



# **DAILY EDITORIAL ANALYSIS**

**TOPIC**

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**NEED OF UNIFORM NATIONAL  
JUDICIAL POLICY**

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## NEED OF UNIFORM NATIONAL JUDICIAL POLICY

### In Context

- Recently, Chief Justice of India Surya Kant has proposed a **Uniform National Judicial Policy** to ensure that courts across India decide cases with greater clarity, consistency, and predictability, thereby strengthening access to justice and public trust in the judiciary.

### What Is a National Judicial Policy?

- A National Judicial Policy would be an **institutional framework (not a constitutional amendment)** that lays down common principles and guidelines on judicial reasoning, case management, use of technology, and access-to-justice standards for all courts.
- It aims to harmonise interpretations of rights, procedures, and remedies across jurisdictions, while respecting **judicial independence and federal structure**.

### Need for a Consistent National Judicial Policy

- Inconsistent Judicial Reasoning & Forum Shopping:** Different High Courts often give conflicting rulings on key questions (e.g., service law, bail standards, reservations, internet shutdowns), forcing litigants to approach the Supreme Court repeatedly and encouraging forum shopping/bench hunting—a trend the SC has recently condemned for **undermining finality and Article 141**.
  - A national policy could push courts to follow structured reasoning, better use of precedent, and clear articulation of binding principles, limiting avoidable divergence.
- Access to Justice Crisis:** As of 2024, over 4.5 crore cases are pending in Indian courts. Average disposal time can range from 5-20 years depending on the complexity and jurisdiction.
  - There are vacancies crisis like approximately 30-40% vacancies in subordinate courts and 25% in High Courts.
    - Also, there are physical infrastructure gaps including inadequate courtrooms, libraries, and digital facilities.
- Cost, Distance, Language Barriers:** Litigation is often unaffordable for the poor; travel to distant courts, especially High Courts, adds to cost and time, and proceedings in English or unfamiliar languages alienate large sections of litigants.
  - CJI Kant explicitly linked predictability, affordability, and timeliness as the core supports of access to justice, arguing that a coherent judicial policy can guide reforms in these three dimensions.
- Fragmented Use of Technology & Infrastructure:** While some courts actively use virtual hearings, e-filing, and digital case management, others lag behind, creating unequal access and inconsistent user experience for citizens.

### Existing Initiatives Related to Judicial Policy

- e-Courts Project & NJDG:** e-Courts Phase III (2023–27) seeks a unified digital platform, universal e-filing, virtual courts, and digitisation of over 3,108 crore pages of legacy records, with components like cloud infrastructure, e-Sewa Kendras, NSTEP (e-summons), and AI-based tools for case management.
  - National Judicial Data Grid (NJDG) is a nationwide repository on pendency and disposal used for policy-making and monitoring, recognised under Ease of Doing Business.
- National Mission for Justice Delivery & Legal Reforms:** This mission focuses on reducing pendency and enhancing infrastructure, including Fast Track Courts, special courts (POCSO, commercial), and strengthening ADR and Lok Adalats to divert disputes from regular courts.
- Legal Services Authorities & Lok Adalats:** Under the Legal Services Authorities Act, free legal aid and periodic Lok Adalats aim to improve access and reduce pendency, especially for marginalized groups; however, coverage and quality are uneven across states.
- Judicial Conferences & “Best Practices”:** Chief Justices’ conferences and e-Committee guidelines encourage convergence on case management, bail practice, and use of technology, but remain soft law and often implemented unevenly.

### Challenges Associated with National Judicial Policy

- **Judicial Independence vs. Policy Uniformity:** A centrally framed judicial policy may be viewed as constraining judicial discretion or imposing “one-size-fits-all” guidelines in a diverse, federal country with different social realities.
  - ♦ High Courts have constitutional status (Articles 214–231); a rigid policy may be seen as encroaching on their autonomy or creating a quasi-executive “policy” space for the judiciary itself.
- **Diversity of Conditions Across States:** Pendency, infrastructure, language, and caseload composition vary widely; for instance, some High Courts have much higher vacancy and pendency rates than others, and subordinate courts in rural/tribal belts face severe staff and resource shortages.
  - ♦ A uniform policy must therefore combine core national standards with flexibility for state-specific adaptations.
- **Structural Issues:** Persistent vacancies in High Courts have frequently carried 25–35% vacancy, and subordinate courts also suffer chronic shortages, directly fuelling pendency.
  - ♦ Government is the single largest litigant, responsible for nearly half of all pending cases due to frequent, repetitive, and defensive appeals, undermining any policy that focuses only on courts without reforming executive litigation behaviour.
- **Implementation Deficit & Data Quality:** Past resolutions and guidelines (on case management, timelines, undertrial review committees, bail) often remain on paper, with weak monitoring and accountability.
  - ♦ Even NJDG data, while path-breaking, still struggles with under-reporting, inconsistent tagging, and lack of disaggregated analysis in some court complexes.
- **Trust Deficit & Perception of Elitism:** If a policy is drafted top-down without meaningful input from trial judges, bar associations, and legal aid users, it risks being seen as elitist or disconnected from ground realities (e.g., rural litigants without digital access).

### Way Ahead

- **Core Constitutional Principles:**
  - ♦ Explicitly anchor the policy in Articles 14, 21, 39A and the Preamble's justice mandate, with access to justice as the central goal.
  - ♦ Define national benchmarks on predictability (consistent application of precedent), affordability (cost ceilings, legal aid norms), and timeliness (disposal timelines, case-flow management).
- **Harmonising Judicial Reasoning:**
  - ♦ Develop model judicial reasoning standards like clear framing of issues, identification of binding precedent, and explicit indication whether a judgment is law-declaring under Article 141.
  - ♦ Encourage “reasoned departures”, when differing from another High Court or prior coordinate bench, judges must record reasons and, where appropriate, refer questions to a larger bench to prevent doctrinal confusion.
- **National Framework for Case Management:**
  - ♦ Standardise time norms for different case categories (civil, criminal, commercial, family, bail) with flexibility for local conditions, backed by NJDG-based monitoring.
  - ♦ Institutionalise tools like continuous hearing for old cases, strict adjournment control, early sorting of frivolous or repetitive government appeals, and coordinated listing for similar questions of law.
- **Strengthening Judicial Infrastructure & Technology:**
  - ♦ Fully implement e-Courts Phase III with focus on 100% digital record management and e-filing in all courts.
  - ♦ Expansion of e-Sewa Kendras to every court complex to assist digitally excluded litigants.
  - ♦ Use of AI/ML tools for cause-list optimisation, bail risk assessment (with safeguards), and early identification of similarly placed matters.

- **Reducing Barriers of Cost, Language, and Distance:**
  - ♦ Rationalise and cap court fees for low-income litigants; expand legal aid panels, especially in rural and tribal areas.
- **Training, Ethics, and Diversity:**
  - ♦ Push for “National Litigation Policy 2.0” to drastically cut frivolous government appeals and to mandate pre-litigation ADR and settlement attempts in suitable cases.

Source: TH

### Daily Mains Practice Question

**[Q]** The Chief Justice of India has called for a Uniform National Judicial Policy to promote coherence across jurisdictions. Examine the need for such a policy in the context of challenges facing India's justice delivery system.

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