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## Breaking Chains, Building Benches: Unveiling the Struggle for Legal Equality in West UP

Utkarsh Tyagi<sup>b</sup>

<sup>a</sup>Himachal Pradesh National Law University, Shimla, India

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*The state of Uttar Pradesh is the largest state of India by population. It is one of India's most agriculturally productive regions and is home to one of the fastest-growing metropolises in the Gautam Buddha Nagar district. Despite the region's importance, it is dismaying that the nearest jurisdictional high court for most of the population of Western Uttar Pradesh is farther away from them than the Lahore High Court. An interesting observation that comes up when discussing the aspect of Western Uttar Pradesh is the higher-than-average crime rate in Western Uttar Pradesh. Thus, this paper shall also endeavour to uncover if the lack of judicial infrastructure may be the reason behind such high crime rates. This paper, researched using armchair methodologies, interviews and a simple survey of the affected population, dives into the issue of justice denied to the citizens of Western Uttar Pradesh. We shall look at the historical context, socio-economic perspectives, challenges and impediments to justice and reform efforts. Western Uttar Pradesh here is not an isolated example of a lack of judicial infrastructure; thus, the results of this study may also indicate the impact of judicial disparity on crime rates across the globe.*

**Keywords:** *justice, high court, vigilantism, judicial disparity.*

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## INTRODUCTION

Access to justice affects us all. Consider the plight of a resident of Saharanpur, Uttar Pradesh, who finds himself embroiled in a land dispute with his neighbour. As a working adult, he dedicates 6 to 7 hours daily to his job, all while balancing familial responsibilities and commitments. Amidst this busy life, imagine if his dispute is elevated to the High Court for resolution. The nearest bench of the High Court is approximately 700 kilometres away in Lucknow. Now, picture the chaos that would ensue in his once-tranquil life.

The Constitution of India guarantees all citizens and aliens in Indian jurisdiction the right to life and personal liberty, except according to procedure established by law. In light of the aforementioned Article 21<sup>1</sup>, the Supreme Court, in the landmark judgement of *Hussain v Union of India* (2017)<sup>2</sup>, commented that timely justice is a part of human rights, the denial of which is a threat to public confidence and the efficacy of public administration. The interpretation of Article 21 sounds promising, though unfortunately, upon analysis of its impact, it sounds nothing more than empty words. On the one hand, the Supreme Court, in the judgement mentioned above of *Hussain v Union of India* (2017), interpreted the right to a speedy trial as a part of an individual's fundamental right to protection of life and personal liberty, on the other hand, the absence of a separate High Court bench for Western Uttar Pradesh significantly delays judicial procedures, as a by-product of an ordinary person's distance from the assigned bench in Lucknow. From the farmers of the Gangetic plains to the corporate workers in Noida, the region of Western Uttar Pradesh consists of multiple types of demographics. These diverse demographics give rise to diverse interests and, thereby, diverse lawsuits. If these lawsuits are not addressed adequately and speedily, people tend to lose their confidence in the administration and start to settle serious issues by themselves. Not only is this undesirable for the rule of law, but it also gives rise to one of the most feared elements of anarchy, which is vigilante justice. An example of this is the Akku Yadav case from 2004, wherein seventy women mob lynched and murdered a man named Akku Yadav, who was alleged to have raped many

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<sup>1</sup> Constitution of India 1950, art 21

<sup>2</sup> *Hussain v Union of India* (2017) 5 SCC 702

women<sup>3</sup>. None of the women involved in the incident were apologetic, but rather, they justified their deadly vigilantism as part of the 'struggle for social justice' and 'freedom.'. In pursuit of research for this article, the author surveyed individuals across India from diverse professions, lifestyles and regions. Though this survey shall not be the sole ground for this article, it shall be used as supporting data. Western Uttar Pradesh across this article refers to the districts of Agra, Mainpuri, Firozabad, Aligarh, Bareilly, Badaun, Bulandshahr, Etah, Etawah, Farrukhabad, Mathura, Meerut, Ghaziabad, Muradabad, Pilibhit, Rampur, Muzaffarnagar, Saharanpur, Bijnor, Shahjahanpur, Bagpath, Gautam Buddha Nagar, Hathras, Amroha, Kannauj, Auraiya<sup>4</sup>.

## HISTORICAL CONTEXT

During the British Raj, Prayagraj served as the administrative seat for the North-Western Provinces, an important region governed from 1836 to 1902. The establishment of the High Court in Prayagraj began in 1834, but it was quickly relocated to Agra<sup>5</sup>. However, in 1875, the High Court was returned to Prayagraj, marking a significant event in the region's judicial history<sup>6</sup>. The High Court was formally established by the Indian High Courts Act of 1861 on 17<sup>th</sup> March 1866.<sup>7</sup>

In 1861, an act titled “An Act for Establishing High Courts in the Judicature of India” was enacted, which was used to establish High Courts in India<sup>8</sup>. This act was important for multiple purposes, but most importantly, it was meant to end the dichotomy of dual jurisdiction of Royal Courts and Company Courts, thereby establishing the roots of the common law in India<sup>9</sup>. The act gave the Queen of England the authority to issue Letters Patent to Presidency Towns wherever and whenever she wanted<sup>10</sup>, allowing the Crown to dispense justice through its

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<sup>3</sup> Joanna Bourke, 'Stabbed 70 times in court – why the women who killed Akku Yadav were hailed as heroes' *The Print* (29 July 2023) <<https://theprint.in/pageturner/excerpt/stabbed-70-times-in-court-why-the-women-who-killed-akku-yadav-were-hailed-as-heroes/1690479/>> accessed 13 August 2024

<sup>4</sup> Ramesh Chand et. al., 'Instability and Regional Variation in Indian Agriculture' (*National Centre for Agricultural Economics and Policy Research*, 26 June 2011) <<https://niap.icar.gov.in/pdf/pp26.pdf>> accessed 13 August 2024

<sup>5</sup> Ashutosh Joshi, *Town Planning Regeneration of Cities* (New India Publishing House 2008)

<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*

<sup>8</sup> M.P. Singh, *Outlines of Indian Legal & Constitutional History* (8th edn, LexisNexis 2018)

<sup>9</sup> T. S. Rama Rao, 'Conflict of Laws in India' (1958) 23(2) *Zeitschrift für ausländisches und internationales Privatrecht* <<https://www.jstor.org/stable/27873899>> accessed 13 August 2024

<sup>10</sup> *Ibid*

subsidiaries in the form of High Courts in India. Here, we can observe the colonial roots of the notion of High Courts being established by the central figurehead. The establishment of governance in independent India was focused on the idea of separation of powers in the government among the legislative, executive and judiciary, as evident in Article 50 of the Indian Constitution<sup>11</sup>.

After India gained independence, the second Chief Minister of Uttar Pradesh, Dr Babu Sampurnanand, raised the demand for a High Court Bench in Western UP for the first time<sup>12</sup>. Given the historic nature of this demand, it is clear that the problem of insufficient justice in western Uttar Pradesh due to a lack of judicial oversight we encounter today closely resembles the issues we faced back in 1955. The problem was raised once again in 1985 by the Jaswant Singh Commission, which recommended the setting up of a high court bench in Meerut<sup>13</sup>.

Though we can observe a continuous presence of a demand for a high court bench in Western UP, it has been grossly neglected by the government. Multiple parliamentarians and political candidates have promised to take action countless times. Still, once again, they have only ever turned out to be empty promises, as will be evidenced further ahead in the paper. Lawyers in Western UP have carried out multiple protests to bring attention to the issue, but they have largely been fruitless<sup>14</sup>. Lawyers of Western Uttar Pradesh have even suspended all work on Saturdays to protest against the egregious inaction<sup>15</sup>.

The government's negligence of Western Uttar Pradesh is, unfortunately, a scar of the British Raj, which persists to this day. Amidst the calls to decolonisation by the Indian Government, it

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<sup>11</sup> Khushi Pandya, 'Separation of Powers - An Indian Perspective' (2013) SSRN <<https://dx.doi.org/10.2139/ssrn.2254941>> accessed 10 July 2024

<sup>12</sup> Sanjeev Sirohi, 'UP must have at least 10 High Court benches' *The Daily Guardian* (16 July 2021) <<https://thedailyguardian.com/up-must-have-at-least-10-high-court-benches/>> accessed 10 July 2024

<sup>13</sup> Kabir Agrawal, 'High Court Bench in West UP soon: Law Minister Brijesh Pathak' *The Times of India* (16 June 2017) <<https://timesofindia.indiatimes.com/city/meerut/hc-bench-in-west-up-soon-law-minister-brijesh-pathak/articleshow/59166891.cms>> accessed 13 August 2024

<sup>14</sup> Sandeep Rai, 'Lawyers rally for Meerut High Court Bench, suspend all work on Saturdays' *The Times of India* (03 September 2023) <[https://timesofindia.indiatimes.com/city/meerut/lawyers-rally-for-meerut-hc-bench-suspend-all-work-on-saturdays/articleshow/103318823.cms?from=mdr&utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cpps](https://timesofindia.indiatimes.com/city/meerut/lawyers-rally-for-meerut-hc-bench-suspend-all-work-on-saturdays/articleshow/103318823.cms?from=mdr&utm_source=contentofinterest&utm_medium=text&utm_campaign=cpps)> accessed 13 August 2024

<sup>15</sup> *Ibid*

is a matter of irony that while we rename the Rajpath to Kartavya Path<sup>16</sup> for 'decolonising' the Indian mindset, we still have not addressed the practical aspects of the colonial shackles.

## SOCIO-ECONOMIC STAKES

All across the primary, secondary and service sectors of the economy, Western Uttar Pradesh is a source of steady and sturdy income for the government. In terms of agriculture, the region is a rich producer of sugarcane, millets, paddies and wheat<sup>17</sup>. Meerut and Moradabad are important industrial districts, with Meerut being famous for its scissor factories and sports industry. Moradabad is an essential industrial heartland for brass works, and Agra is renowned for its tanneries. The Gautam Buddha Nagar district, consisting of Noida and Greater Noida, is a rising IT hub which is already serving the service sector economy thanks to the well-planned government initiatives and subsidies for industries. Seven out of the ten most economically productive districts of Uttar Pradesh lie in Western Uttar Pradesh<sup>18</sup>.

In the survey conducted for this study, 77.8% of the respondents believed that the absence of a high court bench in Western Uttar Pradesh handicaps access to justice. While in 1834, the government of the time acknowledged the economic importance of the region, as is evident by their establishment of a High Court at Agra, the decision to shift the High Court to Allahabad due to the social circumstances of the time has never been reversed since. This leaves a sense of neglect in the residents of western Uttar Pradesh. Moreover, 92.3% of the respondents believed that a lack of adequate justice gives rise to vigilante justice. Researchers have also argued that a structurally sound and formalised judiciary directly correlates to higher economic growth rates<sup>19</sup>. The judiciary is necessary to establish a respected institution that the people believe delivers justice. Ex-CJI Shri P.N. Bhagwati once commented, "It is often forgotten that the contact of the common man with the justice system occurs only at the level of the subordinate

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<sup>16</sup> Paras Singh, Rajpath is now Kartavya path, NDMC approves the name change unanimously *Hindustan Times* (07 September 2022) <<https://www.hindustantimes.com/cities/delhi-news/rajpath-is-now-kartavya-path-ndmc-approves-the-name-change-unanimously-101662574602823.html>> accessed 19 July 2024

<sup>17</sup> Department of Agriculture for Uttar Pradesh, *Statistics of crop year 2020-21 of area, production and productivity* (2021)

<sup>18</sup> Economic and Statistics Division of the Planning Department of Uttar Pradesh, *Statistical Diary of the State of Uttar Pradesh* (2022)

<sup>19</sup> Lars P. Feld and Stefan Voigt, 'Making Judges Independent - Some Proposals Regarding the Judiciary' (2004) SSRN <<https://dx.doi.org/10.2139/ssrn.597721>> accessed 13 August 2024

courts, he has rarely occasion to go to the High Court, and therefore, if we want to inspire confidence in the common man that he can get justice, it is imperative to strengthen the subordinate judiciary.”<sup>20</sup> Though this statement is aimed at the subordinate courts, it is only natural for the subordinate judiciary to be in an equitable state if the higher courts themselves are in a sorry state of affairs.

An absence or lack of official judicial bodies makes people feel like the sole adjudicators of right and wrong, giving rise to vigilante justice. As per the data of the National Crime Records Bureau, the average criminal reports as per the Indian Penal Code<sup>21</sup> for Western Uttar Pradesh stands at approximately 6320.95 per district compared to an approximate 4903.60 per district in other districts of Uttar Pradesh<sup>22</sup>. The average number of criminal reports per district in Uttar Pradesh stood out to be 5357.16, which means Western Uttar Pradesh experiences approximately 18% more crime than Uttar Pradesh in general.<sup>23</sup>

The economic importance of Western Uttar Pradesh cannot be neglected, with 51.71% of the state’s revenue generation being attributed to the 22 districts of the region<sup>24</sup>. Any hindrance in the region’s access to justice is an alarming threat to its economic prosperity and trajectory. Moreover, the expanding population of Western Uttar Pradesh necessitates a robust legal infrastructure to effectively address the region's current clog of legal cases. Therefore, establishing a high court bench in the area is a matter of national importance to facilitate the fragile economic balance.

## CHALLENGES TO JUSTICE

Approximately 54% of the cases that reach the Allahabad High Court originate from the 22 districts of Western Uttar Pradesh<sup>25</sup>. This means that the significant segment of the work done in the Allahabad High Court would become more efficient and economical if it were located closer to the origin of most of their cases. A litigant from West UP engaged in a lawsuit in the

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<sup>20</sup> Sirohi (n 12)

<sup>21</sup> Indian Penal Code 1860

<sup>22</sup> National Crime Records Bureau, *Districtwise IPC Crime* (2022)

<sup>23</sup> *Ibid*

<sup>24</sup> Sirohi (n 12)

<sup>25</sup> Rai (n 14)

Allahabad High Court must at least travel to Lucknow to address his issue. In this endeavour, he must pay for the travel expenses, boarding, and lodging.

<b>Train Ticket Prices for a one-way journey to Lucknow<sup>26</sup></b>			
Origin City	Sleeper Coach Fare	3AC Coach Fare	2AC Coach Fare
Meerut	280	755	1070
Noida	230	555	760
Agra	240	610	840

Once a litigant books a ticket to Lucknow, he must also pay for hotel and food expenses, which can cost anywhere in the range of approximately rupees 3000 per day. These costs burden any litigant unreasonably and discourage the general public from seeking justice.

Apart from the direct and indirect economic burden on the litigant, even the state as a whole faces multiple issues that the establishment of a new bench can solve. In 1987, the Law Commission recommended that there must be at least 50 judges per every million people<sup>27</sup>. In Uttar Pradesh, there is an egregious shortage of judges with there being only 11.2 judges per every million people<sup>28</sup>. In Allahabad HC, 12.3 % of the cases have been pending for more than 20 years. Moreover, 63.3% of the cases in Allahabad HC have been pending for more than 5 years. This is the worst performance among all the other High Courts<sup>29</sup>. Creating a new bench will take the burden off the Lucknow bench and the Allahabad High Court while easing the lawsuit clog.

One of the respondents of the survey conducted for this article commented, “Justice given after 15-20 years is injustice. But you can't avoid this delay if the ratio of population and courts is not appropriate. So, it's quite apparent that we need proper infrastructure i.e. High Court in western

<sup>26</sup> India Justice Report, *India Justice Report* (2022)

<sup>27</sup> Law Commission of India, *One Hundred Twentieth Report on Manpower Planning in Judiciary: A Blueprint*, Law Commission of India (1987)

<sup>28</sup> India Justice Report (n 26)

<sup>29</sup> *Ibid*

Uttar Pradesh in this matter.” Another respondent said, “For the most populous state, only two high court benches and a total absence of any bench in Western UP which provides the bulk of the revenue to the state is inexplicable.” Given that 30.6% of the respondents were not aware of the fact that there is only one bench of the Allahabad High Court and only 22.2% of the respondents had ever approached the high court for any reason, it stands deducible that a significant portion of the population is unfortunately indifferent to the issue. However, given the comments of those aware of the issue in the survey, once knowledge of the injustice reaches the masses, mass frustration shall be observed.

On the 25<sup>th</sup> of July 2018, Shri Vijaypal Singh Tomar, a member of the Rajya Sabha from the constituency of Sardhana in the Meerut District, raised a motion in the Rajya Sabha for the establishment of a High Court Bench in Meerut. In his speech, Shri Vijaypal Singh Tomar mentioned that the central government maintains the perspective that it will not act upon the request to establish the new bench in Meerut until the Supreme Court prescribes it. However, Shri Vijaypal Singh Tomar also mentioned in his speech how the government’s perspective contradicts its prior actions by calling out the establishment of the modern-day High Court of Jharkhand. As mentioned by Shri Vijaypal Tomar in his speech, the modern-day High Court of Jharkhand was originally a bench on the Bihar High Court, established in 1976 by government legislation without any recommendation from the Supreme Court.

## PROPOSALS

While there may be no panacea for the issue other than establishing a high court bench in western Uttar Pradesh, a few ad-hoc solutions could be utilised. Given the best international practices, two ad-hoc solutions may be derived, namely, circuit riding and virtual hearings.

Virtual courts could be key to reducing the troubles associated with the distance of the high court benches in western Uttar Pradesh. The Indian Judiciary has been experimenting with virtual courts for quite some time now, ever since the coronavirus crisis of 2020<sup>30</sup>. Further, as a pilot project, Indian courts have been hearing cases related to violations of traffic rules since the

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<sup>30</sup> ‘Virtual Courts’ (*Department of Justice*) <<https://doj.gov.in/virtual-courts/>> accessed 10 July 2024



coronavirus crisis, which have proven to be effective in speedy dismissal<sup>31</sup>. However, there are multiple criticisms of virtual courts, one of which is that virtual courts are a challenge to an open court policy<sup>32</sup>. Virtual hearings could be undertaken for cases involving the residents of western Uttar Pradesh as much as possible without sacrificing the efficacy of trials.

If implemented, 'circuit riding' could also be a key solution to the issue. Circuit riding is the practice of having mobile benches that move seasonally to tend to judicial issues in various geographical regions in the United States<sup>33</sup>. An effective example of this practice is the United States Courts of Appeals, in which the judges hear the appellate cases from the United States district courts by travelling along thirteen "circuit" routes<sup>34</sup>. A similar court system may be established for cases like Uttar Pradesh, where the high court bench may migrate to western Uttar Pradesh for specific intervals of seasons.

## CHARTS AND DATA

For this article, the author surveyed more than one hundred individuals from diverse professions, backgrounds and residences. Data collected from the survey served as supporting information in the article and was not solely relied upon. The questions that were asked to each responder were:

- Do you feel that a lack of adequate justice in a region may give rise to vigilante justice? (For Eg. Mob Lynching)
- Before filling out this form, were you aware that there is only 1 bench of the Allahabad High Court apart from the main high court?
- Where is the High Court bench of Allahabad High Court located?
- Do you believe that the absence of a High Court bench in Western Uttar Pradesh handicaps access to justice?

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<sup>31</sup> *Ibid*

<sup>32</sup> Pramod Kumar Dubey, 'Virtual Courts: A Sustainable Option?' *Bar and Bench* (12 April 2020) <<https://www.barandbench.com/columns/virtual-courts-a-sustainable-option>> accessed 10 July 2024

<sup>33</sup> 'Circuit Riding' (*Encyclopædia Britannica*) <<https://www.britannica.com/topic/circuit-riding>> accessed 10 July 2024

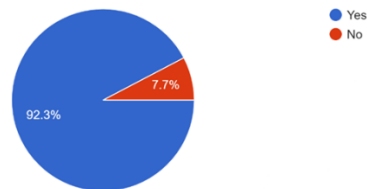
<sup>34</sup> 'Court Role and Structure' (*United States Courts*) <<https://www.uscourts.gov/about-federal-courts/court-role-and-structure>> accessed 10 July 2024

- Have you ever needed to approach the High Court?
- Which district of Western Uttar Pradesh do you belong to (If you are from one)?
- Do you have any additional comments?

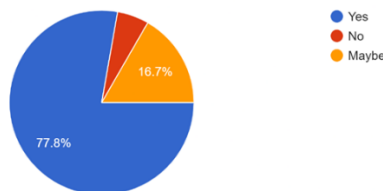
The data can be interpreted to certify the following points:

- 92.3% of the respondents believed that a lack of adequate justice may give rise to vigilante justice. This point can be viewed in conjunction with the higher crime rate seen in western Uttar Pradesh.
- 77.8% of respondents believed that the absence of a High Court Bench in western Uttar Pradesh handicaps access to justice. As earlier established by this paper, a sense of helplessness or lack of justice may lead to practices like vigilantism.

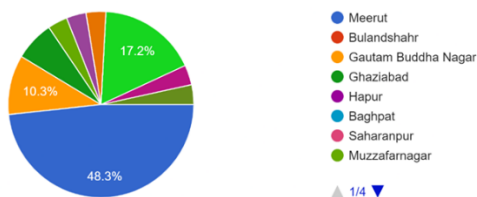
Do you feel that a lack of adequate justice in a region may give rise to vigilante justice? (For Eg. Mob Lynching)



Do you believe that the absence of a High Court bench in Western Uttar Pradesh handicaps the access to justice?



Which district of Western Uttar Pradesh do you belong to (If you are from one) ?



## CONCLUSION

Though this article may have felt rather doleful to this point, we must not forget that there are always two sides to a coin. Advocates of the Meerut district have been very vocal concerning this issue, even boycotting all work on Saturdays. The government has even allotted some land for a High Court bench in Meerut. In 2017, the then Law Minister Brijesh Pathak promised that a high court bench would soon be established in Western Uttar Pradesh.

Given the need to protect the fundamental rights of individuals under Article 21 and the economic importance of Western Uttar Pradesh, a bench must be established in the region. The term 'government' is derived from the ancient Greek term 'gubernare', which means to steer or pilot a ship. Therefore, we must keep in mind that the government is duty-bound to take the proper steps to ensure the well-being of its subjects. An omission of any community or region's welfare is nothing short of negligence on the part of the administration. Today, we must let go of the blame game amongst the pillars of the government and instead focus on solving the issue.

It is not that change is impossible, but that change takes effort, which the government must put into achieving the rights and welfare of its citizens. Temporary solutions like virtual hearings and circuit riding courts must be implemented as soon as possible until the government deliberates upon the future of the judicial system in Uttar Pradesh.