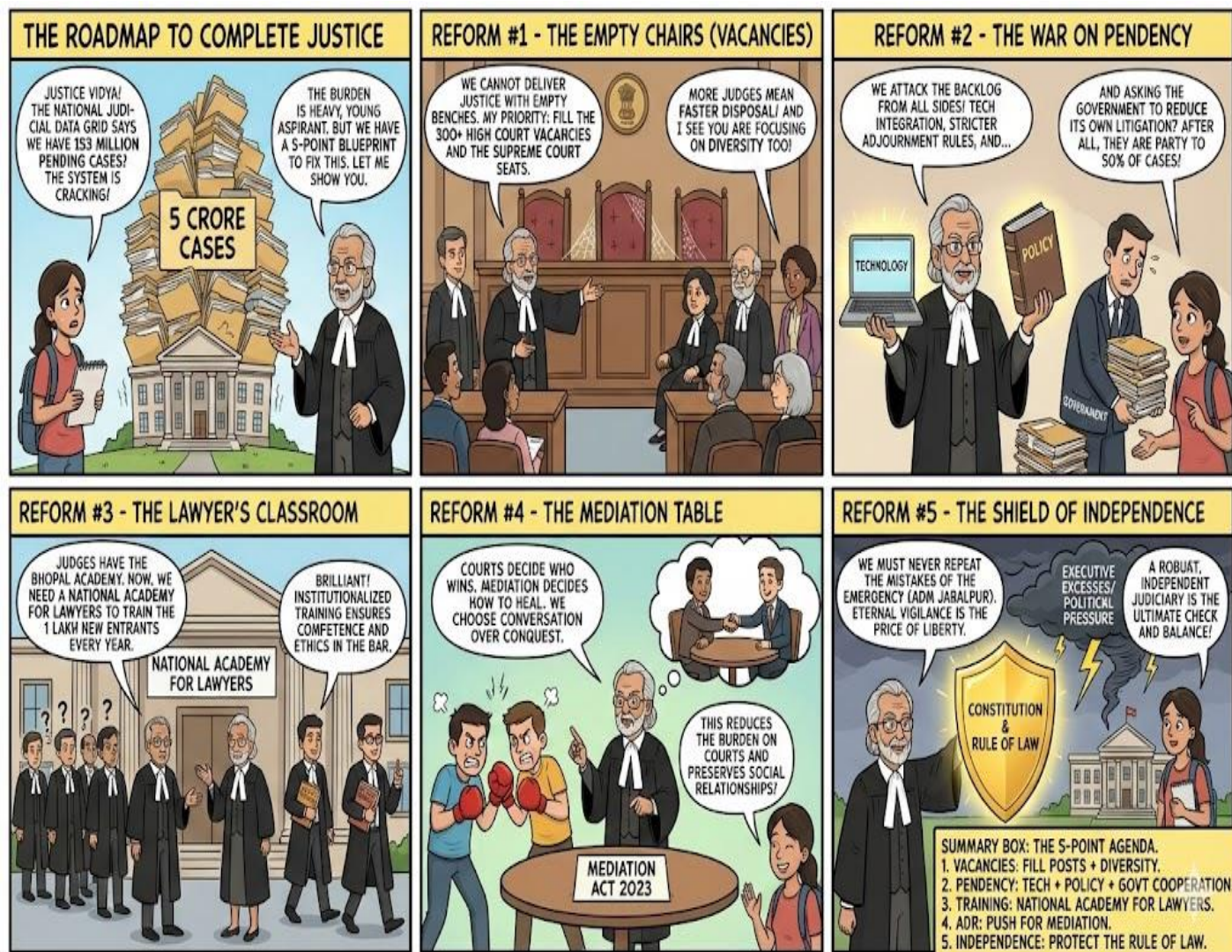


The Indian Judiciary at a Crossroads – A Roadmap for the 53rd Chief Justice.

On November 24, Justice Surya Kant assumes office as the 53rd Chief Justice of India (CJI). His 15-month tenure comes at a pivotal moment when democracies globally face institutional erosion. However, the Indian judiciary remains a robust pillar of democracy, entrusted by the Constitution to interpret laws and check executive actions.



The Unique Position of the Supreme Court

The framers of the Indian Constitution placed immense faith in the judiciary. Unlike other institutions, the Supreme Court (SC) has the unique power to evaluate the constitutionality of actions taken by the Legislature and the Executive. A key constitutional provision highlighted in this context is Article 142.

What it is – It empowers the Supreme Court to pass any decree or order necessary for doing "complete justice" in any matter pending before it.

Significance – This concept allows the Court to transcend the rigid limitations of statutory law to ensure fairness, making the SC not just a court of law, but a court of equity and justice.

The Necessity of Judicial Reforms – The Core Issues

Despite its robust framework, the Indian judiciary is burdened by systemic issues that threaten the delivery of timely justice. The necessity for reform is driven by two alarming statistics –

Pendency of Cases – According to the National Judicial Data Grid (NJDG), as of September, the numbers are staggering –

1. **District/Subordinate Courts** – ~47.56 million cases.
2. **High Courts** – ~6.38 million cases.

3. **Supreme Court** – ~88,000 cases.

4. **Total** – Approximately 153 million cases are pending across the country.

The Government as a Litigant – A crucial data point for exam answers is that the Government (Centre and States) is a party to nearly 50% of pending cases. This clogs the system and highlights the need for better litigation policies within the executive. As Justice Surya Kant has noted, pendency is a direct threat to constitutional guarantees. Even the strongest legal aid serves no purpose if "justice arrives too late."

The Five Immediate Reforms

To address these challenges and shape the future of the judiciary, five specific areas require immediate attention during the new CJI's tenure.

1. Filling Vacancies and Ensuring Diversity – The most pressing administrative task is the appointment of judges.

The Challenge – There are over 300 vacancies in various High Courts. The new CJI will also lead the Collegium to appoint six new judges to the Supreme Court.

The Objective – The focus must be on balancing judicial independence with accountability.

Diversity – There is a critical need to increase the representation of women in the higher judiciary. A diverse bench improves the quality of justice by bringing different lived experiences to the adjudication process.

2. A Multi-Pronged War on Pendency – Solving the backlog requires more than just hiring judges; it requires a structural overhaul. The approach must include –

Technology – leveraging AI and digitization for case management.

Adjournment Culture – Revisiting policies to curb frequent adjournments which delay trials.

Appeals Reform – Reimagining the practice of appeals to prevent frivolous cases from reaching the higher courts.

Collaboration – Since the government is the largest litigant, the judiciary and the executive must work together to reduce avoidable litigation.

3. Establishing a National Academy for Lawyers – This is a novel reform idea. Currently, India has the National Judicial Academy (Bhopal) to train judges, but no corresponding national body for lawyers.

The Need – With 1.8 million lawyers in India and 1 lakh entering annually, the Bar Council of India acts as a regulator but not strictly as a trainer.

The Solution – A dedicated National Academy for Lawyers is needed to train independent practitioners (who lack corporate training programs) in ethics, efficiency, and modern legal practices.

4. Promoting Mediation (Alternative Dispute Resolution) – Justice Surya Kant is a proponent of the Mediation Act, 2023.

The Philosophy – While courts focus on "victory" and "conquest," mediation focuses on "healing" and "preserving relationships."

Significance – Moving disputes to mediation reduces the burden on formal courts. For this to succeed, there must be a consensus among the Bar (lawyers) to encourage clients toward mediation rather than litigation.

5. Protecting the Rule of Law and Institutional Independence – The Supreme Court must remain the sentinel of liberty.

Historical Context – The article references the ADM Jabalpur case (1976) during the Emergency, where the SC failed to protect habeas corpus rights—a "blot" on its record.

The Lesson – This serves as a reminder that the judiciary must maintain "eternal vigilance." It must act as a check against executive excesses to protect the fundamental rights of citizens.

Significance of These Reforms

1. Restoring Public Faith – The legitimacy of the judiciary rests on public trust. By addressing delays (pendency) and filling vacancies, the judiciary reassures the common man that justice is accessible.

2. Economic Impact – A sluggish judicial system hurts the economy. Contract enforcement and dispute resolution are key metrics in the "Ease of Doing Business." Efficient courts attract investment.

3. Strengthening Democracy – By emphasizing the "Rule of Law" and learning from past mistakes (like the Emergency era), the judiciary reinforces the system of checks and balances, ensuring India does not slide into authoritarianism.

4. Future-Proofing the System – Creating a National Academy for Lawyers and integrating technology ensures that the legal system evolves to meet modern challenges, creating a "next generation" of competent legal professionals.

Conclusion

The tenure of a Chief Justice is not just about administrative continuity; it is an opportunity for institutional course correction. Justice Surya Kant's focus on the "five pillars"—Appointments, Pendency reduction, Lawyer training, Mediation, and Judicial Independence—offers a holistic blueprint. For a Civil Services aspirant, these reforms highlight the shift from merely *interpreting* the law to *managing* the justice delivery system. If successful, these initiatives will move the Indian judiciary closer to the constitutional ideal of "Complete Justice" under Article 142, ensuring that the institution remains robust, inclusive, and efficient.

Mains Answer Writing Practice

1. "The concept of complete justice empowers the Supreme Court to transcend the limitations of law." Discuss this statement in light of Article 142, and analyze the structural challenges that hinder the effective delivery of justice in India.

Answer guidelines

1. Introduction

Constitutional Basis – Start by mentioning that Article 142 provides unique and extraordinary powers to the Supreme Court to pass any decree or order necessary for doing "complete justice" in any cause or matter pending before it.

Nature of Power – Explain that unlike other courts which are bound strictly by statutory laws (written laws), the SC acts as a Court of Equity under this article. It bridges the gap between the "letter of the law" and the "spirit of justice."

2. Body

1. "Transcending Limitations of Law" – Decoding Article 142

Supplementing, Not Supplanting – Clarify that Article 142 does not allow the SC to ignore substantive law, but empowers it to fill the vacuum where law is silent or where strict adherence to statutory procedure would lead to gross injustice.

Key Instances (Case Laws for Substantiation)

The Ayodhya Verdict (2019) – The SC used Article 142 to grant 5 acres of land to the Sunni Waqf Board, recognizing that strict property law might not address the unique sensitivities of the dispute.

Union Carbide Case (Bhopal Gas Tragedy) – The Court used this power to enhance compensation for victims beyond the statutory caps.

A.G. Perarivalan Case (2022) – The SC ordered the release of the convict (involved in the Rajiv Gandhi assassination case) due to prolonged delay by the Governor, bypassing procedural hurdles to ensure human rights.

Irretrievable Breakdown of Marriage – Until recently, this was not a statutory ground for divorce under the Hindu Marriage Act, but the SC frequently granted divorce under Article 142 to end "dead marriages."

2. Structural Challenges Hindering Effective Justice Delivery

Transition – While the SC can deliver complete justice in specific high-profile cases, the broader judicial system faces systemic roadblocks.

A. Massive Pendency of Cases – Cite data (e.g., ~5 crore/50 million pending cases across India as per National Judicial Data Grid). Highlight that "Justice delayed is justice denied."

B. Government as the Biggest Litigant – The Executive (Centre and States) accounts for nearly 50% of pending litigation. This burdens the courts with avoidable cases (e.g., appeals against own employees or tribunal orders).

C. Judicial Vacancies – High vacancy rates in High Courts (often >30%) and Subordinate courts. Delays in the Collegium system and friction between the Executive and Judiciary regarding appointments.

D. Infrastructure & Digital Divide – Lack of courtrooms and support staff in lower judiciary. While the SC is digitizing, district courts often lag in e-filing and digital evidence handling.

E. Adjournment Culture – Frequent adjournments extend the life of cases by years, increasing the cost and emotional burden on litigants.

3. Conclusion & Way Forward

The Balance – Conclude that Article 142 is a powerful tool for "corrective justice" in individual cases, but it cannot be a substitute for systemic governance.

The Reforms – Emphasize the need for the "Five Reforms" (as discussed in the source material) –

1. Time-bound filling of vacancies.
2. Establishing a National Judicial Infrastructure Authority.
3. Promoting ADR (Alternative Dispute Resolution) and Mediation.
4. Reducing government litigation.

Final Thought – A robust justice delivery system ensures that "complete justice" is the norm for the common citizen, not just an extraordinary exception granted by the apex court.

