



# The Indian Journal for Research in Law and Management

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## BRIDGING THE JUSTICE DIVIDE: OVERCOMING BARRIERS IN THE INDIAN LEGAL SYSTEM

- *Samruddhi Joshi*

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“I look towards the future; I believe the greatest challenge before the Indian judiciary is to eliminate the barriers to accessing justice”

- CJI, D. Y. Chandrachud

Justice serves as the foundation of every operational legal system, encapsulating the ideals of equity and impartiality. It refers to the presence of a functioning system that offers rights and recourse in the event of a violation. Justice is essential for the law to serve its intended purpose and to prevent chaos from taking over. Unfortunately, in India, a significant number of individuals still do not receive justice because of various reasons such as prolonged court processes, bureaucratic obstacles, and insufficient availability of legal help.

This blog explores the barriers within the Indian legal system and proposes a series of reforms and solutions to overcome these obstacles, thereby ensuring a fairer and more efficient justice system for all citizens. The primary challenges hindering the Indian Legal system include: -

### 1) **Rendering speedy and effective justice:**

The primary challenge is the high number of unresolved and pending cases and the slow process of resolving them. The inadequacy of judges and courts in the country is a major reason for the prolonged processing of cases. The delays, along with other

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<sup>1</sup> *Judiciary's key challenge is to remove barriers to access justice, says CJI (2023) The Indian Express.*

Available at: <https://indianexpress.com/article/india/judiciarys-key-challenge-is-to-remove-barriers-to-access-justice-says-cji-8894044/> (Accessed: 27 May 2024).

factors related to litigation such as rigid decision-making, legal complexities, and high costs, give litigants the impression that justice has become illusive. As a result, trust in the legal system and adherence to laws diminish over time, leading individuals with issues to seek alternative methods for quick resolution. The frequency of landlords hiring musclemen to evict tenants and creditors and financial institutions seeking shady agencies for fast debt collection is on the rise. The high rate of acquittals causes a feeling of discouragement among the victims, the law-abiding citizens, and the police. Simultaneously, the criminals are encouraged to persist in their criminal activities.

**2) Socio-economic barriers to accessing justice:**

Every grievance from marginalized groups, the poor, and the oppressed is a request for fairness, freedom, protection, or well-being. The socially and economically backward classes and the poor, may resort to vigilante justice when they face unfair treatment and lack access to quick and fair legal recourse due to lack of knowledge or financial resources. Several disputes that should have been resolved through civil lawsuits turn into criminal cases. People who experience injustices and lack access to justice are more vulnerable to being influenced by terrorism, anarchy, insurgency, and vigilantism, tearing the very fabric of democracy.

**3) Lack of legal awareness:**

Insufficient understanding and knowledge of Informal Access to Justice Mechanisms and the activities of Legal Services Committees at various levels of the Indian judiciary is one of the main barriers to the Indian legal system. The lack of awareness, unfamiliarity with legal procedures and overall apprehension of the court system, widens the divide between poor and State enforcement bodies.

**4) Lack of infrastructure:**

Physical infrastructure comprises the necessary physical elements for the proper functioning of the judicial ecosystem. This consists of courtrooms, attorneys' offices, and residential spaces for judges. The goal is to give judicial officers sufficient space to carry out their daily duties to ensure justice for everyone involved. Ultimately, an effective workspace guarantees productivity. Ease of access through public transportation is a vital part of essential physical infrastructure. According to a detailed

survey by Vidhi,<sup>2</sup> most lower court buildings in Gujarat, Sikkim, and Tripura lack access to public transportation.

Digital infrastructure not only enables litigants to attend online hearings, but also makes case details and information about the judges available to the general public. The absence of these essential infrastructures presented a significant challenge during the COVID-19 crisis when courts had to transition to online operations. With only 27 percent of lower courts having the capability to install a computer with a video-conferencing facility at the judge's bench, thus justice delivery suffered.<sup>3</sup>

### **Suggestive Measures for the Way Ahead**

The necessary changes that are needed will not happen overnight but will occur if we make efforts for them in the right direction. Despite various loopholes and impasses, reform is essential to improve the Indian justice system. There are multiple ways to bring about this change;

#### **1) Speeding the judicial process:**

Fast Track Court must be established and an immediate quantitative expansion of tribunals, judicial, and quasi-judicial bodies is necessary. Every court needs to be classified based on the expertise of the judges to lessen the workload of the judicial system. Red tape or excessive delay due to paperwork forms a divide between various sectors of society. The technological infrastructure, such as e-filing of cases and e-returns, must be implemented to store case files online to expedite the handling of cases. Encouraging attorneys and law firms to offer pro bono services can help those who cannot afford legal representation is also an important step.

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<sup>2</sup> Jain, C., Tripathi, S. and Jain, T. (2019) *Budgeting Better for Courts*. rep. Vidhi centre for legal policy. Available at: [https://vidhilegalpolicy.in/wp-content/uploads/2019/09/Budget-report\\_JudicialReform-2019.pdf](https://vidhilegalpolicy.in/wp-content/uploads/2019/09/Budget-report_JudicialReform-2019.pdf).

<sup>3</sup> SINHA, B. (2021) 'What is NJIC? Agency to monitor infrastructure development in trial courts, proposed by CJI', *The Print*. Available at: <https://theprint.in/judiciary/what-is-njic-agency-to-monitor-infrastructure-development-in-trial-courts-proposed-by-cji/738593/>.

## **2) Alternate Dispute Resolution:**

Individuals need to be informed about Alternative Dispute Resolution methods such as mediation, arbitration, conciliation, etc. that provide quick resolution for minor issues and help identify cases that need legal intervention. This will lessen the burden on the court system and the judiciary.

## **3) Legal Aid and Awareness:**

Encourage understanding of laws and offer easily accessible legal assistance to vulnerable groups, so they can comprehend their rights and successfully navigate the legal system. Also, promoting awareness about informal justice mechanisms such as Lok Adalats and other community-based dispute resolution forums that can provide accessible and effective justice.

## **4) Infrastructure Development:**

Investing in the construction and maintenance of court buildings, ensuring they are equipped with adequate facilities for judges, lawyers, and litigants. Ensuring courts are easily accessible via public transport, particularly in rural and remote areas, to facilitate attendance and participation. Utilize technology to digitize court documents, support electronic filing, and create online courtrooms, allowing for remote engagement and speeding up legal processes. Ensuring that judicial officers and court staff receive adequate IT training is crucial for them to efficiently utilize digital tools and oversee online proceedings.

## **Conclusion:**

A society that values justice as its main principle prospers by promoting fairness, equality, and respect for individual rights. Despite ongoing difficulties, India has the opportunity to turn its justice system into a model of effectiveness and fairness. By giving importance to reforms in the judiciary, adopting technology, and promoting legal education, the country can narrow the distance between the concept of justice and its

practical implementation. Stakeholders from all areas of the legal field need to collaborate to make sure that justice is attainable for every individual and that it isn't a distant dream.