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Calling Out the Criticism of the Indian Judiciary

Context

- In societies seeking swift progress, **the temptation to find a scapegoat for structural failures** is strong and **in contemporary India, this tendency has found its latest target in the judiciary.**
- For many within the ruling establishment, **the courts have become convenient symbols of inefficiency and obstruction**, institutions that supposedly stand in the way of India's ambitions to become a Viksit Bharat, or developed nation.
- **Yet, this narrative, often repeated by influential policymakers**, distorts the judiciary's role within a constitutional democracy and **misdiagnoses the deeper causes of India's developmental challenges.**

Blaming the Judiciary: A Convenient Narrative

- Sanjeev Sanyal, a member of the Prime Minister's Economic Advisory Council, recently described the **judicial system as the single biggest hurdle to India's progress.**
- His claim, made at the Nyaya Nirman conference, is **emblematic of a broader rhetoric** that simplifies complex governance issues into a tale of judicial obstruction.
- While Sanyal's call for introspection within the justice system is not entirely misplaced, **his critique rests on sweeping generalisations that ignore the judiciary's structural constraints** and the government's own complicity in creating them.

Flawed Criticisms and Misplaced Blame

- Sanyal's argument falters at several points. **For instance, his reference to the failure of pre-suit mediations under Section 12A** of the Commercial Courts Act, 2015 **misattributes legislative inefficacy to judicial enforcement.**
- The provision mandating mediation was not devised by the courts but enacted by Parliament; **judges merely apply what legislators enact.**
- **Blaming the judiciary for the shortcomings of poorly drafted laws obscures the real issue:** the persistent problem of imprecise and reactive law-making in India.
- Similarly, **Sanyal's so-called 99-to-1 problem, that regulations are overcomplicated to prevent misuse by a minority**, misunderstands the source of legal complexity.
- The **judiciary does not create this problem**; rather, it inherits it from a legislative process prone to overregulation and vagueness.

- The **courts often serve as the last line of defence** when ambiguous laws collide with administrative arbitrariness.

The Government as the Largest Litigant and Myths About Workload and Vacations

• The Government as the Largest Litigant

- The **inefficiency of India's justice system cannot be analysed in isolation** from the behaviour of its largest litigant, the government itself.
- **Union and State authorities frequently clog court dockets** with frivolous or avoidable litigation.
- **Ministries pursue appeals against routine orders**, tax departments challenge minor decisions, and public enterprises engage in contractual disputes that could easily be resolved administratively.
- **Ordinary citizens, teachers, pensioners, and public servants, are compelled to litigate** for basic entitlements that should be delivered as a matter of course.
- The **resulting backlog is less a failure of judicial lethargy** than a reflection of bureaucratic irresponsibility and the absence of litigation discipline within government machinery.

• Myths About Workload and Vacations

- **Another popular misconception concerns the supposed indolence of judges.** Critics often cite short court hours and long vacations as evidence of inefficiency.
- **This perception, however, ignores the invisible labour that underpins judicial work.**
- **Judges routinely hear between 50 to 100 cases a day**, requiring extensive preparation, research, and deliberation outside formal court hours.
- **Vacations, far from being leisure periods**, often serve as time to write reserved judgments and manage pending caseloads.
- Considering the crushing volume of cases and persistent vacancies, **Indian judges work under some of the most demanding conditions in the world.**

Broader Problems Faced by Indian Judiciary

• Structural Flaws in Law-Making

- Much of the burden on the judiciary arises not from **inefficiency but from legislative and administrative incoherence.**
- **Recent criminal law reforms, which merely rebranded colonial-era codes as sanhitas without substantive innovation**, exemplify the government's penchant for cosmetic change.
- Likewise, **the proposed Income-Tax Act of 2025, marketed as a simplification effort**, merely substitutes one set of technical ambiguities for another.
- **Replacing legally entrenched terms like notwithstanding with irrespective may appear modern**, but it generates fresh uncertainty and invites new rounds of litigation.

- **Such instances reveal that the roots of legal confusion lie in imprecise drafting**, not in judicial interpretation.

- **The Real Crisis: Under-Resourced Courts**

- **Acknowledging the judiciary's limitations is essential**, but criticism must be grounded in reality.
- **Judicial delays are undeniable, yet they stem from chronic underfunding, outdated infrastructure**, and inadequate staffing, issues squarely within the executive's control.
- Vacancies in the lower judiciary, where most citizens encounter the justice system, remain alarmingly high.
- **These courts bear the brunt of procedural inefficiency, operating with minimal resources** while shouldering an overwhelming share of India's litigation load. Reform, therefore, must begin with capacity building, not vilification.

Conclusion

- The **narrative that India's judiciary is the single biggest hurdle** to development is **both misleading and dangerous**.
- It **diverts attention from the deeper structural flaws** in governance, legislation, and administration.
- **The courts are imperfect, yes, but they mirror rather than create the inefficiencies** that plague India's institutions.

Calling Out the Criticism of the Indian Judiciary FAQs

Q1. Why blaming the judiciary for India's slow development is misguided?

Ans. Blaming the judiciary is misguided because many of the system's problems arise from poor governance, vague laws, and excessive government litigation, not from judicial inefficiency itself.

Q2. What are the examples to show that legislative flaws are wrongly attributed to the courts?

Ans. Section 12A of the Commercial Courts Act, 2015, noting that it was created by Parliament, not by the judiciary, so its failure reflects poor drafting, not judicial obstruction.

Q3. How does the government contribute to judicial delays?

Ans. The government contributes to delays by being the largest litigant, filing unnecessary appeals, and forcing citizens to go to court for basic entitlements.

Q4. What are some common misconceptions about judges' work?

Ans. Judges handle massive caseloads and often work beyond court hours to write judgments and study cases.

Q5. What is the true path toward a "Viksit Bharat"?

Ans. True progress lies in strengthening judicial independence and improving governance, not in weakening or blaming the courts.

Source: **The Hindu**

Reforming Passive Euthanasia in India

Context:

- The U.K.'s proposed **Terminally Ill Adults (End of Life) Bill** allows physician-assisted dying for mentally competent adults with less than six months to live, pending House of Lords approval. This marks a major ethical and legal step aligning with trends in several Western nations.
- In contrast, **India recognizes only passive euthanasia** through Supreme Court rulings, avoiding active euthanasia due to cultural sensitivities, institutional limitations, and socio-economic realities.
- This article highlights how India, while refraining from adopting active euthanasia like the U.K., must reform its passive euthanasia framework.
- It explores the ethical, legal, and procedural challenges that make current provisions inaccessible and proposes digital, institutional, and educational reforms to ensure dignity in dying while safeguarding against misuse.

India's Ethical Conservatism on Euthanasia: Law in Principle, Barriers in Practice

- While passive euthanasia is legally recognised in India, stringent procedures—**advance directives, dual medical boards, and occasional judicial oversight**—render it practically inaccessible.
- Families often make end-of-life decisions informally, exposing doctors to legal risk and undermining the law's humane intent.
- In contrast, the U.K.'s progressive model rests on robust healthcare and institutional safeguards.
- India's fragmented system, coupled with social and religious sensitivities, makes active euthanasia risky, potentially coercing the vulnerable.
- Though **Article 21 ensures the right to die with dignity**, it does not extend to a right to be killed.
- Hence, India's cautious stance reflects ethical prudence aligned with its socio-economic realities.

Strengthening India's Passive Euthanasia Framework through Digital and Ethical Reforms

- Instead of moving toward active euthanasia, **India should improve its passive euthanasia system** by making it more humane, transparent, and efficient.
- Experts agree that the current process is overly complicated.
- A **national digital portal linked with Aadhaar** could allow patients to easily create, update, or revoke advance directives, with doctors verifying mental capacity and intent online.
- **Hospital ethics committees**—comprising senior doctors, a palliative care specialist, and an independent member—should be empowered to approve life-support withdrawal within 48 hours, while exceptional cases undergo higher review.
- Rather than relying on **slow and ineffective ombudsman models**, India could adopt a decentralised oversight mechanism using hospital-based digital dashboards and independent medical auditors.
- To prevent misuse, **essential safeguards like a seven-day cooling-off period**, psychological counselling, and palliative care reviews must be retained.

- Such reforms would balance compassion with caution and align India's end-of-life care system with global best practices.

Ensuring Dignity in Dying: The Road Ahead for India

- India must extend its **constitutional promise of dignity in life to dignity in dying by making passive euthanasia truly workable.**
- Rather than adopting the U.K.'s active euthanasia model, India should focus on digital reforms, empowering hospital-based ethics committees, and creating efficient yet non-burdensome oversight mechanisms.
- These measures align with Indian values, protect against misuse, and give patients greater autonomy.
- Equally important is integrating end-of-life ethics and legal education into medical training, ensuring doctors are equipped to handle such sensitive decisions.
- Public awareness campaigns should also promote open discussion on advance care planning.
- Only through trust, awareness, and compassionate implementation can India make its end-of-life care system both humane and effective.

Conclusion

- India's focus should remain on refining passive euthanasia through digital systems, ethical oversight, and awareness, ensuring end-of-life care is compassionate, accessible, and consistent with constitutional dignity.

Reforming Passive Euthanasia in India FAQs

Q1. What recent legislative move by the U.K. reignited global debate on euthanasia?

Ans. The U.K.'s Terminally Ill Adults (End of Life) Bill permits physician-assisted dying for competent adults expected to live less than six months, pending final approval.

Q2. How does India's stance on euthanasia differ from that of the U.K.?

Ans. India recognises only passive euthanasia through Supreme Court rulings, avoiding active euthanasia due to moral, cultural, and institutional constraints.

Q3. Why is passive euthanasia difficult to implement in India?

Ans. Complex procedures involving advance directives, dual medical boards, and judicial oversight make it slow and inaccessible, forcing families to act outside the legal framework.

Q4. What digital reforms are proposed to improve India's euthanasia process?

Ans. Creating a national Aadhaar-linked portal for advance directives and empowering hospital ethics committees for quick, transparent decisions within 48 hours are key proposals.

Q5. What additional measures are needed to ensure ethical end-of-life care in India?

Ans. Integrating end-of-life ethics in medical training, promoting public awareness, and maintaining safeguards like counselling and cooling-off periods are essential for humane implementation.

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