

# Pendency of Judicial Cases and How to Resolve the Same

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**Abstract-** This paper provides an insight towards long pending Judicial cases in India. As a developing nation with limited resources India is doing well in every sector. The need is high investment and mass recruitment like Private sector in order to expedite the pendency disposal of cases in India. By these efforts country will progress in terms achieving prosperity and non-conflict situation.

**Index Terms-** MoP (Memorandum of Procedure), PM (Prime Minister).

## INTRODUCTION

The order for arrest of Justice Kaman, as well as that even the extremely high profile Nirbhaya case took more than four years to resolve, are pointers to India's larger judicial crisis. About three crore cases are currently pending in various courts of India. According to an analysis, if the nation's judges closed 100 cases every hour without eating or sleeping, it would take more than 35 years to catch up. 57% of district and subordinate court cases take more than 10 years to dispose of.

India ranks 178th among 189 countries on the Enforcing Contracts indicator, making it one of India's worst performing indicators in World Bank's Ease of Doing Business study. This largely accounts for India's overall poor ranking and has acted as a major barrier for investments to India.

Chief Justice Khehar's call for judges to give up five days of their summer vacation for the sake of the nation could not have been timelier. In fact, one wonders why the judiciary has a summer vacation at all.

The glut of cases in the lower courts is where the root of the problem lies. Most importantly, we need to acknowledge it and monitor it on a continuing basis. We need to have access to high resolution data on judicial processes at both the high court as well as the lower court level. A number of courts do not have data under the "Date filed" column, the most crucial piece for identifying delays.

The quality of data is circumspect and is non-uniform between courts, which use different abbreviations, categorization, and formats which makes comparing data between courts an arduous and costly process. Significant progress has been made towards computerization of courts. However, computerization must include within its ambit the standardization of data collection across courts and not merely computerization within silos.

Allahabad high court has an average of 77 hearings per judge per day whereas Calcutta high court does 148 hearings. No judge specific metrics are available. If we even had simple metrics like frequency of case disposal per judge or categorization of subject matter with respect to judges, a great deal of accountability and trust would be brought into the system.

The collegium would have more data points to objectively decide on elevation of judges. The CJI's office and high courts should have a live dashboard which can update them on the performance of the high courts, justices, and the aggregated data of the lower courts, with simple color coded markers for the various KPIs

## PENDENCY DATA

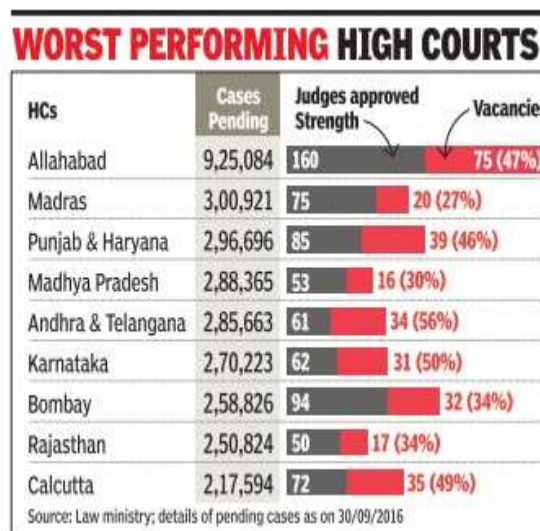
At the end of 2016, the pendency in the Supreme Court went up to 62,537. The ministry said according to latest data provided by the SC, as on July 17, 2017, the pending cases have been pegged at 58,438. These include 48,772 civil and 9,666 criminal cases. Similar is the case with the 24 high courts of the country where pending cases were pegged at 41.52 lakh at the end of 2014. In December, 2015, the pendency went down to 38.70 lakh. But at the end of 2016, the cases went up to 40.15 lakh, but were less than the pendency in 2014. But in the subordinate courts — considered the backbone of the country's justice delivery system — the pendency of cases has gone up in the last three years. While the pending cases in 2014 were recorded at 2.64 crore, they went up to 2.70 crore in 2015. In December, 2016, the pending

cases went up to 2.74 crore. The high courts have a shortage of 413 judges as on September 1. While the approved strength is 1,079, these are working with 666 judges. The lower courts with an approved strength of nearly 20,000 judicial officers is short of 4,937 judicial officers. One of the key reasons for the huge figure of pending litigation is the shortage of judges in subordinate courts which is “a cause of concern”, as there are 4,954 judges’ posts vacant when the sanctioned strength of judicial officers was 21,324, the report on subordinate courts said. “Based on the study and keeping in mind the future growth in institution of cases, it is found that the present judge strength is insufficient to deal with a huge figure of pendency of cases, which is a cause of concern. The figures compiled in the annual report till June 30 last year show that the district courts in Gujarat, Bihar and Uttar Pradesh were the worst affected as they were short of 794, 792 and 624 judges respectively. While the sanctioned strength of judges in lower courts in Gujarat, Bihar and Uttar Pradesh is 1953, 1825 and 2394 respectively, the number of working judicial officers are only 1159, 1033 and 1770 respectively. The difference is also huge in Delhi where the total sanctioned strength is 793 while there were only 486 working judges, with 307 positions being vacant. The data on vacancy of judges shows that trial courts in Northeastern states of Sikkim, Manipur, Tripura and Meghalaya, were the only ones where the vacant positions were the least, with 4, 11, 29 and 16 vacancies respectively. Expressing concern over the figures of pending cases, the report compiled on subordinate judiciary said that in the next three years, an additional 14,597 judicial officers and sanctioned judge strength of 35,155 are required in the trial courts to cater to the problem. According to the annual report, district courts in Uttar Pradesh peaked in the pendency of cases at 58.8 lakh, including 43.73 lakh criminal cases. However, these courts also disposed of the maximum number of cases at 34.83 lakh. Maharashtra had the second highest tally of pending cases across states with a backlog of 31.8 lakh matters, which include 20.39 lakh criminal and 11.4 lakh civil, followed by West Bengal at 26.95 lakh, Bihar at 20.88 lakh and Gujarat at 20.56 lakh undecided ones. The pendency in Delhi stood at 5.98 lakh, comprising 4.32 lakh criminal and 1.65 lakh civil matters. The courts in the capital, however, disposed of 6.45 lakh cases by June 2016.

Besides Delhi, seven states were found with higher disposal rate, with Tripura and Himachal Pradesh deciding over 58 per cent of the cases. Other five states which disposed of over 51 per cent cases are Himachal Pradesh, Punjab, Haryana, Tamil Nadu and Assam. Highlighting the importance of judiciary and timely delivery of justice, the report said “justice is one critical component of citizenship which cannot be neglected. “Overworked judges, overburdened court staff, chronic shortage of court-space and unending wait to justice does not complement the policies of the State.” “The role of a robust judiciary in a nation’s development is pivotal. With development and a corresponding growth in litigation, more judges will certainly be required to handle the same so that justice is done in its truest possible sense,” it said.

The number of cases pending in the court for more than 5 years was 15,929, which is more than 29 per cent of the cases. Those waiting for disposal for more than 10 years constituted 1,550 cases. If the data were compiled separately for cases pending for more than 5 years and more than 10 years respectively, over 32 per cent cases i.e. around one-third of total cases in the top court have been hanging

Fire for more than 5 years.



Recently, Chief Justice of India Dipak Misra has written to chief justices of all 24 high courts to have benches even in the vacation to expedite criminal appeals and decide cases on a fast-track basis. There is also an Arrears Committee in the Supreme Court to formulate steps for reducing pendency of cases in

high courts and district courts. A total of 37.47 lakh cases are pending in 23 high courts, with an average of around 1.65 lakh each. The data further showed that out of 34.27 lakh pending cases, 7.46 lakh cases – almost 22 per cent, were 5 to 10 years old. Another 6.42 lakh cases, which constituted around 19 per cent were more than 10 years old. Combined together, 40 per cent pending cases in the high courts have been waiting disposal for at least 5 years now. A look at the working strength of the high courts may indicate one of the chief reasons for this whopping pendency. At present, the high courts are working with less than two-third of their approved strength.

<b>STATES LAG IN CLEARING CASES</b>			
<b>STRUGGLERS IN REDUCING 10-YR-OLD PENDING CASES</b>			
States	10-yr-old cases	All pending cases	% of cases pending*
All India	22,76,598	2,54,85,476	8.93%
Gujarat	3,49,077	17,58,423	19.85%
Odisha	1,72,629	10,05,675	17.17%
Bihar	2,50,235	15,49,110	16.15%
UP	7,75,140	59,94,548	12.93%
W Bengal	2,03,213	16,23,882	12.51%
J&K	9,005	81,939	10.99%

\*For 10 yrs; Notes: The details of pending cases in all district and subordinate courts, other than high courts and the Supreme Court, are as on September 4, 2017  
Source: National Judicial Data Grid

Former Chief Justice of India (CJI) TS Thakur appeared to be under a lot of pressure - so much so that he broke down (cried) in front of PM Narendra Modi. Justice Thakur was most vexed about India's overworked judiciary and bemoaned that the common man's faith in the justice system is at an all-time low. He was speaking at the inauguration of a joint conference of chief ministers and chief justices of high courts that the PM also attended. Cases, the CJI said, are piling up and there aren't enough judges to hear them. He lamented "inaction" by the Executive in increasing the number of judges to 40,000 from the current 21,000. That, he said is the reason the judiciary is unable to handle the "avalanche" of litigation. "...And therefore, it is not only in the name of a litigant or people languishing in jails but also in the name of development of the country, its progress that I beseech you to rise to the occasion and realize that it is not enough to criticize. You cannot shift the

entire burden on the judiciary," the Chief Justice said, choking up again.



Why are so many cases pending before Courts?  
The reasons are as follows:

#### Shortage of judges

The shortage of judges is one of the common problems stated by even our previous Chief Justice TS Thakur. There is a huge judicial vacancy which the government has not been able to make up. Statistics show that there are about 24 high Courts which have 464 vacant posts for judges and there are around 4166 vacant seats in the subordinate courts. Such a huge vacancy is resulting in overburdening of the existing judges which is leading to such a backlog of cases.

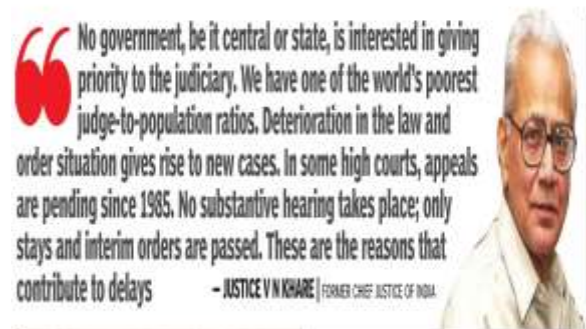
#### Power struggle between Executive and Judiciary

One of the main causes of a standstill in the appointment of judges has been the tussle between executive and judiciary over the proposed Memorandum of Procedure for appointment of judges. The new MoP was providing for the striking down of any name by the Centre on the grounds of national security was struck off by the Supreme Court. Currently they have reached on an agreement to continue the old collegiums system. But only 170

names have been proposed for appointment as against a need for 462 judges.

#### Litigations by / against Government

The Indian government is the largest litigant of the country. The cases involve minor issues like one department suing the other. This leads to a further backlog of cases.

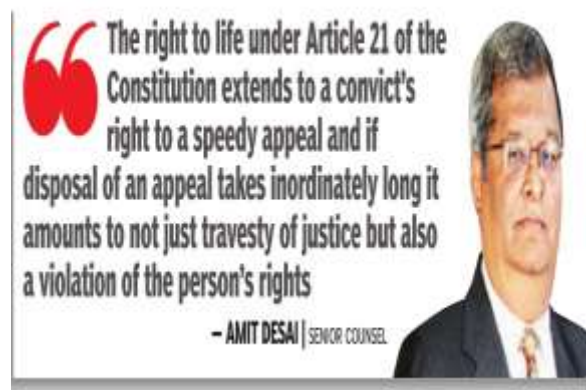


#### Failure of Fast Track Courts

When the Fast Track Courts functioned properly, cases of importance were easily disposed of. But currently, due to lack of funds to these courts, many of them have been shut down. So cases pending there were brought before the other courts, increasing the backlog.

#### Change of Thinking of Advocate's/Lawyers

Indian Lawyers if they work more efficiently and change their way of working like trying to dispose of the matter on immediate basis will work and to proceed for the new case to be heard, this will bring a revolution as it is seen when there is a correct mix of Judge, parties and advocates then nothing is impossible.



#### Suggestions to tackle this

The only viable suggestion currently can be to increase the number of judges and invest more on the judicial infrastructure. It should be kept in mind that though the government plays a significant role in appointment of judges in higher courts, in lower courts judges are appointed by State High Courts. So, the entire blame for judicial non-appointment cannot be put on the executive. Some measures like appointing ad hoc judges under Article 224A of the Constitution can be done for immediate solution. Without spending money and expecting high output and quick disposal of pending cases is never possible, mass requirement like in private sector firms ensures disposal and timely output for the problem situation. When there can be lacs of people recruitment happens in Banks, Railways like people management systems so why cannot be in Judicial systems. People are sufferer due to same; some of them die due to aging and years of year's repetitiveness of hearings. The solution to the problem is well known to everybody and its one and single solution is Mass Recruitment else the situation will be as it is and never ending. It is such a subject where role of technology is too much less as decision is to be taken by the Judge and it's a very thought process of Human Brain and a part of knowledge. Also Judge sitting for long duration and canceling of vacations is a temporary process because new cases are also coming and those cannot be stopped. Further, some steps must be taken to ensure that there is an increase in number of courtrooms which is also a necessity along with the increase in judges.

#### CONCLUSION

Justice Delayed is Justice Denied. If cases continue to be pending like this due to the negligence of judiciary as well as the government, the whole idea of the judicial system shall become futile. So, if the judiciary has to truly serve its purpose of delivering justice, it should take immediate steps to increase the speed of disposal of cases. The solution to the problem is well known and single solution that is Mass Recruitment.