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## Pendency has made justice a game of patience in India

*This cannot go on. There must be a shift from courtroom firefighting to long-term institution-building*



In February, the SC demanded a status report on all HC judgments reserved before January 31, highlighting the silent tragedy of cases concluded but undecided

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In Franz Kafka's haunting parable *Before the Law*, a man waits all his life to gain access to the law, stopped by a doorkeeper who never denies him entry in clear terms, leading to an indefinite delay. As he dies, the man is told the entrance was meant for him alone. The gate shuts. He never entered.

This is the experience of millions of Indians today. The law isn't denied to them — it's simply never delivered. India's judicial system now groans under the weight of over 5 crore [pending cases](#) across courts. In subordinate courts, more than 50 per cent of these cases have been pending for over three years. According to government data presented in the [Rajya Sabha](#) in 2023, 1,514 cases in High Courts and 1,390 in subordinate and district courts have been pending for over 50 years. The pendency problem isn't just about bureaucratic inefficiency — it seems to be a constitutional breakdown.

### The pendency problem in numbers

The judiciary's burden is worsened by gaps in its capacity. According to the India Justice Report (IJR) 2025, the average judicial vacancy in High Courts is 33 per cent, with Allahabad HC at 51 per cent and Punjab & Haryana HC at 40 per cent. Subordinate courts fare no better, with an average vacancy of 21 per cent, and states like Meghalaya (43 per cent), Mizoram (39 per cent), and Ladakh (35 per cent) reaching alarming levels.

Meanwhile, there are only 15 judges for every 10 lakh Indians — a fraction of what the 1987 report of the Law Commission recommended: Fifty judges per 10 lakh people. The result? Cases pile up. Hearings are delayed. And justice remains out of reach. The Supreme Court, overwhelmed with its own backlog, has seen over 2,500 new pending cases added in early 2025 alone, as per SCC Observer. During the hearing of *Amit Sahni v. Union of India*, the [Delhi](#) High Court admitted that it was operating at just 60 per cent of its capacity, warning that delay at this scale “virtually amounts to denial of justice”.

In February, the SC demanded a status report on all HC judgments reserved before January 31, highlighting the silent tragedy of cases concluded but undecided.

### **Undertrials: The invisible victims**

Nowhere is the pendency crisis more visible than in India's prisons. As of December 2022, 76 per cent of India's prison population are undertrials — people not yet convicted of any crime. Shockingly, 22 per cent of them have been detained for one to three years, and 2.6 per cent for over five years. In Uttar Pradesh, which alone accounts for 22 per cent of all undertrials, many have waited over half a decade in jail, often for petty charges.

Bihar reports the highest share of undertrials at 89 per cent, while Mizoram recorded a steep increase from 57 per cent to 66 per cent in just one year. Recognising this, the SC has recently recommended the digitisation of all criminal appeals, the appointment of registrars for case management, and prioritisation of cases involving imprisoned accused. These are necessary first steps, but the underlying system must be repaired if they are to have any impact.

### **Cracks in the system: Infrastructure, budgets, and technology**

Despite an increase in [budget](#), there is considerable lag in infrastructural development. In 2022–23, India's sanctioned prison budget rose to Rs 8,725 crore — a 14.5 per cent increase. Seventeen states increased judicial spending more than their overall state expenditure. But systemic bottlenecks — vacancies, outdated infrastructure, and lack of digital capacity — continue to cripple outcomes. Staff vacancies in courts average 25 per cent in the HCs and 27 per cent in subordinate courts. In courts across India, e-Courts initiatives struggle due to poor connectivity, untrained personnel, and inadequate infrastructure.

Even technology, heralded as a panacea, remains a half-built scaffold. E-sewa Kendras, e-filing systems, and live-streaming of proceedings show promise, but their reach is uneven and often

symbolic. As the IJR cautions, “technology cannot substitute structural reform.” Moreover, India’s justice system remains fragmented. Police forces remain understaffed, with only 155 officers per 1 lakh population, well below the sanctioned 197. Forensic science labs face over 50 per cent vacancy rates, delaying investigations. Legal aid is crumbling. Paralegal volunteer deployment has dropped since 2019, and access at the grassroots is weakening.

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The proposed All India Judicial Services (AIJS) — a potentially game-changing reform to centralise and standardise judicial appointments — remains mired in political limbo. There is no national recruitment calendar, and many states fail to meet caste and gender representation quotas.

As Justice Sanjay Kishan Kaul, former SC judge, writes in the IJR foreword: “Justice reform is too important to be left solely to institutions — it must become a societal demand.” Pendency is no longer just a delay — it is a denial of democracy. It weakens economic enforcement, deepens inequality, and erodes faith in the Constitution. While reforms like digital tools, fast-track appointments, and increased funding are steps in the right direction, they must be tied to outcomes, not optics.

The IJR makes it clear: Only a whole-of-system reform, touching courts, police, prisons, legal aid, and forensics, can break the pendency deadlock. This requires political will, administrative coordination, and civil society pressure. Above all, it requires a shift from courtroom firefighting to long-term institution-building. Justice in India must not remain a game of patience. It must become a guarantee — timely, fair, and real.

*The writer teaches at Jindal global law school*

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