



Pendency of Cases

This article is based on [“Spike in other caseload”](#) which was published in The Indian Express on 25/05/2021. It talks about the delays and inefficiencies arising from the huge pendencies of cases in the Indian courts.

The Covid-19 pandemic has impacted virtually every aspect of socio-economic-political setup in India and quite obviously Judiciary hasn't been immune to it. By and large, the courts have not worked with a full caseload since March 2020.

As a result, when the lockdown of March 2020 was declared, there were 3.68 crore cases across all levels; which have already shot up to 4.42 crore.

These delays and inefficiencies arising from the heavy dockets in Indian courts have long been a matter of concern and complements the saying that justice delayed is justice denied.

Thus [Judicial reforms](#), if taken seriously, expeditious and effective justice can see the light of day.

Reasons for Delay

- **Persisting Vacancies:** Across India, there are vacancies against even the sanctioned strengths of courts and in the worst performing states those vacancies exceed 30 per cent.
 - Due to this, the average waiting period for trial in lower courts is around 10 years and 2-5 years in HCs.
- **Poor State of Subordinate Judiciary:** District courts across the country also suffer from inadequate infrastructure and poor working conditions, which need drastic improvement, particularly if they are to meet the digital expectations raised by the higher judiciary.
 - Also, there is a yawning digital divide between courts, practitioners and clients in metropolitan cities and those outside. Overcoming the hurdles of decrepit infrastructure and digital illiteracy will take years.
- **Government, the Biggest Litigant:** Poorly drafted orders have resulted in contested tax revenues equal to 4.7 per cent of the GDP and it is rising.
 - Crowding out investment: Roughly Rs 50,000 crore are locked up in stalled projects and investments are reducing. Both these complications have arisen because of injunctions and stay orders granted by the courts primarily due to poorly drafted and poorly reasoned orders.
- **Less budgetary allocation:** The budget allocated to the judiciary is between 0.08 and 0.09 per cent of the GDP. Only four countries — Japan, Norway, Australia and Iceland — have a lesser budget allocation and they do not have problems of pendency like India.

Way Forward

- **Increasing Strength of Judicial Service:** One of the solutions is to substantially increase the strength of the judicial services by appointing more judges at the subordinate level — improvements must start from the bottom of the pyramid.
 - Strengthening the subordinate judiciary also means providing it with administrative and technical support and prospects for promotion, development and training.
 - Institutionalising All-India Judicial Service can be a step in the right direction.
- **Adequate Budgeting:** The appointments and improvements will require significant but absolutely necessary expenditure.
 - The recommendations of the Fifteenth Finance Commission and the India Justice Report 2020 have raised the issue and suggested ways to earmark and deploy funds.
- **Hibernating Unnecessary PILs:** The Supreme Court should mandate summary disposal of all 'hibernating' **PILs** - those pending for more than 10 years before HCs - if they do not concern a question of significant public policy or law.
- **Correcting Historical Inequalities:** Reforms in Judiciary should also encompass addressing social inequalities within the judiciary.
 - Women judges, and judges from historically-marginalised castes and classes must finally be given a fair share of seats at the table.
- **Promoting Alternative Dispute Resolution:** It should be mandated that all commercial litigation will be entertained only if there is an affidavit from the petitioner that mediation and conciliation have been attempted and have failed.
 - Mechanisms such as ADR (Alternate Dispute Resolution), Lok Adalats, Gram Nyayalayas should be effectively utilised.

Conclusion

Courts are sitting on a pendency bomb and it has never been more urgent to strengthen the judiciary. Thus, there is a need to take a holistic and realistic view of the present situation of the Indian Judiciary.

Drishti Mains Question

Courts are sitting on a pendency bomb and it has never been more urgent to strengthen the Indian judiciary. Discuss.