

# Judicial delays can become history

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## Delivery Of Justice

### Justice can be delivered in reasonable time without undertaking Major Reforms

We have been hearing that the Indian Judiciary would need decades to clear its backlog, unless the number of judges is increased multiple times and certain other reforms brought in. The judicial system has become irrelevant for the common citizens, and this is responsible for many ills plaguing our Nation, like disrespect for laws and corruption. The ease of doing business also suffers and the rule of law cannot really prevail.

Most people have started believing that this can change only if there are major judicial reforms, or judges do not give adjournments or forgo their vacations. These would require

changing the attitudes of judges and lawyers and there is no sign of it happening. On the other hand a fairly popular belief is that the problem will defy any solution unless the number of judges is increased by three to four times. It appears to have been accepted that a judicial system which can deliver timebound justice is unlikely, and the fundamental right to Speedy Justice will be a mirage.

I decided to look at the data and analyse it to arrive at the number of judges required. The 20<sup>th</sup> Law Commission in its report no. 245 submitted in July 2014, after examining the issue from different perspectives has come to the conclusion that the Rate of Disposal per judge per year is the right method for evaluating this. In simple terms it assumes that if ten judges dispose 1000 cases, 12 judges will dispose 1200 cases. I took the data reported by the Law Commission in its report no. 245, and did that a proper analysis of its data for 2002 to 2012 of fourteen states for the subordinate courts it had taken. It shows that if it had been ensured that all sanctioned positions of judges were filled there would have been no backlog by 2007[1]. This would mean the queue would disappear and it would be possible to devote adequate time to all cases without having to wait. In most cases it may be possible to dispose cases in less than 3 months.

I decided to also take a look at this issue by analyzing the data given on the Supreme Court's website at <http://www.supremecourt.gov.in/publication> for a ten year period from 2006 to 2015 which has a quarterly report for all the courts.[2] The summary of this analysis is tabulated below[3]. This shows that the number of sanctioned judges is adequate and if all the sanctioned judges were appointed mounting pendency would be history.

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The number of judges sanctioned in the three levels on 31 December 2015 was 31, 1018 and 20620, whereas the actual number of judges was 26, 598 and 16119. Thus the total number of sanctioned posts were 21669 whereas the working judges were

only 16743! Filling about 5000 vacant positions can make the judicial system deliver efficiently.

Another way of looking at this data is, for the ten year period from 2009 to 2013:

|      | Supreme Court                  | High Courts        | Subordinate Courts | Total     |               |
|------|--------------------------------|--------------------|--------------------|-----------|---------------|
| 2006 | 34481                          | 3521283            | 25654251           | 29212021  | Pending cases |
| 2015 | 59272                          | 4225640            | 27652918           | 31939845  | Pending cases |
|      | <b>During the ten year</b>     | <b>Period 2006</b> | <b>To 2015</b>     |           | <b>Total</b>  |
|      | Cases Instituted               | 755082             | 18021327           | 175649101 | 194425510     |
|      | Cases Disposed                 | 730420             | 16539732           | 173362326 | 190632478     |
|      | Pendency Increase              | 24662              | 1481595            | 2286775   | 3793032       |
|      | Missed disposal Due to Vacancy | 73042              | 5127317            | 34672465  | 39872824      |

The increase in pendency in ten years was about 38 lac cases whereas the disposal missed due to not filling all sanctioned posts was nearly 400 lacs!

There can be no excuse for keeping judicial positions vacant while the nation suffers because of this neglect. The

retirement date of judges is well known. The process of selecting new judges can start six months ahead for those retiring. We need just about 22000 judges. Even if infrastructure is inadequate it would need to be augmented by only about 20%. This is a simple solution and can be implemented very easily. This does not assume any change in the way judges and lawyers function. It only assumes that the extra judges who fill the vacancies will also dispose matters at the same rate as those who are already in the system. The average rate of disposal for the lower court judges taking the data of the Law Commission for eleven years from 2002 to 2012 gives an average rate of 1380 cases per year. On the other hand rate of disposal for all the subordinate courts for the ten year period 2006 to 2015 gives a rate of 1232. This is a variance of just about 12%. This shows that over a reasonably long period all the variability of cases would even out.

For the sake of the nation all those responsible must ensure that all judicial appointments are made in a timely manner. An easy solution is available. This analysis suggests that if a simple discipline of ensuring zero vacancy is followed, the sanctioned strength is adequate to dispose the inflow of cases and some backlog. Even if we assume that there would be upto 5% vacancies, the backlogs would go down. If this simple solution is implemented the problem will move towards a resolution.

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[1] 2 Delivery of Justice Law Comm. Sheet 1

[2] 3 Pendency SC website Sheet 1 Supreme Court; 2 High

Courts; 3 Subordinate Courts

[\[3\]](#) 3 Pendency of SC website sheet 4