



A STUDY ON CRISIS IN INDIAN JUDICIARY: AN ANALYSIS OF THE PERIODIC SYNDROME OF DELAY, PENDENCY AND ARREARS

By *Abhishek Sharma*
From *Chandigarh University*

Little satisfaction but more discontent with the kind of judicial practice in India is a result of judicial delays. Large backlogs and litigations are passed over from one generation to another like a heritage. In actuality the Indian judiciary system is not only inconsistent but also extremely slow. Victims keep on waiting for Justice for years. Reasons for the delay and disposing off the cases is large no. of unfilled judicial vacancies and growing population. The large no. of pending cases has degraded the working of Indian judiciary. According to National Crime Record Bureau which will be subsequently analyzed in the paper, lakhs of people are waiting in jails for their pleas to be heard because they have spent more time in jail as required by law. People spend years waiting for justice standing at the doorstep of courts but often end up without getting justice. A systematic study is conducted about various possible reasons for Judicial delays along with recommendations of various commissions. Secondary data has been collected from various government, Supreme Court, India Justice Report and other official sources. The learned Advocates also projected reasons for judicial delays

such as delay in forensic reports, witness delays, lack of good quality judges and strikes in courts. The grim concern is also because of poor salary to judges. Appeals in High courts against Quasi-Judicial bodies add further burden. We must not forget that we are into the business of justice, which is often delayed by court hearings and poor judicial infrastructure. The paper initially describes the issues with regard to judicial delays, consequences, comparison with other countries and solutions. Honest commitment of all the stakeholders in legal profession holds the key to solve this issue.

Key Words-: National Crime Record Bureau, judicial delays, India Justice Report, Quasi-Judicial bodies

Introduction

The Indian constitution through its Preamble guarantees to its citizens 'Justice' – economic, political and social and mandates for the timely relief by giving justice is undeniable. Right to speedy trial is a constitutional and fundamental right guaranteed to every citizen by Article 14, 19, 21, 32, 226. Universal Declaration of Human Rights¹ in Article 10 has recognized the right to free, fair and speedy trial as an integral part of human rights. To further add, Article 9(3) of the International Covenant on Civil and political Rights² which India ratified on 10 April 1979 has also accentuated on the importance of timely justice. It is also a Directive Principles of state policy articulated in Articles 38(1), 39, 39A to

¹ All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination, Read

more at <https://www.un.org/en/universal-declaration-human-rights/> (Last visited 30 May 2020)

² International Covenant on Civil and political Rights, available at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> , Last visited (30 May 2020)



provide justice to its citizens. In *Babu v. Raghunathji*³, supreme court has declared that '*social justice means legal justice*' and the administration must provide cheap, expeditious and effective legal system to every section of society irrespective of their social or economic background. To further buttress the Fundamental rights in regards with International treaties, the supreme court of India has addressed this in jurisprudence of Constitution of India through a handful of judgements. Some of them are *Vishaka and Others v. State of Rajasthan and Others*⁴, *Nilabati Behera v. State of Orissa*⁵, *People's Union for Civil Liberties v. Union of India*⁶. Public must have a sense of confidence in courts for which the constitution has granted special powers to the Supreme Court in Articles 141, 142, 144 and 145(1)(c).

Economic survey 2018-2019 expressed concern over large pendency of cases in the Indian courts due to shortage of judges, according to which India needs additional 8,521 judges in the next five years to clear the backlog that India is facing. Even former Chief Justice of India Dipak Misra has raised same concerns over a year ago when 3.14 crore cases were pending. That figure increased to 3.53 crore on July 1, 2019, with all high courts and lower courts short of 5,535 judges.⁷ We must not forget that we are into the business of justice, which is often delayed by court hearings and poor judicial infrastructure. Therefore, it is vital to systematically and comprehensively discuss and analyze the state of Indian Judiciary.

The Magnitude of the problem

The table below shows the official data from Government of India on pending cases across various District courts in India a per the latest data available of all states collectively.

S.NO	NAM E OF STATES/ UTs	Cases pending as on 31.12.2016	Cases pending as on 31.12.2019	Percentage of increase/ decrease
1.	Assam	258639	284344	9.93
2.	Andhra Pradesh	1077944	522853	52.2
3.	Gujarat	1822311	1659335	(8.943)
4.	Goa	42074	43825	4.30
5.	Jharkhand	342768	353670	3.18
6.	Bihar	2128325	2439139	14.60
7.	Chandigarh	38907	42980	10.46

³ AIR 1976 SC 1734

⁴ 1997 (6) SCC 241

⁵ 1993 (2) SCC 746

⁶ 1997 (3) SCC 433

⁷ *Ghazanfar Abbas*, Economic Survey Flags Ballooning Pile of pending cases, says 8500+ judges

needed to clear backlog, 4 July 2019, available at <https://www.news18.com/news/india/economic-survey-flags-ballooning-pile-of-pending-cases-says-8500-judges-needed-to-clear-backlog-2216877.html> (Last visited 30 May 2020)

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8.	Chhattisgarh	290434	257782	(11.24)	22.	Maharashtra	3239540	3561746	9.94
9.	D & N Haveli	3766	2465	(34.540)	23.	Manipur	6978	9994	43.22
10.	Daman & Diu	1720	1758	2.20	24.	Meghalaya	15239	6727	(55.87)
11.	Delhi	606181	719977	18.77	25.	Mizoram	4665	3653	(21.69)
12.	Arunachal Pradesh	14583	NA	-	26.	Nagaland	4450	NA	-
13.	Telangana	NA	514425	31.69	27.	Odisha	1049325	1123055	7.02
14.	Haryana	547736	721335	23.98	28.	Punjab	504320	599053	18.78
15.	Himachal Pradesh	206941	256577	17	29.	Haryana	1148704	1505712	31.07
16.	Jammu & Kashmir	145999	1558	-	30.	Sikkim	1434	1306	(8.92)
17.	A&N Island	8767	NA	-	31.	Tamil Nadu	1099521	1103460	0.35
18.	Karnataka	1362167	1277153	(6.24)	32.	Puducherry	NA	NA	-
19.	Kerala	1482667	1162952	21.56	33.	Tripura	43568	23519	65.01
20.	Lakshadweep	357	NA	-	34.	Uttar Pradesh	5980071	7004569	17.12
21.	Madhya Pradesh	1097634	1370355	28.84	35.	Uttarakhand	190948	238349	24.82
					36.	West Bengal	2728753	2205954	(19.15)
					37.	Total	27497436	29173911	279.22



Government of India⁸

India has been experiencing docket explosion of pending cases pending cases across various States and Union territories. Around 3 crore cases are pending at the end of 2018 and beginning of 2019. Between the time frame of 2 years more than 15 Lakh cases have added to the existing burden. The most severe impact of huge arrears could be seen in the state of Andhra Pradesh with 52% increase in the pending cases. Tripura has 65% increase but the numbers are not so scary considering it be a very small state in comparison with Andhra Pradesh. West Bengal has shown significant improvement but with over 22 lakhs pending cases, the situation doesn't seem to be bright. Only few states have shown improvement but it should be worth mentioning that they are either the small states or the improvement is very minimal. While in various High courts more than 43 lakh cases are pending.⁹ Even the apex court doesn't have an answer to tackle this issue. While in few states and UTs the data is not available.

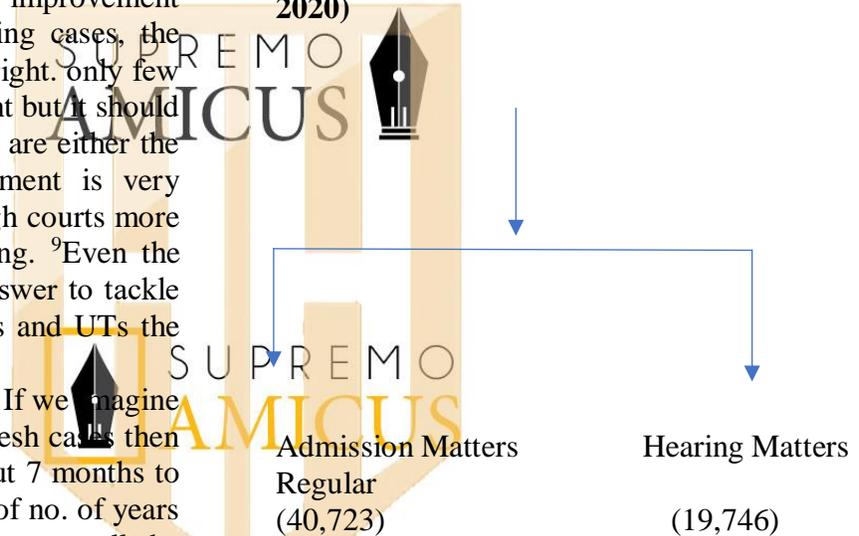
Supreme Court Pending Cases If we imagine that Supreme court takes no fresh cases then it would need a period of about 7 months to clear all the cases. Now think of no. of years High courts will require to dispense all the cases. It would be more difficult to imagine the time period for lower courts which may exceed over 2 years in most of the states.

Year	Pending cases	Percentage increase
2014	62791	-
2015	59272	(6.60)
2016	62537	5.50
2017	55588	(11.11)
2018	56994	2.52
2019	59535	4.45

Ministry of Law and Justice¹⁰

SUMMARY TYPES OF MATTERS IN SUPREME COURT OF INDIA

Pending Matters: 60,469¹¹ (As on May 2020)



Factors Attributing to Explosion and Arrears in Pending cases

⁸ Read more at <https://data.gov.in/resources/state-wise-pending-cases-district-and-subordinate-courts-31122016-10122018-ministry-law> (Last visited 29 May 2020)

⁹ Law minister 'Shri Ravi Shankar Prasad', available at <https://economictimes.indiatimes.com/news/politics-and-nation/out-of-43-lakh-cases-pending-in-high-courts-over-8-lakh-a-decade->

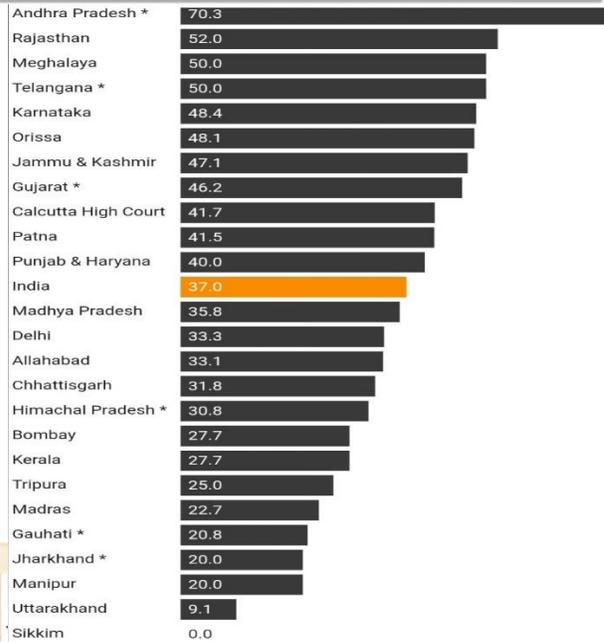
[old/articleshow/69974916.cms](https://old.articleshow/69974916.cms) (Last visited 29 May 2020)

¹⁰ Ibid., 8

¹¹ Official Website of Supreme Court of India, read more at <https://main.sci.gov.in/statistics>, (Last visited 27 May 2020)



1. **Lack of adequate Infrastructure:** There is Poor infrastructure in lower courts. The data from 665 courts in a survey reflected poor washroom facilities, deteriorated rooms and complete absence of other basic facilities.¹²
2. **Inadequate strength of Judges:** Despairingly India face an acute shortage of judges. Successive governments which come into power has not only failed to increase no. of vacancies but also has failed to fill the existing vacancies. At present in India, the High Courts have a combined strength of around 725 judges, whereas there are 128 more vacancies left to be filled up. One magistrate has a pressure to deal with thousands of people waiting for justice. For instance, in Mumbai, 50 magistrates have a burden to take care of 1.2 crore citizens.¹³



Source: *Supreme Court of India*¹⁴

3. Lack of adequate resources

- a) Lack of staff attached to various High courts
- b) Inadequate accommodation and other basic facilities
- c) Low level of budget
- d) Unsatisfactory level of judges

4. societal causes

- a) Increase in population
- b) Litigation explosion
- c) Burden on account of election petitions

5. Advocates

- a) Speculative appeals
- b) Unnecessary adjournments
- c) No use of ADR

6. Government

- a) Appointing sitting judges to various commissions and enquiries
- b) Wasting time of Apex Court by bringing unnecessary bills and petitions
- c) Imperfect and hasty legislation

Percentage of vacancies in various High Courts

¹² Sumathi Chandrashekar, Diksha Sanyal and Reshma Shekhar, Building Better Courts: Surveying the infrastructure of India’s district courts, August 2019, available at <https://vidhilegalpolicy.in/2019/08/01/building-better-courts-surveying-the-infrastructure-of-indias-district-courts/> (Last visited 25 May 2020)

¹³ Pradip Kumar Das, Justice Delayed is Justice denied, available at

<http://www.legalserviceindia.com/article/1317-Justice-Delayed-is-Justice-Denied.html> (Last visited 26 May 2020)

¹⁴ See Full Report at India’s next generation reforms must begin in courts, available at <https://www.livemint.com/news/india/india-s-next-generation-reforms-must-begin-in-courts-1560838699823.html> (Last visited 28 May 2020)



1. Successive heritage of handing over of cases: Percentage of cases pending for years



Source: National Judicial Data Grid¹⁵

8. other reasons

- a) No adequate forum for appeal against quasi-judicial orders
- b) Granting unnecessary adjournments
- c) Delay in disposal of criminal matters
- d) Strikes and non-appearance of lawyer

Under-trial Prisoners Facing Challenges Due to Delay in Justice

1. Prison Violence: In *Sunil Batra v. Delhi Administration*,¹⁶ the court had directed the authorities not to physically mishandle the prisoners and provide them medical and basic health facilities.

¹⁵ *Vishnu Padmanabhan, Sriharsha Devulapalli*, India's next generation reforms must begin in courts, 18 June 2019, available at <https://www.livemint.com/news/india/india-s-next-generation-reforms-must-begin-in-courts-1560838699823.html> (Last visited 30 May 2020)

¹⁶ (1978) 4 SCC 409

¹⁷ *Mrinal Sharma*, The state of Indian prisons, 25 June 2019, available at <https://www.thehindu.com/opinion/op-ed/the-state-of-indian-prisons/article28138352.ece> (Last visited 27 May 2020)

2. Under-trial prisoners: A report published by National Crime Records Bureau shows that at the end of 2016, there around 4,33,033 people in prison and sadly 68% of them were under-trials. India's under-trial remains highest in the world. This indicates the unnecessary arrests and ineffective legal aid during remand hearings. This further fills the jails with extra burden.¹⁷

3. Data on prisoners: Under 436A of CrPC allows undertrials to be released on personal bond in case they have undergone half of the maximum term of imprisonment they would have faced if convicted. Prison officials are frequently unaware of this section. This further adds extra burden on the jails. In 2016, out of 1,557 prisoners were eligible to be released and only 929 were released.¹⁸

Share of prisoners incarcerated for over a year while awaiting trial



Source: Indian Justice Report¹⁹

Findings of Committees and Reports on Pendency of Cases Rankin Committee 1924

¹⁸ see generally India Justice Report, available at <https://www.tatatrusters.org/upload/pdf/overall-report-single.pdf> (Last visited 27 May 2020)

¹⁹ *Ananya Bhattacharya*, Some Indian states have more than twice as many prisoners as they can house, 7 November 2019, available at <https://qz.com/india/1743852/overcrowded-indian-prisons-are-understaffed-underfunded/> (Last visited 28 May 2020)



Various committees have contributed and came up with their findings but nothing had significantly contributed towards minimizing the impact of judicial backlogs. First of its kind was the Rankin committee under the chairmanship of Justice Rankin.²⁰ This committee was appointed to give effective solutions to bring in more speedy and economical trials. Delay in dispatch of cases for over 2 years was the main concern. The committee had identified lack of adequate strength in some of the High Courts. The committee does not hold any usage in today's world.

Justice S.R Das committee 1949

The report under the chairmanship of Justice S.R Das highlighted the inadequate delay in filling up the vacancies in the various High courts. Considering the volume of work, the delay should not be avoided. It focused on increasing numeric strength of the lower courts which is crucial in meeting the congestion of work.

Then it was the Trevor Harris Committee in West Bengal in the year 1949 followed by the Wanchoo Committee in Uttar Pradesh in 1950, Justice J.C. Shah Committee 1972, Arrears committee in 1987, Satish Chandra Committee (1986) which was subsequently followed by first Malimath Committee (1990). Furthermore, the Law Commission has timely addressed this issue many of its reports since the very inception of independence. This issue has been dealt in 14th, 79th, 80th, 120th, 121st and 124th reports by the law commission. Talking about recent reports regarding this issue, various reports by law commission such as 221st,

222nd and specifically the 229th report, dealt with issues of docket explosion of judicial delays. The second Malimath Committee submitted its findings in the year 2003. Various Conference of Chief Justices and Chief Ministers, both the Prime Minister and the Chief Justice of India raised their concerns to strike and ensure economic and speedy justice. The discussion also revolves around with a Vision presented at the National Consultation and its ambitious plan on reducing down the average pendency of cases from 15 years to 3 years. As evidenced by the National Consultation virtually all sectors of stakeholders and participants in the system have now recognized it is time to take forward the serious business of overcoming pendency and delays. As evident from the discussion, most of the committees, reports and conferences focused regarding the strength and vacancies of the lower courts and High courts. Here, in addition to the recommendations there are various modern techniques given by several scholars which will solve the problem to certain extents. Though diagnosis of the issue does require a more systematic and modern approach using current, modern and disaggregated data. The techniques may have an everlasting and fruitful impact on the Indian Legal System. Some of these modern techniques will be subsequently discussed in next half of the paper.

What can be done?

1. Judicial Procedure: Judicial procedure is very complex and especially for poor which cannot afford to pay heavy fees to the

²⁰ *Sir George Claus Rankin* (12 August 1877 – 8 April 1946) was a British judge in India.



litigants. Therefore, to avoid delay and make things easier, we can adopt

- a) ADR (Alternative Dispute Resolution)
- b) Appointment of Ad Hoc Judges to dispense off the pending cases
- c) Dividing the apex court into four regional parts
- d) Raise the retirement ages of judges of High Courts and Supreme Courts
- e) Modern Techniques
- f) Fines for filing false and frivolous cases

2. Frequent access to Informal justice in India

Informal justice has been considered useful and lingered in the minds of legal intellectuals such as Justice V.R Krishna Iyer, Justice P.N Bhagwati. Right from independence, Gram panchayats has served an important dispute resolution mechanism. Lok Adalats is the most salient deliberation which has emerged from such discussions. These alternative Informal justice mechanisms includes:-

- a) Lok Adalats
- b) Gram Nyayalayas
- c) Family Courts
- d) Mobile Panchayats
- e) Nyaya Panchayats
- f) Gram Panchayats

3. Structural Changes: ²¹

- a) Increase the strength of judges at all levels because India has 19 judges per 10 lakh people, according to current law Minister Ravi Shankar Prasad ²²

- b) Many districts lack good hygiene, slow and sluggish websites, cleanliness
- c) 42nd Amendment was passed to setup tribunals for faster services. Courts must be digitalized. The central government is implementing eCourts project, the project is aimed at providing necessary hardware and software applications to enable the court to deliver faster services.
- d) Complexities in the Indian Arbitration and Conciliation Act, 1996 must be take care of

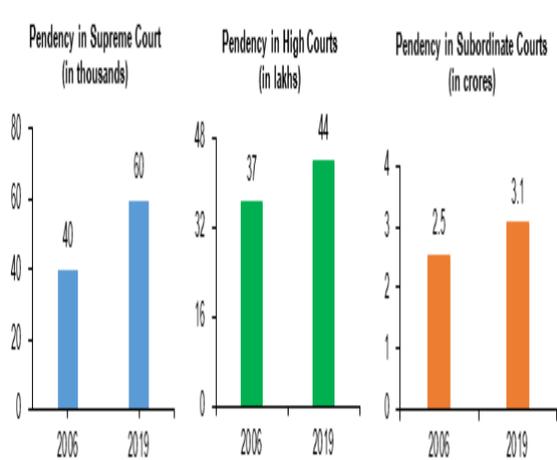
4. Public Interest Litigation

60% of the civil cases in the country involve government as one party or both parties. Criminal cases involve 100% government as one party. A great no. of them are appeals and the result of these appeals is law itself. A simple procedure must be set up to cut down the no. of government appeals and thus reducing the burden on higher judiciary.

- a) PIL has helped in a no. of ways but it is criticized for adding extra burden on the Supreme Court and wasting its limited time

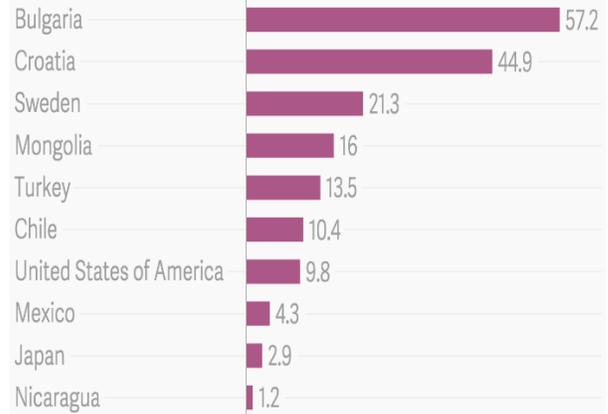
²¹ Sumathi Chandrashekar Diksha Sanyal Reshma Sekhar, Building Better Courts Surveying the Infrastructure of India's District courts, August 2019, available at https://vidhilegalpolicy.in/wp-content/uploads/2019/08/National-report_single_Aug-1.pdf (Last visited 21 May 2020)

²² India has 19 judges over 10 lakh people: Data, 24 September 2018, available at <https://www.thehindubusinessline.com/news/india-has-19-judges-per-10-lakh-people-data/article25030009.ece#>, (Last visited 22 May 2020)



Source: National data Judicial Grid²³

Proportion of judges per 100,000 inhabitants for selected countries



Source: JDLAP²⁶

5. There are not enough judges

- a) *All India Association v Union of India*²⁴ is a landmark case in which the supreme court expressed its desire that the number of judges be increased in a phased manner in 5 years so as to raise the Judge-Population ratio to 50 per million.
- b) In another landmark case, P Ramachandra Rao v State of Karnataka²⁵ in Para 11 court clearly mentions that “*The root cause for delay in dispensation is poor judge-population ratio*”
- c) In India there are 19-20 Judges on approximately 10 lakh people, this comes out as 2 judges per 100,000 people

6. Increase the number of courts

- a) India judiciary has insufficient funding which is hurting the growth of Indian Judiciary
- b) No State/UT in India except Delhi has more than 1% total spending of GDP on judiciary. Delhi has 1% of total spending on judiciary²⁷
- c) Spending by the government on Legal aid is only 75 paisa per person as per study²⁸
- d) Number of courts must be increased

Steps taken so far: What has been done

1. Code of Criminal Procedure 1973

- **Plea bargaining:** It is an arrangement between prosecutor and defendant whereby the defendant pleads guilty to a lesser charge in exchange for a more lenient sentence or an agreement to drop other charges. In the

²³ National Data Judicial Grid , available at <http://prsindia.org/theprsblog/examining-pendency-cases-judiciary> (Last visited 22 May 2020)

²⁴ AIR 2002 SC 1752

²⁵ (2012) 9 SCC 430

²⁶ Data available at <https://www.theatlans.com/charts/V1aMwcnYx> (Last visited 23 May 2020)

²⁷ India spend, Inadequate budget for judiciary, crippling reforms, hurting growth, 4 December 2019 available at https://www.business-standard.com/article/economy-policy/inadequate-budget-for-judiciary-crippling-reforms-hurting-growth-report-119120400323_1.html (Last visited 24 May 2020)

²⁸ Ibid., 23



Criminal Procedure Code, 1973²⁹ a new chapter i.e. XX1A was introduced. Plea Bargaining is a term which can be defined as pre-trial negotiations between the accused party and the prosecution, where the accused pleads guilty in exchange for certain concessions by the prosecution. This concept has become a part of India's criminal jurisprudence. It has gained wide popularity in United States and restrictively used in Australia and United Kingdom. However, considering its various disadvantages the concept hasn't gained much popularity in India. But this concept can certainly help to clear the backlog of pending cases.

- Section 165 of CrPC relates to recording confessions by police officers via electronic means.
- Proviso to section 275(1) relates to recording evidence of a witness to be recorded by electronic means in front of the advocate representing the accused.
- Section 260 deals with theft and robbery, covering the increased value of property up to Rs. 2000
- Section 309 of CrPC restricts the power of courts to adjourn cases

2. Legal services Authorities Act of 1987

- **Section 20:** Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles. This act further broadens the jurisdiction of Lok Adalats from 'petty matters' to 'any matter'.

3. Specialized Tribunals

- **Article 323A** provides that a law made by the parliament may provide for establishment of an Administrative Tribunal for the Union and a Separate Admin
- Debt Recovery Tribunal (DRT), these are set-up to recover debt due to banks and financial institutions. Currently there are more than 30 such tribunals
- **Family Courts**
 - ❖ Granting Divorce as per law.
 - ❖ Ordering Interim maintenance.
 - ❖ Ordering litigation expenses.
 - ❖ Ordering Custody of children.
 - ❖ Visiting rights
- **Labour Courts**
 - ❖ Industrial Disputes Act, 1947.
 - ❖ Cases under workmen compensation.
 - ❖ Employees State Insurance Act.
 - ❖ Factories Act.
- **Consumer Courts**
 - Motor Accident Claims Tribunals
 - Central Administrative Tribunal
 - Income Tax Appellate Tribunal
 - Customs, Excise and service Tax Appellate Tribunal (CESTAT)
 - National Green Tribunal (NGT)
 - Competition Appellate Tribunal
 - Securities Appellate Tribunal

4. Arbitration, Mediation and Conciliation

- Alternative Dispute Resolution techniques and pre-trial counseling or dispute resolution measures can lower down the burden on the Indian courts. Courts may also take resort to Section 89A of the Civil Procedure Code, 1908 in order to ensure that litigants first exhaust all modes of alternative dispute resolution.

²⁹ Code of Criminal Procedure, 1973 (Section 265A to 265L)



- This will decrease litigation cost
- Save courts time

5. Lok Adalats

- the first Lok Adalat was held in Gujrat in 1982
- accepts cases pending in regular court under their jurisdiction
- the Lok Adalat are presided over by Members of Lok Adalat; they have the role of statutory conciliators only and do not have any judicial role, therefore they can only persuade the parties to come to a settlement
- main condition of the Lok Adalat is that both parties in dispute should agree for settlement
- they are staffed by retired judges, senior advocates, volunteers

6. Amendments in Civil Procedure Code, 1908

- section 35B entitles the court to fine a party if it fails to take the necessary step for which it had obtained an adjournment
- under section 89, courts have the power to transfer cases to Lok Adalats, arbitration, conciliation and mediation

7. National Litigation Policy (NLP)

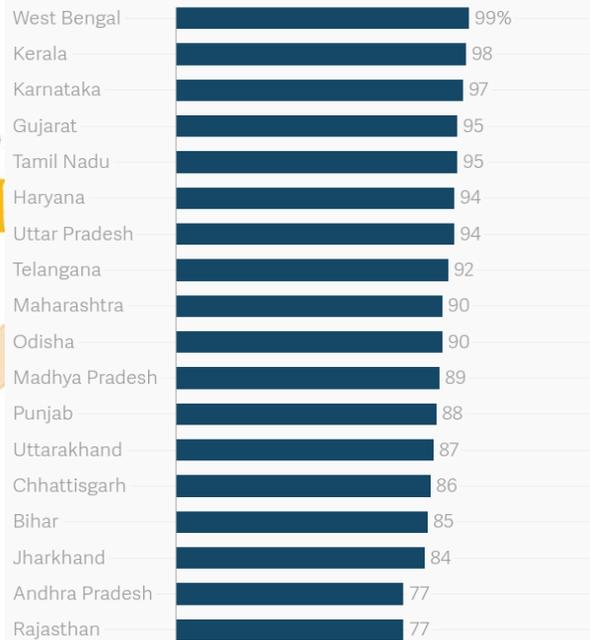
- it was launched on 23 June 2010 and recognized government as the biggest litigant in the courts and various tribunals
- It is formulated by the Ministry of Law and Justice of the Government of India which is aimed at bringing down the litigation from government agencies by making them more responsible in filing the cases.
- To make government an efficient and responsible litigant by cutting down unnecessary litigations

8. Case Flow Management Rules:³⁰ Case flow management rules consists of a set of practices and rules that ensures that a judge or an officer of the court creates, adheres and implements the time frame for the lifecycle of a case.

- *In Salem Bar Association v. Union of India*³¹, SC directed to form a committee known as ‘Case Flow Management Rules’
- On the basis of recommendations, around 21 State Judiciaries has opted this concept
- In spite of adoption of the same, there is serious lacunae in the actual application due to workload and non-substantive hearings

9. Budget allocation for setting up more courts and prisons:

Budget utilisation at prisons in mid- and large-sized Indian states



³⁰ *Daksh*, Case Flow Management Rules, March 2017, available at <https://dakshindia.org/wp-content/uploads/2015/11/Case-Flow-Management->

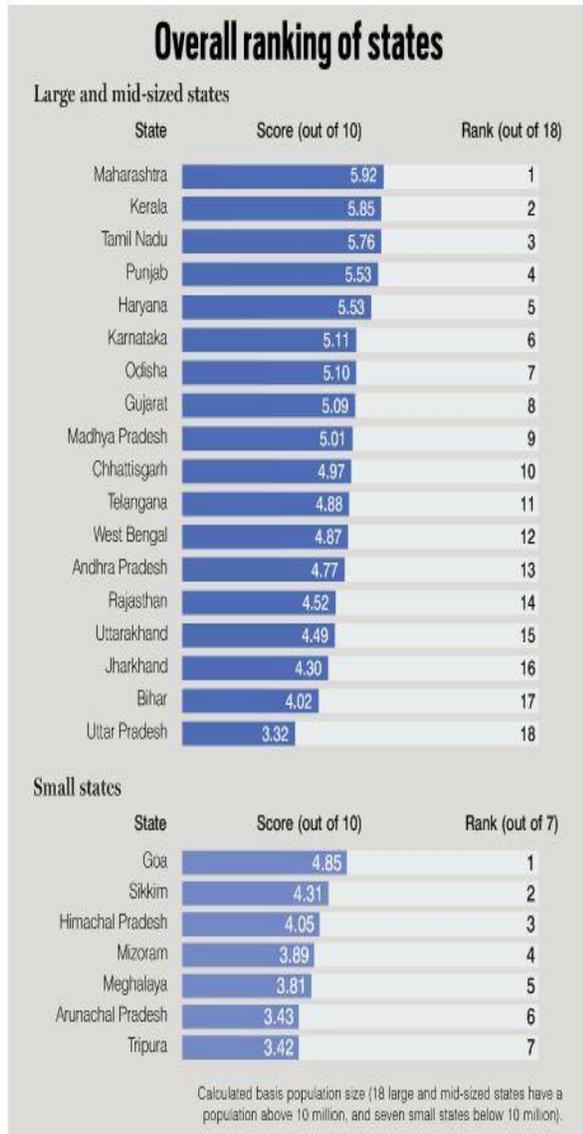
Rules-in-India-by-DAKSH.pdf (Last visited 24 may 2020)

³¹ (2005) 6 SCC 344



Source: India Justice Report 2019³²

Overall Ranking of Indian States: A *sui generis* report by Tata Trusts



Source: India Justice Report 2019³³

Suggestions and Conclusion

The position of Indian Legal system is not very satisfactory. Studies across various platforms clearly indicate the lack of Judges strength has added extra burden on increasing no. of pending cases. The Indian Legal system seems to be obeying the rule of 'Justice delayed is justice denied'. The United States has 151 judges for each million of its population. Even China, despite its 1.3 billion plus population, has a far higher ratio of 170 judges per million people. Whereas India has a very poor ratio of only 20 judges over a million of people. Lakhs of people keep waiting for justice. The involvement of court personnel in ADR activities should reinforce trust while not diverting resources from the needs of litigation. Motivating and Encouraging ADR measures, pre-trial counselling and other dispute resolution measures can lower down the pressures on the court system. The 77th and 129th law commission report recommended the concept of neighborhood justice centers. The same concept has been developed and partially implemented. Judges are not only for delivery decisions but they are the chief architect in shaping the judiciary. Judge must come up with some recommendations and sound decisions. Judges should also charge the advocates for delaying the judicial process. The most direct way to get a defendant to internalize the costs of delay is to ensure that damages awards include a provision for pre-judgment interest.

³² India Justice Report, available at <https://www.tatatrusters.org/upload/pdf/overall-report-single.pdf> (Last visited 24 May 2020)

³³ *Ishita Purkaystha*, India Justice Report: Scale of justice available at <https://www.indialegalive.com/special-story/special->

[feature-news/india-justice-report-2019-scales-of-justice-75470](https://www.indialegalive.com/special-story/special-feature-news/india-justice-report-2019-scales-of-justice-75470) (Last visited 22 May 2020)



14th Law commission highlighted various amendments to scrap old and outdated laws. The most direct way to get a defendant to internalize the costs of delay is to ensure that damages awards include a provision for pre-judgment interest. 14th Law commission has highlighted certain amendments to scrap old and outdated laws. Urgent amendment in the Arbitration and Conciliation Act, 1996 is needed to enable various tribunals to settle the matters without too much of the interference from the courts. Safeguards should balance the rights of litigants with their interest in finality. To further modernize the Indian courts; the development of a case management system is needed to separate and allocate time to simple or complex cases. Case Management as already discussed in the paper is to Facilitate Settlement of Claims Decentralization which provides provision of adequate training, conducting of periodic assessment, administrative support. Recruitment of new judges and filling up the present vacancies cannot be ignored.

Parliament under Article 312 of the Constitution of India is empowered to establish an All India Judicial Service, which is even suggested by a number of Law Commission Reports. The creation of All India Judicial Services would be extremely helpful in tackling with this issue. Along with this a revision in salary structure is also needed to attract young and intellectual mind who are often perceived by the high income in litigation. As per a report by CCR, district courts needed 2,279 additional judges to clear the backlog. Justice Lokur, former Judge of High Court of Delhi has suggested

introduction of Internet technology in reduction of paper work.

Fast track courts, Special Court Rooms, good infrastructure, additional buildings and other infrastructure must be provided which will also solve the purpose. It must be remembered that increased infrastructural support must be considered on a war-footing. National Litigation Policy (NLP) and National Arrears Grid must be taken seriously.

As per a report India spends currently spends about Rs12,000 crore a year on the judiciary. This amounts to about 0.01% of the gross domestic product (GDP). Whereas the percentage spent on defense is 2% of GDP. In a stark reminder of ground realities, out of the special grant of Rs5,000 crore by the 13th Finance Commission for improving judicial infrastructure and services, almost 80% remained unspent.³⁴ Talking commercially, India continues to lag on the indicator for enforcing contracts, climbing only one rank from 164 to 163 in the latest report of EODB, 2018,” the report depicted that (EODB) Ease of Doing Business rankings of the World Bank . Despite a number of steps taken to improve the contract enforcement regime, still economic activity is certainly being affected by the long shadow of delays and pendency across the legal landscape in the Country. Along with all the ‘what can be done’ measures discussed in the paper, the government needs to wake up and realize the importance of tackling this issue. It is high time and urgent attention must be paid to come up with appropriate remedial measures before the situation goes beyond our control.

³⁴ *Surya Prakash B.S* , Examining the funding deficit of Judiciary, available at

<https://www.livemint.com/Opinion/b1DNafTIUNGtzY3IR8gtbl/Examining-the-funding-deficit-of-the-judiciary.html> (Last visited 30 May 2020)

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We must and show now because tomorrow
will be too late.

