

LACK OF TRANSPARENCY IN LOWER JUDICIARY: A LESSER EXPLORED AMBIT OF THE INDIAN JUDICIAL SYSTEM

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ABSTRACT

This essay explores the critical issue of transparency in the Indian lower judiciary, analyzing its importance in maintaining public trust and the challenges impeding its realization. Delving into the role, functioning, and responsibilities of the lower judiciary, the essay identifies key transparency issues, including closed-door proceedings, limited information access, and delayed judgments. It underscores the far-reaching consequences of non-transparency, such as the erosion of public confidence, heightened potential for corruption, and adverse implications on justice delivery. Examining the contributing factors to the lack of transparency, the essay highlights resource constraints, procedural complexities, and institutional challenges. Proposed reforms and solutions encompass technology integration, training, and advocacy, drawing inspiration from international comparisons. By exploring how other countries address transparency in their judiciaries, the essay provides valuable lessons applicable to the Indian context.

Keywords: Transparency, Lower Judiciary, Public Trust, Challenges, Consequences, Reforms, Technology Integration, International Comparisons.

INTRODUCTION

The Indian Judicial System stands as a pillar of democracy, entrusted with the crucial responsibility of upholding justice and safeguarding the rights of its citizens. While the judiciary is often hailed for its commitment to fairness, a critical examination reveals a lesser-explored facet - the lack of transparency in the lower echelons of the judicial hierarchy. Transparency is the bedrock of a robust legal system, ensuring public trust, accountability, and the fair dispensation of justice. As the lower judiciary plays a pivotal role in handling a substantial volume of cases that directly impact the lives of citizens, its transparency is paramount for maintaining the credibility of the entire legal apparatus.

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The lower judiciary, often overlooked in the broader discourse on legal matters, serves as the frontline in the delivery of justice. Comprising district and subordinate courts, this tier is responsible for resolving disputes, interpreting laws, and ensuring access to justice for the common citizen. However, the lack of transparency in the lower judiciary has emerged as a pressing concern, casting shadows on the perceived integrity of the entire legal system.

Transparency in the judiciary is not merely an abstract concept; it directly translates into citizens' ability to understand, critique, and trust the legal processes that govern their lives. Closed-door proceedings, limited access to information, and delayed judgments in the lower judiciary raise significant questions about the openness and accountability of the system. The consequences of non-transparency are far-reaching, potentially eroding public confidence, fostering corruption, and impeding the very essence of justice delivery.

IMPORTANCE OF JUDICIAL TRANSPARENCY IN UPHOLDING PUBLIC TRUST

Imagine a courtroom where everyone can see what's happening – judges making decisions, lawyers presenting cases, and the wheels of justice turning. This openness, called transparency, is more than just a legal buzzword; it's a powerful force that keeps our judicial system in check and fosters public trust.

First and foremost, transparency is like a spotlight that ensures judges are doing the right thing. When court proceedings are open for everyone to see, it becomes a safeguard against misuse of power. This transparency acts as a check and balance, reminding judges that their actions are under the watchful eyes of the public, and promoting accountability.

Beyond this, transparency demystifies the legal process, making it accessible to the average person. It's like turning legal jargon into a language everyone can understand. This understanding is crucial because it empowers people to know why certain decisions are made, and how the law works, and ensures that justice isn't some mysterious concept but something everyone can grasp.

Equally important is the role of transparency in upholding fairness. When the court operates in the open, it sends a clear message that decisions are based on the law and facts, not influenced by connections or unfair biases. This assurance of fairness is at the heart of building public confidence in the judicial system.

Transparency acts as a shield against corruption, making it harder for shady dealings to occur. An open system means that everything is out in the open – reducing the chances of under-the-table agreements and keeping the court honest. It's the embodiment of the principle that justice should not only be done but should also be seen to be done.

Moreover, transparency invites people to participate actively in the legal process. It's like an invitation for citizens to ask questions, understand the intricacies of the law, and be part of the larger conversation. This inclusive approach ensures that the court isn't a distant entity but a place where everyone has a stake.

In essence, having a transparent court system is not just a procedural requirement; it's a commitment to fairness, accountability, and public engagement. It's the key to unlocking justice, making it accessible, understandable, and trustworthy for everyone. In a society where trust is the currency of a functioning legal system, transparency is the beacon that guides us toward a more just and equitable future.

ROLES AND RESPONSIBILITIES OF THE LOWER JUDICIARY

The lower judiciary in India serves as the backbone of the country's legal system, playing a pivotal role in ensuring justice at the grassroots level. Comprising district and subordinate courts, this tier of the judiciary is entrusted with multifaceted responsibilities crucial for the administration of justice.

One primary function of the lower judiciary is to conduct trials. Judges in these courts preside over both civil and criminal cases, meticulously examining evidence and legal arguments to arrive at just decisions. In civil matters, they address disputes related to property, contracts, and family issues, among others. On the criminal front, they handle offenses ranging from petty misdemeanors to serious felonies, ensuring that the accused receives a fair trial. Interpreting laws is another fundamental responsibility of the lower judiciary. Judges in these courts must possess a comprehensive understanding of statutory provisions, precedents, and legal principles. Their role involves applying these laws to the specific facts of each case, contributing to the development of legal jurisprudence.

Delivering judgments is the culmination of the lower judiciary's efforts. These judgments not only resolve individual disputes but also set legal precedents that guide future cases. By ensuring consistency and coherence in their decisions, lower court judges contribute to the

overall stability and predictability of the legal system. Beyond specific cases, the lower judiciary plays a vital role in upholding procedural fairness. Judges are responsible for ensuring that due process is followed, safeguarding the rights of litigants, and fostering an environment where justice is not only done but is seen to be done. This commitment to procedural justice enhances public trust in the legal system.

In essence, the lower judiciary in India is the cornerstone of justice delivery at the grassroots level. Its judges, through their roles in conducting trials, interpreting laws, and delivering judgments, contribute significantly to the maintenance of law and order, the protection of individual rights, and the overall functioning of the justice system.

LACK OF TRANSPARENCY

One prominent issue is the limited accessibility of information related to lower court proceedings. Unlike higher courts that often publish their judgments online, lower court decisions are not consistently available to the public. This opacity restricts the public's ability to comprehend the intricacies of legal processes and impedes their right to scrutinize judicial decisions. Without widespread access to judgments, the principles upon which lower court decisions are based remain unclear, hindering the development of legal literacy among citizens.

A critical aspect aggravating the transparency deficit is the absence of standardized reporting mechanisms in lower courts. Comprehensive records of proceedings, case status updates, and detailed judgments are not consistently maintained or made easily accessible. This lack of documentation poses a barrier to understanding the reasoning behind judicial decisions and makes it challenging for the public to engage meaningfully with the legal system. Standardized reporting procedures are essential to demystify legal proceedings and foster a greater understanding of the justice delivery process.

The opaqueness is further compounded by the often non-transparent appointment and transfer processes of lower court judges. While the judiciary is expected to uphold the highest standards of integrity, the criteria for the selection and transfer of judges in lower courts are not always clearly defined or publicly disclosed. A lack of transparency in these processes raises concerns about favoritism and compromises the credibility of the judiciary. Clear, publicly available criteria for judicial appointments and transfers are imperative to ensure that individuals appointed to these positions are selected based on merit and integrity.

Delays in justice delivery, a pervasive issue in the Indian legal system, contribute significantly to the lack of transparency. Prolonged legal proceedings not only erode public trust but also make the justice system seem inaccessible and inefficient. Transparency in case progression is crucial to address this concern. Providing the public with the ability to track the status of cases would not only instill confidence but also shed light on systemic issues contributing to delays.

Ethical conduct within the lower judiciary also lacks consistent standards, and there is a lack of effective mechanisms to address complaints against judges. Transparency in judicial ethics is vital for maintaining the integrity of the judiciary. A clear framework for ethical conduct and a robust mechanism to handle complaints against judges are essential components of a transparent and accountable judicial system.

FACTORS CONTRIBUTING TO THE LACK OF TRANSPARENCY

One significant factor contributing to the lack of transparency in the lower judiciary is resource constraints. Overburdened with a high caseload and limited resources, lower courts often struggle to maintain up-to-date records and provide timely information. Inadequate staffing and outdated technology hinder the efficient processing of cases, leading to a backlog that exacerbates the lack of transparency. Allocating more resources to these courts, both in terms of personnel and technology, is essential to address this challenge.

The intricacies of legal procedures also contribute to the lack of transparency. The complex nature of legal processes, coupled with archaic documentation methods, can make it difficult for the public to comprehend court proceedings. Simplifying legal procedures and promoting clearer communication could enhance transparency, making the judicial system more accessible to the general public. Legal literacy campaigns can play a crucial role in demystifying these complexities, and fostering a better understanding of court processes.

Institutional challenges, marked by bureaucratic inefficiencies and resistance to change, form yet another hurdle. The hierarchical structure and bureaucratic nature of the judiciary often impede the swift adoption of technological solutions and procedural reforms. Overcoming resistance to change demands a cultural shift within the judiciary, emphasizing innovation, accountability, and adaptability. Streamlining administrative processes and fostering a responsive approach to emerging challenges can pave the way for a more transparent and accountable judicial system.

These factors are not isolated; rather, they are intricately interconnected, creating a web that further complicates the pursuit of transparency. Resource constraints can precipitate procedural complexities, which, in turn, reinforce institutional challenges. Acknowledging this intricate dance of factors is crucial to devising comprehensive strategies for reform.

CONSEQUENCES OF THE LACK OF JUDICIAL TRANSPARENCY

One of the most immediate and insidious consequences of non-transparency is the erosion of public confidence. When court proceedings occur behind closed doors, shielded from public scrutiny, a veil of suspicion descends upon the judicial process. Citizens may perceive a lack of accountability and fairness, fostering a sense of alienation from the very system designed to protect their rights. The erosion of public confidence not only weakens the democratic fabric but also undermines the effectiveness of the judiciary as a dispenser of justice. The violation of the right to information in the lower judiciary is evident in instances where access to crucial court data is restricted. Despite the Right to Information (RTI) Act, challenges persist. As of 2022, a study revealed that several lower courts across the country lacked online case information systems, hindering public access. This restriction curtails citizens' ability to obtain timely and pertinent information, impeding the democratic principle of an informed citizenry and challenging the fundamental right to access information about the functioning of public institutions, including the judiciary.

Non-transparency opens the door to corruption, a cancer that can eat away at the integrity of the legal system. Closed-door proceedings and limited access to information create an environment where unscrupulous practices can thrive. When the workings of the judiciary are shielded from public view, there is an increased risk of illicit deals, undue influence, and corrupt practices taking root. The potential for corruption not only tarnishes the reputation of the judiciary but also compromises the very principles of justice it is meant to uphold. When court proceedings lack openness, accountability diminishes, fostering an environment where judicial officials may act without scrutiny. This opacity obstructs the public's ability to hold the judiciary accountable for its decisions and conduct.

The consequences extend beyond perception and reputation; they seep into the very essence of justice delivery. Delayed judgments, a common facet of non-transparency, undermine the efficiency of the legal system. Justice delayed is, indeed, justice denied. The backlog created by closed-door proceedings and limited access to information hampers the timely resolution of

cases, leaving litigants in limbo and compromising the effectiveness of the judiciary in upholding the rule of law. It critically undermines the rule of law by posing a threat to the rule of law, which mandates fair, transparent, and consistent legal processes. This deficiency undermines the foundational principles, creating a perception that justice is not administered impartially. Transparency often triggers necessary judicial reforms. Without it, pinpointing areas for improvement becomes challenging. Judicial systems lacking transparency may struggle to implement essential reforms and adapt to evolving societal needs.

WHERE DO WE FIND A NEED FOR JUDICIAL TRANSPARENCY?

The practice of employing "sealed covers" in the judiciary has raised pertinent questions about its implications on transparency. A sealed cover refers to the submission of confidential information or documents in an envelope, shielded from public view. While this practice is often deemed necessary in cases involving sensitive or classified information, its ramifications on judicial transparency cannot be ignored. The use of sealed covers raises concerns about the potential for abuse or overuse. Striking a delicate balance between the imperative to protect sensitive information and the principles of transparency is paramount. Excessive use of sealed covers may lead to a scenario where important details are unnecessarily withheld, impacting the overall credibility of the judicial process. Selective disclosure is another challenge associated with sealed covers. When certain parties have access to sealed information while others, including the public, do not, it creates an imbalance in the information available to different stakeholders. This imbalance may undermine the fairness of the judicial proceedings and the perception of justice.

The process of appointing and transferring judges to the lower judiciary plays a pivotal role in shaping the transparency and effectiveness of the legal system. However, this process has been subject to scrutiny and has raised concerns about its impact on judicial transparency. It can give rise to perceptions of favouritism and arbitrary decision-making. The Supreme Court Collegium has drawn censure for operating as a "closed-door system," characterized by the practice of "judges appointing judges." This system, in place for over three decades, has faced criticism for its perceived lack of transparency and accountability.

PLAUSIBLE REFORMS AND SOLUTIONS

One key reform lies in the integration of technology. Embracing digital platforms can significantly enhance transparency by making judicial proceedings more accessible to the

public. Implementing case management systems that provide real-time updates on case statuses, hearings, and judgments can demystify the legal process. Furthermore, live streaming or recording court proceedings, while respecting privacy and sensitivity concerns, can allow citizens to witness justice being served first-hand, fostering a sense of openness. Simultaneously, training and capacity-building initiatives are crucial components of judicial reform. Judges, court staff, and other stakeholders need to be equipped with the skills to navigate the digital landscape effectively. This includes training in utilizing technology for case management, conducting virtual hearings, and ensuring the security of digital information. Additionally, promoting a culture of transparency through educational programs can instill a sense of responsibility and accountability among judicial officers.

Advocacy for judicial transparency is another avenue for reform. Civil society organizations, legal professionals, and media outlets can play a crucial role in holding the judiciary accountable. By actively advocating for open and transparent proceedings, these entities contribute to the creation of a culture that values and demands transparency. This can involve campaigns, awareness programs, and collaborative efforts to promote public discourse on the importance of a transparent judicial system.

It is essential to acknowledge the multifaceted nature of the challenges faced by the lower judiciary. Resource constraints, procedural complexities, and institutional challenges are significant hurdles that must be addressed to ensure the success of any reform initiative. Allocating adequate resources, streamlining procedures, and reinforcing the institutional framework can pave the way for the effective implementation of transparency measures. Several international examples provide valuable lessons for the Indian context. Countries like Canada, the United Kingdom, and Australia have successfully implemented transparent practices in their lower judiciaries. Learning from their experiences, India can adapt and adopt best practices, tailoring them to suit its unique socio-legal landscape.

COMPARING JUDICIAL TRANSPARENCY INTERNATIONALLY

The quest for transparency in judiciaries is not unique to India; it is a global endeavour with lessons to be gleaned from the practices of other nations. Several countries have successfully addressed transparency issues by leveraging technology. For instance, Estonia's e-justice system allows for online access to court documents and real-time case updates, promoting openness and accessibility. Similarly, Canada's open court principle ensures that court

proceedings are generally accessible to the public unless specific reasons dictate otherwise. India could draw inspiration from such models and explore robust technology integration to enhance transparency in its lower judiciary.

The role of training and capacity building in fostering a transparent judiciary is exemplified by Singapore. The Singapore Judicial College provides continuous education for judicial officers, emphasizing ethical considerations and the importance of transparency. By prioritizing comprehensive training programs, India can empower its lower judiciary to navigate procedural complexities effectively and uphold transparency standards. Advocacy for judicial transparency has found resonance in countries like Brazil, where civil society organizations actively engage in promoting openness in the judiciary. Such advocacy not only brings public attention to the importance of transparency but also acts as a catalyst for reforms. In the Indian context, fostering partnerships between civil society and the legal community could contribute significantly to the advocacy for a more transparent lower judiciary.

The United Kingdom's experience with the Judicial Appointments Commission highlights the importance of addressing institutional challenges. This independent body ensures a fair and transparent process for judicial appointments, mitigating concerns about favouritism and corruption. India could explore similar institutional reforms to enhance the credibility of its lower judiciary.

CONCLUSION

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The challenges surrounding transparency in the lower judiciary are undeniable, with closed-door proceedings, limited information access, and delayed judgments casting a shadow on public trust. The erosion of confidence in the judicial system has far-reaching consequences, from fostering corruption to undermining the very essence of justice delivery. However, recognizing the multifaceted factors contributing to this opacity, there is room for optimism through targeted reforms.

Integrating technology, investing in training and capacity building, and advocating for judicial transparency emerge as critical solutions. By learning from international experiences and implementing best practices, India can strive towards a more transparent lower judiciary. As we navigate these reforms, it is essential to keep the broader goal in focus – restoring and maintaining public faith in the legal system. Only through concerted efforts and a commitment

to transparency can the Indian judiciary truly uphold its role as the guardian of justice and the public's trust.

