order. Such actions undermine the administration of justice and the rule of law. Judges must decide cases impartially, free from fear or favor. Attempts to pressure judges or engage in forum shopping are unacceptable and must be firmly opposed in any civilized justice system. A litigant cannot be permitted “choice” of the

⁹ *Rajiv Bhatia v. Govt. (NCT of Delhi)* (1999) 8 SCC 525, (1999)

¹⁰ *Chetak Construction Ltd. v. Om Prakash*, (1998) 4 SCC 577, (1998).

“forum” and every attempt at “forum-shopping” must be crushed with a heavy hand”.

This guileful mechanism even reached the doorstep of the apex court itself when a litigant through their lawyer mentioned his case before the Chief Justice of India in order to seek a hearing despite the fact that the same case had been mentioned before a Supreme Court Judge just a day before that¹¹.

The concept of forum shopping gets complicated even more as optimistic litigants coupled with their lawyers who, if one is not already aware of the modalities vying for establishing their name amongst the plethora of lawyers practicing in the same court set out to advance the same case before different courts, or stall their cases citing reasons which defers the listing of their cases before a particular bench.

In the legal realm – the name of the lawyers gets solidified primarily based on the number of wins they have been able to secure for their clients. As a result of this more than often the lawyers practicing in a particular court of law have their eyes on getting to know about the leanings and dispositions of the judges before whom they appear and re-appear in different matters. These learnings help them to draw out a permutation-combination approach to the chances of

¹¹ Krishnadas Rajagopal (2023, December 15) CJI puts his foot down; says if case is listed before a judge, the judge takes the call to hear it or not. *The Hindu*. <https://www.thehindu.com/news/national/cji-puts-his-foot-down-says-if-case-is-listed-before-a-judge-the-judge-takes-the-call-to-hear-it-or-not/article67637530.ece>

winning before a particular bench letting them decide their move of either deferring a case's filing or nudging positively for a case to be filed before a particular bench or court of law.

The practice of forum shopping whilst stripping the faith placed in the judiciary also adds to the continued existence of either the same cases filed before different benches (through Letters Patent Appeal) or courts of law or stalling the case before it appears before the bench or court of law. This practice carried out by overzealous litigants and ruthless lawyers in return adds to the sizeable dockets of the courts.

While lawyers are duty-bound to represent their clients zealously, resorting to forum shopping undermines the principles of fairness, efficiency, and integrity in the legal system. It is imperative that courts, lawmakers, and legal practitioners collectively act to minimize the misuse of this tactic. Failure to do so will only deepen the judicial crisis, increasing the arrears of cases and eroding public confidence in the justice delivery mechanism.

IV. POLYVOCALITY OF INDIAN COURTS – A DOUBLE-EDGED SWORD

India's judiciary, often regarded as the guardian of constitutional democracy, is characterized by its polyvocality—a multiplicity of voices emanating from diverse benches. While this phenomenon enriches the

jurisprudential landscape, it also contributes significantly to the burgeoning of cases.

Polyvocality refers to the presence of multiple, and sometimes divergent, judicial voices interpreting laws and delivering judgments. The Supreme Court of India, being a multi-judge court with numerous benches, exemplifies this feature. Different benches often interpret statutes, constitutional provisions, or precedents differently, leading to inconsistencies that require clarification or resolution by larger benches.

Polyvocality allows for diverse interpretations of law, fostering a richer jurisprudential discourse. It enables judges from varied backgrounds to bring their unique viewpoints to the table. Through divergent opinions, courts can address evolving societal needs and ensure that the law adapts to changing circumstances. Disagreement among benches serves as an internal check within the judiciary, preventing dogmatic adherence to a singular interpretation.

Despite its benefits, polyvocality has a downside: divergent opinions and conflicting judgments can worsen judicial delays. Differing interpretations create confusion, forcing courts to revisit established principles. Conflicting judgments often necessitate prolonged appeals to higher courts, delaying the final resolution of cases.

Looking at *Section 377 of IPC (1860)*¹² wherein the Supreme Court's initial decriminalization of homosexuality in *Naz*

¹² Indian Penal Code, Act No. 45 of 1860. § 377 (1860).

Foundation v. Government of NCT of Delhi (2009)¹³ was reversed in *Suresh Kumar Koushal v. Naz Foundation* (2014)¹⁴, only to be overruled again in *Navtej Singh Johar v. Union of India* (2018)¹⁵. Over nearly a decade, this back-and-forth showcased how inconsistent judicial opinions delayed clarity and justice.

In *Indore Development Authority v. Manoharlal & Others* (2020)¹⁶, the Supreme Court resolved conflicting interpretations of *Section 24 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (2013)*¹⁷, which had caused a surge in cases and contributed to court backlog.

Polyvocality delays rulings on key policies, leading to administrative inertia and legal challenges. At the appellate or constitutional level, it complicates the work of lower courts, which struggle with multiple precedents, causing decisional delays. This is seen in civil disputes, like tenancy matters under *Section 14 of the Delhi Rent Control Act (1958)*¹⁸, where conflicting interpretations force parties to appeal, further burdening higher courts. Polyvocality also

¹³ *Naz Foundation v. Government of NCT of Delhi* 2009 SCC OnLine Del 1762, (2009).

¹⁴ *Suresh Kumar Koushal v. Naz Foundation* 2014 1 SCC 1, (2014).

¹⁵ *Navtej Singh Johar v. Union of India* 2018 10 SCC 1, (2018).

¹⁶ *Indore Development Authority v. Manoharlal & Others* 2020 8 SCC 129, (2020).

¹⁷ *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, Act No. 30 of 2013. § 24* (2013).

¹⁸ *Delhi Rent Control Act, Act No. 59 of 1958. § 14* (1958).

discourages alternative dispute resolution, as litigants hesitate to settle without clarity on court interpretations.

V. COLLABORATIVE BENCHES – REVAMPING THE HIERARCHICAL SET-UP OF INDIAN JUDICIARY

We propose a transformative model that integrates judicial talent across levels—encouraging Supreme Court judges to sit with their High Court counterparts, and High Court judges to collaborate with District Court judges on complex, high-stakes matters involving intricate and novel questions of law.

By dismantling hierarchical silos and promoting judicial collegiality, this model can accelerate case resolution, improve judicial capacity, and create a more dynamic and efficient justice delivery system.

Under this approach, a specially constituted bench would address major legal questions, serving as a mechanism for dealing with matters that would otherwise be appealed to the Supreme Court. This would effectively function as a ‘refinement of appeals’ or a ‘pre-appeal mechanism,’ reducing the number of cases reaching the Apex Court.

This model *prima facie* goes on to thaw the solidified hierarchical set-up of the Indian Judiciary which produces a strong presence of dialogue between the judges of the Apex Court and the High Court whilst bolstering the confidence of the judges of the High Court to actually up close see the functioning of the judicial minds of the court of highest order

in India, similarly the judges of district court will closely witness the rationale, pedagogy that a High court judge applies to reach to a decision.

Additionally, the same model would be replicated at the level of district court wherein the current judges of the High Court would come and sit with the future pool of judicial talent – the district court judges on baffling and circuitous questions of law and constitute a bench which again would refine the matters going for an appeal before the High Court, even before they actually go for an appeal to the High court. High Court's collaboration will ensure that cases are resolved at the grassroot level with greater thoroughness, reducing the burden of revision petitions and appeals to higher courts.

This model creates an intellectually stimulating pipeline, with High Court and Supreme Court judges imparting legal reasoning and procedural rigor to the judiciary's younger ranks. This continuous professional development enhances the overall quality of justice delivery. District Judges will gain exposure to higher jurisprudential reasoning, while High Court and Supreme Court judges will engage with grassroots realities, creating a holistic justice ecosystem.

Circuit benches comprising a mix of judges from different tiers would travel to regions experiencing acute pendency, addressing cases with tailored expertise. This decentralization reduces delays arising from procedural bottlenecks in centralized courts. The establishment of technology-driven communication systems, such as video conferencing, minimizes logistical difficulties. Regular

judicial conclaves could also facilitate this collaboration without disrupting ongoing case management.

By fostering direct collaboration, the model dismantles the colonial notion of the judiciary as a rigid hierarchy, replacing it with a collegial system that emphasizes functional expertise over positional authority. Transitioning into a collegial system requires a fundamental shift in the judiciary's culture - It emphasizes partnership over hierarchy and collaboration over control. This approach aligns with the constitutional vision of justice that is accessible, efficient, and equitable.

By dismantling the colonial hierarchy, the judiciary can tailor itself as an institution that delivers justice not just in form but in substance. Functional expertise, rather than positional authority, becomes the cornerstone of this transformation, ensuring that the judiciary evolves to meet the challenges of a complex and rapidly changing society.

This model would ultimately relieve the courts of its pendency, and refine the quality of judgments due to its dialogue and deliberation-centered model whilst also serving as a lighthouse of judicial proficiency to the judges of both district courts and high courts. For the precise functioning of this model, a constitutional amendment increasing the number of judges in the Apex Court as well as in the High Courts would fortify the model as even with a rudimentary understanding of the current sanctioned strength of judges proves inadequate to a litigious and densely populated country like India.

THE INDIAN JUSTICE SYSTEM: BARRIERS AND REFORMS

*Maria Robin**

ABSTRACT

Judicial vacancies pose a huge challenge to the Indian justice administration system, eventually leading to backlogs and an unreasonable caseload. To fight this war against arrears, the whole legal system must work as a seamless web. In states wherein lesser judicial strength is designated, even the slightest decrease in judicial strength cannot be afforded. It is imperative to note that the unavailability of a uniform criteria for the appointment of judges fosters subjectivity and personal animosity. The inefficiency of the judiciary cannot be attributed to underfunding, as 80% of its funds remain unutilized. Judicial vacancies can be combated by way of appointing ad hoc judges sanctioned by Article 224A of the Constitution of India. The shift to alternate modes of dispute resolution has been a key element in the drive against arrears. The physical and human infrastructure of the lower courts wherein 90% of the country's litigation takes place are far from satisfactory. It is important to note that while there is an increase in the number of cases instituted, the number of cases disposed off has also been on the rise every year. Most states are expected to soon follow the model of Delhi and start morning and evening courts for dealing with petty offences. The SC's

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National Judicial Academy offers training courses to cater to the needs of superior court judges. Though ADR is encouraged at the first-level courts where the bulk of litigants seek justice, the quality of justice should not be compromised nor should it be covered in the veil of corruption. There is an inadequate use of the ADR processes. To make a substantial change in society, successfully, a reform movement must go through "five stages: indifference; ridicule; abuse; repression; and respect."

Keywords: *Judicial vacancies, ADR, underutilization of funds, judicial training*

I. PENDENCY OF CASES; SUITS RUNNING INTO GENERATIONS, TRIALS INTO DECADES

Protracted litigations and trials are a common phenomenon in the Indian Judicial system and the nation has also earned notoriety on account of these factors¹. It is a prevalent belief that if you want to ruin someone permanently, get him involved and implicated in litigation. A typical court case spans longer than the lifetime of a human being. India, as per the Guinness Book of World Records, has the record of having the longest contested lawsuit.² However, apart from the regional discontent, our justice delivery system's failure

¹ Ranjan, Sudhanshu, 'Judicial Delays: Matter Is in the Court, Incompetence Is the Main Reason', *Justice versus Judiciary: Justice Enthroned or Entangled in India?* (Delhi, 2019; online edn, Oxford Academic, 18 July 2019), <https://doi.org/10.1093/oso/9780199490493.003.0005>, accessed 22 Aug. 2024.

² Largest backlog of court cases, Guinness World Records, <https://www.guinnessworldrecords.com/world-records/93253-largest-backlog-of-court-cases>

to punish the guilty expeditiously was the main cause for such mass frenzy. This is the situation with respect to both civil as well as criminal matters. Machal Lalung of Assam remained in custody for 54 years without any case against him or any record of the crime that he allegedly committed.³ His case was taken up by the Supreme Court on the basis of a report in a newspaper, depicting the plight of the man who was behind the bars since 1951.⁴

Inquiry commissions, generally headed by former high court or Supreme Court judges, seldom submit their reports within the stipulated time frame and generally provide reports that the people in power want, thereby giving it a political colour. The concern of the apex court over the delay by the executive is laudable. However, it is inscrutable why the Supreme Court does not look inward to set its own house in order and reduce the unreasonable delay caused by courts. Cases can be disposed of expeditiously, provided there is an intention to do justice. The Preamble of the Constitution mandates the state to secure justice, social, economic, and political, to all its citizens. The DPSPs within the Constitution provide that the welfare of the people be secured and promoted.

³ Indian Express, Bombay, 14 October 2005, <http://www.unipune.ac.in/snc/cssh/humanrights/01%20STATE%20DEMOCRACY%20AND%20LAW/47.pdf>

⁴ Ranjan, Sudhanshu, 'Judicial Delays: Matter Is in the Court, Incompetence Is the Main Reason', *Justice versus Judiciary: Justice Enthroned or Entangled in India?* (Delhi, 2019; online edn, Oxford Academic, 18 July 2019), <https://doi.org/10.1093/oso/9780199490493.003.0005>, accessed 22 Aug. 2024.

Myth of Overburden of Judges: A stereotype has been successfully created that judges are overworked and that the judicial system is crumbling under the load of work. This is not always seen to be true. Judges seldom come to the court before noon and get up by 1 pm or latest 1:30 for lunch. In the second half, they sit for the same duration. Thus, they hardly sit for three hours a day. In consumer courts or other such tribunals, it is difficult to find any judges after noon, even though they come after 10 am. The Supreme Court sits for only 193 days annually, the High Courts have 210 working days, and the Trial Courts work for 245 days in a year. It is true to state that the judge-to-population ratio in India is alarming, however, a mere doubling of the strength of the judiciary with no effort to increase the efficiency of the existing strength would prove to be futile.

Additionally, instances of contradicting judgments are galore, leading to disintegration and erosion of judicial collectivism leaving quite a lot of uncertainty regarding the legal position on several issues. Naturally, as a consequence, high courts and lower courts too are puzzled as seen in the cases of imposition of 'death penalty'. Without addressing discretion and subjectivity, the basic principle, that life imprisonment is the rule and death penalty an exception given to the rarest of the rare cases, must be reiterated.

II. CREATION OF TRIBUNALS:

A number of tribunals and boards have been created to ease the pressure on high courts. However, they have become just another court with the speed and number of cases

disposed of remaining equally tardy. Central Administrative Tribunals were created for expeditious disposal of service matter disputes. However, cases keep piling up for years, coupled with the ludicrous method of disposal of the same. Presently, three tiers contribute to delays. However, still there are many tribunals like Telecom Disputes Settlement and Appellate Tribunal, Securities Appellate Tribunal, Competition Appellate Tribunal Armed Forces Tribunal, National Green Tribunal, the orders of which are challenged only in the Supreme Court, not the high court. Therefore, it can be deduced that an effective use of tribunals can ease the burden on the courts.

III. ADJOURNMENTS- THE MAJOR MENACE:

The repeated adjournments sought by the lawyers, and influential litigants are responsible for the avoidable bane of delay in serving justice in our country, aggravated by the granting of such requests by the judges. When judges do not come to the court prepared, unaware of the pleadings of the parties, the issues they have to decide on, and the law applicable to the case, adjournment seems to be the only plausible option. The Supreme Court observed in the *Lt. Col. S.J. Chaudhary v. State (Delhi Administration)*⁵ that not only should the trial proceed day-to-day, but also that an advocate, who accepts a brief in a criminal case, is duty-bound to attend the trial daily, otherwise he will be guilty of breach of professional duty. Delaying litigation for the

⁵ 1984 AIR 618, 1984 SCR (2) 438

reason that their suits are weak, is the most notorious act done by every lawyer in our country.

Quality of Judgments: The poor quality of judgments is majorly responsible for appeals after appeals. The scope for filing appeals/revisions against a well-reasoned and legally sound judgment is not comprehensive as against its contrary. According to Section 2(9) of the Civil Procedure Code, a judgement is the statement given by the judge on the ground of a decree or order.

A judgement shall not be a bland statement but a reasoned one encapsulating the details of the parties involved, their contentions, the issues, the evidence, and the principles of law considered, besides the rationale for drawing inference and adjudicating on the dispute. The Supreme Court has held that upon hearing the two sides, the judges do not enjoy the luxury to lean back and say, ‘The suit is decreed’ or ‘The suit is dismissed’. Conclusions arrived by the court must be backed with enough reason. This finds roots in the principles of natural justice as well.

The Supreme Court, in *Swarna Lata Ghosh v. H.K. Banerjee*⁶, commented that a mere order deciding the matter in dispute not supported by reasons is no judgement at all.

IV. ALTERNATE DISPUTE RESOLUTION:

ADR has gained popularity as a mechanism to ease unnecessary burden on courts by providing cheap, quick, and

⁶ *Swarna Lata Ghosh v. H.K. Banerjee* 1969 SCR (3) 976

effective remedies. The Arbitration and Conciliation Act of 1996, laid down the minimum standards for an effective ADR mechanism. Today, arbitration has become a thriving business for lawyers and retired judges and the same problem of delay has defeated its purpose. The history of arbitration can be traced back to the Roman period. In Italy, the Pope wrote to the Bishop of Naples and insisted on the Regulation of Canon Law which forbids monks or clerics to bring their cases before the Episcopal courts, declaring that if suspicion is objected against a bishop, the case should be heard before arbiters, selected by the litigants⁷.

However, there is a huge challenge in finding impartial arbitrators since the arbitrators behave like the advocates of the parties who nominate them creating a crisis of credibility. Even in cases of a sole arbitrator, there is a very high chance of bias towards one of the parties or the counsels representing one party. Over time, arbitration is also starting to get infected by the same court culture. Seeking adjournment in an arbitration proceeding is nothing short of blasphemy. In India, people abusing the process of law are not punished. In Singapore, the penalty for seeking an adjournment is very high. If it is asked for twelve weeks in advance, then the party asking for it has to pay 40 percent of the cost (arbitrator's fees and other administrative expenses), it goes up to 60 percent if it is done eight weeks

⁷ Carroll, Andrew J. (Author). (1912). Extrajudicial Methods as Applied to Ecclesiastical Litigation. In *CU Theses - Restricted Access*. Dissertations and Theses. Catholic University of America.
<https://jstor.org/stable/community.38763276>

before the date, and it is 100 percent when the request is made four weeks before.

Adjournment is a slow poison. The Code of Civil Procedure was amended to ensure that more than three adjournments are not granted, and summons are served within 30 days. Unfortunately, the Supreme Court set aside and diluted all these amendments on the ground that procedure should not defeat justice. Ironically, this is happening as procedures defeat justice. The Parliament may conduct a referendum over these amendments so that the higher courts are mindful of the fact that people have put their seal directly on these amendments and they abhor delays. B. Sen, who practised in the Privy Council in the 1940s, has written about abolishing of adjournments, 'The established tradition in those days was just to say "If your Lordships have read the petition, I have nothing further to add" and sit down if there was no point of substance to urge'. If the lawyer is not present for some unavoidable reasons, they may submit written arguments subsequently.

The arguments for establishing tribunals to deal with a specific subject matter of dispute rather than giving jurisdiction to the ordinary courts have been based on constitutional arguments; allegations of bias in the courts; technical and logistical difficulties concerning lack of resources in the courts to handle new and potentially huge caseloads; however, also backed by its positive elements such as their speed, cheapness, informality and subject

matter expertise.⁸ The absence of ad valorem court fees payable on an arbitral claim is to make the process affordable and convenient. The truth of the matter is the amount saved on court fees is, more or less, expended in terms of arbitrator's fees, administrative expenses, counsels' fees, and stamp duty on arbitral awards.

Moreover, since no court fees are payable, frivolous and highly amplified claims and counterclaims are commonplace. Multi-crore claims often exceed the value of the principal amount, making the entire arbitration proceeding farcical.⁹ In arbitrations retired Supreme Court judges, or foreign judges (international commercial arbitrations), the fee payable towards the arbitrators 'reading charges', 'sitting fees', 'award writing fees' and 'expenses', coupled with exorbitant fees payable to the lawyers/counsel, which sometimes run into crores.

Additionally arranging sittings (often at luxury hotels) coupled with travel charge parties, witnesses, counsel and arbitrators where the venue is not common both parties can be exorbitant.¹⁰ Thus, arbitral proceedings can be extremely expensive and futile if the quantum and strength of the claim do not warrant such expenditure. This undermines the role of arbitration in moderately sized disputes which were initially meant to benefit from ADR.

⁸ Hazel Genn, *Tribunals and Informal Justice*, 56 MOD. L. REV. 393 (1993).

⁹ Sondhi, A. (2007). Arbitration in India — Some Myths Dispelled. *Student Bar Review*, 19(2), 48–54. <http://www.jstor.org/stable/44306675>

¹⁰ Id

Litigation ending in a contested decision invariably leads to bitterness, hostility and enmity between the parties to the *lis*, as the losing party continues to nurture a grievance against the successful party. In a civilized society, parties are expected to accept the decisions of the Court with grace, but that seldom happens in reality, particularly in suits relating to partition among family members, neighbours, or spouses. On the other hand, if there is a settlement by conciliation, there are neither winners nor losers, as the result is acceptable to all. It is said that a contested decision creates two enemies whereas a consensual decision creates two friends.

Settlement of a good percentage of cases by a continuous process of conciliation has the following other beneficial fall-outs also: (i) The pressure on Courts and Legal Practitioners on account of heavy pendency is eased with the result that the Court's Board comes to manageable limits. As a result, Courts can deal with contested cases, more effectively, thoroughly, and expeditiously. (iii) There is enormous saving of time and money and energy for litigants and witnesses thereby reducing the average period of pendency of cases drastically, making litigation a seamless procedure henceforth. But is it happening? The answer unfortunately is 'no'. Hardly 15% of cases get settled in India at Pre-Trial stage, leading us to the question of why ADR is not being effective.

Every litigant begins with an assumption that he/she has a very strong case. Such an impression is based on twin

factors- their perception of the case and the assurance of success guaranteed by their counsel, causing them to believe that any settlement involves giving up a part of his right or claim by showing a concession to the other side. Therefore, when a matter is brought to the negotiation stage, most litigants start with an initial resistance and prejudice, as they believe that they will get a larger relief by prosecuting and therefore settlement would seem frivolous. The awareness among people about the efficacy of ADR processes is sketchy. The litigants go by the advice of their counsels who are not favourably inclined towards ADR processes. The reluctance on the part of advocates to settle cases by ADR methods, stems from their fear that ADR processes won't give them as much monetary profit as in litigation. The fee received for a case involving a full-fledged trial with possibilities of one or more appeals, is assumed to be a lot more than the fee that can legitimately be claimed if a matter is settled pre-trial. The insecurity prevalent among lawyers that ADR can affect their livelihood results in them persuading their clients to go for litigation. One paradox is more the lawyers, less the settlements by ADR processes. The non-development of ADR processes is the absence of any compelling reason for the litigant to prefer ADR settlement route. Contrary to popular notion, except in some high-profile cases, litigation is not costly in India. The court fee payable is usually a nominal fixed amount. The lawyers' fee is traditionally fixed on a lump-sum basis. The subsequent expense is not much unlike in developed countries where civil dispute litigation

becomes prohibitively expensive. In developed countries, the losing party has to pay the actual costs of the other side. Therefore, litigants in those countries think twice before proceeding to trial and make a genuine effort to settle their cases before trial. Consequently, hardly 15% of cases go to trial in developed countries. Unlike developed countries, a litigant in India, on losing a litigation, does not bear or pay the actual costs of the other side, but only pays a very nominal amount. The absence of fear of being mulcted with heavy costs is acting as a disincentive to the litigant to adopt ADR mechanisms. Wherever the Government or a Statutory authority is a party to a suit, the chances of a negotiated settlement are rather low. The reluctance is not on the part of the government or the statutory body, but on the part of the officers in charge of the litigation. Therefore, it is seen that they will refuse to settle a claim for One Million, but will readily accept a decision of the court or the Arbitrator and pay Ten Million to a claim amount.

V. DOES THE ADVERSARIAL SYSTEM WARRANT A CHANGE?

The unsatisfactory state of criminal justice in India does not stem from the adversarial system we have, instead, it has a lot to do with India's social structure and attitudes, conditioned by entrenched habits of discrimination, which weighs heavily on the justice system. The investigative machinery for crimes is underdeveloped, both in terms of attitudes and facilities available coupled with the backward, inefficient, and obsolete management of the criminal justice

system. Additionally, the justice that one may receive is also associated with poverty, where it is seen that the poor cannot afford justice. The adversarial system never had a real chance to grow under the given circumstances. India still operates in the culture of the laws of the Manu, but it is seen that: new rules have helped bring down the rigour of repression in the old system, but old habits and practices prevented wholesome developments under the new principles. The effect of abandoning the adversarial system will be unavailing for the less powerful. Under the scheme of abandoning the adversarial system, we may abandon the more progressive aspects of the law, to get more easy convictions. As seen in the case of Hong Kong, an adversarial system can be made better by improving them for the respective country's needs by creating better police and a system of control of corruption using an independent investigative body, leading to improvements in the quality of the rule of law and justice¹¹.

The inquisitorial system also comes with its own defaults. It requires a very highly developed and equipped set of police forces. If India could develop such police, then there require no need for any change because the adversarial system itself would function well with such an advanced policing system. The ideal way to go would be to incorporate the positive elements of both adversarial and inquisitorial systems.

¹¹ Contemporary Problems in Administration of Justice in India: Answers to a Questionnaire Formulated by the Committee on Reforms of the Criminal Justice System' (Asian Human Rights Commission, April 2002)

INTEGRATION OF AI IN JUDICIARY: INTERNATIONAL SCENARIO, DOMESTIC APPLICATIONS AND THE WAY FORWARD

*Bomkesh Mandal**

ABSTRACT

The Indian judicial system grapples with overwhelming pendency of cases, exacerbated by rapid population growth and an acute shortage of judges. Ultimately, it becomes a challenge in the achievement of the right to a speedy trial. Over the years, various initiatives have been undertaken to address the issue of backlog of pending cases in the courts. Despite the judiciary's instrumental role in advancing technological innovations, as demonstrated by initiatives such as the e-Court Project and the implementation of systems like SUPACE, SUVAAS, and E-Filing, these challenges persist unabated. The emergence of Artificial Intelligence (AI) has introduced substantial transformations across numerous domains, including the legal profession. This paper delves into the prospective capabilities of AI as a tool for the Indian judicial system. It aims to analyse the persistent issues to identify gaps and areas for further enhancement, ensuring the full potential of these technological advancements is realized in mitigating the challenges. The utilization of Artificial Intelligence (AI) is not an unprecedented phenomenon within legal systems globally; it has been developed and deployed as a supportive

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tool for the judiciary in various countries. This paper shall try to deliberate on these international applications, extracting valuable insights and practices that could be adapted and integrated into the Indian judicial system to enhance its effectiveness. Additionally it addresses the challenges associated with the integration of AI and suggests a way forward to navigate these complexities and optimize AI's incorporation into judicial processes.

Keywords: *Artificial Intelligence, Judiciary, Justice Administration, AI Applications, Justice Delivery.*

I. INTRODUCTION

India's rapid population growth in recent years, with the country surpassing China to reach a population of 142 crores, has led to a significant surge in the volume of litigations. This influx of cases has ultimately contributed to the mounting pendency of cases within the judicial system.¹ The table as presented below presents us the number of cases pending in the Taluka and District level Courts in India. The substantial backlog of cases is *res ipsa loquitur* of the severity of the situation as the judiciary grapples with the overwhelming burden of pending cases, and it in turn negatively impacts the citizens' fundamental right to a speedy justice. The below table presents the data on the

¹ World Bank, G. (2024, July 24). *World Bank Open Data*. World Bank Open Data. <https://data.worldbank.org>

number of pending cases in the Taluka and District level Courts in India as on 7th January 2025²:

	Civil Cases	Criminal Cases	Total Cases
Total	1.09 Crores	3.44 Crores	4.53 Crores
More than 1 Year Old	80 Lakhs (73.88%)	2.65 Crores (77.07%)	3.46 Crores (76.3%)

The sheer volume of case pendency, at 4.53 Crores, is significantly alarming. This overwhelming statistic underscores the urgent need for innovative solutions that could expedite the judicial process. While it is important to acknowledge the agony faced by litigants in both criminal and civil cases, it would also be wrong not to appreciate the efforts undertaken by the judiciary over the years, such as

² *Welcome to NJDG - National Judicial Data Grid.* (n.d.). August 31, 2024, from https://njdg.ecourts.gov.in/njdgnew/?p=main/pend_dashboard

the incorporation of alternative dispute resolution measures. Yet, the problem continues to persist.³

Technology offers a fertile ground for innovation, with Artificial Intelligence representing one of its most promising fruits. It holds immense potential for aiding the judiciary in expediting the judicial process, as evidenced by its success observed in other countries. This paper explores instances where AI has been successfully incorporated to aid the judiciary globally, and how these international precedents offer valuable insights into the potential applicability of analogous AI-driven solutions within the Indian judicial system. European countries dedicate a portion of their funds towards deploying Information and Communications Technology tools to aid the judiciary.⁴

II. INTEGRATION OF AI IN THE LEGAL SYSTEM: THE JOURNEY SO FAR

A. Global Landscape

Globally, legal systems have begun integrating Artificial Intelligence into judicial processes to boost efficiency,

³ Ghosh, Y. (2018). Indian Judiciary: An Analysis of the Cyclic Syndrome of Delay, Arrears and Pendency. *Asian Journal of Legal Education*, 5(1), 21–39. <https://doi.org/10.1177/2322005817733566>

⁴ Kalamkar, P., Tiwari, A., Agarwal, A., Karn, S., Gupta, S., Raghavan, V., & Modi, A. (2022). *Corpus for Automatic Structuring of Legal Documents* (No. arXiv:2201.13125). arXiv.

FINLAND	ANNOPI (<i>Role of An AI in Legal Aid and Access to Criminal Justice</i> by Karan Singh Chouhan :: SSRN, n.d.) • An AI project developed by Finland's Ministry of Justice. • Identifies key terms in text and uses it as search queries to explore legal documents. • Finds connections to relevant case laws and legislation. • Assists judges and prosecutors in legal research for judicial proceedings.
CHINA	System 206 (Jiang, 2019) • It functions as a 24-hour judicial assistant, providing support to judges in managing criminal cases. • It can process the available information and stores it in structured formats, categorizing the data by time, location, and individuals involved. • It can identify inconsistencies in statements made by suspects during multiple interrogations. Same-Type Case Reference system (STCR) (Deng, 2019) • Comprises three key components: a case-matching program to identify similar precedents, an analytical module to provide statistical insights on retrieved cases, and a judgment-generating program to produce preliminary rulings. • When a judge enters the details of the current case, the system analyses them to determine the relevant factors influencing the outcome. • Drawing upon a database of approximately 40 million previous judgments, it generates suggested sentences, compensation ranges, and other relevant recommendations.
HUNGARY	Speech Recognition Technology (Speech recognition and transcription software, n.d.)

	• It can automatically convert courtroom proceedings and internal meetings into textual formats, capturing even abbreviations, legal references and legal lingo. • Significantly reduces the time spent by judicial clerks on documentation tasks.
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productivity, and justice delivery. Judiciaries are exploring the use of AI technologies in judicial administration, automating tasks from pre-trial to post-sentencing. Various examples demonstrate the successful implementation of AI in supporting the judiciary:

The global examples of AI integration in judicial systems provide valuable insights that India can adopt. Key takeaways include the importance of tailoring AI solutions to specific judicial needs, implementing technologies incrementally, enhancing access to justice for underserved populations, and ensuring transparency and ethical oversight. The potential applications of the above cited examples are elaborated in the " Potential uses of AI in aiding the Indian Judicial system" section of the paper.

B. Application of AI in the Indian Judicial System

The aforementioned examples from other legal systems highlight the potential for AI application in the Indian judiciary. However, we should first understand the AI **systems already in use within the Indian judicial system.**

The Indian judiciary has undertaken notable initiatives to harness AI for improving judicial efficiency and decision-making. The Chief Justice of India, D.Y. Chandrachud, has

emphasized the crucial role of technology, particularly AI, in revolutionizing legal research and the judiciary:

“AI has the potential to enhance the efficiency of court proceedings by automating routine tasks such as document review, case management, and scheduling. By leveraging AI-powered tools, courts can streamline administrative processes, reduce paperwork, and expedite the resolution of legal disputes. This not only saves time and resources but also improves access to justice by reducing delays and backlogs in the court system.”

a. Supreme Court Vidhik Anuvaad Software (SUVAS)

The Supreme Court of India has developed the pioneering AI-powered SUVAS to address the challenge of translating judicial rulings into various languages spoken across our linguistically diverse nation. (Editorial, 2019)

SUVAS addresses language barriers in the legal domain by efficiently translating judicial documents and proceedings between English and regional languages and vice-versa. This improves accessibility and inclusivity, empowering citizens to understand better and engage with the Indian judiciary. SUVAS reflects the judiciary's commitment to leveraging technology to enhance access to justice.⁵

⁵ ANSWERS, R. S. (2020, 2 6). *RAJYA SABHA UNSTARRED QUESTION NO. 587. GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE DEPARTMENT OF JUSTICE*: <https://sansad.in/getFile/annex/251/AU587.docx?source=pqars>

b. Supreme Court Portal for Aid in Courts Efficiency (SUPACE)

SUPACE is an AI-powered platform developed by the Supreme Court of India to enhance judicial efficiency. It uses AI tools to manage case data and provide judges with relevant information to aid decision-making. SUPACE provides a supportive role without becoming a direct decision-making authority, aiming to leverage human and artificial intelligence to improve efficiency and expedite case resolution. However, its implementation was limited to a trial basis in the Bombay and Delhi High Courts in 2021.⁶

Despite initiatives like SUPACE and SUVAS demonstrating its potential, the integration of AI in the Indian judiciary remains limited. As technology continues to advance, the judiciary must proactively adopt these innovations to use them as a helping hand in delivering justice efficiently.

C. Potential uses of AI in aiding the Indian Judicial system

While the use of AI-based solutions by the Indian judiciary remains in its early stages, a comprehensive review of AI implementations in various countries, including Brazil, Australia, China, Canada, the USA, and the UK, outlines numerous potential applications of AI to enhance access to

⁶ Ajoy. (2021, 08 28). *Artificial Intelligence and Judicial Bias*. CENTRE FOR LAW AND POLICY

RESEARCH ; Ojha, S. (2021, 04 06). *Won't Let Artificial Intelligence Do Decision Making: Judges' Autonomy & Discretion Will Be Retained : CJI Bobde*. LiveLaw.

justice in the Indian legal system. These potential uses are discussed in the previous section:

a. Aid in legal research

Judges rely on legal precedents to make decisions, but ambiguity in legislation can lead to differences in judgements. China's case comparison system and advances in natural language processing could aid the Indian judiciary by automating the identification of relevant factors from case texts, helping judges understand how the law has been interpreted in the past.

b. Aid in analysis of cases

Advances in natural language processing have enabled the development of sophisticated text analysis tools, such as IBM's Watson and systems from Microsoft and Alibaba, that can assist judges. These AI-powered tools can analyze legal documents, comprehend the text, and provide judges with key information on disputes and case summaries, saving time and effort, while judges still need to examine full details for final orders and precedents.⁷

c. Aid in drafting of judgements

AI-based systems can assist judges by drafting parts of judgments to increase productivity, assessing risk factors based on precedents, and providing recommendations for complex cases. These systems could promote uniformity in

⁷ Kumar, A. (2022). A Survey on IBM Watson and Its Services. *International Conference on Applications of Intelligent Computing in Engineering and Science*. Journal of Physics: Conference Series.

decision-making, particularly in areas like determining compensation. However, human oversight and discretion remain crucial to prevent legal stagnation and ensure the evolution of jurisprudence.

d. Legal Advice by Chatbots

AI-based chatbots could empower citizens in sensitive situations, like domestic violence and sexual harassment, by providing plain-language information about their rights and options, without requiring them to disclose their identities. The widespread use of mobile phones in India enhances the accessibility of these chatbot services to the general population.

e. Assistance in matters of self-representation

AI-based systems can assist self-represented individuals by providing information on relevant laws and precedents, assessing case prospects, and guiding them through legal procedures and document preparation. This could be helpful for simple cases like those involving the Motor Vehicle Act or consumer disputes.

f. Alternative dispute resolutions

AI-based systems can support alternative dispute resolution methods like Smartsettle ONE in Canada, by settling lower-valued disputes.

g. Aiding in the administration of Courts

The judicial system is supported by administrative personnel who handle case documents and assist judges. Given the time-consuming nature of case processing, there is scope to

automate certain administrative activities using AI-powered applications. These could help court staff perform their duties more efficiently, such as in the case of bail decisions, where AI-based risk assessment tools like COMPAS could aid the judiciary.

h. Aid in Clubbing of similar cases

AI-powered natural language processing can identify similar cases, allowing them to be clustered and addressed together. This can expedite case resolution, reduce court workloads, and benefit litigants. However, judges must still consider any unique issues in each case. The Law Commission of India has recommended this approach in its 230th Report as a way to reduce case backlogs.⁸

i. Systemization of cases

The use of AI in court administrative tasks, such as case management and scheduling, has significant potential to streamline processes and enhance transparency. AI-powered systems can allocate cases based on established policies, expediting case disposal. However, caution is needed when categorizing cases that can be systematized using AI, as cases of grave nature should not be handled solely by AI.

D. Issues over adoption of AI

The integration of AI and emerging technologies in the judiciary faces various challenges. This section examines the

⁸ India, L. C. (2009). *LAW COMMISSION REPORT: REFORMS IN THE JUDICIARY – SOME SUGGESTIONS*. GOVERNMENT OF INDIA .

controversies surrounding their adoption, which have been extensively debated with recommendations to address them.

a. Partiality

The primary concern with integrating AI in the judiciary is its potential threat to impartiality. AI-based decision support tools, like the COMPAS algorithm used in the US, have exhibited discriminatory biases, unfairly labelling certain groups such as people of colour as high-risk. Careful oversight and auditing are necessary to ensure AI systems do not exacerbate existing biases or introduce new ones, compromising the principles of fair and impartial justice.⁹

The Indian legal system has safeguards to address concerns over potential bias in AI systems. Any AI applications would undergo rigorous testing and oversight to prevent the exacerbation or introduction of biases. However, extreme caution and comprehensive audits remain essential to eliminate potential biases.

b. Cost

The substantial expenses incurred in developing, implementing, and sustaining AI systems within the judiciary represent a significant obstacle, particularly for our legal systems. This challenge is exacerbated when governmental authorities outsource the design of AI applications, such as decision-making algorithms, to private,

⁹ Larson, J. (2016, 05 23). *How We Analyzed the COMPAS Recidivism Algorithm*. Pro Publica: <https://www.propublica.org/article/how-we-analyzed-the-compas-recidivism-algorithm>

profit-driven entities, as these parties are primarily motivated by economic interests, further complicates the matter for the financially constrained judiciary.¹⁰

c. Other Challenges

Integrating AI in the Indian judiciary requires aligning its usage with fundamental constitutional principles. Ensuring explainability and transparency is critical to enable scrutiny of these opaque AI algorithms. (Roy, Satish, & Maindru, 2022) Increased transparency in deploying AI solutions raises concerns about algorithm exposure and legal/regulatory implications of intellectual property rights, necessitating careful consideration of this 'transparency dilemma.'¹¹

Judicial processes involve sensitive personal data, making privacy a critical concern in AI integration. AI systems often require extensive data inputs, which heightens the risk of breaches, unauthorized surveillance, and misuse of information. Beyond these immediate risks, the opaque nature of AI, often referred to as the “black-box” problem, compounds the challenge by making it difficult to trace how decisions are reached. This lack of transparency can further expose sensitive judicial data to exploitation or bias, undermining trust in the system.

¹⁰ Ienca, M., & Vayena, E. (2020). AI Ethics Guidelines: European and Global Perspectives. In I. BEN-ISRAEL, *TOWARDS REGULATION* (pp. 38-59). Compilation of contributions prepared by the CAHAI Secretariat.

¹¹ Burt, A. (2019). *The AI Transparency Paradox*. Harvard Business Review.

To address these concerns, India must prioritize the establishment of robust data protection laws, similar to the European Union's GDPR, to regulate the collection, storage, and processing of judicial data. Additionally, enforcing stringent cybersecurity measures and ensuring that AI systems adhere to explainability standards will be crucial for safeguarding litigants' privacy while maintaining accountability in decision-making.¹²

A key concern is that AI-powered decision support systems must supplement, rather than replace, human judgment. While AI has the potential to enhance judicial efficiency, Former Chief Justice S.A. Bobde has stated that "technology should never be permitted to make judgments and that the power should be left to the judges only." Permitting AI to make decisions in situations involving human considerations would be detrimental, as the human deliberation process is paramount.¹³

While AI in India's judiciary is still in its early stages, judges retain discretion to diverge from algorithmic results. However, over-reliance on AI risks delegating decisions to computer systems, undermining human judgment. AI systems risk making legal processes prescriptive, obscuring case-specific reasoning, and constraining decisions to statistical conclusions.

¹² Ibid.

¹³ Choudhary, A. A. (2021). *Use of Artificial Intelligence will transform judiciary but will technology will not be allowed to decide cases: CJI*: The Times of India.

A major long-term concern is 'legal value lock-in or stagnation', where excessive reliance on precedents could impede legal and jurisprudential evolution. This risk is associated with excessive adherence to precedents and prevents necessary adaptations to reflect changing societal values and beliefs. An AI-centric Judiciary could render precedents obsolete, risking legal stagnation. For example, the recognition of the right to privacy under Article 21 of the Indian Constitution demonstrates the importance of human deliberation in allowing the law to evolve, which an AI-centric judiciary may struggle to achieve. (Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors., 2018)

As AI becomes more integrated into the legal system, human involvement, oversight, and discretion would still remain essential to maximize the performance of decision-making systems and mitigate risks of legal stagnation. Maintaining the human touch in adjudication is crucial to optimize these systems and prevent undesirable value entrenchment.

III. THE WAY FORWARD

The path towards integrating AI into the Indian judiciary presents both challenges and promising prospects. By taking deliberate and well-planned actions, India can harness the transformative potential of AI while ensuring justice remains fair, transparent, and accessible. Policymakers must establish robust legal and ethical frameworks to guide the integration of AI into judicial processes. These frameworks

should address issues like bias, data privacy, and transparency, while ensuring AI applications align with constitutional principles.

The gradual deployment of AI tools through pilot projects in selected courts will allow for practical testing, feedback, and refinement. This approach can minimize risks and build confidence among key stakeholders, including judges, lawyers, and litigants. Equally important is the investment in training programs for judicial officers, court staff, and legal professionals. This will ensure they understand AI tools and can use them effectively, while maintaining the integrity of judicial decision-making.

Building a comprehensive and secure data ecosystem is critical. This includes digitizing case records, creating accessible databases, and adhering to strict data protection standards to safeguard sensitive information. AI systems must also be explainable and auditable. Establishing mechanisms for regular algorithmic audits and ensuring public accountability will foster trust in AI-driven judicial processes. Furthermore, public engagement and awareness campaigns about the role and limitations of AI in the judiciary will help manage expectations and build broader acceptance of these technologies.

Learning from global best practices and collaborating with other nations can provide valuable insights and resources for the ethical implementation of AI in the judiciary. Partnerships with international organizations, research institutions, and technology firms can accelerate innovation.

However, while leveraging AI, it is crucial to preserve the human element in judicial decision-making. AI should complement, not replace, the nuanced judgment and empathy that only human judges can provide. Safeguards must be in place to ensure that technology enhances, rather than diminishes, the rule of law.

By taking these steps, India can transform its judiciary into a more efficient, transparent, and accessible system. AI has the potential to not only reduce pendency but also to strengthen public trust in the judiciary. With a balanced approach, the India legal system can lead the way in demonstrating how technology and human values can coexist to uphold justice and fairness.

॥ न्यायस्तत्र प्रमाणं स्यात् ॥

