

1. Examine how organisational barriers and court processes that contribute to case delay in India, could be resolved. (250 words)

**Answer:**

**Background:-**

- As of September 30, 2016, the Supreme Court has nearly 61,000 pending cases, official figures say. The high courts have a backlog of more than 40 lakh cases, and all subordinate courts together are yet to dispose of around 2.85 crore cases. On an average, cases take three years and nine months to get disposed.

**Factors leading to case delay:-**

- **Case stuck:-**
  - Usually cases near the final stage of hearing tend to be left over at disproportionate rates and often end up getting stuck in the system.
- **Uncertainty:-**
  - The uncertainty around which cases will come up for hearing means neither judges nor lawyers can plan their preparation.
  - This situation compels lawyers to waste time waiting in court and enables them to cite the simultaneous listing of multiple cases as an excuse for adjournments.
  - Registry staff must manage the massive task of re-listing leftover matters in an already bulging docket, instead of streamlining case flow.
- **Case listing:**
  - It is not uncommon to see more than 100 cases being assigned to judges on a given day. Such case listing affects the adjudication process and thus the justice delivery system as the judge rarely gets proper time for research.
- **Adjournments:-**
  - A pervasive reason for delays is adjournments. A study by the Vidhi Centre for Legal Policy (VCLP) conducted on Delhi HC found that in 91 per cent of cases delayed over two years, adjournments were sought and granted.
  - These encourage delaying tactics, block judicial time, prevent effective case management and impoverish litigants. They deter many from seeking access to formal justice.
  - Though the Code of Civil Procedure, 1908 suggests not more than three adjournments should be given in each case, Vidhi finds the Delhi High Court gave more than three adjournments in nearly 70% of all delayed cases.
- **Court infrastructure**
  - Inadequate support staff for judges to the dearth of basic courtroom facilities.
  - Without research and secretarial support, judges are unable to perform their functions in a timely manner.
  - Even though judges managed to hear many cases in a day, it takes time for the stenographers to finish typing the orders.

- Contribution of the courts to the problem by non-adherence to procedural timeframes.
- **Lawyers :-**
  - 82% of all delays could be attributed to lawyers and not the judges per se.
  - There is some anecdotal evidence that lawyers end up meeting their clients only when they are produced in court, thus giving them a very little time to effectively confer with their clients for their case.
- Delays in the legal system are caused not only because of a shortage of judges, but also because of a shortage of police officers (who have to investigate cases and then come to court on a regular basis), prosecutors (who are often underpaid and over-worked), inadequate judicial infrastructure (overcrowded court rooms or inadequate support staff such as stenographers)

**How to resolve:-**

- Increasing the strength of judges, reducing judicial vacancies, diverting cases from the courts to alternate dispute resolution forums (such as mediation and Lok Adalats) and specialised tribunals.
- Both jail adalats and plea bargaining, reduce the backlog in courts, by encouraging accused in certain cases to plead guilty in exchange for a reduced sentence.
- Specification of time limits has emerged as a distinctive feature of process reforms across jurisdictions that have been able to quantifiably minimise judicial delay, such as the UK and Singapore.
- Reduce government litigation, simplify procedures, recommending precise capacity reinforcements and use of technology.
- Courts must become more open to applying management principles to optimise case movement and judicial time. In this, external support agencies competent in strategic thinking should be allowed to work with judicial officers to understand and help the institution function better.
- **Technology:-**
  - Using technology in courts cannot remain limited to digitising records alone but must affect how cases actually move through the system.
  - Initiatives such as CIS must be supplemented with file-tracking and knowledge management systems, to help courts achieve an optimal level of functioning.

## **PRACTICE QUESTIONS**

**Answer the following Questions**

1. Some of the issues faced by Indian judiciary today, are in fact, recurring problems left unaddressed for decades. Examine. (250 words)
2. "Decline in manufacturing jobs is not necessarily a cause of concern". Critically examine the issues created due to premature deindustrialization in India and ways to address them. (250 words)