

# Judicial Pendency

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# Prisons Overcrowded



- Capacity of prisons 3.6 lac
  - Prisoners 4.2 lac
- 
- Data of 2014
  - More Prisons required

More  
Prisons  
Required

- Capacity of prisons 3.6 lac
- Prisoners 4.2 lac
- Convicts 1.3 lac
- Under trials 2.9 lac
- Number of Under trials 70%

- Data of 2014
- Tukaram

# Criminals in Politics



# Criminalisation of Politics



- Are they Criminals?
- Innocent until proved guilty
- Or
- Guilty until proved Innocent



# Data from Indian Police Journal April-June 2010 vol. LVII-no.2

## "Bureau of Police Research and Development"

- Study of an anti-corruption branch of CBI for five year period
- 1980-1984 (mean year 1982)
- done in 2008 (after 26 years)
- FIRs registered cases 264 -
- Accused persons investigated 698
- Number of accused charge sheeted 273
- Average time for investigations **months** 13.4
- Outcome of 273 persons charge sheeted
- Convicted 144 ( 52.7% of 273)
- Average time for trial **months.** 7 yrs. 4

# Outcome of 144 persons convicted

• Released on probation	32
• Sentenced till rising of Court (1 day)	7
• Fined Rs. 10000	1
• Underwent prison term less than 20 days	4
• <b>Number in prison more than 20 days</b>	<b>4</b>
• Total	48
• Most people convicted went into appeals.	
• Matters were still in Higher Courts in 2008	71
• Acquitted in appeals	18
• Expired during the pendency of appeals.	7
• Total	96

## Thus impact of a CBI office anticorruption branch in five years (1980-1984):

- Convicted 144
- Average Time for investigation 13.4 months
- Average time for trial 88 months
- **Number of accused sent to**
- **prison for over 20 days 4**
- After 26 years judicial process
- still continues 71
- A full CBI Anti corruption branch in five years of work could only ensure serious punishment for 4 persons.
- **Conclusion: Unless the judicial system delivers in reasonable time corruption will thrive and the rule of law cannot prevail.**

## View of Chief Justices of India

- Shin Etsu Chemical vs. ICICI Bank 2004

- “plaintiff submitted the affidavit of Bhupinder Nath Kirpal, a former Chief Justice of India, who was of the opinion that, because of the huge backlog of existing cases, the fact that no preference is given to commercial cases or postamendment cases and the shortage of judges, it would take the Delhi High Court at least 10 years to decide a case such as this.
- In reply, ICICI submitted another affidavit from former Chief Justice Ahmadi, who, not surprisingly, disagreed with Kirpal, stating, "It is essentially the non-commercial causes . . . which get prolonged and which clog the calendar of cases"; implying that commercial cases can be "taken out of the queue" and "put on the fast track" and noting that, in his experience as a trial judge, most commercial cases were disposed of expeditiously.

# Judicial delays due to increasing backlog

- Usual Solutions suggested:
- 1. Major judicial reforms.
- 2. Judges must perform better.
- 3. No adjournments.
- 4. Change laws.
- 5. Double or treble the number of judges. 70000 judges  
Sanctioned judges 21542.
- 6. Accept that the problem cannot be solved and will keep growing bigger. 320 years to clear backlog- Justice VV Rao of AP High Court

Without changing anything in the way courts work how many judges would be required to clear the incoming cases?

Analysis of data on the Supreme Court's website at <http://supremecourtfindia.nic.in/courtnews.htm> shows:

	Heading	Supreme Court	High Courts	District & Subordinate Courts	Total lakhs
A	Pending cases on 1 January 2009	49,819	38,74,458	2,64,08,308	303
B	New cases instituted in the five year period 2009 to 2013	3,86,180	95,20,135	8,97,56,284	<b>996</b>
C	Cases disposed in the five years	3,69,650	86,16,951	8,92,71,343	<b>982</b>
D	Balance pending on 31December 2013	66,349	47,77,642	2,68,93,249	317
E	Average Percentage of vacancy	12%	30%	20%	
F	Missed disposal Because of not appointing judges	44,358	25,85,085	1,78,54,269	204
G	Balance Pending cases could have been	21,991	21,92,557	90,38,980	112

Average per year

Lacs

New cases

199

Disposed

196

Shortfall

3

Missed disposal

40

# 20<sup>th</sup> Law Commission report no. 245 of July 2014

<http://lawcommissionofindia.nic.in/>

- The Rate of Disposal Method

- “Rate of Disposal Method”. Under the Rate of Disposal Method, one first looks at the current rate at which judges dispose of cases. Next one determines how many additional judges working at a similar level of efficiency would be required so that the number of disposals equals the number of institutions in any one year time frame.
- Conclusion:
- That, given the existing availability of data, the Rate of Disposal Method be followed for calculating adequate judge strength for Subordinate Courts, instead of Judge-Population or Judge-Institution Ratio, Ideal Case Load Method or the Time Based Method



20<sup>th</sup> Law Commission  
Report no. 245  
July 2014

- Data taken for 2002 to 2012 from fourteen States for Higher and Subordinate Judicial Courts :
- This shows that over this period:
- New Cases Instituted 9,77,83,221
- Cases Disposed 9,68,71,019
- Pendency increase in 11 years 9,12,202
- Number of disposals missed 2,91,63,230
- Owing to not filling vacancies
- Of sanctioned judges

# One simple solution

- Zero
- tolerance to
- vacancies

Ageing analysis of Pending cases in 2015 November  
National Judicial Data Grid

[http://164.100.78.168/njdg\\_public/main.php](http://164.100.78.168/njdg_public/main.php)

<b>Cases Pending over 10 years</b>	<b>2186449</b>	<b>10.61%</b>
<b>Cases Pending (Between 5 to 10 years)</b>	<b>3688124</b>	<b>17.89%</b>
Cases Pending (Between 2 to 5 years)	6141889	29.79%
Cases Pending less than 2 years	8600006	41.71%

# Additionally

- If Courts could follow the principle of dealing with cases primarily on a FIFO basis, the judiciary could deliver in a reasonable time. Article 14 would then be followed in our courts.
- Case listing and adjournment dates strictly by computerised program with only 5% override to judges.

# How can this be achieved

Citizens take up the responsibility of spreading these two simple solutions.

A special responsibility on Lawyers and Law students

If we do not take corrective action we will have an increase in lawlessness.

You can achieve this by spreading these two solutions.

This can be solved

- हो गई है पीर पर्वत-सी पिघलनी चाहिए,  
इस हिमालय से कोई गंगा निकलनी चाहिए।

आज यह दीवार, परदों की तरह हिलने लगी,  
शर्त लेकिन थी कि ये बुनियाद हिलनी चाहिए।

हर सड़क पर, हर गली में, हर नगर, हर गाँव में,  
हाथ लहराते हुए हर लाश चलनी चाहिए।

सिर्फ हंगामा खड़ा करना मेरा मकसद नहीं,  
सारी कोशिश है कि ये सूरत बदलनी चाहिए।

मेरे सीने में नहीं तो तेरे सीने में सही,  
हो कहीं भी आग, लेकिन आग जलनी चाहिए।

- - दृष्यन्त कुमार



**Mera Bharat Mahaan...**



**Mera Bharat Mahaan...  
Nahi Hai,**





**Mera Bharat Mahaan...  
Nahi Hai,  
Per Yeh Dosh Mera Hai.**