

## Unit 35. The Problem of Pending Cases in Indian Courts: How to tackle?



There are more than 3 crore cases pending in different courts of India. Many of these cases are pending for more than 10 years. Below are the approximate number of cases pending in Supreme Court, High Courts and District and Subordinate courts in India.

- Around 60,000 cases are pending in Supreme Court.
- Around 42 lakh cases are pending in different High Courts.
- Around 2.7 crore cases pending in District and Sub-ordinate Courts.

### Why are too many cases pending in Indian courts?



At least five crore cases are filed every year and judges dispose of only two crore. The reasons being –

### **1. Increase in the awareness of rights by common man**

The recent socio-economic advances and the resultant awareness of legal rights, has given courage to common people to approach courts of law for justice.

### **2. New mechanisms (Eg: PIL) and new rights (Eg: RTI)**

As government explicit made legislation for new rights like 'Right to Information' and 'Right to Education', aggrieved parties started to increasingly knock the doors of justice. Also, active judiciary has invented new devices like Public Interest Litigation which gave again resulted in more cases.

### **3. There are not enough judges**

There are not enough judges (only around 21,000). Current Judge to Population ratio is 10 to 1 million. The Law Commission report in 1987 recommends atleast 50 to 1 million. Population has increased by over 25 crore since 1987.

The Centre says the States should take the lead in increasing the number of judges and the States say Centre should take the lead. As this tug-of-war goes on, judges' strength remains the same and litigants remain in jail.

More than half the posts are vacant. There is a conflict between Judiciary and Executive regarding the appointment of Judges to Supreme Court and various High Courts.

Colonial legacies like paid long vacations – at a time when the number of judges is low, the appointed judges are taking long vacations, especially in High Courts.

### **4. There are not enough courts**

- Indian judiciary has insufficient resources. Both Center and States are not interested in increasing spending with respect to the judiciary.
- Budgetary allocations for the whole judiciary are a pathetic 0.1% to 0.4% of the whole budget.
- India needs more courts and more benches.
- Modernization and computerization have not reached all courts.

### **5. There is too much litigation from the Government Side**

The government is the largest litigant in India, 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. Also, in most of the cases, when government files a case, it is seen that the government side fails to prove the point.

### **6. Low judicial quality in lower courts**

The Indian Judicial system has miserably failed to attract the best brains and the talented students.

As the quality of judges in lower courts is not always up to the mark, appeals are filed against the decisions in higher courts, which again increases the number of cases.

Judges lack specialization and they have turned less efficient and lazy.

## 7. Archaic Laws or Vague Drafting of Laws

The archaic laws that fill up the statute books, faulty or vague drafting of laws and their multiple interpretations by various courts are also reasons for prolonged litigation. Some of these laws date back to 1880s. Somebody wants to do something, he is shown a law drafted in the last century and told to stop doing it.

### Why can't the number of Judges be increased?

SC Chief Justice Thakur lamented “inaction” by the Executive in increasing the number of judges to 40,000 from the current 21,000. He blamed the Centre for doing nothing to increase the number of courts and judges in the country. He accused Centre of stalling appointment of judges to the High Court.

### More productive days?

In 2014, former Chief Justice of India, Justice R.M. Lodha, proposed to make Indian judiciary work throughout the year (instead of the present system of having long vacations, especially in the higher courts) in order to reduce pendency of cases in Indian courts.

However, as per this proposal, there is not going to be any increase in the number of working days or working hours of any of the judges and it only meant that different judges would be going on vacation during different periods of the year as per their choice.

But, the Bar Council of India rejected this proposal mainly because it would have inconvenienced the advocates who would have to work throughout the year.

### Consequences of Pending Cases in Indian Courts

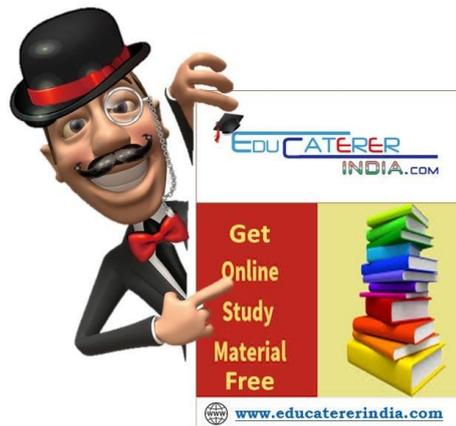


- The common man's faith in the justice system is at an all-time low.

- Denies the poor man and under trial prisoners their due of justice.
- Economic reforms remain only on paper without speedier justice system.
- Foreign investors are increasingly doubtful about the timely delivery of justice, which affects the success of programs like 'Make in India'.
- Judiciary is unable to handle the "avalanche" of litigation. Judiciary becomes overworked and lose its efficiency. Justice delayed is justice denied and Justice hurried is justice buried.

### **Solutions to the Problem of Pending Cases in Indian Courts**

- The government needs to double the number of judges and create all India Judicial Service. The number of judges (vacancies) should be immediately raised to at least 50,000 from the current 21,000.
- Fix the NJAC controversy at the earliest and start appointing judges in Supreme Court and High Courts.
- More courts – Fast Track Courts, Lok Adalats, and Gram Nyayalayas.



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