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**Food Processing Industries
Judiciary Vs Executive**

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Food Processing Industries

Food processing is the transformation of raw ingredients into food, or of food into other forms (ie. food processing may denote direct manufacturing of food or value addition on existing food). Food processing typically takes harvested crops or butchered animal products and uses these to produce long shelf-life food products.

Food processing dates back to the prehistoric ages when crude processing incorporated slaughtering, fermenting, sun drying, preserving with salt etc. Modern food processing adopts latest technologies and practices.

Segments in the Food Processing Industry

The food processing sector has **three segments** classified on the basis of levels of processing:

Primary processing of food- Primary processing of food comprises of sorting, grading and packaging of fruits and vegetables, milk, rice, spices, etc.

Secondary and Tertiary Processing of Food- Secondary processing of food comprises of re-shaping of food for ease of consumption. It includes flour, oil cakes, tea leaf and beverages powder etc. The two segments of primary and secondary processing of food constitute around 62% of the processed foods in value terms. Tertiary Processing of Food (or) Value Added Food Segment includes processed fruits and vegetables, juices, jam & jelly etc. and holds around 38 % share in the total processed food market.

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Products in food processing industry

1. Primary (Eg: Fruits and Vegetables).
2. Secondary or Value Added (Jams and Squashes)

Why are food processing industries significant?

The **Food Processing Industry (FPI)** is of enormous significance as it provides vital linkages and synergies that it promotes between the two pillars of the economy, i.e. agriculture and industry.

- **Employment Generation:** It provides direct and indirect employment opportunities, because it acts as a bridge between Agriculture and Manufacturing.
- **Doubling of farmers' income:** With the rise in demand for agri-products there will be commensurate rise in the price paid to the farmer, thereby increasing the income.
- **Reduce malnutrition:** Processed foods when fortified with vitamins and minerals can reduce the nutritional gap in the population.
- **Reduce food wastage:** UN estimates that 40% of production is wasted. Similarly, NITI Aayog estimated annual post-harvest losses of close to Rs 90,000 crore. With greater thrust on proper sorting and grading close to the farm gate, and diverting extra produce to FPI, this wastage could also be reduced, leading to better price realisation for farmers.
- **Boosts Trade and Earns Foreign exchange:** It is an important source of foreign exchange. For e.g. Indian Basmati rice is in great demand in Middle Eastern countries.

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- **Curbing Migration:** Food Processing being a labour intensive industry will provide localized employment opportunities and thus will reduce the push factor in source regions of migration.
- **Curbing Food Inflation:** Processing increases the shelf life of the food thus keeping supplies in tune with the demand thereby controlling food-inflation. **For e.g. Frozen Safal peas are available throughout the year.**
- **Crop-diversification:** Food processing will require different types of inputs thus creating an incentive for the farmer to grow and diversify crops.
- **Preserve the nutritive quality of food and prolongs the shelf life** by preventing them from spoilage due to microbes and other spoilage agents,
- **Enhances the quality and taste of food** thereby bringing more choices in food basket
- **Enhances consumer choices:** Today, food processing allows food from other parts of the world to be transported to our local market and vice versa.

Where India stands and why food processing is important?

India Food Processing Industry is estimated at \$135 billion industry which is growing at about 8% annually. This growth rate is significantly more than agricultural growth rate which remains around 4%. These signals indicate toward phenomenal shift toward food processing from traditional ways. GDP by processing constitute about 10% that of agriculture. But given potential of India, this is an underachievement.

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India has about 26 types of different climatic conditions, 46 varieties of soils are there in India out of total 60 types of soils worldwide. 127 'agro climatic zones' have been identified in India. Also, Indian food is known worldwide for its unique taste and aroma.

India's regional and cultural diversity is perfectly reflected in food. Every state in India has something unique to offer. For e.g. South Indian, Gujrati, Bengali, Rajasthani and Punjabi delicacies are different and are admired in many parts of the world. But they haven't been able to make inroads in other countries the way Mc Donald's, Domino's etc. has done in India. This is because lack of creativeness, innovation, branding and most importantly shallow pockets of Indian manufacturers.

India is **largest producer** of Pulses, Mangoes, Banana, Milk, ginger, Buffalo meat and **2nd largest producer** of rice, wheat, potato, garlic, cashew nut, groundnut, dry onion, green peas, pumpkin, gourds, cauliflowers, sugarcane, and tea in the world. We produce 17 per cent of the global total of vegetables and 14 per cent in the case of fruits. About 40 percent of the world's mangoes and 30 per cent of the world's bananas and papayas are produced in India. Further, India has many unique things to offer such as Alphonso Mangoes and wheat of Madhya Pradesh is uniquely protein rich.

No surprise, that India is **net exporter** of agricultural products. But value addition of Indian product remains quite low. Indian Manufacturers haven't moved much ahead in value chain. Say If mangoes are processed in to Mango Juice or pulp; it will result in more value addition, industry, employment, GDP and foreign exchange, but we export mainly mangoes as it is.

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Indian agriculture is infested with **post-harvest wastage problem**. In category of fruits and vegetables it is about 30-40%. Overall, cost of wastage is estimated at about 18% ranging from 50000 crores to 1 lakh crore. Wastage is attributable to several factors including non-availability of facilities for sorting, grading, packaging, storage, transportation, cold chain and low level of processing of agricultural produce. Food processing can halve this loss. Consequently farmer will be able to get more value and consumer will get products cheaper.

Consumption patterns in India are rapidly shifting from cereals to protein rich foods and horticulture. Also India has significant proportion of population which is **undernutrition** (1/3 of population), stunted and wasted. Horticulture and fruits are much desirable for this problem and wastage reduction will have decisive impact here.

Food processing has potential to turnaround whole economy. Indian **economy is still agrarian**, because about 55% population is directly dependent upon agriculture. FPI directly targets farming sector as it attempts to create more types of products out of single crop. This will increase demand for farmers and hence more remunerative prices.

India's **demographic dividend** is much talked about and most of this lies in rural India. Indian youth is turning away from agriculture because of low profitability. FPI is perhaps best bet to seize opportunity of demographic dividend. It can give us a genre of progressive rural entrepreneurs. Prosperous countryside will have multiplier positive impact on socio-economic and political problems. In short, FPI can narrow gap between rural and urban India.

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Apart from this India's economy is under transition, Income classes are moving upward. Every year millions of households are coming out of poverty to be part of middle class. **Per capita income is Increasing** as GDP growth rate is much higher than population growth rate. This is complimented by **growing urban culture**, nuclear families, working couples. This makes case for processed food compelling. Consumption in India is gradually tilting towards packaged and ready-to-eat foods. Demand is bound to increase, but it has to be seen that to what extent opportunity is seized by Indian industry and how much is left for foreign companies.

FPI is **employment intensive industry**; it can be an answer to jobless growth of past decade. Currently, only 3 % of employment is in FPI, while in developed countries it handles 14% population. Again, much of the employment will be created into rural India. This can remedy problem of distress migration. Growth in direct employment in the organized food processing sector stands at 6 % between 2011-12.

Also, strategic **geographic location and proximity** to food-importing nations (Middle East and Africa) makes India favorable for the export of processed foods.

Last but not the least, world economies are integrating even rapidly year by year. So a country has no option but to remain competitive.

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Global scenario

Food processing is one of the largest global sectors at \$7 trillion annual production. Look around and you'll find companies of Cold drinks, Wafer chips, Juice, restaurant chains to be among biggest ones. Italian pasta and pizza is now consumed in almost all countries, so are the burgers and sandwiches. Sugar free products, cornflakes, oats, ketchups etc. are among most demanded consumer goods. Currently only 2 % of India's vegetable and fruits production is processed. In comparison USA and China processes their 90% and 40% produce. Other developing countries, such as Thailand, Philippines, and Brazil are processing as high as 30, 78 and 70% of their produce.

India's food processing sector **ranks fifth in the world** in exports, production and consumption.

Importance of this sector is significant and it deserves a priority treatment by government. Accordingly sector has been made part of ambitious 'Make in India' initiative.

Status of Food Processing In India

- India is the world's second largest producer of fruits & vegetables after China but hardly 2% of the produce is processed.
- In spite of a large production base, the level of processing is low (less than 10%). Approximately 2% of fruits and vegetables, 8% marine, 35% milk, 6% poultry are processed. Lack of adequate processable varieties continues to pose a significant challenge to this sector.

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- India's livestock population is largest in the world with 50% of the world's buffaloes and 20% of cattle, but only about 1% of total meat production is converted to value added products.
- More than 75% of the industry is in unorganized sector.
- Processing can be delineated into primary and secondary processing. Rice, sugar, edible oil and flour mills are examples of primary processing. Secondary processing includes the processing of fruits and vegetables, dairy, bakery, chocolates and other items.
- Most processing in India can be classified as **primary processing**, which has lower value-addition compared to secondary processing. There is a need to move up the value chain in processed food products to boost farmer incomes. For instance, horticulture products, such as fruits and vegetables, carry the potential for higher value-addition when compared to cereal crops.
- At present, India's agricultural exports predominantly consist of raw materials, which are then processed in other countries, again indicating the space to move up the value chain.

Food processing industry in India can be segmented as follows

- Cereal/ pulse milling
- Fruit & vegetable processing
- Milk & milk products
- Beverages like coffee, tea & cocoa
- Fish, poultry, eggs & products
- Meat & meat products

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- Aerated waters/soft drinks 8. Beer/alcoholic beverages
- Bread, biscuits & other bakery products
- Edible oil/fats.
- Confectioneries
- Breakfast cereals, malt protein, weaning, extruded food products

Location of food processing industries in India :

India has more than 35000 registered units. But majorities of the food processing factories are concentrated in the coastal states (one reason being, accessibility to marine food processing)

Major coastal states includes: Andhra, Maharashtra, Karnataka, Kerala, Gujarat, Punjab and WB. Non-coastal states include UP, Punjab etc.

Section wise assessment of food processing Industries in India:

I. **Dairy Sector:** India holds first rank in the world in terms of milk production. Milk and milk products contribute to a significant 17 per cent of the country's total expenditure on food. Traditional dairy products account for about 50 per cent of the total milk produced.

II. **Fruits and Vegetables:** India produces huge amount of fruits and vegetables in the world. It is the second largest vegetable and third largest fruit producer accounting for 8.4 per cent of the world's food and vegetable production. Major products exported include fruit pulps, pickles, chutneys, canned foods, concentrated pulps and juices and vegetables.

III. **Grain Processing:** India has third position in the production of grains in the world. As per the estimates, India produced nearly 209.32 million tonnes of grains in 2005-06. India's production covers all major grains: rice, wheat, maize, barley and millets like jowar, bajra and ragi.

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IV. Meat and Poultry Processing: India has huge number of livestock population in the world accounting for 50 per cent of buffaloes and 16 per cent of the goat population. Animals generally used for production of meat are cattle, buffaloes, sheep, pigs and poultry.

V. Fisheries: India has third position in producing fish in the world and second in in-land fish production in the world. The Fisheries sector in India has been classified into marine, inland and aquaculture. Processed fish product exports comprises of conventional block frozen products, individual quick frozen products and minced fish products like fish sausage, cakes, cutlets, pastes.

VI. Consumer Foods Including Packaged foods, Beverages and Packaged Drinking Water

Packaged Foods: It is estimated that Packaged food segments in India registered a growth of 8 per cent in 2005-06. Soup market is small in India.

Beverages: The beverages market in India mainly include non-alcoholic beverages which can be broadly classified into carbonated drinks, non-carbonated drinks and hot beverages. Hot beverages include health drinks such as white beverages such as Horlicks and brown beverages such as tea/coffee as well as branded drinks for example, Boost. India is the largest producer of tea in the world.

Staples- Bread, Wheat Flour, Salt and Sugar: Bread is gradually entering to be a staple product consumed by people of all economic classes in India. It is estimated that India is the second largest producer of wheat in the world with an output of more than 70 million tonnes.

It has been appraised by experts that the total food production in India is expected to double in the coming years and there is an opportunity for huge investments in food and food processing technologies, skills and equipment, especially in fields of Canning, Dairy and Food Processing, Packaging, Frozen Food/Refrigeration and Thermo-Processing. Fruits and Vegetables Processing, Fisheries, Milk and Milk Products, Meat & Poultry,

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Packaged/Convenience Foods, Alcoholic Beverages & Soft Drinks and Grain processing are vital sub-sectors of the food processing manufacturing.

The customer product groups like confectionery, chocolates and cocoa products, Soya-based products, mineral water, high protein foods, soft beverages, alcoholic and non-alcoholic fruit beverages, along with the health food and health food supplements is another fast growing division of this industry which is gaining huge popularity.

It is recorded that India produces nearly 16% of the world's total food grain manufacture. It is one of the largest producers of agricultural produce. India has a massive potential domestic demand for processed foods other than the demand from the exports.

There are many socio-economic factors that are driving the demand side of the Indian Food Processing Industry. The varying consumption patterns, both in tier 1 and tier 2 cities, increasing income levels among the middle-class and changing lifestyles, are some of the factors providing the demand side drive for the Food Processing Industry. Furthermore, the central government has given a priority to all agro-processing industries.

Resource advantage of India:

India is rich in natural resources. Different soil types and different climate types for farming of diverse food crops, long coastal line appropriate for fishing, huge resource of domestic animals.

The main advantage is that it increases employment. It is expected to create more than 10 lakh new jobs.

Curbing Migration: Agricultural resources in India provides employment in

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rural areas, hence reduces relocation from rural to urban and resolves issues of urbanization.

It also control food inflation: These resources removes issues of wastage or middle man. It curbs food inflation. Indirect relief on non-food inflation too.

Crop Diversification: Because of long shelf life, agriculturalists can expand their products.

Government initiatives to boost food processing: Various government initiatives such as attracting FDI, discount in excise duties have enhanced food processing.

Future driver of Indian growth: Food processing relates to around 10% of GDP in agriculture-manufacturing sector.

Upstream and Downstream Requirements Of Food Processing Industries

Upstream stage: The upstream stage of the production process includes searching for and extracting raw materials. The upstream part of the production process does not do anything with the material itself, such as processing the material. This part of the process simply finds and extracts the raw material. Therefore, any industry that relies on the extraction of raw materials commonly has an upstream stage in its production process.

Upstream requirements:

Accessibility to raw materials.

Modern extraction techniques.

Good linkages with farmers.

Storage facilities for raw materials like Grains, Meat, Fish.

Quality testing facilities.

Transport facilities.

Work force

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Downstream stage: The downstream stage in the production process involves processing the materials collected during the upstream stage into a ended product. The downstream stage further comprises of the genuine sale of that product to other businesses, governments or private individuals. Downstream process has direct contact with customers through the finished product.

Downstream requirements:

Latest processing techniques.

Latest processing machinery.

Quality testing facilities.

Organized retail stores for faster distribution.

Work force.

Supply Chain Management

Supply chain is a system that relates a corporation with its suppliers and clienteles. In Supply chain, Upstream-downstream depends on the point of reference. In Food Processing Industry, raw materials such as grains, raw meat, and fish are collected by different sources. These sources may do preliminary processing of these to make components of a food product before passing over them to the main manufacturer through many middle men. The producer does the final processing of these components to make the food product. This completes only the first stage of supply management. Now the finished product has to be delivered to the customer. In this process, there will be a number of middle men and stages. The manufacturer usually hands over the food product to a whole sale dealer. The wholesaler deliver the product to a retailer from where the consumer buys the processed food item for his personal use.

Importance of Supply Chain Management in Food Processing Industry:

Good Supply Chain Management practices in nation enhance economy as a whole. Good supply chain links helps farmers, manufactures, wholesalers, retailers and consumers.

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Supply chain improvement and promotion

Backward linkage	<ol style="list-style-type: none">1. Regular supply of raw material through contract farming.2. Incentives in the form of reimbursement
Forward Integration	<ol style="list-style-type: none">1. Ensuring regular market for their products by establishing linkages by market.2. Assistance for market survey, test marketing, brand building.
Generic advertisement	<ol style="list-style-type: none">1. Marketing promotion campaign for new products mix and brand name support.2. Publications, journals, press advertisements.
Promotional activities	<ol style="list-style-type: none">1. Seminars, workshops, symposiums. Studies, surveys, feasibility reports to assess the potential and relevant aspects.2. Association with APEDA, CFTRI, Industry association etc. Participation in national and international exhibitions and fairs.

Problems in Food Processing Industries

At present most of the industries are in unorganized sectors. So, number of problems are arising from different sections of the industries. Some of the basic problems encountered by Indian food industries at different levels are given below.

Farm level problems

- Poor yield of farm produce and therefore low returns.
- Lack of material resources necessary for development.
- Primitive methods of farming.
- No control on the quality of inputs and lack of finance to manage.

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- Vagaries of weather.
- Unavailability of reliable handling and transportation system.
- Lack of storage facilities at farm.

Objectives of Draft National Food Processing Policy 2017

- To reduce wastages, increase value addition, ensure better prices for farmers while ensuring availability of affordable and quality produce to consumers
- To address the challenges of malnourishment and malnutrition by ensuring availability of nutritionally balanced foods
- To make food processing more competitive and future ready through creation of adequate infrastructure facilities along the supply chain, use of modern technology and innovation, promoting traceability, food safety, encouraging optimum capacity utilization of assets and resources.
- To position India as the most preferred investment destination for the agribusiness and food processing.
- To generate more opportunities for the development of the agribusiness and Food Processing Industry, and create employment.

Distributors' problems

- Lack of modern transportation facilities and high cost
- Inadequate cold storage facilities
- Irregular quality and quantity of farm produce

Processing industries problem

- Financing
- Higher import duties
- Higher cost of raw material and packaging
- Inadequate transport and cold storage facilities
- Infrequent availability of refrigerated containers
- Staggering advertising costs
- Limited domestic market

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Consumer discontent

- Does not get value for money
- The price variation is a day to day affair
- Continued dependence on seasonal products
- Lack of variety of semi processed or prepared convenience food at affordable prices.

Reasons for slow growth of processed foods in India

- Majority of the population has low-income levels and cannot afford processed foods.
- The high cost of packaging pushes up the cost of the processed items and thereby makes them out of reach of the common man.
- Indians traditionally prefer fresh foods that are cooked rather than use preserved foods.
- There is also no national character for food habits and these keep changing from region to region.
- However, the scenario is changing with some foods, especially fast food, acquiring the national character. Also some foods such as idli, dosa, some Punjabi foods like chhole, alu mutter etc., some Chinese foods and now the western foods like burgers and pizza are fast gaining national popularity.
- Transport (both road and railways) and communication are poor.
- There are no reliable cold chains, which are necessary for temperature sensitive foods like fruits & vegetables, ice creams etc.
- Modernization is unaffordable for small-scale manufacturer but the large companies do not find investment justifiable due to small size of the market.
- Supermarkets are not yet popular although a few are making an appearance.

Challenges

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- **Extensive use of fertilizers, pesticides** and other chemicals has raised concerns about the quality of food which should be looked into. Further, protection is needed from unfair and hazardous practices such as adulteration.
- Care should be taken as processed foods **may not be nutritionally balanced** and may pose a health risk especially for children unless fortified. This could trigger a negative perception regarding processed foods and could likely impact the economic gains made by this sector.
- **Low value-added in processing:** There is major fragmentation of food processing capacity, with a large unorganized segment and widespread use of primitive processing. This results in lower value-addition at the processing stage, especially from a nutritional point of view.
- **Limited ability to control quality and safety:** The sheer number of players, especially in the large unorganized segment, involved in the food value-chain, makes implementation of quality and safety norms difficult. This has led to practices such as milk adulteration and use of carbide for fruit ripening becoming more widespread.
- **Low consumer awareness:** Consumer awareness is a critical aspect of an improved nutritional situation in the country. Consumers currently lack awareness of several nutritional and food safety and quality aspects.

Suggestions

- **Storage capacities and infrastructure** should be increased.
- Develop the **agricultural facility** with good agricultural practice which leads to the transition from staple food crops to diversification of crops.
- Backward linkages to farmers need to be made more robust. **Contract farming** can be promoted. According to the **Model Contract Farming Act, 2018**, the contract will specify the quantity, quality and price of

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produce being supplied. This would shield farmers from price volatility, subject to quality commitments.

- **Skilling is required at two levels.** First at the farm gate in promoting agricultural best practices and in processing activities.
- **Public investment and connectivity** should be increased.
- **Slaughter animal rules** should be framed in a comprehensive policy framework.
- **Farm pattern diversification** which leads to a production of variety of crops other than constant set of crops which creates lot of job opportunities.
- **Second Green Revolution** should be updated with the diversified technologies.
- We have to **encourage the domestic startups and industry** than the international companies.
- There should be a **Centre of Excellence** between centre and state.
- Should have more training institutes for upcoming entrepreneurs and it should be in all states. Scholarship should be given to the upcoming entrepreneurs.
- **New technology should be updated** in the training institutes and skill development should be given the top most priority.

Government's Initiative

It has been the endeavor of the Government to promote food processing industry in the country to reduce wastage of agricultural produce and minimize post-harvest losses.

According to "**Assessment of Quantitative Harvest and Post-Harvest Losses of Major Crops and Commodities in India**" by ICAR the percentage of post-harvest losses as assessed by the study is as under:

Crops	Cumulative wastage (%)
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Cereals	4.65 – 5.99
Pulses	6.36 – 8.41
Oil Seeds	3.08 – 9.96
Fruits & Vegetables	4.58 – 15.88
Milk	0.92
Fisheries (Inland)	5.23
Fisheries (Marine)	10.52
Meat	2.71
Poultry	6.74

- With the above in view, the Ministry of Food Processing Industries (MoFPI) is implementing **PMKSY (Pradhan Mantri Kisan SAMPADA Yojana)**
 - The objective of PMKSY is to supplement agriculture, modernize processing and decrease agri-waste.
 - It is an umbrella scheme incorporating ongoing schemes
 - Under PMKSY the following schemes are to be implemented.
 - Mega Food Parks.
 - Integrated Cold Chain, Value Addition and Preservation Infrastructure.

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- Creation/Expansion of Food Processing/Preservation Capacities.
- Infrastructure for Agro Processing Clusters.
- Scheme for Creation of Backward and Forward Linkages.
- Food Safety & Quality Assurance Infrastructure.
- Human Resources and Institutions.
- **Foreign Direct Investment (FDI) policy:** FDI up to 100%, under the automatic route is allowed in food processing industries.
- **Agricultural and Processed Food Products Export Development Authority (APEDA)**– an apex organization under the Ministry of Commerce and Industry – focusses on ‘export’ of scheduled products.

Way Forward

- Food processing has numerous advantages which are specific to Indian context. It has capacity to lift millions out of poverty and malnutrition. Government should develop industry in a way keeping in mind the interests of small scale industry along with attracting big ticket domestic and foreign investments.
- The entire food value chain in India is controlled by multiple ministries, departments and laws. A comprehensive policy will ensure that various initiatives across the departments are aligned to the overall goal of ensuring availability, awareness, affordability, access, quality and safety of food.
- The target of ensuring food security for more than a billion people requires a concerted effort by all stakeholders including government and the food processing industry. In addition to private players and government, industry bodies and academia will also have a crucial role in the success of these initiatives.

Boards and Institutions

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NIFTEM – National Institute of Food Technology and Entrepreneurial Management.

IGPB – Indian Grape Processing Board.

IICPT – Indian Institute of Crop Processing Technology.

NMPPB – National Meat and Poultry Processing Board.

Revolutions related to Food Production and Food Processing

1. Pink Revolution – Meat and Poultry Production.
2. Red Revolution – Meat & Tomato Production.
3. Round Revolution – Potato Revolution.
4. Silver Fiber Revolution – Cotton Revolution.
5. Silver Revolution – Egg/Poultry Production.
6. White Revolution – Milk/Dairy production (Operation Flood).
7. Yellow Revolution – Oil Seeds production.
8. Evergreen Revolution – Overall development of Agriculture.
9. Blue Revolution – Fish Production.
10. Brown Revolution – Leather /Cocoa production.
11. Golden Fibre Revolution – Jute Production.
12. Golden Revolution – Overall Horticulture development/Honey Production.
13. Green Revolution – Agriculture in general.

JUDICIAL REFORM:-

Matter

The Indian judicial system suffers from case delay and the use of antiquated methods. The discourse on judicial reform remains focused on areas such as appointments and vacancies.

Two areas that greatly affect court efficiency are: case listing practices and court infrastructure.

There is no better test of the excellence of a government than the efficiency of its judicial system . - Lord Bryce

An impartial and independent judiciary is needed for the sustenance of constitutionalism and hence democracy. Democracy itself is integrally connected to the rule of law wherein fundamental rights of people can be protected if the judiciary is able to uphold the constitution in letter and spirit.

Data:

- It is not uncommon to see over 100 matters listed before a judge in a day.
When a judge is pressed for time, not only does the quality of adjudication suffer but it also means that several cases will inevitably go unheard.
- Matters listed towards the end (usually cases near the final stage of hearing) tend to be left over at disproportionate rates and often end up getting stuck in the system.
- The uncertainty around which cases will come up for hearing means neither judges nor lawyers can plan their preparation. This situation compels lawyers to waste time waiting in court.

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- Registry staff must manage the massive task of re-listing leftover matters in an already bulging docket, instead of streamlining case flow. There is a need to scientifically determine how many cases should be listed per day.

Evolution of Indian Judiciary

The Indian judiciary has a colonial history like other institutions and it had a conservative outlook in the immediate post-1947 years but it got transformed during the period of 1970s. The **Keshavanand Bharti judgment (1973)** and the excesses of the **Internal Emergency** imposed in June 1975 were watershed moments in the evolution of Indian judiciary. The Keshavanand Bharti judgment was criticised as a case of judicial over-reach but the excesses of the Executive during the period of Emergency gave legitimacy to the Keshavanand Bharti judgment in which the Honourable Supreme Court of India came up with the doctrine of basic structure of the constitution. Over the years scholars like Arvind P. Datar even went to the extent of saying that it was the case which saved Indian democracy.

The revolution of the **Public Interest Litigation (PIL)** in the 1980s gave wide sanctity and legitimacy to the Indian judiciary in the eyes of the public. The era of judicial activism saw judiciary demanding transparency and probity from other institutions. But an area of concern has been the deafening silence maintained by the judiciary on the issue of corruption within its ranks. Also the judiciary is resistant towards calls of judicial reforms in multiple dimensions.

Issue of Transparency in Judicial Appointments

One of the most widespread criticisms has been against the opaque system of judicial appointments. Nowhere in the world exists a system in which judges almost appoint themselves through the **collegium system**. In India the judiciary has an almost absolute monopoly with respect to the

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appointment of judges. It is one of the most non-transparent process in the world. The government favoured appointments through the **National Judicial Appointments Commission (NJAC)** but the Supreme Court declared the NJAC as unconstitutional saying that the NJAC violated the basic structure of the Constitution by compromising judicial independence. Critics allege that the judiciary is trying to convert judicial independence into exemption from accountability as well transparency.

Issue of Corruption

The complex issue of corruption exists as a cancer in our country. The judicial system is also afflicted with this cancer of corruption which was earlier thought to be immune from it. There have been allegations of corruption viz. issue of amassing disproportionate assets against some High Court and Supreme Court judges. The judiciary is a very vital organ for the healthy functioning of democracy and hence the issue of corruption must be addressed lest it creates a crisis of legitimacy for the judicial system. Corruption leads to an irreparable damage in the public esteem of the judiciary whereby the courts can potentially lose their moral right to question the issues of corruption in other organs of the government. Earlier the courts also showed reluctance in declaring the assets of judges under the landmark Right to Information (RTI) Act.

The recent allegation of **bench-fixing** in the Supreme Court in order to give favourable judgments is a grim reminder of the fact that the process of judicial appointments need to be made transparent.

Tackling Pendency of Cases

There are a large number of pending cases in the courts. This aggravates the sufferings of millions of people as in the complex Indian situation it is also a matter of human rights exemplified by the unenviable situation of poor undertrials languishing in jails. The situation is such that if a person files a

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case in Indian Court it is not necessary that his grandsons will get the reward. It is said: the justice delayed is justice denied . Judicial delays are a blot on the judiciary. Such delays tend to favour dominant sections at the cost of marginal sections which reflects its inegalitarian and anti-democratic outcomes. The Supreme Court in its **Kartar Singh vs State of Punjab (1994)** judgment had remarked: Speedy trial is a component of personal liberty under Article 21. Thus, speedy justice is a right of every litigant. There is a dearth of adequate data on pending cases and there is no scientific management of such data. Hence, it becomes doubly difficult to analyse the complex nuances of the problem of pendency of cases and come up with innovative and practical solutions. There are glaring inconsistencies in the data. Hence, it is said that the inordinate delay in disposal of cases due to inept handling of cases and existing vacancies on the bench are major problems before the judiciary.

NITI Ayog : Judiciary Reforms

Judicial performance index (JPI)

- Establishing of JPI will help the high courts and its chief justices to keep track of performance and process improvement at district courts and subordinate levels for reducing delay.
- It can also include certain progress on process steps that have already been approved by high courts, like removing burden of day-to-day activity of judges and giving it to administrative officials.
- The process of calculating index will require fixing non-mandatory time frames for different types of cases.

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Separate administrative cadre: Establishing separate administrative cadre in judicial system to reduce workload on judges. This cadre should report to Chief Justice in each high court to maintain judicial independence.

Use of automation and ICT: High priority should be given to automation process in courts and use of information and communication technology for e-court and case management, including e-management of court schedules and migration of all courts to unified national court application software.

Online real time judicial statistics: Steps should be taken for ensuring availability of online real time judicial statistics for determining the adequacy of judicial manpower and infrastructure to deal with work load of cases. It will enable priority appointment of judges at lower judiciary levels keeping in mind a scientific approach to assessing number of judges needed to tackle pendency problem.

Internationally developed measures: Government must look into and adopt internationally developed measures such as 'global measures of court performance', created jointly by Australasian Institute of Judicial Administration, Federal Judicial Center (US), National Center for State Courts (US) and Subordinate Courts of Singapore.

Suggestions

- The **number of judges** should be increased in courts. But at the same time efficiency factor should be taken into account.
- It is an imperative to **decentralize** the working of the Supreme Court by carving out regional benches and improving related infrastructure. Article 130 of the Indian Constitution permits sitting of the Supreme

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Court at other places outside Delhi. The Law Commission has also recommended that the regional benches of the Supreme Court should be created. The creation of more benches will benefit the litigants who have to travel for long distances.

- The number of **working hours** in courts should be increased and judges should devote full time to judicial work.
- It has also been suggested that Gujarat and Delhi model of **evening courts** should be adopted.
- The number of **fast track courts** should be increased.
- A large number of petty cases can be taken out of normal court channel and can be dealt by **Lok Adalats**. The most important factor to be considered while deciding the cases at the Lok Adalats is the willing consent of both the parties so that they consent to the finality of judgement delivered by them.
- It is also suggested that judgment should be delivered within a **reasonable time frame**. The judges should deliver crystal clear, decisive and unequivocal verdicts leaving little scope for further litigation.
- In cases of criminal offences, the option of **plea bargaining** suggested by **Malimath Committee** should be utilized. (Plea Bargaining: If the accused admits his crime then in return he is given less punishment which will result into speedy delivery of justice.
- The Government should also change its approach. Now the government is a very active litigant. It is responsible for about 50 percent of the cases in Indian judiciary which leads to judicial backlog and loss of public money. **The National Litigation Policy (2010)** sought to change this approach by converting the government from a **proactive litigant into an efficient and responsive litigant**. It seeks to reduce trivial litigations from the side of the government. The

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Policy has failed so far because of the inherent ambiguity in it. Further revision of the NLP needs to take into account the previous loopholes.

- There is also a need to **curb misuse of the Public Interest Litigation (PILs)**. At times there are politically motivated PILs which are used for political purposes and for delaying and misguiding the course of justice. Critics have pointed out that the PILs degenerate into private interest litigation devoid of public purpose exemplified by propensity of certain public figures to file PILs on controversial historical issues. Such a phenomenon leads to loss of the precious time of the courts contributing to judicial backlog.
- Implementation of **E-courts Project**: There is an urgent need for robust funding meant for computerization of courts.
- Promote and popularize legal aid.
- It is high time the Government implemented the scheme of **All India Judicial Services (AIJS)** as highlighted by Justice A.P. Shah, former Chief Justice of the Delhi High Court. It will enhance the efficiency and efficacy of judiciary by following transparent methods of recruitment. It will help in resolving the pendency of cases as well as the issue of inordinate delay of cases. It will help in addressing issues of corruption and nepotism. It will help in attracting the bright legal talent from across the country. Because of these all-round positive changes, public faith in the judiciary would be restored.
- Some **Procedural innovations** should be employed. Cases belonging to similar category can be clubbed together and accordingly prioritized by the court.
- The Law Commission had also highlighted the fact that Parliament should introduce procedural reforms in criminal and civil cases procedure as well as the Evidence Act in an incremental manner.

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- The recommendations of the Malimath Committee especially regarding selection of prosecutors and the Judicial Impact Assessment Committee should be implemented.
- The **Second Administrative Reforms Commission (ARC)** had recommended: A National Judicial Council should be constituted, in line with universally accepted principles where the appointment of members of the judiciary should be by a collegium having representation of the executive, legislature and judiciary . This should be implemented to make the judicial appointments transparent. The report further added: The National Judicial Council should be authorized to lay down the code of conduct for judges, including the subordinate judiciary .
- The **18th Law Commission** had highlighted the fact that the strength of the Judges in the Supreme Court should also be increased and more benches of the apex court can be sanctioned.
- There is also a need to **increase the number of working days** in courts.
- **Alternate Dispute Resolution (ADR)** mechanism should also be promoted to ease the huge burden on regular court channels. The 18th Law Commission had said that the advantages of ADR are many - it is less expensive, less time-consuming, free from technicalities vis- - vis conducting of cases in law courts, parties involved are free to discuss their differences of opinion without any fear of disclosure before any law courts .
- Matrimonial Cases are also pending in huge numbers before the regular courts. So, **regular Family Courts** should be established to ease the burden on courts. This can also diminish judicial backlog while providing speedy justice to the people. A humane approach should be employed by the courts in deciding matrimonial cases free from crude technicalities.

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- There is a dearth of **adequate budgetary allocation** for the judiciary. This issue must be looked into in the best interest of justice delivery by promoting multi-dimensional judicial efficiency.
- There is a need to have a **nodal ministry** for judicial planning as well as a national judicial policy.

Conclusion

It is the solemn duty of the judiciary to deliver prompt and inexpensive justice marked by fairness and impartiality. However, for justice to be delivered in a meaningful way, it must be delivered within a reasonable time frame. Denial of timely justice is actually denial of justice itself. Timely disposal of cases is vital for the sustenance of rule of law and providing access to justice which is also a fundamental right. Thus, judicial reforms are needed for the very health of democracy and constitutionalism in India.

Tension between Executive, Judiciary: The current conflict — and its fraught resolution

With a narrow majority, the SC, in its judgment of April 1973, upheld Parliament's power to amend the Constitution but imposed fetters against amending its "basic structure"

On July 29, 1947, the Constituent Assembly was gripped by a question: should the power to remove superior judges be vested in the President or Parliament? In the end, the view of Sir Alladi Krishnaswami Ayyar, former Advocate General of Madras State, prevailed and the members decided that both Houses of Parliament, while acting on an impeachment notice, would

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exercise this power, if at all. For, few members believed that this provision would ever be used.

“Whatever procedure you prescribe for the removal of Judges for proved misconduct or misbehaviour, that procedure is likely to be used only in the rarest of contingencies and very probably will not be used within my life time or even the life time of those who are much younger in this House than I am,” Sir N Gopalaswami Ayyangar had said in his concluding arguments that day, before the draft proposed by Ayyar was adopted.

Otherwise prescient, the wise men and women of the Constituent Assembly didn't anticipate what was to follow.

Seventy years later, that very provision is at the heart of a tussle between the Opposition and the ruling party members. While the Congress-led Opposition members of the Rajya Sabha have declared that they would challenge Rajya Sabha chairman Venkaiah Naidu's ruling dismissing their notice for impeachment of Chief Justice of India (CJI) Dipak Misra, the ruling combine members have hailed the decision as sound course of action.

Days after Naidu's ruling, another row blew in the face of Judiciary and Executive relations, when, on April 26, Law Minister Ravi Shankar Prasad wrote to CJI Misra, segregating the Supreme Court Collegium's recommendation for appointing two judges to the apex court. While the government returned for reconsideration the collegium's recommendation to elevate Uttarakhand Chief Justice K M Joseph to the Supreme Court, it notified the appointment of senior advocate Indu Malhotra as a judge of the apex court.

Here again, the ruling and Opposition parties are divided over the course of events, with the spotlight now on the Judiciary's place in the delicately stitched constitutional space that it shares with the political class comprising the Executive and the legislature.

Venkaiah Naidu's ruling dismissed Opposition notice for impeachment of Chief Justice of India (CJI) Dipak Misra.

This space has been created and shaped by the Judiciary's evolving relationship with the Executive over three distinct eras.

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1947-1964: Retreat or review

Notwithstanding Ayyangar's belief that the provision for removal of judges will rarely be used, within a year, even before the Constitution was ready, the judiciary found itself staring at the removal of a high court judge.

An academic paper on 'The Evolution of Judicial Accountability in India' published in the Journal of Public Affairs and Change by Bhairav Acharya, lawyer and policy specialist, recounts the removal of Allahabad HC judge Justice Shiv Prasad Sinha in July 1948 at the request of the erstwhile United Provinces Government. Since the Constitution was far from final, Sinha was removed under Section 220(2) of the Government of India Act, 1935, after an inquiry by the then Federal Court upheld one of the five charges against him.

If that's the note on which the Judiciary started, after the Constitution came into force, the first removal pitch was made in 1970 against Justice J C Shah. The petition was rejected by the Lok Sabha Speaker under the Judges (Inquiry) Act, 1968.

The intervening two decades witnessed a phase where the political class asserted its supremacy against the Judiciary's power of judicial review. In fact, the first situation arose within months of the Constitution coming into force on January 26, 1950.

Communist leader A K Gopalan challenged his detention without trial since 1947 in Madras Jail under the Preventive Detention Act, 1950. The Act was challenged on the grounds of failing to meet provisions of Article 21 that guarantees the protection of life and personal liberty. The case was heard by a six-member bench which rendered separate judgments. However, a unanimous feature was that they struck down Section 14 of the Act — which prevented even courts from accessing material which formed the basis of the detention orders — as unconstitutional. The government responded by amending the Act to delete the said section.

The Executive's assertion again reached the Supreme Court in a case now famously known as Kesavananda Bharati case.

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This tussle between the Judiciary and the political class came to a head when legislation on agrarian reforms and abolition of the zamindari system across different states came up for challenge under Article 31 that provided guarantees for right to property. The landed class objected to the reform legislation undertaken by several provincial Congress governments to further the socialist vision of prime minister Jawaharlal Nehru.

The most famous of these litigation was Kameshwar Singh vs State of Bihar, in which the Patna HC in March 1951 had ruled that the Bihar Land Reforms Act was unconstitutional and in violation of Article 14 since it discriminated in providing compensation.

Sensing that it may cast a shadow on its agrarian reforms, in the summer of 1951 the Congress government moved the Constitution (First Amendment) Bill in Parliament without even waiting for the Supreme Court ruling on the appeal in the case. The Amendment introduced blanket immunity for the land reform legislation against any appeal on grounds of infringement of fundamental rights. Going a step further, the amendment created the Ninth Schedule of the Constitution to ring-fence 13 enactments, including the Bihar Land Reforms Act, from judicial review.

The invention of the Ninth Schedule led to the shielding of more legislation from the purview of judicial review — by 1964, the number of such laws across the country rose to 64. The number has risen to 284 different laws in this Schedule.

Underlining the fault line that led to the Ninth Schedule, PDT Achary, former Secretary General of the Lok Sabha, says, “In the beginning, the confrontation between the Judiciary and the political class arose on the issue of right to property. Such a confrontation was obvious considering this was a government professing socialist path.”

Thus, the political class asserted its supremacy through amendments, ostensibly to further the socio-political objective framed by the government, which then comprised many of the framers of the Constitution.

1965-1993: Full-blown clash

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The power of the political class to bring in amendments is likely to have generated fears of the Constitution being overridden. The Supreme Court had to assert its position.

It did so in a case challenging the Punjab Security and Land Tenures Act, which was given immunity from judicial review by being put under the Ninth Schedule after the Constitution (Seventeenth Amendment) Act, 1964.

Known as the Golaknath Case, the 11-judge SC bench headed by Chief Justice K Subba Rao with a majority of 6:5 restrained Parliament's power to curtail fundamental rights.

The fetters imposed by the Golaknath case is believed to have left the socialist leaning Indira Gandhi government disappointed. But, the verdict had come close to the 1967 general elections, in which Indira Gandhi had returned to power with 284 seats in the Lok Sabha, its worse performance until then. A weakened government pursued populist policies such as bank nationalisation and abolition of privy purses, which suffered setbacks in the Supreme Court.

However, in the 1971 general elections, the Indira-led Congress returned to power with an enhanced mandate of 350 seats. It now had the electoral strength for its fight against the judicial setback. The Executive asserted its supremacy over the Judiciary by bringing in another amendment to the Constitution.

“The result of the (SC) judgment (in the Golaknath case) is that Parliament is considered to have no power to take away or curtail any of the fundamental rights guaranteed by Part III of the Constitution even if it becomes necessary to do so for giving effect to the Directive Principles of State Policy and for the attainment of the objectives set out in the Preamble to the Constitution. It is, therefore, considered necessary to provide expressly that Parliament has power to amend any provision of the Constitution so as to include the provisions of Part III within the scope of the amending power,” read the Statement of Objects and Reasons appended to the Constitution (Twenty-fourth Amendment) Bill, 1971.

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The Executive's assertion again reached the Supreme Court in a case now famously known as Kesavananda Bharati case. Since, the 24th Constitution Amendment had annulled the force of the Golaknath verdict by an 11-judge bench, the challenge to this legislation was to be heard by a 13-judge bench headed by Chief Justice S M Sikri. The government acted quickly to appoint judges to suit its political commitments, say experts.

"The reason for this was that the Kesavananda case, which would reconsider Golaknath restrictions on amending power, was on the anvil. Because the latter was decided by an 11-judge bench, 13 would be needed for the Kesavananda case. Conveniently for the government, which was aware that several of the sitting judges did not subscribe to its aims, these vacancies provided it with an opportunity to shift the ideological composition of SCI," wrote George H Gadbois in his book, Judges of Supreme Court of India, referring to nine new appointments that happened between July 1971 and October 1972.

The arguments in the Kesavananda case began on October 31, 1972. Gadbois refers to writings of former SC Judge Jagannathan Reddy to point out that of the new judges, two were nominees of Law Minister H R Gokhale, one of minister Mohan Kumarmangalam, two that of Sidhartha Shankar Ray and two of prime minister Indira Gandhi.

With a narrow majority of 7:6, the Supreme Court, in its judgment of April 1973, upheld Parliament's power to amend the Constitution but imposed fetters against amending its "basic structure". This exposition of the "basic structure" principle has since then emerged as one of the most potent tools against the unbridled power of the Executive.

"When such a stage was reached that any part of the Constitution could get amended guided by political consideration, the Supreme Court stepped in. I feel the Supreme Court did yeomen service to the nation by discovering the 'basic structure'," says Acharya.

The judgment was considered a setback and the political executive hit back by appointing A N Ray as the next Chief Justice of India after Sikri,

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superseding three other judges — Justices J M Shelat, AN Grover and K S Hegde. The three judges resigned immediately.

This confrontation between the Judiciary and the Executive worsened when Allahabad HC judge Justice Jagmohan Lal Sinha, acting on a petition filed by Raj Narain, set aside Indira Gandhi's election to the Lok Sabha from Rae Bareilly. Gandhi reacted to the judgment of June 12, 1975 by imposing Emergency.

In another case, popularly known as ADM Jabalpur Case, the Supreme Court, in a 4:1 judgment, upheld governments' unrestricted use of powers during Emergency. While Justices A N Ray, P N Bhagwati, Y V Chandrachud and M H Beg were part of the majority ruling, the lone dissenter, Justice K R Khanna, was superseded by Justice M H Beg to be Chief Justice in 1976.

Even the Janata Party government faced the ire of the Supreme Court in Maneka Gandhi vs Union of India case in 1978. The Janata Party administration had impounded her passport on the grounds of "in public interest", which was challenged. The majority ruling of the Supreme Court declared that the right to travel abroad was part of right of personal liberty under Article 21 and government can't arbitrarily impound the passport as it violated right to equality under Article 14.

The case pertains to the legal challenge against the implementation of Law Minister P Shiv Shankar's March 1981 circular that sought Executive discretion in transfer of judges "to further national integration and to combat narrow parochial tendencies."

Chief Justice of India Justice Dipak Misra (Express Photo by Tashi Tobgyal/Files)

Adjudicating on this batch of petitions, in December 1981, Justice P N Bhagwati declared that the "primacy" of the CJI's recommendation on judicial appointments and transfers can be refused for "cogent reasons".

This, in a way, bolstered the hands of the Executive in judicial appointments for over a decade till the primacy of the CJI was restored in the years that followed.

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1993-2018: Judiciary asserts

The tide slowly turned in favour of the Judiciary with the advent in the late 80s of coalition governments.

Given the rising impatience over charges of arbitrariness in judicial appointments, the VP Singh government introduced the Constitution (Sixty-seventh Amendment) Bill, 1990 for constituting the National Judicial Commission for appointments in the higher judiciary. However, it lapsed with the dissolution of the Lok Sabha in 1991.

In 1993, the Supreme Court wrested control of appointments through its judgment in the Supreme Court Advocates-on-Record Association vs Union of India (The Second Judges Case) that crafted a completely new process of judicial appointments.

“The role of the CJI is primal in nature because this being a topic within the judicial family, the Executive cannot have an equal say in the matter,” said the verdict delivered by a nine-judge bench with the condition that the CJI should consult the two most senior judges on matters of appointment.

The judgment, however, did not spell out the modalities of the consultation, inviting criticism from the Executive and resulting in a presidential reference in 1998 from then president K R Narayanan.

In its advisory opinion in Special Reference No. 1 of 1998 (The Third Judges Case), the Supreme Court unanimously set down the modalities of the consultative process, where the CJI would have to consult his four senior-most colleagues for Supreme Court appointments and his two senior-most colleagues for High Court appointments, thus paving the way for the present collegium system.

With the collegium freeing the Judiciary from the Executive’s alleged interference, the Supreme Court went on to pronounce several key verdicts — from the S R Bommai judgment to the 2G verdict— many of which went against the Executive of the day.

This got the political class to search for ways to ensure ‘judicial accountability’. While the previous NDA regime came up with the Constitution (98th Amendment) Bill, 2003, for setting up the National Judicial

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Commission for judicial appointments, the UPA moved the Judicial Standards and Accountability Bill and the Constitution (120th Amendment) Bill to provide for a new mechanism. But they could not get these enacted. That changed in 2014. Unhindered by compulsions of coalition politics, the majority government under Narendra Modi sought more accountability from the Judiciary. It moved the Constitution Amendment legislation to scrap the two-decade-old collegium system and provide for the National Judicial Appointments Commission (NJAC).

“If it is challenged, then we will see it. Why Parliament must be wary of using its powers? Parliament must have full trust in the ability of Parliament to pass the law,” Law Minister Ravi Shankar Prasad had asserted when both the laws were passed in August 2014.

In 2015, the Supreme Court struck down the NJAC legislation as unconstitutional, paving the way for the latest round of confrontation. With the Memorandum of Procedure (MoP) for judicial appointments still stuck, almost every appointment is fraught with tension.

This, along with a string of other factors — the CJI facing an impeachment motion, the lack of cohesion among senior Supreme Court judges, and the Executive asserting itself — make for an unprecedented situation.

All these episodes have a lesson. Confrontation with Judiciary doesn't help us at all. In fact, confrontation with Judiciary is a lose-lose situation for the Executive.