# 3-TIER JUDICIAL INFRASTRUCTURE OF INDIA: CHALLENGES AND WAY FORWARD: AN EMPIRICAL ANALYSIS OF INFRASTRUCTURAL DISPARITIES BETWEEN SUPERIOR AND DISTRICT JUDICIARY

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## 1. ABSTRACT

India's judicial apparatus is conventionally depicted as an integrated, three-tiered pyramid: the Supreme Court at the apex, twenty-five High Courts at the intermediary level, and the District and Subordinate Judiciary at the grassroots. In infrastructural and administrative terms, however, this pyramid is inverted. While the subordinate judiciary shoulder roughly 88% of the country's litigation backlog—amounting to more than 44 million pending cases—it commands the smallest share of capital expenditure, technological modernization, and institutional autonomy.

Drawing upon empirical surveys, parliamentary standing committee reports, data from the National Judicial Data Grid (NJDG), and judicial audits by the Vidhi Centre for Legal Policy, this paper explores the acute disparities separating superior courts from district courts. The analysis examines fiscal inertia under Centrally Sponsored Schemes (CSS), the systemic breakdown of digital initiatives under the e-Courts mission, the physical indignities inflicted upon litigants and staff due to inadequate amenities, and procedural collapse manifested in unmanageable daily cause lists across High Courts like Bombay and Rajasthan. Furthermore, it scrutinizes institutional governance failures: judicial vacancies, anachronistic retirement differentials (62 versus 65 years), opaque 'Master of the Roster' conventions, home-state judicial elevations breeding local conflict of interest, the underutilization of Article 224A ad-hoc appointments, and the structural friction caused by poorly vetted government litigation. The paper concludes by presenting actionable legislative and administrative reforms, centered on a statutory National Judicial Infrastructure Corporation (NJIC) and mandatory Judicial Impact Assessments.

## 2. Introduction

In Brij Mohan Lal v. Union of India (2012) 6 SCC 502, the Supreme Court of India unequivocally observed that the State is under a constitutional mandate to create adequate judicial machinery capable of disposing of disputes within a reasonable period. The court affirmed that access to speedy justice is an inalienable component of the Right to Life guaranteed under Article 21 of the Constitution. More than a decade later, this constitutional mandate remains largely theoretical for the ordinary Indian citizen.

The primary point of citizen contact with the rule of law is not the air-conditioned corridors of Tilak Marg or state High Court benches; it is the chaotic, paper-cluttered, and structurally neglected environment of the district and munsif courts. Yet, systemic discourse in India routinely conflates judicial administration with constitutional adjudication, concentrating budgetary, spatial, and technological capital almost entirely in the upper tiers. The subordinate courts remain trapped in structural poverty—functioning in rented premises, lacking basic sanitation and security, and struggling with an erratic digital landscape. To understand why litigation remains an exhausting trial of endurance rather than a mechanism for rights enforcement, one must confront the systemic degradation of trial court infrastructure and the institutional inertia governing superior courts.

## 3. Research Objectives

**1.** To assess the physical, digital, and human infrastructure deficits across India's three tiers of judiciary using verifiable empirical benchmarks.

**2.** To investigate the structural and bureaucratic mechanisms causing chronic underutilization of funds under the Centrally Sponsored Scheme (CSS) for Judicial Infrastructure.

**3.** To evaluate the digital divide separating High Courts from the Subordinate Courts in terms of virtual hearings, electronic filing, and order accessibility.

**4.** To analyze court management failures, focusing on excessive daily cause-list listings in High Courts (specifically Bombay and Rajasthan) and their impact on judicial fatigue.

**5.** To critically evaluate systemic accountability and governance norms, including the

retirement age dichotomy, home-cadre elevations, the 'Master of the Roster' protocol, and the state's role as an undisciplined litigant.

**6.** To propose structural, administrative, and statutory frameworks capable of reforming judicial administration across all three tiers.

## 4. Research Questions

**Q1.** How does the skewed allocation of fiscal resources across the three tiers manifest in physical and operational disparities at the trial court level?

**Q2.** Why have Phase I, Phase II, and the initial rollout of Phase III of the e-Courts Integrated Mission Mode Project failed to establish uniform digitization in lower trial courts?

**Q3.** What are the institutional and constitutional implications of an unstandardized, opaque case-allocation system (Master of the Roster) in superior courts on public perception and judicial impartiality?

**Q4.** How do arbitrary administrative practices—such as home-state postings of elevated judges and non-transparent state counsel empanelment—distort the delivery of quality justice?

**Q5.** What legislative and institutional mechanisms can decouple judicial infrastructural planning from the control of state executive bureaucracies?

## 5. Hypotheses

**Hypothesis 1 (H1):** The distribution of infrastructural, technological, and administrative resources in the Indian judiciary is negatively correlated with caseload distribution; the subordinate judiciary bears the highest burden of disputes while receiving the lowest relative proportion of infrastructural investment.

**Hypothesis 2 (H2):** The failure to realize speedy, accessible justice under Article 21 is primarily driven by administrative, spatial, and fiscal bottlenecks—not merely substantive legal complexities.

## 6. Problem Statement

India's judicial system faces an unprecedented backlog exceeding 50 million cases across all tiers, with over 44 million concentrated in the district and subordinate courts. Despite recurrent policy proclamations, the physical and digital architecture of the lower courts remains in disrepair. Court halls operate at a deficit relative to sanctioned judicial strength, basic hygienic and accessible amenities for female practitioners and litigants are absent across hundreds of court complexes, physical records are routinely misplaced due to decaying archival setups, and digital reforms remain erratic or non-functional outside metropolitan centers. Concurrently, superior courts suffer from operational gridlock caused by uncurated daily dockets, subjective roster assignments, and the absence of institutional independence in infrastructural management. Without an empirical critique and structural overhaul of this inverted pyramid, the constitutional guarantee of accessible justice will remain compromised.

## 7. Research Methodology

This paper adopts a mixed-method socio-legal approach, combining doctrinal legal analysis with empirical data synthesis:

- **Doctrinal Jurisprudence:** Case law from the Supreme Court of India and various High Courts on judicial independence, infrastructure funding, and Article 21.
- **Constitutional Framework:** Articles 14, 21, 39A, 124, 214, 217, 224, 224A, 227, 233, and 235 of the Constitution of India.
- **Statutory & Parliamentary Data:** Law Commission of India Reports (notably the 120th and 245th Reports), Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice Reports, and National Judicial Data Grid (NJDG) live repositories.
- **Empirical Baseline Audits:** Empirical audits by the Vidhi Centre for Legal Policy (surveys covering 665 district court complexes across India) and consecutive iterations of the India Justice Report (IJR).

## 8. Main Body & Analytical Discussion

### A. The Financial Anatomy of Judicial Neglect & the CSS Bottleneck

A fundamental driver of physical decay in lower-court infrastructure is India's chronic

underinvestment in its justice sector. India allocates approximately 0.08% to 0.09% of its Gross Domestic Product (GDP) to the judiciary—one of the lowest ratios among major world economies. The financial architecture governing infrastructure upgrades rests heavily on the Centrally Sponsored Scheme (CSS) for the Development of Infrastructure Facilities for the Judiciary, conceived in 1993–94.

Under the CSS, the Union government shares capital expenditure with states on a 60:40 formula (90:10 for North-Eastern and Himalayan States). However, this framework suffers from chronic execution gridlock. State finance departments routinely delay or fail to release their mandatory 40% matching share. Consequently, Central funds allocated by the Ministry of Law and Justice remain unutilized and frequently lapse back to the consolidated fund.

Compounding this fiscal inertia is the execution monopoly held by State Public Works Departments (PWDs). Judicial officers and High Court building committees possess no financial autonomy or specialized engineering wings to execute architectural plans independently. Tenders are routinely caught in protracted bureaucratic loops between state law ministries, finance secretariats, and local PWD divisions. As recorded in All India Judges Association (II) v. Union of India (1993) 4 SCC 288 and reiterated by successive Chief Justices of India, the judiciary remains a 'suppliant before the executive' for every sanctioned brick, tile, and electrical line.

**B. Physical Infrastructure Deficits: Dignity, Hygiene, and Spatial Reality**

The physical conditions in most district court complexes undermine institutional dignity and violate basic fundamental rights:

| Infrastructure Dimension | Surveyed Availability / Deficit | Systemic Impact |
|---|---|---|
| Separate Women's Washrooms | Absent in ~26% of complexes | Drives female advocates away from trial practice; humiliates female litigants |
| Barrier-Free Access (PwD) | Absent in ~73% of complexes | Violates Rights of Persons with Disabilities Act; denies access to injured/seniors |

| | | |
|---|---|---|
| Functional Crèche Facilities | Present in < 5% of complexes | Precludes young mothers from participating in lower bar and bench |
| Dedicated Record Rooms | Saturated / Decaying in > 60% | Files tied in basta cloths; lost records trigger multi-year adjournments |
| Vulnerable Witness Deposition | Absent in ~89% of complexes | Witness intimidation inside crowded corridors; compromises criminal trials |

1. Hygiene and Gender Disregard: In an exhaustive spatial survey of 665 district court complexes across India conducted by the Vidhi Centre for Legal Policy, roughly 26% of complexes lacked functional, separate washrooms for women. Where toilets exist, they routinely lack running water, lockable doors, and sanitary waste disposal mechanisms. This acts as a structural barrier preventing women practitioners from sustaining active trial practice and subjects female litigants to humiliating conditions.

2. Accessibility Barriers: Over 70% of court complexes lack basic barrier-free access. Persons with disabilities (PwD), senior citizens, and injured litigants face steep stairs without ramps, functioning elevators, or tactile walkways. This directly violates the Rights of Persons with Disabilities Act, 2016.

3. Record-Keeping and File Preservation: Archival infrastructure in the trial courts is on the verge of physical breakdown. Thousands of bail records, evidentiary exhibits, and case dockets are tied with coarse cloth (basta) and stacked along corridors, open courtyards, and window sills. Termite infestations, water seepage during monsoons, and fire risks threaten evidence integrity. Lost case files (goshwara tracing failures) trigger adjournments lasting years, forcing litigants to file reconstitution petitions for papers that court registries misplaced.

4. Safety, Parking, and Litigant Amenities: Most district courts operate without dedicated public waiting areas, clean drinking water dispensers, or regulated parking zones. Lawyers, witnesses, under-trial prisoners, and casual visitors share congested corridors. Without secure perimeters, weapon-scanning gates, or baggage scanners, courtrooms have witnessed violent incidents in Delhi, Uttar Pradesh, and Bihar, turning spaces meant for dispute resolution into security risks.

### C. The Digital Illusion: Subordinate Courts and the e-Courts Reality

While official literature extols the successes of the e-Courts Integrated Mission Mode Project (Phases I through III), ground reality reveals a persistent digital divide between superior courts and the trial bench:

- **Virtual Hearings as an Urban Monologue:** High Courts quickly normalized hybrid hearings via high-speed optical fiber networks. Conversely, subordinate courts in tier-2 and tier-3 towns regularly struggle with unviable broadband, rolling power blackouts, and unmaintained hardware. Webcams and monitors distributed during Phase II often sit idle or locked in administrative storerooms.

- **Absence of Daily Order Sheets:** While the Supreme Court and High Courts upload signed daily orders within hours, thousands of trial courts take days, weeks, or months to upload simple procedural orders. In many munsif courts, the National Judicial Data Grid dashboard displays 'Order Not Uploaded' or 'Business Not Recorded' indefinitely. Litigants are forced to pay clerks and court runners for informal physical inspection just to ascertain whether an adjournment was granted.

- **Fictional E-Filing Systems:** In principle, e-filing portals exist across several district registries. In practice, registry staff routinely insist on submitting duplicate, physical paper books with court fees paid via physical stamp paper, citing software incompatibility, server failures, or absence of training. The result is not a paperless court, but a duplicative paper-and-digital process that increases transaction costs for lawyers and clients alike.

### D. Skewed Judge-to-Population Ratio and Judicial Burnout

The Law Commission of India, in its landmark 120th Report (1987), recommended expanding the judge-to-population ratio to 50 judges per million citizens. In its 245th Report (2014), the Commission reaffirmed the critical shortfall in trial judge capacity. As of 2026, India operates with an estimated 21 to 22 judges per million citizens—one of the lowest ratios among established democracies (contrasting sharply with the United States' ~100 and the United Kingdom's ~55 per million).

This structural shortage forces individual district judges to manage dockets exceeding 1,500 to 3,000 active cases. A trial judge is routinely forced to hear between 60 and 90 matters in a

single four-hour sitting. Simple arithmetic shows that a judge can dedicate barely three to four minutes to each matter. In this high-pressure environment, drafting analytical, well-reasoned orders is impossible; mechanical adjournments become a rational survival strategy for overwhelmed judicial officers.

**E. Cause-List Congestion and the Listing Crisis in Superior Courts**

The infrastructure crisis in the judiciary is not merely spatial; it is procedural. A prime example is the collapse of efficient listing management across major High Courts, notably the Bombay High Court and the Rajasthan High Court (both the Principal Seat at Jodhpur and the Jaipur Bench).

It has become common practice for 150 to over 250 cases to be listed before a single High Court bench on a regular working day. This practice has severe operational consequences:

- **The 'Non-Reaching' Phenomenon:** If a court sits for five hours (300 minutes) and dedicates an hour to urgent mentions, applications, and passing formal orders, it has 240 minutes left for the regular board. In a list of 200 cases, if the first five matters involve complex arguments lasting 40 minutes each, the bench cannot reach the remaining 195 cases.

- **Economic and Personal Toll:** Advocates, junior counsel, and litigants—many of whom travel hundreds of kilometers from rural districts to seats in Mumbai, Jodhpur, or Jaipur—wait all day only to hear the court master announce at 4:30 PM: 'Matters not reached are adjourned.'

- **Perverse Incentives:** When boards are routinely unmanageable, senior practitioners exploit the congestion to avoid hearings, while parties seeking urgent interlocutory protection are denied audience. The fundamental institutional process of case-flow management is largely non-existent.

**F. Governance, Tenure, and Structural Accountability Across Tiers**

1. The Retiring Age Disparity (62 vs. 65 Years): Under Article 217(1), a High Court judge retires at 62, whereas an Apex Court judge serves until 65 under Article 124(2). This three-year differential serves no functional or biological rationale. The demands on a High Court

judge—who sits on substantial division benches, manages heavy original and appellate rosters, and performs extensive administrative inspections of subordinate districts—are equal to or greater than those on an appellate judge at the Supreme Court. This differential creates structural vulnerabilities: it fosters a dynamic where sitting High Court judges, approaching 60 or 61, feel institutional pressure to seek elevation to the Supreme Court or post-retirement tribunal appointments, draining the High Courts of experienced judicial talent just as judges reach their peak institutional capacity.

2. Home-Cadre Postings vs. Conflict of Interest: The historical policy governing High Courts—partially rooted in the recommendations of the States Reorganization Commission (1955) and reiterated during the Second Judges Case—suggested that one-third of the judges in every High Court should come from outside the state, and that a Chief Justice should ordinarily be appointed from outside the host state. Over the last two decades, this policy has eroded. A substantial proportion of elevated advocates and judicial officers are retained directly within their home High Courts. While familiarity with local land tenure laws and state enactments is useful, posting a judge in their home state can foster institutional familiarity where judges adjudicate matters argued by former chamber partners, relatives, or influential members of local advocate bars, weakening the objective distance essential to public confidence.

3. The 'Master of the Roster' Protocol and Political Perception: The institutional legitimacy of the Supreme Court of India and various High Courts has faced sustained pressure regarding how cases are assigned. The Chief Justice's administrative prerogative as the 'Master of the Roster'—reaffirmed in State of Rajasthan v. Prakash Chand (1998) 1 SCC 1 and Asok Pande v. Supreme Court of India (2018) 5 SCC 341—establishes that the Chief Justice holds sole discretion over bench composition and case allocation. However, unchecked discretionary allocation has drawn sharp criticism, highlighted by the unprecedented January 12, 2018 Press Conference held by the four senior-most puisne judges of the Supreme Court. The absence of an objective, rule-based, or computerized algorithmic system for assigning sensitive writ petitions leaves superior courts vulnerable to allegations of executive-friendly bench-hunting and systemic bias.

4. The Union and States as Undisciplined Litigants: The Government of India and various State Governments remain the single largest litigator in the country, accounting for an estimated 46% to 50% of all pending cases. This litigation surge is exacerbated by dysfunctional legal

representation: government advocates and public prosecutors are often appointed through political patronage rather than competitive merit; departmental legal advisors routinely advise filing appeals against well-reasoned judgments merely to avoid future audit scrutiny; and ill-prepared government pleaders frequently request adjournments due to missing files or unissued departmental instructions.

## 9. Key Empirical & Structural Findings

| Finding Domain | Empirical & Operational Reality |
|---|---|
| Inverted Fiscal Pyramid | Roughly 88% of cases reside in District Courts, yet less than 15% of capital expenditure reaches trial court physical infrastructure. |
| CSS Execution Deadlock | State matching grants fail to materialize, and PWD delays result in substantial fund surrenders back to the Central exchequer. |
| Severe Spatial Gaps | 26% of district court complexes lack dedicated women's washrooms; 73% lack barrier-free entrances for persons with disabilities. |
| High Court Listing Gridlock | Benches in Bombay and Rajasthan routinely list 200+ cases per day, leaving barely 90 seconds per matter and guaranteeing mass adjournments. |
| Structural Governance Friction | The 62 vs 65 retirement age gap fuels elevation races; non-transparent roster assignment damages institutional credibility. |

## 10. Suggestions & Actionable Way Forward

**1. Statutory National Judicial Infrastructure Corporation (NJIC):** Parliament must enact legislation establishing a National Judicial Infrastructure Corporation (NJIC) with State Judicial Infrastructure Corporations (SJICs). The NJIC should function as an independent statutory authority headed by the Chief Justice of India, with dedicated

engineering and architectural wings, ending the execution monopoly of State PWDs. CSS funds should flow directly into non-lapsable escrow accounts managed by the Corporation.

**2. Mandatory Judicial Impact Assessments (JIA):** Parliament and state legislatures should be barred from enacting new civil or criminal statutes creating causes of action without a prior, independent Judicial Impact Assessment (JIA). Every draft bill must include a statutory Financial and Infrastructural Memorandum calculating anticipated case inflow and budgeting corresponding courtrooms and judicial posts.

**3. Reform of Cause-Lists and Algorithmic Case Allocation:** High Court rules must be amended to cap substantive matters listed before any single judge to no more than 45–50 cases per day. Procedural matters (service of notice, filing of rejoinders) must be delegated to Court Registrars. The subjective allocation of cases under the 'Master of the Roster' must be replaced by a transparent, auditable, and automated case-allocation algorithm.

**4. Harmonizing Judicial Tenures & Utilizing Article 224A:** Parliament must pass a constitutional amendment equalizing the retirement age of High Court and Supreme Court judges at 65 years. High Courts should institutionalize the appointment of retired judges under Article 224A to sit in specialized 'Arrears Clearing Benches' to resolve appeals older than seven years. A mandatory two-year cooling-off period must precede any post-retirement executive-appointed tribunal role.

**5. National Litigation Policy and Depoliticized Public Prosecution:** The Central and State Governments must enforce an effective National Litigation Policy with financial penalties for frivolous appeals. Empanelment of government advocates and public prosecutors must be transferred to an independent statutory selection board to guarantee merit-based representation.

## 11. Conclusion

The enduring narrative of India's judicial crisis is routinely reduced to numbers: millions of pending files, years of procedural delay, and low disposal velocities. This narrative fails to recognize that the judicial system cannot rise above the state of its physical, administrative, and technological foundations. The grassroots trial judiciary—the foundation that carries almost the entire weight of civil and criminal disputes—has been left to function with

fragmented resources, decaying storage systems, and precarious digital connections. Concurrently, superior courts risk institutional paralysis brought on by unchecked listing systems, opaque administrative protocols, and structural disincentives baked into judicial tenures.

Infrastructural reform cannot simply mean pouring concrete into new multi-story annexes or handing out laptops to judicial magistrates. It demands systemic institutional restructuring: freeing court capital from executive delay through a National Judicial Infrastructure Corporation, designing objective case-listing and roster protocols, treating trial court facilities with the dignity they demand, and ensuring that the Indian State acts as a disciplined litigant. Until the inverted pyramid is rebuilt on a stable foundation, access to justice will remain an empty promise for millions of ordinary citizens.

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