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Redefining Justice: Strategies for Legal System Improvement

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ABSTRACT

In a rapidly evolving society it is essential that the legal system adjust to meet the needs of the people it serves. The system is confronted by challenges that hinder its effectiveness: delay, intricate procedure and a substantial backlog have left litigants frustrated and have eroded public confidence in the courts. This article proposes a series of reforms designed to simplify legal processes, reduce delay and enhance transparency, and it identifies the domains in which reform is most needed, from revising long-standing statutes to enacting more effective legislation for an emerging modern world. Simplifying procedure would improve access to justice, and clearer language in legal documents would allow individuals to navigate the system independently and understand their rights and obligations. Efficiency matters equally, and modern technology should be integrated into legal processes to expedite proceedings. Promoting alternative mechanisms such as arbitration and mediation would relieve the strain on the courts, which in turn requires education and awareness campaigns that emphasise the benefits of alternative dispute resolution. Reforms of this kind would not only address the challenges the legal system faces but would strengthen the administration of justice, uphold the rule of law and secure equal access to justice for all. The process is a continuing one, and because of its complexity and its capacity for controversy every step should be taken only after thorough discussion and understanding.

Keywords: Legal system reformation, Access to justice, Judicial accountability, Transparency, Social justice

I. INTRODUCTION

Barack Obama once observed that “change will not come if we wait for some other person or some other time. We are the ones we’ve been waiting for. We are the change that we seek.”

Laws are made in and for a society so that its people may feel safe and enjoy their lives. There is always a motive behind the making of a law, and it is not always a good one. When a law made for a sound purpose ceases to match the situation it was meant to govern, it can become a tool by which people are trapped and exploited. Reform then ceases to be an option and becomes a necessity. Reforming the laws of a nation is a complex task and it sometimes attracts

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controversy. The pressures that create the need for reform are many: societal change, technological change, international obligations, emerging social problems, the closing of loopholes, cultural and demographic change, and modernisation. A few of the domains in which reform is needed are set out below. The list is not exhaustive, and there are many other domains in which reform is required.

II. ADMITTING THAT CHANGE IS REQUIRED

Before the process of reform can begin, the need for change must be accepted. Without that acceptance the correct changes cannot be made to the law. The step appears an easy one and is not, because those of rigid or orthodox mind prefer to keep their eyes closed and to behave as though all is well. It is for that reason that the pressure needed to make lawmakers realise that reform is the need of the hour is so often absent.

The position is changing, and people are becoming aware of their rights. It is now sometimes seen that citizens raise their voice even before a new law is implemented, when they find that it would violate their rights. That happened when the Government of India proposed the Live-stock and Livestock Products (Importation and Exportation) Bill, 2023, under which the import and export of live animals, including felines and canines, would have been permitted. Public resistance preceded its coming into force and the Bill was withdrawn.¹

III. IDENTIFYING THE LEGISLATION THAT NEEDS ALTERATION

Once it is accepted that change is required, the work of finding and sorting the laws and provisions that need it must be done. A committee, or a number of committees, may be constituted for the purpose, and each should include at least one expert in the subject being examined. After thorough examination the laws should be divided into categories:

- laws that are to be modified;
- laws that are to be repealed; and
- laws that are to be held over where deeper discussion is required.

The classification must be done clearly, so that important laws are not placed in the wrong category. The committee responsible should be accountable to all and at the same time should not be pressurised by any section of society. Its members must be fair and rational. To make the work easier they may also ask the public what it wants, through whatever medium the committee considers suitable, because it is the public that will be most affected by the changes.

¹ *Explainer: Why the Livestock Bill Was Withdrawn*, FIN. EXPRESS, <https://www.financialexpress.com/india-news/explainer-why-the-livestock-bill-was-withdrawn/3140298/> (last visited Aug. 14, 2026).

The committee should reach its conclusions with the ground reality in mind and with a long-term vision.

Once the laws are sorted they must be dealt with according to the category in which they fall. Those to be modified must be amended by the procedure prescribed for them, and those to be repealed must be repealed only after due process of law.

The aspects in which reform is needed include the following.

IV. REFORM IN THE SENTENCE OF IMPRISONMENT

Whenever reform of the judicial system is discussed, one of the most common demands is that punishment for offences be made more stringent. The demand is made because the gravity of offending has increased while the punishment has not, and because some conduct attracts no punishment at all, marital rape and the rape of men being examples of conduct that is still not recognised as an offence.

Leaving aside conduct that is not recognised, there are many recognised offences for which the punishment is minimal. Section 510 of the Indian Penal Code, 1860, which deals with misconduct in public by a drunken person, prescribes simple imprisonment of twenty-four hours or a fine of ten rupees or both.² Section 160, which prescribes punishment for committing an affray, extends to imprisonment of one month or a fine of one hundred rupees or both.³

Against offences whose punishment is minimal in comparison with their impact on society stand statutes such as the Unlawful Activities (Prevention) Act, 1967, known as the anti-terror law, whose object is to deal with activities directed against the sovereignty and integrity of India.⁴ Critics argue that the Act is now being misused, particularly after the amendment of 2019, which empowers the Union Government to designate an individual as a terrorist.⁵ Similar criticism is made of the National Security Act, 1980, under which a person may be detained for up to twelve months by the Centre or a State Government without a formal charge.⁶ The National Crime Records Bureau, which collects data on crime in India, does not include cases under the National Security Act, because no first information report is registered in them,⁷ and

² The Indian Penal Code, 1860, § 510, No. 45, Acts of Parliament, 1860 (India).

³ *Id.* § 160.

⁴ The Unlawful Activities (Prevention) Act, 1967, No. 37, Acts of Parliament, 1967 (India).

⁵ *UAPA: How the BJP Government Has Used the Anti-Terror Law*, THE WIRE, <https://thewire.in/rights/uapa-bjp-terrorist-amit-shah-nia> (last visited Aug. 14, 2026).

⁶ The National Security Act, 1980, No. 65, Acts of Parliament, 1980 (India); *National Security Act*, CLEARIAS, <https://www.clearias.com/national-security-act/> (last visited Aug. 14, 2026).

⁷ *Everything You Need to Know About the National Security Act*, INDIATIMES, <https://www.indiatimes.com/explainers/news/everything-you-need-to-know-about-national-security-act-what-is-it-and-who-can-invoke-it-596618.html> (last visited Aug. 14, 2026).

there is accordingly no reliable source from which the number of persons detained under that Act may be known. Statutes of this kind are necessary for the protection of the country and its citizens. Where they operate without the ordinary process of law, however, they leave the person affected feeling that he has been treated as guilty without an opportunity to establish his innocence, which sits uneasily with the principle that a person is innocent until proven guilty.

Punishments must therefore be revised from time to time, and the endeavour must be to ensure that the punishment prescribed is adequate to the offence.

V. RAISING THE QUANTUM OF MONETARY PENALTY

Apart from imprisonment, a fine is also a form of punishment, and in many cases the quantum of the fine has not been revised since the statute was enacted. Sections 510 and 160 of the Indian Penal Code, discussed above, prescribe fines of ten rupees and one hundred rupees respectively, and there are many further examples in that Code alone where the punishment is a fine of a few hundred rupees.

The problem is not confined to the Penal Code. There are other statutes, such as the Arms Act, 1959, in which the amount of the fine has not been revised since implementation. The quantum of fine under some enactments, such as the Aircraft Act, 1934, has been revised from time to time, which shows that change in this domain is possible.

Revising the figures in every provision that requires it is not an easy task. One method that may be used is to amend the provisions in bulk, so that every provision prescribing a fine below a stated figure, say one thousand rupees, is raised to a higher figure that appears justified.

VI. IMPLEMENTING AND PROMOTING GENDER NEUTRALITY IN LEGISLATION

A demand raised with increasing frequency is that the law be made gender neutral. The demand appears justified to a considerable extent, because Article 14 of the Constitution of India speaks of equality, and a peaceful and harmonious society is one that gives equal rights and status to everyone irrespective of gender.⁸ At the level of practice, reform in this area is needed because the law as it stands is capable of being misused by parties to serve ulterior ends.

Considered from the position of women, discrimination persists in a number of respects. The minimum age of marriage is twenty-one for men and eighteen for women. In matters of inheritance the provisions differ across personal laws, and some of them do not give women a proper share: under Muslim law the share of a female heir is generally half that of a male heir. The property rights of married women are often less well protected than those of unmarried

⁸ INDIA CONST. art. 14.

women. Statutes such as the Indian Succession Act, 1925 and the Hindu Succession Act, 1956 have taken steps to give women an equal share in property, but for want of awareness of those rights many women are unable to claim their share. Once the law is reformed it cannot simply be left to the mercy of those it governs, because a law that is not properly publicised is of no use.

Considered from the position of men, rape law is the provision most commonly said to be used to harass or to extort money. The offence of rape under Section 375 of the Indian Penal Code could be committed only by a man upon a woman, and the section said nothing of the rape of men or of transgender persons. One estimate places the proportion of men who have experienced completed or attempted rape at nearly one in thirty-eight, although that figure derives from data collected in the United States rather than in India.⁹ There are other spheres in which men face disadvantage: maintenance, where their claims are largely ignored; adoption, where a single man may not adopt a girl child unless the difference in age between them is at least twenty-one years; and the misuse of Section 498A against the relatives of a husband. Statutes such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the Protection of Women from Domestic Violence Act, 2005 protect women alone, and they should be amended to be gender neutral so far as possible, because the problems they address are faced by men as well. That less is said when these things happen to men does not mean that the protection of law is not needed.

Beyond these two genders, the rights of those who fall into neither are often forgotten. The Penal Code spoke only of rights and offences committed by or against a man or a woman, and made no mention of the transgender community. Because personal laws likewise make no mention of that community, its members find it difficult to participate in occasions such as marriage, adoption and divorce. The Supreme Court in *National Legal Services Authority v. Union of India* held that transgender persons are legally recognised as a third gender and are entitled to the fundamental rights guaranteed by Articles 14, 15, 16, 19(1)(a) and 21 of the Constitution equally with any other citizen,¹⁰ and the Kerala High Court in *Kabeer C. alias Aneera Kabeer v. State of Kerala* observed that proper steps should be taken to ensure the issue of gender identity cards and ration cards to transgender persons.¹¹ Members of that community

⁹ Jahnvi Mehta, *Sexual Violence Against Men in India*, LEGAL SERVICE INDIA (2023), <https://www.legalserviceindia.com/legal/article-4685-sexual-violence-against-men-in-india.html>. The underlying estimate is drawn from data collected in the United States and is not an Indian figure.

¹⁰ *National Legal Services Authority v. Union of India*, (2014) 5 S.C.C. 438 (India).

¹¹ *Kabeer C. alias Aneera Kabeer v. State of Kerala*, (Ker. H.C. June 8, 2020) (India). See also NYAAYA, *Guide on the Rights of Transgender Persons in India*, <https://nyaaya.org/resource/guide-on-the-rights-of-transgender-persons-in-india/> (last visited Aug. 14, 2026).

nonetheless continue to face difficulty in daily life,¹² because the law has not been reformed and revised in the wake of those judgments.

Discrimination exists in some areas of society, and special provisions for the benefit of those affected are therefore necessary. If the idea of equality that the Preamble proclaims is to be achieved, however, the law of the nation must be gender neutral in a true sense and so far as it can be for everyone.

VII. RECOGNITION OF SAME-SEX MARRIAGE

In *Navtej Singh Johar v. Union of India* the Supreme Court decriminalised consensual sexual relations between adults of the same sex,¹³ but same-sex marriage has not been legalised, and its legalisation is widely demanded. The Census of 2011 recorded approximately 4.88 lakh persons in the “other” gender category,¹⁴ and a survey by the Pew Research Center found that about fifty-three per cent of Indian adults support the legalisation of same-sex marriage.¹⁵ When the demand was pressed, a five-judge Bench of the Supreme Court was constituted in *Supriyo alias Supriya Chakraborty v. Union of India* to consider the question.

The Bench comprised Chief Justice D.Y. Chandrachud and Justices Sanjay Kishan Kaul, S. Ravindra Bhat, Hima Kohli and P.S. Narasimha. On 17 October 2023 the Court declined to recognise a right to marry for same-sex couples, holding that the creation of such a right is a matter for the legislature, and it directed the Union Government to constitute a committee to examine the entitlements that may be extended to same-sex couples short of marriage.¹⁶

Had the decision gone the other way, considerable changes would have been required in the law of marriage, divorce, inheritance, property and maintenance, and the scale of those consequential changes may itself explain part of the resistance to legalisation. Whatever course the law takes, care must also be taken that no misinformation is spread that could provoke public outrage, and initiatives should be taken alongside any reform to help the general public understand that members of the transgender community are no different from anyone else and are entitled to every right enjoyed by any other person living in this country.

¹² Explained: Major Challenges Faced by Transgenders in India, INDIATIMES, <https://www.indiatimes.com/explainers/news/explained-major-challenges-faced-by-transgenders-in-india-606619.html> (last visited Aug. 14, 2026).

¹³ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India).

¹⁴ OFFICE OF THE REGISTRAR GEN. & CENSUS COMM’R, INDIA, *Census of India 2011: Primary Census Abstract* (2011).

¹⁵ 53% of Adults in India Support Legalisation of Same-Sex Marriages, Finds Pew Research Center, THE WIRE, <https://thewire.in/lgbtqia/53-of-adults-in-india-support-legalisation-of-same-sex-marriages-finds-pew-research-center> (last visited Aug. 14, 2026).

¹⁶ *Supriyo alias Supriya Chakraborty v. Union of India*, (2023) S.C.C. OnLine S.C. 1348 (India).

VIII. COMPENSATING VICTIMS OF WRONGFUL PROSECUTION

Where an accused is treated as a criminal before being found guilty and without an opportunity to establish his innocence, as under the National Security Act discussed above, a damaging impression of the justice system is created in the mind of the ordinary citizen. It is also frequently reported that cases which drew attention some years earlier have turned out to be false. According to data published by the National Crime Records Bureau, seventy-four per cent of prosecutions for rape under Section 376 of the Indian Penal Code, now Section 64 of the Bharatiya Nyaya Sanhita, 2023, end in acquittal.¹⁷ There are many reasons for this: the victim turning hostile, settlement outside court, and violence against witnesses and survivors causing them to withdraw their complaints, as well as cases that were false from the outset. It does not follow that nothing happened in all such cases. In recent years a number of cases have come to light that were made only to extort money or to take revenge. There are also cases in which a person who was no more than an accused at the initial stage was treated by media trial as though he were guilty, with the result that society too regarded him as a criminal; and by the time the trial concluded and it emerged that he was innocent and that the other party had misused the law, he had already spent years in custody.¹⁸ When such a person is at last declared not guilty, the same attention is not given to the acquittal, and even where it is, he cannot resume the life he led before the accusation. Some in society continue not to regard him as innocent, placing their own notions above the law of the land, and that bias does not allow innocent people to live in peace.

The decision of a court carries higher value and importance than the notions of the public, but it cannot be ignored that a person is a social being who prefers to live within society. It is for that reason that it is said in the law of defamation that reputation is as valuable as property and sometimes more so. Even after obtaining justice from a court, a person who is not acknowledged as innocent by those around him may feel little relief.

No amount of money can restore peace of mind to a person and his family or return the time spent in prison. Steps should nonetheless be taken where, after trial, the case turns out not to be genuine. By awarding monetary compensation against the opposite party and taking such strict

¹⁷ The Bharatiya Nyaya Sanhita, 2023, § 64, No. 45, Acts of Parliament, 2023 (India); TNN, *We Need a Movement Like #MenToo Because Crime Has No Gender*, TIMES OF INDIA (May 17, 2019), <https://timesofindia.indiatimes.com/city/delhi/we-need-a-movement-like-mentoo-because-crime-has-no-gender/articleshow/69366657.cms>.

¹⁸ Sanbeer Singh Ranhotra, *Man Spends 20 Years in Jail Under False Rape Charges Under SC/ST Act*, TFIPOST (Feb. 24, 2021), <https://tfipost.com/2021/02/man-spends-20-years-in-jail-under-false-rape-charges-under-sc-st-act/>.

action as is found suitable, courts can demonstrate that false cases are not entertained and that heavy consequences follow from bringing them.

Some political parties have launched legal helplines to assist their workers in dealing with false cases.¹⁹ A helpline of that kind should be established at the national level, offering the accused legal assistance and representation in court. So far as possible, and in the same way that the name of a complainant in a rape case is not disclosed, efforts should be made to ensure that the name of the accused is not disclosed until the case is concluded, so that where the case turns out not to be genuine the identity of the accused is not damaged and he may continue his life in peace.

IX. STRINGENT REGULATION FOR THE CONSERVATION OF BIODIVERSITY

India is known for its rich biodiversity, and numerous species of animals and plants are found here and nowhere else. It is the duty of every citizen to protect and conserve them. Reports suggest, however, that the rate at which biodiversity is being destroyed has left many species that were common a few years ago either on the verge of extinction or extinct. A report published by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services in 2019 estimated that around one million plant and animal species are threatened with extinction.²⁰ Another report found that India ranks second in deforestation, with around 6,68,400 hectares of forest destroyed in the five years between 2015 and 2020.²¹ Scientists have described the present period as a sixth mass extinction, termed the Holocene extinction event, and the current rate of extinction is estimated to be between one thousand and ten thousand times the natural rate. The causes include the destruction of natural habitat by deforestation, the conversion of land to farming, hunting and illegal trafficking, pollution and urbanisation.

The loss of biodiversity is not the loss of plants and animals alone; it has adverse effects on the human population. Biodiversity supports human and societal needs as well as economic opportunity and leisure, and human health ultimately depends on ecosystem products and services. Changes in an ecosystem affect livelihood, income and local migration, directly or

¹⁹ Bharath Joshi, *Karnataka: BJP Launches Legal Aid Helpline for Cadre Facing False Cases*, DECCAN HERALD (June 11, 2023), <https://www.deccanherald.com/state/karnataka-politics/karnataka-bjp-launches-legal-aid-helpline-for-cadre-facing-false-cases-1226733.html>.

²⁰ Deutsche Welle, *How Biodiversity Loss Jeopardises Human Health*, INDIAN EXPRESS (2023), <https://indianexpress.com/article/explained/explained-health/biodiversity-loss-jeopardises-human-health-explained-8546821/>.

²¹ *India Lost 6,68,400 ha Forests in 5 Years, 2nd Highest Globally: Report*, DOWN TO EARTH, <https://www.downtoearth.org.in/news/wildlife-biodiversity/india-lost-668-400-ha-forests-in-5-years-2nd-highest-globally-report-88337> (last visited Aug. 14, 2026).

indirectly, and may give rise to political conflict. The loss of biodiversity may also foreclose the discovery of treatments for diseases.

Statutes of general application such as the Environment (Protection) Act, 1986, the Biological Diversity Act, 2002, the Wild Life (Protection) Act, 1972 and the National Green Tribunal Act, 2010, together with more specific enactments such as the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974, the Forest (Conservation) Act, 1980 and the Noise Pollution (Regulation and Control) Rules, 2000, already exist for the protection of the environment and of biodiversity. These laws appear strong on paper. In practice the ordinary citizen, particularly in a country where bonds between people are strong, prefers to let a matter go as a small issue rather than exercise his rights and see the wrongdoer punished, and in a materialistic age people give little thought to the environment.

The position is changing, though slowly. The Swachh Bharat Abhiyan was launched in 2014, and in July 2022 a ban was imposed on single-use plastic items. At the international level, and with the aid of Article 253 of the Constitution, which provides for legislation to give effect to international agreements, India has become party to a number of instruments, among them the Ramsar Convention of 1971, the Convention on International Trade in Endangered Species of 1973 and the Stockholm Convention of 2001, as well as the Montreal Protocol of 1987, the Kyoto Protocol of 1997 and the Paris Agreement of 2015. Some treaties and policies have not produced the intended result for want of proper implementation and of awareness of them.^{22,23} Some agreements contain no penalty clause for non-compliance, so that states do not concentrate on achieving their objectives. No policy will yield fruitful results until government and citizen come together to make it succeed. Until the law is reformed and strict rules are made and enforced, a better environmental future will remain an aspiration.

X. PROMOTING THE INDEPENDENCE OF THE ORGANS OF GOVERNMENT

A brief overview of the provisions concerning the separation of the organs of government is set out below.

The legislature is the body with power to enact, amend and repeal law. The Seventh Schedule to the Constitution contains three Lists setting out the subjects on which the different legislatures may make law, and Article 246 provides that laws on subjects in the Union List may

²² Ujwal Bommakanti, *Single-Use Plastic Continues to Clog City as Ban Turns Dud*, TIMES OF INDIA (2023), <https://timesofindia.indiatimes.com/city/hyderabad/single-use-plastic-continues-to-clog-city-as-ban-turns-dud/articleshow/101557704.cms>.

²³ See generally PROC. NAT'L ACAD. SCI., <https://www.pnas.org/doi/10.1073/pnas.2122854119> (last visited Aug. 14, 2026).

be made by Parliament, laws on subjects in the State List by the State Legislature, and laws on subjects in the Concurrent List by either.

The principal function of the executive is to implement the law made by the legislature. The executive is also engaged in many other functions, military, financial and administrative among them.

India has a single unified judicial system, and the function of the judiciary is to interpret the law, settle disputes and, above all, to do justice. Article 50 of the Constitution provides that the State shall take steps to separate the judiciary from the executive, and Articles 122 and 212 provide that the courts shall not inquire into the proceedings of Parliament and of the State Legislatures respectively.

When the Constitution was framed, its framers took the view that the doctrine of separation of powers should not be applied in the strict sense in which it is applied in the United States, but in such a manner that each organ, while working within its own sphere, does not interfere in the working of the others and yet keeps a check upon them. That was done to increase the efficiency of the organs. The system of checks and balances has since been extended so far that the organs now work under an apprehension that a decision taken contrary to another organ will bring consequences.

The task of making law belongs to the legislature. It is sometimes seen that laws brought for the betterment of the public are halted and opposed, whether because the thinking of the legislature and of the judiciary is not aligned or because of impatience for justice. The other side of the coin is that the legislature itself sometimes treats the other organs wrongfully. There are occasions on which the judiciary strikes down a law as unconstitutional and the legislature, by amending the Constitution or introducing a new statute, renders that decision nugatory. A well-known example is the Muslim Women (Protection of Rights on Divorce) Act, 1986, which displaced the effect of the decision in *Mohd. Ahmed Khan v. Shah Bano Begum*,²⁴ a decision that had given a divorced Muslim woman a right of maintenance, and which limited the period for which a woman may claim maintenance from her husband.

As to the executive, Article 352 of the Constitution provides that the President may proclaim a national emergency, and also that the decision of the Union Cabinet must be communicated to the President. In 1975, when the Allahabad High Court set aside the election of the then Prime Minister and debarred her from contesting elections for six years, and the Supreme Court on 24 June 1975 granted a conditional stay while restraining her from taking part in parliamentary

²⁴ *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India).

proceedings, a nationwide emergency was declared the following day, on 25 June 1975.²⁵ That period of twenty-one months has been described as the darkest phase in Indian history.²⁶ Executive interference in the working of the legislature may also be seen in what is called the pocket veto, by which the President may withhold assent to a Bill for an indefinite period, causing significant delay in the passage of important legislation. Article 72, which empowers the President to grant pardons and commute sentences, likewise permits the executive to affect the outcome of judicial proceedings.

The apex body of the Indian judiciary is the Supreme Court, which consists of the Chief Justice of India and other judges appointed through the collegium system. The President and the Prime Minister both have a part in the process of appointment. The Chief Justice, after consulting other judges, makes recommendations to the Union Minister of Law and Justice, who forwards them to the Prime Minister, who advises the President in the matter of appointment under Article 124(2). Although the advice of the President is not binding, the length of the process leads to considerable delay in the appointment of judges, and since the judiciary is already short of judges, that delay adds to the burden borne by the existing strength.²⁷ The judiciary is not weak either. Through Article 13, which is the foundation of judicial review, the courts may examine the actions of the other organs of government and may declare a law void where it is inconsistent with the Constitution. That power may prevent a law from coming into existence, and where a law already exists it may prevent it from operating. It can also delay the introduction of progressive legislation.

The discussion above considers only some of the provisions that appear to hinder the progress of society and of the organs themselves. It is to India's advantage that a flexible doctrine of separation of powers was adopted, since it allows each organ to work within its own sphere while keeping a check on the others. There is nonetheless a considerable difference between keeping a check on the working of another organ and interfering in it. Active steps are needed from each organ on its own behalf, so that the mechanism works without extraordinary effort from any other organ and so that confidence exists that every organ can and will function properly.

²⁵ Swapnanil Chatterjee, *What Led the Indira Gandhi-Led Congress Govt to Declare Emergency? Dark Days Explained*, REPUBLIC WORLD (2023), <https://www.republicworld.com/india-news/general-news/what-led-the-indira-gandhi-led-congress-govt-to-declare-emergency-dark-days-explained-articleshow.html>.

²⁶ Manoj Mitta, *Darkest Phase of India's History: When the Supreme Court Failed to Uphold Fundamental Rights*, TIMES OF INDIA BLOG (Aug. 11, 2023), <https://timesofindia.indiatimes.com/blogs/Legalairs/darkest-phase-of-indias-history-reminiscent-of-the-worst-of-the-colonial-times/>.

²⁷ *50 Judges per 10 Lakh Needed to Reduce Case Pendency in India: Supreme Court Judge*, NDTV, <https://www.ndtv.com/india-news/50-judges-per-10-lakh-needed-to-reduce-case-pendency-in-india-supreme-court-judge-3660831> (last visited Aug. 14, 2026).

XI. REDUCING THE PENDENCY OF CASES

As of 31 December 2022 around five crore cases were pending in the Indian courts, of which more than eighty-five per cent were in the district and subordinate courts.²⁸ When the question is raised how that number may be controlled and reduced, the solutions usually offered are superficial. One common suggestion is that because the number of judges is small it should be increased. The total number of judges is indeed far smaller than the number of cases requires, but recruiting more judges will not by itself solve the problem, because it offers no guarantee of judgments of quality delivered at a faster pace, and a judgment given on an incorrect basis leads in turn to further appeals. Increasing the number of judges also increases the transfers of judges, which delays the conclusion of cases, since a newly transferred judge needs time to read and understand them.

Another suggestion is that the working days of the courts are too few, that fewer cases are disposed of in consequence, and that the number of productive days should be increased. The suggestion appears justified when the figures are seen. The trial courts work for around 245 days in a year, the High Courts for around 210 days and the Supreme Court for approximately 193 days.²⁹ Set against other professions, which work for many more days, the figures suggest that fewer vacations should be taken until the backlog is covered. Seen from the position of the judges, however, those vacations are needed. Delivering a judgment is not an easy task, and a life may be ruined by a small mistake. The vacations exist to give the mind rest, and not all courts close during them, since vacation benches deal with cases regularly. What may be done is to introduce a rotation, so that when one set of judges takes vacation another handles part of its work, and the position is reversed on their return. Vacation and work can in that way continue side by side without much loss.

The purpose of the discussion above is to show that superficial solutions cannot improve the position by much. If improvement is genuinely wanted, changes must be made at every level, and an important step is to simplify processes. Without proper guidance an ordinary person cannot discover even the status of his own case. With advances in technology the courts are now able to carry out their work with greater ease, and to the benefit of the parties: a case may be tracked through the website or application of the court concerned, complaints may be filed online, and documents may be registered and prepared online. Alongside this, the practice of

²⁸ *Nearly 5 Crore Pending Cases in Courts, Over 69,000 in Supreme Court*, NDTV, <https://www.ndtv.com/india-news/nearly-5-crore-pending-cases-in-courts-over-69-000-in-supreme-court-3768720> (last visited Aug. 14, 2026).

²⁹ *Court Vacations*, DRISHTI IAS (Dec. 19, 2022), <https://www.drishtiias.com/daily-updates/daily-news-analysis/court-vacations>.

granting long adjournments, and adjournments for trivial reasons, should be brought under control. Because a person is presumed innocent until proven guilty, judges must give each party the opportunity to defend itself, and advocates frequently use that opportunity to delay, which causes difficulty to the other party and leads some litigants to settle or withdraw. Long adjournments also mean that the judge may himself lose the thread of the facts, which is a serious matter for a party where an important point is overlooked. The practice should therefore be controlled unless an adjournment is necessary, and limits should be set and observed.

New mechanisms such as public interest litigation and alternative dispute resolution have emerged in recent years, and with them the number of cases and the burden on judges has grown. To meet this, quality education in the new mechanisms should be provided and, where possible, special training programmes should be held so that the judiciary and those concerned remain current with emerging issues. That will assist in the understanding of new questions and will lead to faster disposal of cases that are otherwise delayed for want of proper information. A further area for reform is the continued reliance on paper in the lower courts. Case records, files and other necessary documents are kept in paper form alone, and if an important page is lost the whole case may be shaken. The infrastructure of the courts should therefore be modernised, which will speed the process and make it easier for everyone.

XII. PROMOTING THE USE OF ALTERNATIVE DISPUTE RESOLUTION

A former Chief Justice of India, Dr A.S. Anand, expressed the wish that the coming century would be a century not of litigation but of negotiation, conciliation and arbitration.³⁰ As the courts in India are heavily burdened, a shift is needed from the traditional forum, and other modes of resolution should be adopted, followed and encouraged. Arbitration, conciliation, lok adalat, mediation and negotiation seek to settle disputes at a faster pace than the courts and help to restore relations between the parties, because they aim at an outcome in which both sides gain. Section 89 of the Code of Civil Procedure, 1908 provides for the settlement of disputes outside the court through those mechanisms,³¹ and special statutes have been enacted to govern them, among them the Arbitration and Conciliation Act, 1996³² and the Legal Services Authorities Act, 1987.³³

The difficulty is that many people do not prefer alternative dispute resolution, in the belief that a decision of a court stands higher than one reached through those mechanisms. The system is

³⁰ LAW COMM'N OF INDIA, *Need for Justice-Dispensation Through ADR etc.*, Report No. 222 (2009), <https://indiankanoon.org/doc/93239358/>.

³¹ The Code of Civil Procedure, 1908, § 89, No. 5, Acts of Parliament, 1908 (India).

³² The Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India).

³³ The Legal Services Authorities Act, 1987, No. 39, Acts of Parliament, 1987 (India).

party-friendly and less technical, but for want of awareness and of trust litigants who have gone to it return to the courts to settle their disputes. Work is therefore needed on promoting these modes and not merely on creating them, as the example of the lok adalat shows, which is far better known at the ground level across every income group and which is held every month at specified places from the Supreme Court down to the taluk level.

It is said that these methods are less expensive than litigation, but the reality is otherwise. Although parties may appear without an advocate, most prefer to engage one, in the belief that an advocate knows better than an ordinary person how the law and the system work, and the fees charged make the system less affordable than it appears.

A further difficulty is that parties who begin in court and find after years of litigation that they are not obtaining what they expected then seek a compromise with the opposite party, and courts have on occasion imposed a penalty on the parties for having wasted the time of the court.^{34,35} The prospect of such a penalty deters parties from settling outside court without an order or permission. The reasoning of the courts is sound, since every pending case adds to the burden on the system and delays decisions in others. Since the imposition of a penalty is not a rule, however, and since the object of the system is to do justice, courts should encourage out-of-court settlement so as to ease the burden on the parties and on themselves, and should be open to discussing it. Litigants for their part should place trust in other methods of resolving disputes and, where it is possible and appropriate, should try them.

XIII. REFORMING DATA PROTECTION REGULATION

Data is sometimes described as the new oil, and with the pace of technological change it may be said to be considerably more valuable than that. One who understands the true value of data can use it to the benefit or to the harm of society. In monetary terms, a report by IBM put the average cost incurred by organisations from a data breach at approximately 4.35 million United States dollars, and found that about eighty-three per cent of organisations had experienced more than one breach.³⁶ Recent breaches in India include the following.

- In February 2021 the database of Air India was compromised and the personal information of about 4.5 million customers was taken.³⁷

³⁴ TNN, *Gujarat High Court Fines Litigant Twice for Wasting Court's Time*, TIMES OF INDIA (Oct. 26, 2012), <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-high-court-fines-litigant-twice-for-wasting-courts-time/articleshow/16960861.cms>.

³⁵ Indu Bhan, *Verdict Corner: Making a Case for the Time Wasted*, FIN. EXPRESS (Apr. 22, 2016), <https://www.financialexpress.com/opinion/verdict-corner-making-a-case-for-the-time-wasted/241165/>.

³⁶ IBM, *Cost of a Data Breach Report* (2023), <https://www.ibm.com/reports/data-breach>.

³⁷ *Air India's Data Breach: Data Security Is More Crucial Than Ever*, CRYPTOMATHIC (June 25, 2021), <https://www.cryptomathic.com/blog/air-indias-massive-data-breach-compliance-to-major-rules-of-data-security->

- In April 2021 information comprising 18 million orders placed with Domino's Pizza India was taken and offered for sale on a hacking forum.³⁸
- Data held on the CoWIN platform, including names, mobile numbers and Aadhaar details, was leaked through a messaging application.³⁹
- Breaches on a comparable scale continue at the international level.⁴⁰

The Information Technology Act, 2000 contains provisions dealing with breach of confidentiality,⁴¹ but for many years India lacked specific legislation on data protection and privacy. A Bill introduced in 2019 was withdrawn, and the Digital Personal Data Protection Act, 2023 was subsequently enacted for the protection of the data of users and for the punishment of those by whom it is compromised.⁴² There remains a considerable distance to travel before the law in this domain is settled. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, known as the right to privacy judgment, the Supreme Court held that the right to privacy is a fundamental right protected by Articles 14, 19 and 21 of the Constitution,⁴³ but there is still no clear statement in law of what privacy includes and what it does not.

Artificial intelligence has become the subject of daily report, whether of examinations passed or of lives saved, of its introduction into schools or of its prohibition. A blanket ban is never a solution, and rather than treating the technology as a threat and retreating from it, the effort should be to understand it and to live with it, since it is not the future but the present. As advances continue, those who would misuse the technology have not held back, and there is evidence of people being defrauded through it.^{44,45} If citizens are to be protected, legislation on these subjects is the need of the hour.

of-more-important-than-ever.

³⁸ *Top 7 Data Breach Incidents in India*, ET EDGE INSIGHTS, <https://etinsights.et-edge.com/top-7-data-breach-incidents-in-india/> (last visited Aug. 14, 2026).

³⁹ Danny D'Cruze, *CoWIN Data Leak: Hacker Explains How He Managed to Get Aadhaar, PAN, Address, Other Details of Users*, BUSINESS TODAY (June 13, 2023), <https://www.businesstoday.in/technology/news/story/cowin-data-leak-hacker-explains-how-he-managed-to-get-aadhaar-pan-address-other-details-of-users-385320-2023-06-13>.

⁴⁰ Abi Tyas Tunggal, *The 72 Biggest Data Breaches of All Time*, UPGUARD (Nov. 18, 2024), <https://www.upguard.com/blog/biggest-data-breaches>.

⁴¹ The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

⁴² The Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India).

⁴³ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

⁴⁴ Shibimol K.G., *In Kerala's First AI-Aided Scam, Man Extorts Rs 40,000 over WhatsApp Video Call*, INDIA TODAY (July 17, 2023), <https://www.indiatoday.in/india/story/in-keralas-first-ai-aided-scam-man-extorts-rs-40000-over-whatsapp-video-call-2407514-2023-07-17>.

⁴⁵ Danny D'Cruze, *AI Scam Alert! Scammer Steals over Rs 5 Crore from a Man Using His Friend's Face*, BUSINESS TODAY (May 23, 2023), <https://www.businesstoday.in/technology/news/story/ai-scam-alert-scammer-steals-over-rs-5-crore-from-a-man-using-his-friends-face-382379-2023-05-23>.

XIV. MAKING LAW IN UNTOUCHED DOMAINS

John Locke wrote that where there is no law there is no freedom.

The discussion above concerns reform in domains that already exist and that need refinement to meet the present state of society. There remain many areas to which lawmakers must turn their attention. Given the diversity of India in social and cultural terms, lawmakers are sometimes hesitant to frame or pass laws on subjects that they believe will not suit contemporary opinion. If that hesitation is not controlled the country will be found wanting in many respects and may face harsh consequences in future. Cryptocurrency, online gaming and surrogacy are examples.

There are also domains on which no specific law has been made and which are accommodated within existing provisions, so that a question arising in them either takes a long time to settle or is settled in unclear terms. Some belong to Part IV of the Constitution, which contains the Directive Principles of State Policy, among them the right to health and questions concerning access to the internet. Others include the protection of men and women in public places.

The aim of every law that is made, or that is to be made, should be to give relief to those in need and not to add to their difficulties. The reforms discussed above should also be borne in mind whenever a new law is brought, and where further change is thought necessary for the benefit of the people it should be made in time and without delay.

XV. CONCLUSION

As has been said, the list above is not exhaustive, and there are many further domains in which reform is needed. If careful examination and firm will produce the correct measures, the judicial system may become one that does justice and protects the rights of those in need, rather than one in which people are losing confidence. These changes will not happen overnight. They will take years, and the process is a continuing one. If the work is begun today, and at whatever level each of us occupies, considerable change may be seen within a few years, because this is not the work of any particular segment of society: it must be undertaken by all.

It is never too late to begin. If steps are not taken now, any one of us may become the next object of injustice.
