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THE PURSUIT OF JUSTICE: REALITY OR ILLUSION?

AUTHORED BY - YASH KESARWANI & RIYA KHANDELWAL

ABSTRACT

In India, the idea of justice is the result of a dynamic interaction between social reality and constitutional principles. The actual implementation of social justice, which attempts to eliminate inequities and promote equitable access to resources and opportunities, is nonetheless riddled with difficulties despite the constitutional commitment to this goal. Because it disproportionately affects vulnerable people, the Indian court system is frequently criticized for being ineffective, biased, and inaccessible.

This paper explores the dichotomy between the aspirational goals of social justice and the persistent obstacles that hinder its realization. It examines how systemic issues, such as the slow pace of legal proceedings, lack of representation in the judiciary, and the influence of socio-economic disparities, contribute to the perception of justice as a mythical pursuit rather than a tangible reality. The paper argues for comprehensive reforms in the legal framework and judicial processes to bridge the gap between the ideal of justice and the lived experiences of individuals in India, ultimately striving to transform justice from a theoretical construct into a practical reality for all citizens.

Keywords: Justice, social reality, constitutional principles, slow pace of legal proceedings, lack of representation.

I. INTRODUCTION

“Justice means to distribute the due share to everybody”

- Salmond

Justice is a weighty concept that extends beyond mere judgment. It embodies the principle that every individual deserves fair treatment, protection for the innocent, and appropriate consequences for the accused. At its core, justice is an ethical and philosophical ideal advocating for impartial, equitable, and reasonable treatment under the law. It demands that laws safeguard against harm and that, when harm is alleged, remedial action ensues. Both the accuser and the accused should receive morally appropriate consequences commensurate with their actions. From birth, every

person is entitled to live freely, peacefully, and with dignity. Any infringement or violation of these fundamental rights warrants punishment.¹

Children in their formative years, typically around 7th or 8th grade, are first introduced to the concept of fundamental rights. The initial right they learn is the right to equality, enshrined in Article 14 of the Indian Constitution. This article guarantees equality before the law and equal protection under the law. A seed is planted in these young, impressionable minds that everyone—be it their classmates, those outside the classroom, or indeed anyone in India—is equal. This is the lesson imparted. However, the reality often diverges from this ideal. Even today, in streets, villages, and cities alike, people face discrimination based on their occupation, caste, and religion.

Later on, as law students, we encounter the statue of Lady Justitia, also known as the embodiment of justice. She is typically portrayed as a woman holding scales and a sword, her eyes covered by a blindfold. The scales symbolize balance and fairness, the sword represents the fearless enforcement of justice, and the blindfold signifies impartiality—justice based solely on facts and law, untainted by external factors.

Yet, in today's reality, it seems as though Lady Justitia has partially removed her blindfold. The scales of justice often appear to tilt in favor of the powerful—those with financial means, political influence, or significant connections. In some instances, it appears that courts predetermine judgments before cases even commence, delivering verdicts that favor the influential. This raises the question: where does Article 14² of the Indian Constitution truly reside? It seems to exist primarily in books rather than in practice.

John Rawls, one of the greatest scholars on the concept of justice, introduced the idea of the "Veil of Ignorance." This principle suggests that if the person delivering justice is ignorant of the identities and characteristics of the parties involved, they can deliver justice in its purest form, impartially and fairly. The veil of ignorance ensures that decisions are made without bias or favoritism, focusing solely on the principles of fairness and equality.

However, in today's time, this veil of ignorance is gradually fading away. Judges are increasingly approached with monetary and muscle power to influence or sway their decisions in favor of

¹ www.law.cornell.edu

² **Article 14, The Constitution of India:** "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

powerful individuals or groups. This undermines the integrity of the justice system, raising serious questions about how justice can be served in such an environment

This erosion of judicial impartiality raises serious questions about the integrity of the justice system:

1. How can we continue to worship the courts as temples of justice when their sanctity is being compromised?
2. How can an ordinary citizen, lacking wealth or power, maintain faith in a system that appears to be influenced by these very factors?
3. Is the concept of justice transforming from a tangible reality into a mere myth or ideal?

For individuals with no power or influence, maintaining trust in the justice delivery system becomes exceedingly difficult. When justice is seen as something that can be bought or coerced, the very concept of justice starts to shift expanding on this, Rawls' veil of ignorance is fundamentally about fairness and impartiality. It is a thought experiment designed to ensure that decisions are made without the influence of personal interests. In a society governed by this principle, justice would be blind to the identities, wealth, status, or power of the individuals involved. Everyone would be treated equally, and decisions would be based on objective criteria and moral reasoning.

Unfortunately, the reality often deviates from this ideal. Corruption, nepotism, and the influence of money and power erode the foundations of justice. When judges and other arbiters of the law can be swayed by external influences, the system becomes bent in favor of those who can exert such influence. This not only damages the credibility of the judiciary but also erodes public trust.

To restore faith in the justice system, it is crucial to reinforce the principles of impartiality and fairness. Strict measures against corruption, transparent judicial processes, and an unwavering commitment to the rule of law are essential. Ensuring that judges and other legal officials operate under conditions that minimize bias and external influence can help uphold the true spirit of justice.

Ultimately, justice should not be a privilege for the powerful but a right for all. The concept of justice must be protected and nurtured to prevent it from becoming a myth. Only then can we hope to achieve a society where everyone is truly equal before the law.

This difference between the ideal of justice and its current implementation challenges us to reflect on and strive for a more equitable legal system that truly embodies the principles of fairness and impartiality for all.

II. CASE STUDIES:

A. Loya case³

The Judge Loya case is where an inquiry was needed, but was openly avoided. A powerful politician was involved. The Supreme Court expressly announced that the judge in the trial ought not to be changed at any cost, but the day before the politician was to appear before the court, the judge in question was mysteriously transferred, in the face of the Supreme Court order. Another judge – Loya, was appointed thereafter.

Much of the judgment is spent attacking the motivations of petitioners who bring forward Public Interest Litigations, particularly politically motivated PILs. This is not the first time the court has dealt with this. But has the court properly analyzed the use of the PIL in this particular case?

The court called it a “veiled attempt to launch a frontal attack” on the judiciary. But how did they come to this conclusion? All that the Bombay High Court petitioners asked for was that the death of a judge should be inquired into. How does this become an attack on the judiciary? There were several suspicious circumstances surrounding the judge’s death. During the case, the Maharashtra government appears to have conducted a discreet inquiry and recorded the statement of four judges who accompanied Judge Loya to Nagpur. This discreet inquiry is not a testimony on oath. There is no evidence on record. And worse still, there is no opportunity for cross-examination and no opportunity for the public to read the report of this discreet inquiry.

What in fact transpired is that the Supreme Court acted as a court of appeal, and granted a sort of an acquittal, without the benefit of a trial court's judgment. As the constitutional scholar Gautam Bhatia describes it, “It reads like a trial court judgment that has been delivered without a trial”.⁴

³ Tehseen Poonawalla v. Union of India & Anr., Writ Petition (Civil) No. 20 of 2018.

⁴ Bhatia, G. (2018) *The first and final tribunal: The Judge Loya Case and the blurring of judicial functions, Constitutional Law and Philosophy*. Available at: <https://indconlawphil.wordpress.com/2018/04/23/the-first-and-final-tribunal-the-judge-loya-case-and-the-blurring-of-judicial-functions/> (Accessed: 05 August 2024).

B. K.M Nanavati case⁵

“Justice is the first virtue of social institutions.”

- John Rawls

A landmark case in India revolved around the murder of a man by his friend, a navy officer, who acted out of anger and frustration upon discovering his wife's extramarital affair. After a heated argument, K.M. Nanavati shot his friend thrice in the chest with his service revolver, killing him instantly.

At that time, India still employed the jury system. Given Nanavati's status as a navy officer, the media—including television and newspapers—began supporting him and portraying him as a victim. The media effectively passed judgment, creating a narrative that Nanavati was innocent. As a result of this extensive coverage, the public also started believing in Nanavati's innocence, considering that he was often away from home protecting the country while his wife engaged in an affair. This media influence extended to the jury members, who were exposed to television broadcasts and newspaper reports. The media's predetermined judgment significantly swayed public opinion, ultimately influencing the jury. In an 8:1 ratio, the jury decided in favor of Nanavati, declaring him innocent. In this case, facts became secondary, while the media's portrayal became the primary source of information.

Later, the High Court found Nanavati guilty of murder and sentenced him to life imprisonment. This reversal highlighted how media influence and public opinion had compromised justice in the initial trial. The judiciary recognized that everyone should be treated equally under the law, regardless of their status, and that punishment should be consistent for all.

But beyond the realm of law is the world of morality; was Nanavati morally right in killing a man who had destroyed his marriage and family?

The case exposed the inefficiency and susceptibility of the jury system to external influences. As a result, the judiciary decided to abolish the jury system altogether. This decision was made to uphold the principles of justice and eliminate the bias that had been evident in the Nanavati case. The abolition of the entire jury system based on this single case demonstrated the judiciary's commitment to maintaining impartiality and ensuring fair trials. By removing the jury system, the courts aimed to prevent future instances where media influence and public opinion could compromise the delivery of justice.

⁵ K. M. Nanavati v. State of Maharashtra 1962 AIR 605.

III. CHALLENGES IN ACHIEVING SOCIAL JUSTICE IN INDIA

“We are under a constitution, but the Constitution is what the judges say it is, and the judiciary is the safeguard of our property and our liberty under the Constitution.”

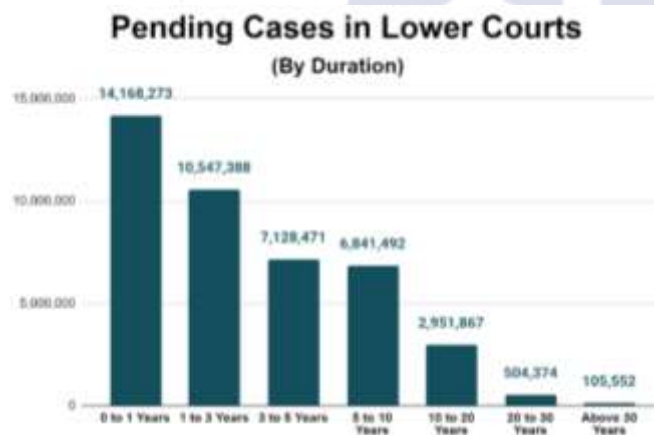
- Charles Evans Hughes

1. SLOW, BIASED, AND INEFFICIENT JUDICIAL SYSTEM

1.1 Delay in justice

The largest obstacle to India's justice delivery system is the massive backlog of pending cases before courts and tribunals established by different laws. The overflowing dockets cause an unacceptable delay in the hearing and resolution of cases every day. Those whose cases have gone unresolved for years are feeling hopeless and beginning to lose faith in the system as a whole. No matter what the causes of this unfortunate situation may be, or who may bear the brunt of the blame, it is now necessary to consider some additional options and offer them to the suffering public. Otherwise, the system will collapse, despite the occasional positive observation by those in charge.

People rightly assume that whenever they bring up a grievance before an adjudicatory forum, they should be given a fair chance to voice their concerns and that the adjudicator will make a decision in a reasonable amount of time after the other party has had a chance to do the same.



But in reality, this expectation is typically not met. Aside from flawed legislation, arbitrary administrative orders, and frequent work stoppages by attorneys or court staff, some of the main causes of the delay in the final disposition of cases are procedural complexity, adjudicator shortages in numbers, inadequate infrastructure, and the litigant's gambler's instinct.

More than six lakh cases in the lower courts are pending for over 20 years and at least one lakh cases are pending for more than 30 years now. At least 1.41 crore cases were filed in the past one year.

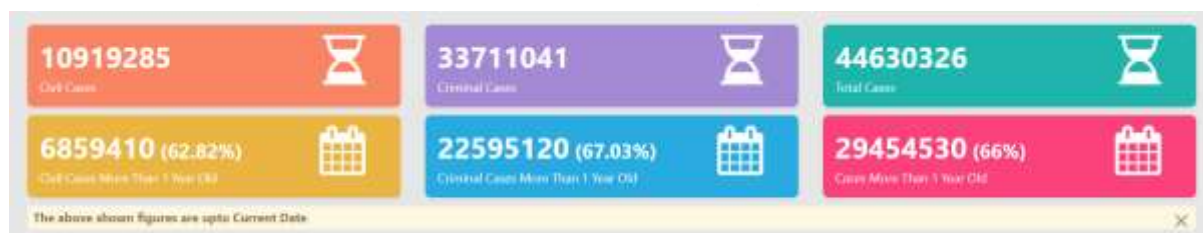
The data analysed also revealed that the lower courts across India have been working with a

strength of 19,288, against the sanctioned 24,631. At least 5,343 posts are vacant in the District and Subordinate Courts across India.⁶

Pending Cases in Lower Courts in India



When divided on the type of cases, of the 4.22 crore, at least 3.64 crore are original, while just 15.96 lakh are Execution Petitions. In terms of stage-wise, 1.72 crore cases are at appearance or service stage, while 1.40 crore are at the evidence or argument or judgment stage.⁷



More than four crore cases are pending before the district courts across India and of these, at least 1.04 crore are pending for more than five years, data from the National Judicial Data Grid (NJDG) up to July 28 shows.⁸

The story of Binod Paswan, who was present during the 26-year-old massacre of 58 Dalits and is still waiting for justice, exemplifies the structural shortcomings in the Indian legal system. Paswan's cries for justice have turned into a lifetime nightmare due to contradictory decisions, dwindling testimony, and hundreds of court appearances. This episode is representative of a bigger problem rather than an individual incident: the backlog has risen over the last 20 years, leaving over 50 million applications outstanding nationwide.

1.2 Less no. of judges relative to the population

The inadequate number of judges in India significantly contributes to the delay in the justice delivery system. There is a shortage of judges, prosecutors, forensic experts, legal aid lawyers, and police personnel.

⁶ Joshi, M., Singh, N., & Singh, N. (2022, July 29). *Over 4 Crore Cases Pending in District Courts Across India, of Which 1 Cr Older than 5 Years: Data*. News18. Available at: < <https://www.news18.com/news/india/over-4-crore-cases-pending-in-district-courts-across-india-of-which-1-cr-older-than-5-years-data-5648731.html> >

⁷ Ibid.

⁸ *Welcome to NJDG - National Judicial Data Grid*. (n.d.). Available at: < https://njdg.ecourts.gov.in/njdgnew/?p=main/index&state_code= >

A.	Supreme Court	Sanctioned strength			Working strength			Vacancies		
		34			34			0		
B.	High Court	Pmt.	Addl	Total	Pmt.	Addl	Total	Pmt.	Addl	Total
1	Allahabad	119	41	160	76	14	90	43	27	70
2	Andhra Pradesh	28	9	37	22	8	30	6	1	7
3	Bombay	71	23	94	40	29	69	31	-6	25
4	Calcutta	54	18	72	37	14	51	17	4	21
5	Chhattisgarh	17	5	22	10	6	16	7	-1	6
6	Delhi	46	14	60	37	5	42	9	9	18
7	Gauhati	22	8	30	16	7	23	6	1	7
8	Gujarat	39	13	52	31	0	31	8	13	21
9	Himachal Pradesh	13	4	17	12	0	12	1	4	5
10	J & K and Ladakh	13	4	17	11	4	15	2	0	2
11	Jharkhand	20	5	25	17	1	18	3	4	7
12	Karnataka	47	15	62	39	12	51	8	3	11
13	Kerala	35	12	47	32	4	36	3	8	11
14	Madhya Pradesh	39	14	53	39	1	40	0	13	13
15	Madras	56	19	75	54	13	67	2	6	8
16	Manipur	4	1	5	4	0	4	0	1	1
17	Meghalaya	3	1	4	2	1	3	1	0	1
18	Orissa	24	9	33	20	0	20	4	9	13
19	Patna	40	13	53	35	0	35	5	13	18
20	Punjab & Haryana	64	21	85	41	15	56	23	6	29
21	Rajasthan	38	12	50	34	0	34	4	12	16
22	Sikkim	3	0	3	3	0	3	0	0	0
23	Telangana	32	10	42	21	5	26	11	5	16
24	Tripura	4	1	5	4	1	5	0	0	0
25	Uttarakhand	9	2	11	6	0	6	3	2	5
	Total	840	274	1114	643	140	783	197	134	331

Statement showing Sanctioned strength, Working Strength, and Vacancies of Judges in the Supreme Court of India and the High Courts (as of 29.01.2024).⁹

For a country of more than 135 million, there are only 21 judges per million population. There are more than 300 vacancies in the high courts and around 40% of the posts are found to be vacant in the lower judiciary.

1.3 The powerful can manipulate the system

Pune Porsche Car Case-

Recently, a tragic incident in Pune can be described as more of a car murder than a car accident. A 17-year-old, driving a Porsche Taycan at over 200 km/h without a driving license and under the

⁹ MEGHWAL, A. R. (2024). *Sanctioned strength of Supreme Court and High Court judges in Lok Sabha*. <[Page | 12](https://sansad.in/getFile/loksabhaquestions/annex/1715/AU5.pdf?source=pqals#:~:text=2024%2C%20against%20the%20sanctioned%20strength,in%20the%20various%20High%20Courts.>></p>
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influence of alcohol, collided with a motorcycle on Kalyani Nagar-Airport Road. The crash resulted in the deaths of two 24-year-old IT engineers.



When the incident came to the attention of the police, their response was superficial and appeared to be a formality. This reaction was due in part to the accused's privileged background, as he belonged to a wealthy and influential family that could dominate the system with power and wealth. Consequently, the police seemed to support the boy rather than seek justice for the victims.

The boy was brought before the juvenile court, but the proceedings seemed more of a show than a genuine pursuit of justice. Despite the severity of his actions, which resulted in the loss of two young lives, the court appeared biased in favor of the accused. This bias was evident in his lenient punishment: writing a 300-word essay and working for the traffic police for 15 days.

Such a light sentence for causing two deaths cannot be considered merely a mistake; it is a gross misuse of privilege and resources. The boy's father was aware that his 17-year-old son was driving to a club and consuming alcohol but still allowed him to drive. This reckless decision ultimately led to the tragic loss of two lives. If an ordinary person without such power and connections had committed this crime, the judgment would undoubtedly have been more severe.

The judiciary's primary role is to punish wrongdoers impartially, regardless of their social standing. However, this case demonstrates how today's judicial decisions can be influenced by the wealth and status of the accused. While the judiciary is supposed to be blind to these factors, everyone says and knows that the judiciary is blind but is the judiciary proving to be blind in today's time or it has shifted from its root principle this incident shows that this principle is not always upheld. In the past, when the judiciary was unduly influenced, appropriate measures were taken to address and rectify such issues. Unfortunately, this incident suggests that such accountability may no longer be a priority.

The lenient punishment sparked outrage on social media, with many criticizing the inadequate response to such a serious crime. Memes and quotes circulated, highlighting the injustice and

casting a negative impact on society. The leniency shown in this case endangers lives by sending a message that with enough power and connections, one can evade proper punishment.

Social media played a crucial role in bringing attention to this case. The widespread outrage and criticism eventually led to the accused and his family being held accountable. However, there were numerous internal attempts to protect the boy, including switching blood samples and presenting false testimony. These actions demonstrate the lengths to which those with power will go to evade justice, further eroding public trust in the system.

This incident serves as a stark reminder of the disparities in the justice system. It highlights the need for a judiciary that is truly impartial and committed to upholding the law, regardless of the social standing of the individuals involved. The loss of lives of victims is a tragic reminder of the consequences of privilege and the urgent need for a fair and just legal system.

2. NO PROPER PROTECTION FOR THE VICTIM¹⁰ AND HIS FAMILY

The government and society have an obligation to ensure that victims feel safe and supported in society. Nobody has the right to threaten, harass, or intimidate the victim in any way. The victim's fundamental right is to feel safe and supported by society. Nobody has the right to harass or threaten a victim. If someone does this, they will be punished in accordance with the law.

Media is not only bound to not disclose the identity of the child but by law is mandated not to disclose any material which can lead to the disclosure of the identity of the child and such violation would amount to an offense under Section 23(4)¹¹.

The decision of Calcutta High Court in *Bijoy v. State of W.B.*¹², detailed the reasons while dealing with the provisions of the Protection of Children from Sexual Offences (POCSO), 2012, and held that neither during the investigation nor during the trial name of the victim be disclosed. The judgment also laid down directions¹³ to ensure that the provisions of the law are followed in letter

¹⁰ **Section 2(1)(y), Bharatiya Nagarik Suraksha Sanhita 2023:** Victim means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and includes the guardian or legal heir of such victim.

¹¹ **Section 23(4), POCSO Act 2012:** Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be liable to be punished with imprisonment of either description for a period which shall not be less than six months but which may extend to one year or with fine or with both.

¹² *Bijoy v. State of W.B.* 2017 SCC OnLine Cal 417.

¹³ Saba and Ridhi (2017) *Investigating agencies, Prosecutors & Special Courts directed to protect privacy and other basic human rights of Child sexual abuse victims*, *SCC Times*. Available at: <<https://www.sconline.com/blog/post/2017/03/15/investigating-agencies-prosecutors-special-courts-directed-to->

and spirit, and the fundamental rights of child victims are protected, to which the Supreme Court bench in the present case is in agreement.

3. INADEQUATE PERFORMANCE OF THE CRIMINAL JUSTICE SYSTEM

The Billa- Ranga Case (1978)¹⁴

In this case, the impediments were the fact that their father may not be able to pay a handsome ransom and the uncommon courage of the brave teenagers who fought back so fiercely that Billa had to go to the hospital for stitches afterward. Despite the attempt of two public-spirited persons to save the children, the police failed the children by noting down the wrong vehicle number in one instance and sleeping over the report for over an hour, in another. Meanwhile, the children were taken to a park where they were eventually killed at night. Their bodies were discovered by a cowherd in Delhi Ridge on 28 August 1978.¹⁵

On Police's failure to take action on time, the Delhi High Court observed that,

“The lives of the children could have been saved if the police had acted promptly. The non-cooperation by the public is a standing grievance of the police and public apathy is its routine excuse. The facts of the instant case clearly show that there is no dearth of public-spirited persons. Had a general alarm been given by the police in time and the flying squad been alerted, the lives of the children could have been saved. The police did not take any action on the report lodged by an eye-witness on the plea that the crime had not been committed within their jurisdiction and the information was conveyed to the control room only after an hour and even then the control room did not take any action. The police should take public reports seriously and act promptly if they want public cooperation.”

A major point of the case was the courage shown by the teenagers as witnesses said that they put up a big fight and as a result, Billa had to receive stitches from a hospital. Yet the point remains that had the police gotten into prompt action, this murder could have been prevented.¹⁶

protect-privacy-and-other-basic-human-rights-of-child-sexual-abuse-victims/ (Accessed: 05 August 2024).>

¹⁴ Kuljeet Singh v. Union of India, (1981) 3 SCC 324.

¹⁵ State v. Jasbir Singh, 1979 SCC OnLine Del 220.

¹⁶ Bhardwaj, P. and Ridhi (2023) *1978 Geeta and Sanjay Chopra kidnapping and murder case: The chilling story of Ranga and Billa's sensational crime*, SCC Times.

Available at: <<https://www.sconline.com/blog/post/2023/06/20/geeta-and-sanjay-chopra-kidnapping-and-murder-ranga-and-billa-sensational-crime-story/>> (Accessed: 04 August 2024)>

4. FREQUENT ADJOURNMENTS LEADING TO THE PENDENCY OF CASES

An adjournment¹⁷ refers to the judicial practice of deferring a scheduled hearing to a later date. It is based on the underlying principles of “natural justice” and “fairness”. Order XVII of the Civil Procedure Code, 1908 provides rules for courts to follow when faced with adjournment requests. The rule stipulates that unless there are extenuating circumstances, a party may not request an adjournment. It is observed that attorneys take advantage of this rule by fabricating or overstating "uncontrollable circumstances" in order to get adjournments, which causes deliberate delays.

The courts' backlog of cases is caused by several factors, including repeated requests for adjournments. Justice Dipak Misra highlighted in the case of *Gayathri v. M. Girish*¹⁸, that litigants pray for adjournment as if it was their right to seek adjournment on any ground whatsoever and under any circumstance, displaying a blatant disregard for the court proceedings.

Under Order XVII of The Civil Procedure Code, 1908, no adjournment can be considered more than three times. Yet this laid down procedure is not followed in more than 50 percent of the matters being heard by courts in India which leads to rise in pendency of cases. Even by the rules laid down, the advocates seek against the rule, request in the court and ask for an adjournment of the case.

Adjournment of the case is a tactic used by lawyers to delay the process when one of the parties is unwilling to have the matter decided. The second aspect of it is that a lot of attorneys either don't have many cases with them or have so many cases that they are unable to manage the load on their own. The primary reason given by attorneys for postponing a case is their engagement in another court; nevertheless, this is not a valid one.

5. LACK OF DIVERSITY AND REPRESENTATION IN THE JUDICIARY

Gender:

In the Indian judiciary, men still dominate the field. As Chief Justices and Puisne judges of the Supreme Court (SC) and other High Courts (HCs), women seem to be disproportionately underrepresented on the bench. There is also an obvious deficiency of women in the Supreme Court collegium's makeup.

¹⁷ Karpuram, A.S. (2024) *Explained: The four issues that CJI dy Chandrachud highlighted within the legal profession, The Indian Express*. Available at: <<https://indianexpress.com/article/explained/explained-law/issues-cji-dy-chandrachud-legal-profession-9143599/>> (Accessed: 04 August 2024)>

¹⁸ *Gayathri v. M. Girish* 2016 14 SCC 142.

Sitting Women Judges in High Courts

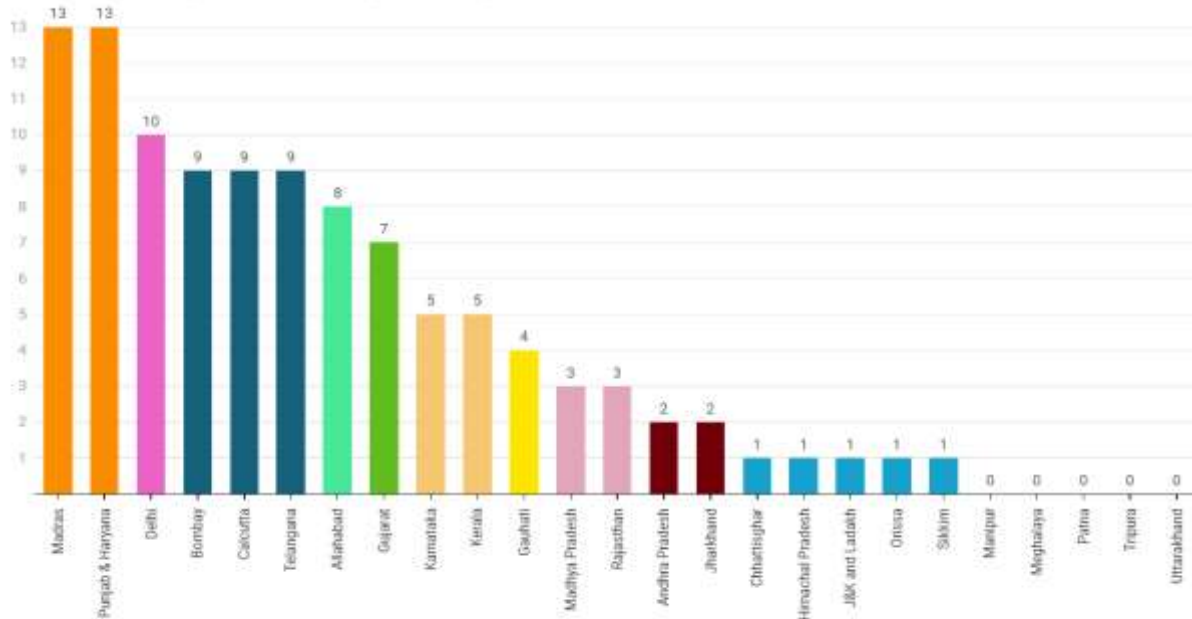


Chart: Supreme Court Observer - Source: Department of Justice, GOI - Created with Datawrapper

This chart shows the number of women currently serving as Judges at HCs across the country. The x-axis shows the High Courts and the y-axis shows the number of judges that are women. The Punjab & Haryana and Madras HCs rank highest, with 13 women judges each. The Delhi HC has the second-highest number of women—10. There are 9 women at Bench in the Bombay, Calcutta, and Telangana HCs. 8 Judges of the Allahabad HC are women. The Gujarat HC has 7 and the Karnataka and Kerala HCs have 5 women each.

Five HCs (Manipur, Meghalaya, Patna, Tripura, and Uttarakhand) have no women on the Bench. 10 HCs have less than 5 women judges each.¹⁹

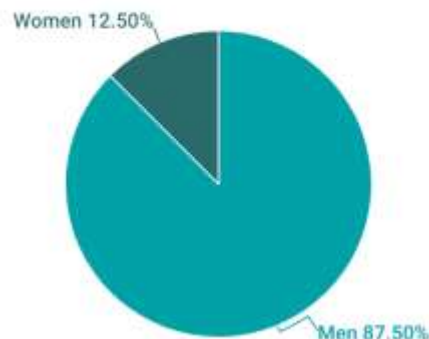
The number of women in the **Supreme Court** is the highest ever at **four**.



11
woman Judges in
the SC since 1950.



2
woman Judges
have been in the
SC Collegium



Justice Anna Chandy was the first ever woman High Court judge in India. Since her appointment

¹⁹ Only 107 of 788 sitting high court judges are women (2023) Supreme Court Observer. Available at: <https://www.scobserver.in/journal/only-107-of-788-sitting-high-court-judges-are-women/> (Accessed: 04 August 2024).

in 1959, we haven't come far from women's representation in the Indian judiciary.

Caste:

Three out of four judges appointed to the High Courts in the country since 2018 belong to the upper caste communities while Dalits and tribals together do not touch 5 percent of the 604 appointed.

As per information provided by the recommenders, 458 or 75.58 percent of the 604 High Court judges appointed between 2018 and July 17 this year belonged to the General Category. Eighteen or 2.98 percent of the judges belonged to Scheduled Castes while nine or 1.49 percent belonged to Scheduled Tribes.

When it comes to judges from the OBC communities, there are 72 or 11.92 percent while 34 or 5.6 percent of the judges belong to minority communities. Thirteen did not provide this detail.²⁰

Religion:

It appears that thirty of the 33 judges currently in the Supreme Court are Hindu, with one Muslim, Christian, and Parsi each. Records suggest that there has been no Sikh representation in the Supreme Court since Justice J.S. Kehar, retired as Chief Justice in August 2017. Since the 1950s, the tradition has been to appoint one Muslim judge to the Supreme Court, making them one of eight judges in the top court and guaranteeing a 12.5 percent representation. As the Court strength increased to 16 by the end of the 1970s, it was par for the course to have two Muslim judges on the bench. The full quorum went up to 34 in 2019 but the number of Muslim judges has remained more or less fixed, adversely affecting the community's proportional representation.²¹

IV. REFORMS NEEDED TO MAKE JUSTICE A REALITY

1. There should be to be a factual and legal trial, with only ONE appeal for each. When an appellate decision is made by the High Court or a tribunal chaired by a current or former High Court judge, it should become final and be subject only to correction by

²⁰ Shemin Joy, D., *Three of four High Court judges upper castes; Dalits, tribals account for less than 5%*, *Deccan Herald*. Available at: <<https://www.deccanherald.com/india/three-of-four-high-court-judges-upper-castes-dalits-tribals-account-for-less-than-5-1239385.html>> (Accessed: 04 August 2024).

²¹ *Supreme Court Review 2023: The diversity problem remained unaddressed (2024)* *Supreme Court Observer*. Available at: <https://www.scobserver.in/journal/supreme-court-review-2023-the-diversity-problem-remained-unaddressed/#:~:text=Created%20with%20Datawrapper-,Religion,Chief%20Justice%20in%20August%202017.> (Accessed: 04 August 2024).

the Supreme Court. In other cases, the State High Court may exercise its extraordinary jurisdiction to make changes to the decision. All enactments should abandon the idea of multiple appeals.

2. To serve as a deterrence, frivolous or vexatious litigation brought before a court or tribunal should result in high expenses for the litigant. It is also needed to impose exemplary fines on a party who uses dilatory tactics, as this should serve as a deterrent to others, and cause the matter to be settled more slowly. These will undoubtedly reduce the number of open cases.
3. It is important to launch public awareness campaigns and educational initiatives to dispel myths and prejudices toward people with criminal histories. Policies that facilitate the reintegration of ex-offenders into society and offer possibilities for work, housing, and education should be promoted by employers, landlords, and educational institutions.
4. Evidence-based rehabilitation strategies that have been confirmed to be successful in lowering recidivism and encouraging reformation ought to be given top priority by governments. This covers community-based interventions, restorative justice procedures, cognitive-behavioral therapy, and trauma-informed care. To guarantee their efficacy, programs must be customized to each offender's unique needs and subjected to frequent evaluations.
5. It is crucial to form a commission to handle criminal matters. Small tasks like witness cross-examination and examination add a needless workload to the court in criminal cases. This burden will be divided if a commission is established, and the courts will operate more quickly and effectively. However, in order for all of this to happen, the lawyers' workspace needs to be properly organized. For these commissions to operate without fear or prejudice brought on by security threats, it is necessary to guarantee not just the infrastructure but also adequate protection within court grounds.

Reforming the judiciary is a collective responsibility that requires the participation of all stakeholders. By working together to uphold the principles of justice, we can restore the integrity and efficiency of the judicial system. This, in turn, will contribute to a more equitable society where citizens can truly enjoy their rights and freedoms without undue interference.

V. CONCLUSION

As citizens, we strive for an equitable, free, and safe society where our rights are respected. However, the reality often falls short, with crime and interference impacting our lives and causing trauma. To address this, we need an efficient system for reporting grievances, seeking redress, and ensuring wrongdoers face consequences. This system should deter future crimes and uphold the rule of law.

The judiciary, as the third pillar of democracy, is meant to be this efficient body. It should maintain checks and balances on the other branches of government. However, concerns about bias, favoritism, and external influences threaten its independence and the fundamental concept of justice. Despite these issues, many still trust the courts to deliver justice, believing in the principle of equality before the law.

One significant problem plaguing the judiciary is the extensive delay in case resolution. In India, cases can remain pending for decades, contradicting the very purpose of the justice system, which should deliver timely verdicts. The judiciary's role extends beyond individual cases; it can review government actions, declare laws unconstitutional if they violate citizens' rights, and safeguard the Constitution. If the judiciary is controlled or influenced by the government, it jeopardizes the functioning of democracy.

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