

Flaws in Indian Judicial system

Why in news?

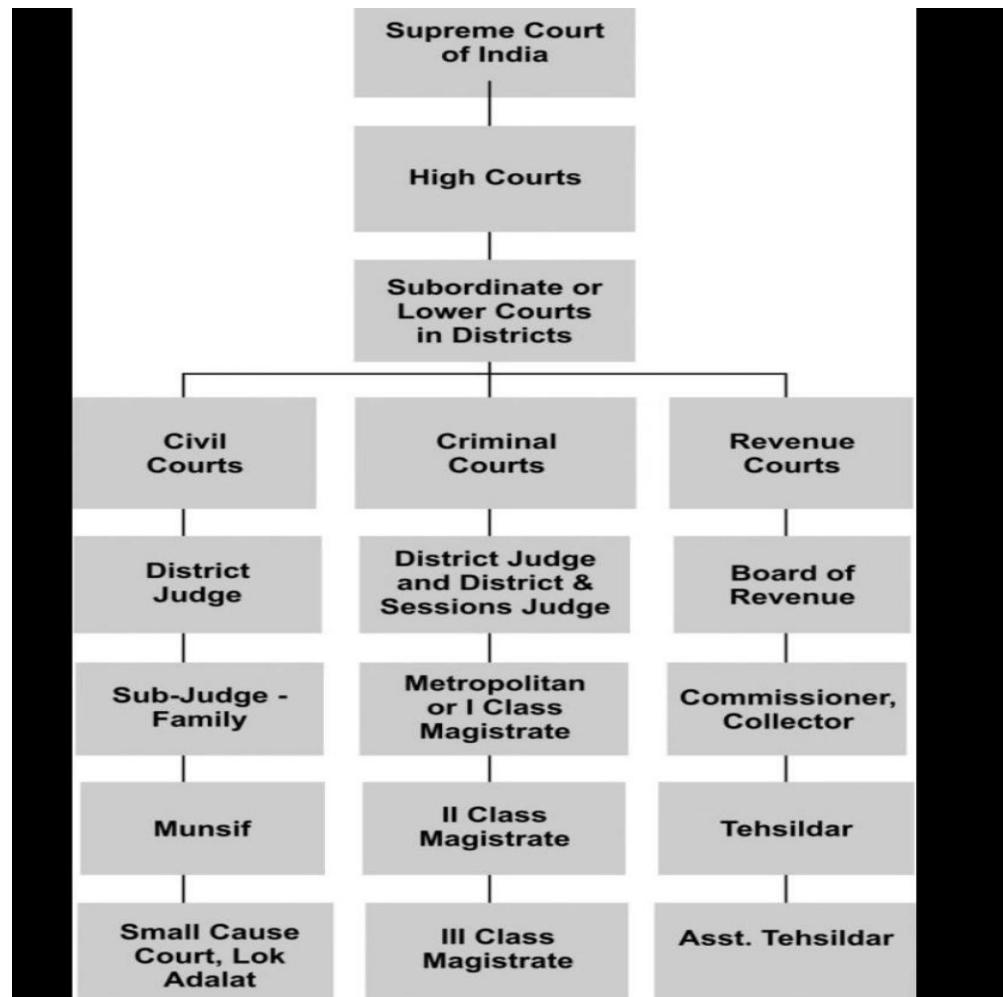
Recently, a district court in Uttar Pradesh's Bareilly sentenced a woman to jail along with a fine for filing a false case of rape against a man.

Write about Judicial System in India?

- The structure of the Indian judiciary is *provided by the Constitution of India*.
- **Features** - It *adheres to the "common law system"* of legal jurisdiction.
- A common law is the body of law created by judges and it controls subsequent judgments.
- **Separation of powers** - Indian judicial system is *independent from legislative and executive bodies* in India.

Article 50 of the Indian Constitution states that the state must take the necessary steps to separate the judiciary from the executive in the public services of the state.

- **Hierarchy** - There are various levels of judicial bodies in India.



- **The Supreme Court** - It has been set up under *Part V* with **Article 124-147** of the Indian Constitution.
- It includes one *Chief Justice and 30 Judges*, the determination of whom is done through the collegiums framework.
- **The High Courts** - There are *24 High Courts* arranged in various states and association domains.
- An applicant can engage a High Court according to **article 226** of the Constitution for protecting fundamental rights.
- **Significance of Indian Judiciary** - It serves as a *watchdog of the Indian Constitution* and defends fundamental rights.

What are the issues with the Indian judicial system?

- **Judicial vacancies** - According to a report of 2015, there were *close to 400 vacancies* for the post of judges in the 24 High Courts of the country.

*India has one of the world's **lowest ratios of judges to population**, with just 21 per million people, compared with about 150 in the United States.*

- **Delayed justice** - The *criminal cases* in India would take *more than 30 years to resolve* and civil cases would never be resolved at the current rate of disposition.

- The country's longest-running legal dispute, a bank liquidation case was settled in 2023 after 72 years.

In Anil Rai v. State of Bihar (2001) case, the courts have observed in the case of that delay in reasoned judgement by the courts amounts to a violation of the Right to Life as guaranteed under Article 21 of the Constitution.

- **Lack of inclusion** - There is only 1 woman judge in the Supreme Court against 27 male judges.
- **The pendency of cases** - More than 50 million cases are pending across the country, according to the National Judicial Data Grid.
 - About four lakhs of the cases are in the High court, 65,000 in the Supreme Court.
- At the current pace, it would take more than 300 years to clear India's docket.
- **Corruption** - There is no provision for registering an FIR against a judge who has taken bribe without taking the permission of the Chief Justice of India.
 - In 2011, **Soumitra Sen**, became the first judge in the India (Calcutta HC) to be impeached by the Rajya Sabha alleged for misappropriation of funds.
- **Lack of transparency** - The Right to Information Act does not apply to the Judiciary.
- The collegium system is not transparent in the selection process.
- **Higher number of under trials** - The Indian jails are full of people under trials.
 - About 77% of prisoners in India are awaiting trial, compared with one in three worldwide.
- **Lack of interaction with public** - The law officer and makers must be close to the public and seek their opinion on a particular law or judgments.

What lies ahead?



- **Switching to the hybrid mode** - Here, one party can appear through the way of video conferencing and the other party can appear in the physical courts.
- This can give confidence to victim in reporting the crimes.
- **Increasing the strength of judges** - Appointing more competent and skillful judges.
- **Strengthening the disposal of the tribunals** - It shall be done by having systematic case hearings, time-fixation of the cases to be heard, providing requisite edifice, and assisting and monitoring their case-load.
- **Establishing fast track courts** - In all districts, to give speedy trials and to prevent the aggrieved party from being harassed till the time the final decision is delivered.
- **Bringing transparency in the appointments** - The entire process should be open and accessible for the general public to scrutinize.
- **Implementing national litigation policy** - While it has been drafted in 2010, it is yet to be implemented.
- This might reduce the amount of government lawsuits and reduce the pendency of cases in the courts.
 - Indian government is the country's biggest litigant, accounting for nearly 50% of pending cases.
- **Modernising the courts with technology** - Digital initiatives like e-courts should be encouraged.
- **Alternatives to long court vacations** - To find the possibility of alternatives like flexi-time for lawyers and judges.
 - The new Supreme Court Rules states that summer vacation shall not exceed seven weeks to be in line with suggestions in the Malimath Committee Report (2003).

References

1. [NDTV| Delayed Justice is Denied Justice](#)
2. [The New York Times| Issues in Indian Judiciary](#)
3. [Legal Service India| Steps to Reform Indian Judicial System](#)

