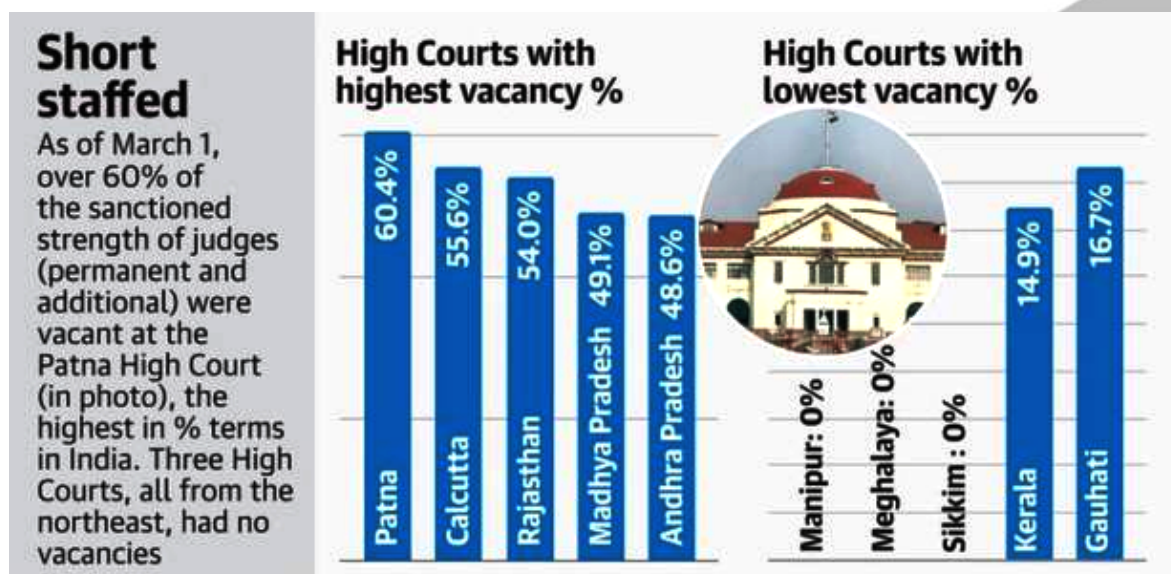




Ad-hoc Judges in High Court

Why in News

Recently, the Supreme Court pushed for the appointment of retired judges to battle the [pendency of cases](#) in High Courts.



Key Points

▪ Supreme Court Suggestions:

- **Guidelines for Appointment of an Ad-hoc Judge:** The court orally **outlined prospective guidelines** for the appointment and functioning of an ad-hoc judge.
- **Pendency Beyond a Certain Limit:** If in a particular jurisdiction, the **pendency goes beyond a certain limit, say eight or 10 years**, the **Chief Justice may appoint a certain [retired] judge** with expertise in those fields of laws as an ad hoc judge.
 - The **term of such a judge could be extendable.**
- **Position:** The appointment of ad-hoc judges would not be a threat to the services of other judges as the **Ad-hoc judges will be treated as the junior most.**
- **Selection:** The retired judges would be chosen **on the basis of their expertise in a particular field of dispute** and allowed to retire once the pendency in that zone of law was over.

▪ Arguments for Appointing Retired Judges:

- The retired judges who had handled certain disputes and fields of law for over 15 years **could deal with them faster** if brought back into harness as ad-hoc judges.

▪ Related Constitutional Provisions:

- The appointment of retired judges was provided for in the **Constitution under Article**

224A (appointment of retired judges at sittings of High Courts).

- Under the Article, the Chief Justice of a High Court for any State may at any time, with the **previous consent of the President, request any person** who has held the office of judge of that court or of any other High Court to sit and act as a judge of the High Court for that State.

Reasons For Pendency:

- **The Government is the Biggest Litigant:** According to the **Economic Survey 2018-19** poorly drafted orders have resulted in contested tax revenues equal to 4.7% of the GDP and it is rising.
- **Less Budgetary Allocation:** The budget allocated to the judiciary is between 0.08 and 0.09% 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.
- **Practice of Seeking Adjournments:** Usually the lower courts seek adjournment ad infinitum.
- **Lack of Assessment:** When a new legislation is formed, there is no judicial impact assessment done by the government on how much burden is going to be casted on the judiciary.
 - The probabilities of generating more litigations or requirement of more judges is not taken into account.
- **Delay in Judicial Appointment:** [Collegium](#) recommendations have been **pending with the government** for over seven months to a year to get approval in order to fill vacancies in High Courts.
 - The total sanctioned judicial strength in the **25 High Courts is 1,080**. However, **the present working strength is 661 with 419 vacancies** as of March 2021.
 - The government has countered that it's the fault of the Collegium and the High Court for delaying the process.

Way Forward

- **Streamlining the Appointment System:** The vacancies must be filled without any unnecessary delay.
 - A proper time frame for the appointment of judges must be laid down and the recommendations must be given in advance.
 - The Constitution of the **All India Judicial Services** is also an important factor which can definitely help India establish a better judicial system.
- **Use of Technologies:** People are becoming more and more aware of their rights and which is why the number of cases filed in court are also increasing.
 - To deal with that judicial officers need to be trained, vacancies for the judges must be filled up expeditiously and in addition the use of technology particularly [artificial intelligence](#) must be encouraged.
- **Out of Court Settlement:** Resolving every case within the court premises is not mandatory; other possible systems must also be accessed.
 - There is also a need to promote the alternate dispute resolution mechanism for which the [arbitration and conciliation](#) act has been amended three times to ensure that people go for commercial litigation mode and sort it out either by mediation, conciliation or arbitration.

[Source:TH](#)

