Flaws in Indian Judicial system

Why in news?

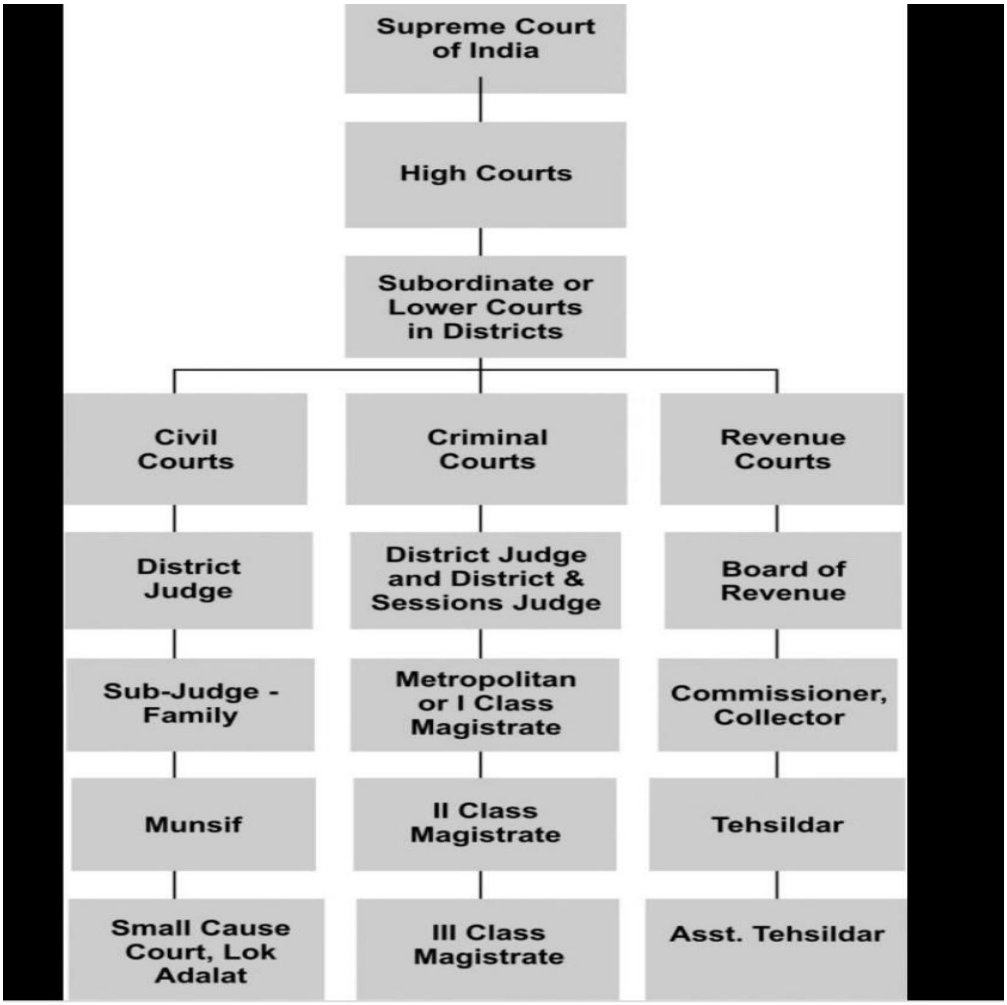
Recently, a district court in Uttar Pradesh's Bareilly sentenced a woman to jail along with a fine for filing a false case of rape against a man.

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 be 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

