

LAW AND DISORDER

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

A view of the Supreme Court of India in New Delhi. File | Photo Credit: [S. Subramaniam](#)

In the TV series, *The Crown*, a dismayed Queen Elizabeth II seeks to understand from Prime Minister Harold Wilson why the public has such a negative perception of the royalty. She points out that the royalty is composed of normal people leading normal lives and doing normal jobs. Wilson haltingly says that the people don't expect the royalty to be normal, but to be "ideal". "But," the Queen bleats, "nobody is ideal."

Today, the Supreme Court finds itself in a similar predicament. The citizens of the country expect the institution and its constituents to be ideal, and the challenge of the Supreme Court is to come to terms with that reality. However, it is not the Supreme Court alone that matters in the justice delivery system. As a result of the unrelenting focus on the anguished knocks at the doors of the highest court, the other inadequacies of the system don't get as much public attention. A few important ones are dealt with below.

Most often, the issue of spending on judiciary is equated with a call for increasing the salaries of judges and providing better court infrastructure. Such perceptions are unfortunate. India has one of the most comprehensive legal aid programmes in the world, the Legal Services Authority Act of 1987. Under this law, all women, irrespective of their financial status, are entitled to free legal aid. Scheduled Castes and Scheduled Tribes and children too are entitled to free legal aid. This means that a significant proportion of the population falls — or is supposed to fall — under a free legal aid regime. However, in reality, this law is a dead letter. There has been little effort on the part of successive governments to provide a task force of carefully selected, well-trained and reasonably paid advocates to provide these services. In comparison, the system of legal aid in the U.K. identifies and funds several independent solicitor offices to provide such services. If support is withdrawn, many solicitor offices that provide these invaluable services would collapse and with that, the rule of law. India is yet to put in place anything similar to this.

The judge-population ratio provides one of the most important yardsticks to measure the health of the legal system. The U.S. has about 100 judges per million population. Canada has about 75 and the U.K. has about 50. India, on the other hand, has only 19 judges per million population. Of these, at any given point, at least one-fourth is always vacant. While much is written on vacancies to the Supreme Court and the High Courts, hardly any attention is focused on this gaping inadequacy in lower courts which is where the common man first comes into contact (or at least should) with the justice delivery system. These inadequacies are far more important to the common man than the issues relating to the apex court that are frequently highlighted in the public space. In *All India Judges Association v. Union of India* (2001), the Supreme Court had directed the Government of India to increase the judge-population ratio to at least 50 per million population within five years from the date of the judgment. This has not been implemented.

Though 'access to justice' has not been specifically spelt out as a fundamental right in the Constitution, it has always been treated as such by Indian courts. In *Anita Kushwaha v. Pushpa Sadan* (2016), the Supreme Court held unambiguously that if "life" implies not only life in the physical sense but a bundle of rights that make life worth living, there is no justice or other basis for holding that denial of "access to justice" will not affect the quality of human life. It was for the first time that the Supreme Court had attempted a near-exhaustive definition of what "access to justice" actually means. Further, the court pointed out four important components of access to

justice. It pointed out the need for adjudicatory mechanisms. It said that the mechanism must be conveniently accessible in terms of distance and that the process of adjudication must be speedy and affordable to the disputants. It is of course a paradox that this judgment, which emphasises the concept of speedy justice, was passed in 2016 in a batch of transfer petitions that were filed between 2008 to 2014.

The state in all its glorious manifestations — the executive, judiciary and the legislature — is yet to draw out a national policy and road map for clearing backlogs and making these concepts real. These are just a few of the issues crying for attention. Increasing tribunalisation of the justice delivery process; the extortionate court fees payable to access justice in civil suits in some States; and the poor integration of technology into the system are some issues that readily come to mind. A disproportionate amount of attention that is given to the functioning of the Supreme Court, important as it is, distracts from these and similar issues. Let us assume that the apex court achieves the distinction of being “ideal” in the near future, of being all things to all people. Still, a fine mind alone is of little avail if the rest of the body lies disabled, as the justice delivery system is today.

N.L. Rajah is Senior Advocate, Madras High Court

This story is available exclusively to The Hindu subscribers only.

Already have an account ? [Sign in](#)

Start your 14 days free trial. [Sign Up](#)

Find mobile-friendly version of articles from the day's newspaper in one easy-to-read list.

Enjoy reading as many articles as you wish without any limitations.

A select list of articles that match your interests and tastes.

Move smoothly between articles as our pages load instantly.

A one-stop-shop for seeing the latest updates, and managing your preferences.

We brief you on the latest and most important developments, three times a day.

*Our Digital Subscription plans do not currently include the e-paper, crossword and print.

Dear reader,

We have been keeping you up-to-date with information on the developments in India and the world that have a bearing on our health and wellbeing, our lives and livelihoods, during these difficult times. To enable wide dissemination of news that is in public interest, we have increased the number of articles that can be read free, and extended free trial periods. However, we have a request for those who can afford to subscribe: please do. As we fight disinformation and misinformation, and keep apace with the happenings, we need to commit greater resources to news gathering operations. We promise to deliver quality journalism that stays away from vested interest and political propaganda.

Dear subscriber,

Thank you!

Your support for our journalism is invaluable. It's a support for truth and fairness in journalism. It has helped us keep pace with events and happenings.

The Hindu has always stood for journalism that is in the public interest. At this difficult time, it becomes even more important that we have access to information that has a bearing on our health and well-being, our lives, and livelihoods. As a subscriber, you are not only a beneficiary of our work but also its enabler.

We also reiterate here the promise that our team of reporters, copy editors, fact-checkers, designers, and photographers will deliver quality journalism that stays away from vested interest and political propaganda.

Suresh Nambath

Please enter a valid email address.

To reassure Indian Muslims, the PM needs to state that the govt. will not conduct an exercise like NRC

You can support quality journalism by turning off ad blocker or purchase a subscription for unlimited access to The Hindu.

[Sign up for a 30 day free trial.](#)

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com

Cracki