# CHALLENGES OF THE INDIAN LEGAL SYSTEM: SOLUTIONS THEREOF

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## INTRODUCTION

There is a parable written by Franz Kafka in his novel named 'The Trial'. Before the law stands a gatekeeper. A countryman came to him and asked him to enter the law, but the gatekeeper refused, saying that he could not let him in at this time. He thinks about this and asks if he is allowed later. "Maybe, but not now," said the doorman. The man had been waiting outside the door for years, pleading with the doorman to let him in. The porter briefly questioned him several times, asked him where he came from, and asked many other things, but it was an unnecessary question that great people asked, and in the end, he always said that he would not let him in. A man who has prepared himself well for his journey uses everything, even if it is precious, to bribe the gatekeeper, and he accepted everything, but while doing so, he said, "I am only accepting this so you will not think that you had omitted to do something." As the man grows older and near death, he asks the porter a question that sums up his experiences: "Everybody is looking for the law. Why hasn't anyone asked for permission in all these years?" The gatekeeper replied, "No one approaches it because no one else is allowed in here, as this entrance is for you only. I'm going to close it now," replied the guard.

This story indicates the perception of a common man towards the law and the judicial system. Our judiciary is so powerful and autonomous like that gatekeeper, but at the same time, it is so unapproachable that a common man gives his all wealth and time to achieve justice, but in the last, he fails in the same.

## PRESENT SCENARIO

The Indian Legal System plays a vital role in ensuring justice and maintaining social order. The modern judicial system follows a common law system of legal jurisdiction. But there are some challenges which has to be resolved to make it more effective. Indian Judiciary presently

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has a sanctioned strength of around 35 Supreme Court Judges, around 1080 High Court Judges and about 22,700 lower court Judges for a population of 1340 million. This provides a Judge population ratio of around 18 Judges per million. As far back as 1987, the Law Commission had recommended that the Indian judge-to-population ratio of 10.5 judges to a million persons ought to be increased to 107 judges to a million persons within a quarter of a century (by 2000) and to 50 judges per million by 1992. As of 2024, more than 3.5 million cases are pending in the courts waiting to be resolved.

The legal system of India is a very complex as well as sophisticated system that reflects human intelligence. We aim to achieve the highest values of freedom, equality and justice. The legal system translates the content of these ideals into practical terms, such as "no man shall be judged on his own merits" and "no man shall be condemned unheard." However, the major challenges we face today and the needs of the future force us to rethink our current governance to manage the increasing complexities of our problems.

**CHALLENGES**

As stated above number of judges and judicial vacancies is a big concern, but there are many other challenges faced by the Indian Judicial System which has to be resolved. Some of them are as follows -

**Low Conviction:** The rate of conviction in India is very low, which is one of the main contributory factors to the increasing number of crimes. Various surveys conducted across the country also showed that the conviction rate in India is minimal. For ex., the NCRB report of 2022 mentioned that the conviction rate of rape cases was 2.56 per cent, and for attempt to rape, it was just 0.92 per cent. Among all the factors of the low conviction rate, one of the most important factors is the lack of witness protection programmes, as many people didn't even come before the courts and investigating authorities because in many cases, they face threats related to their life, person and property.

**Case Backlog:** The large number of cases pending before the courts undermines the very essence of timely justice. There is a famous proverb that 'Justice delayed is Justice denied' which strengthens the need for the administration of justice on time. According to the National Judicial Data Grid, there are a total of 1,70,90,769 pending cases, which are less than one year old.

Generally, the victims who are not economically well off have to suffer as they cannot afford high-profile advocates who can win the case in a limited period. Meanwhile, sometimes the rich use their money to change the dispensation of justice in their favour. It is also a major concern for the Indian judicial system.

**Corruption:** In today's world, corruption is everywhere, and the Judiciary is also included among these. It is a serious problem that undermines public trust and the integrity of the legal system. Cases of bribery, fraud and other corrupt practices that violate the principle of justice are often reported. There is a constitutional provision that if anyone has to file an FIR against a judge for taking a bribe, he/she need to take permission from the Chief Justice of India for the same. It is difficult or even impossible for a poor man to register a FIR against any judge, as visiting the CJI is not a thing they can afford; this will prove to be much more expensive and time-consuming for them.

**Practicalities:** The Indian legal system is often criticised for its administrative difficulties, which make the courts confusing and confusing. Long and complicated legal processes prevent people from seeking justice. Multiple levels of appeals can take a long time to resolve cases, and navigating the system also involves a lot of complicated paperwork and lengthy procedures that make litigation difficult.

**Lack of Transparency:** There is a lack of transparency in the judicial system, particularly in the process of appointment judges. There has been a debate for a long time about which one is better, the collegium system or the NJAC. But none seem to be transparent enough for common people to understand the process and complexities.

**Accused Under Trials:** There are many cases in which prisoners who are under trial spend many years in jail waiting for the hearings of their cases. It is ok to put criminals in jails, but it is not fair for innocent people to be in jail just waiting for their trials. Many times, they may find themselves spending a longer duration in jail than the original term they would have received if the case had been decided against them. Additionally, the costs, suffering, and distress incurred while defending themselves in court can sometimes be more burdensome than simply serving the sentence.

There was a case named Rudul Sah v. State of Bihar, (1983) 4 SCC 141. Rudul Sah was arrested for murdering his wife in 1953 and was acquitted in 1968. He served 14 years in jail, which was a prima facie illegal incarceration by the State.

**Delayed Bail and Incarcerated Prisoner:** More than 75% of India's prison population is undertrials, or people who are awaiting trial and have not yet been found guilty, according to the NCRB 2023. Due to judicial delays, bail discretion, and their inability to pay bail, many people spend years in prison. This contravenes the tenet of "innocent until proven guilty" and infringes upon their basic right to freedom. Frequently, they are kept in jail for a longer period than the sentence for the suspected offence.

**Unequal Access and the Digital Divide:** India's efforts to promote e-courts and virtual hearings are laudable, but many citizens are unable to use digital infrastructure. Due to low digital literacy and unreliable internet access, women, the elderly, rural residents, and disadvantaged litigants frequently encounter challenges. Due to this digital gap, access to justice is limited and inequitable.

**Insufficient Legal Help:** Even though free legal assistance is guaranteed by Article 39A, its application is lacking. This right is still unknown to many disadvantaged communities, and they are represented poorly by the law. With overworked or undertrained attorneys, the legal aid system is underfunded. Consequently, justice becomes a privilege for the wealthy, while the less fortunate find it difficult to defend their rights in court.

## SOLUTIONS

What can be the way forward? How can we resolve the challenges faced by the Indian legal and judicial system? Here are some suggested solutions which can be opted for the same.

**Increasing the Strength of Judges:** First and foremost, the thing we can do is to we should increase the number of judges. It would help to tackle the pendency of cases and ensure maximum output from the courts.  Court Management should be ensured as it would help to utilise the resources in an optimum way by efficient utilisation of human, physical and technological assets. Judges can also control the average period for the disposal of a specific case. It is also possible to reduce the period by opting for plea bargaining instead of full-fledged trials.

**Alternate Dispute Resolution Mechanism:** ADR Mechanism can be adopted for cases which can be resolved outside the courts. Cases involving matrimonial disputes, which involve human relationships, more so than legal matters, are increasingly being settled through mediation and conciliation. Arbitration is often considered an appealing option for parties involved in a

complex commercial dispute. It can decrease the burden of the courts and also help the parties to resolve their disputes on time.

**Combating Corruption:** A multi-prolonged approach is needed for fighting corruption and ensuring accountability and transparency in the Indian legal system. We can opt for anti-corruption measures like establishing independent agencies for investigating and controlling corruption in the judicial system. Imposing penalties can also help to prevent misconduct and bad behaviour of legal professionals.

**Simplifying Legal Procedures and Adopting AI:** Simplification of legal procedures would make the system more friendly and encourage the common people to participate in the legal spheres. It can be done by simplifying document requirements and by removing unnecessary complexities of legal procedures. AI can also use modern algorithms and help in analysing legal data, reviewing documents and much more. It cannot replace human judges, but it can help to combat minor cases like traffic rule violations and civil disputes.

**Transparency in the Appointment of Judges:** The Prevailing process for the appointment of judges is not transparent. Instead of the collegium system or NJAC, we can go for the examination process for the appointment of judges at higher levels. There can be a written exam and an interview for the same. Written examination would shortlist the deserving candidates and remove the undeserving crowd, and then interviews can be conducted to appoint them. Examination can be conducted by the higher judiciary itself, or an independent body can be established for this purpose.

## CONCLUSION

Despite being one of the oldest and most complicated legal systems in the world, India's legal system still struggles with a number of entrenched issues that undermine its efficacy and erode public confidence. The systemic inefficiencies are caused by delays in the administration of justice, an excessive backlog of cases, corruption, a lack of transparency, and limited access for marginalised groups. These problems not only have an impact on specific litigants but also erode the public's faith in the judiciary as a whole.

Nevertheless, there is still a great deal of opportunity for real change. The justice delivery system can be made more equitable and responsive by implementing thorough and well-structured reforms, such as strengthening Alternative Dispute Resolution (ADR) mechanisms,

streamlining judicial appointments, simplifying legal procedures, reducing corruption, and improving infrastructure and legal awareness. These reforms should be participatory and inclusive, taking into account the perspectives of all stakeholders, including at-risk populations.

Additionally, the incorporation of technology and artificial intelligence (AI) into legal procedures has the potential to transform the administration of justice. AI may greatly speed up processes and enhance transparency by automating mundane administrative duties and supporting legal research and case management. When used properly, technology can make the legal system more approachable and citizen-friendly, particularly in rural and underserved communities.

In conclusion, the Indian judiciary faces significant challenges, but they are not insurmountable. The judiciary can be changed into a more effective, open, and inclusive institution with political will, institutional cooperation, and public involvement. The suggested reforms seek to restore faith in the rule of law, guaranteeing that justice is not merely a pledge but a lived reality for every citizen of the nation, in addition to addressing the systemic shortcomings.

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