



# drishti

## The Big Picture - Pending Cases: Way Forward

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According to the **National Judicial Data Grid (NJDG)**, around **23 lakh cases, which are over a decade old, are pending in various subordinate courts of the country. These cases constitute 8.29 percent of the total nearly 2.50 crore cases pending in the lower courts.** Of these, nearly 6 lakh cases are civil in nature and nearly 17 lakh are criminal in nature. Civil cases usually involve private disputes between persons or organisations. Criminal cases involve an action that is considered to be harmful to society as a whole. The National Judicial Data Grid is a part of the ongoing e-Courts Integrated Mission Mode Project. **The NJDG works as a monitoring tool to identify manage and reduce pendency of cases.** The e-Committee of the Supreme Court had launched the National Judicial Data Grid to provide data on cases pending in the district courts across the country.

## What are the main reasons for such pendency?

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- The two important aspects that are plaguing the judiciary are
  - Filling of the vacancies
  - Inadequate number of judges
- The average court does not work more than five to six hours, which includes the lunch hour. The question is why cannot court work for eight hours a day?
- The kind of cases that the judges encounter every day is not only varied in their substance but also importance. When the judges are burdened with so many cases it is impractical to suggest that the judges can do a thorough research on every case. Consequently, the quality of such judgments is brought into question, leading to further appeals. Lack of proper research team/system is also one of the reasons for the delay in judicial proceedings.
- Another important reason for such a high pendency is the practice of seeking adjournments. Usually the lower courts, at the drop of the hat, seek adjournment ad infinitum.
- Another important reason is litigation. The cost of litigation is very low in India. There have been cases where people moved the court for salary dispute of as low as rupees 20.
- Besides, in most of the courts apart from the judicial functioning, the administrative work also falls upon the judges. These allied works take a lot of time.
- In most of the courts, there isn't a cordial functioning between the Bench and the Bar. Constant tussle leads wastage of court time.

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- Most States and their High Courts do not adhere to the schedule laid down by the Supreme Court for filling up judicial vacancies.
- Power Battle between the Executive and Judiciary. The process of selection of judges has been a bone of contention between the executive and the judiciary.
- Increasing literacy- the number of cases being filed every year is increasing. The reason being is increased awareness with increased literacy. Kerala, for example, gets 28 new cases per 1,000 people. It has a literacy rate of over 90%. Jharkhand, which has a literacy rate of around 53%, gets four cases per 1,000.
- Indian government – the largest litigant. It is responsible for nearly half the pending cases. Many of them are actually cases of one department of the government suing another, leaving decision-making to the courts.

## Reasons behind Government being the largest litigator:

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- Most of the times hallow appeals are made by the govt. This is done just to avoid their responsibility or answerability of why they have lost a particular case.

- They want to fight it till the end (an ego trip). Consequently, it affects the efficiency of the government.

## Why it is that some courts perform better than the other?

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- The most important reason for some courts to perform better is the presence of quality judges.
- They are decisive with regards to judgment.
- The best example here would be regarding section 377. The three-judge bench of the Supreme Court decided there should be a final resolution of the matter within a given time. Within months the final judgment was pronounced by the nine-judge constitutional bench.
- Is there a dearth of quality of judges? To put it in brief, yes. Most of the judges come from the pool of advocates practicing in their respective courts. Top advocates are often reluctant to join the bench because of the fear that they will be hit financially. Consequently, there are very fewer options to choose from.

## Way Forward

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- First and foremost effort must be doubled up to fill the pending vacancies in the lower courts. Increase the number of strength of judges at subordinate courts.
- In order to attract the best of mind and maintain the quality of judges, the remuneration ought to be increased. This is a kind of infrastructural spending that will help in the long run.
- It would be incorrect to say that the cost of litigation should be increased. If that happens then litigants would pursue extrajudicial measures to get justice and this might not be a healthy tradition to establish. The best way forward is that legislative amendments should be made where only the most important cases should reach the higher courts.
- Another most important way out is an alternative dispute resolution mechanism. Most of the cases which are civil in nature can be tackled by mediation, arbitration, conciliation, and Lok Adalats. These non-conventional methodologies can bring down the number of cases considerably. However, proper legislation has to be instituted in this regard.
- Every judge should have a minimum of 2 member research team to aid her/him.
- Adjudgments should be allowed strictly based on the rules and regulations established in the Civil Procedure Code and Code of Criminal Procedure.
- There is a need for improvement in judicial education. The law schools focus on grooming lawyers as opposed to the future members of the judiciary. Hence, the focus should be made to shape the judicial curricula accordingly.