

Management in Law: Can India's Judiciary System be improved?

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“The Rule of Law and maintenance of order is the science of governance.”

~ Kautilya's Arthashastra, 4th century B.C.

“No branch of knowledge and policy is of any avail if the Rule of Law is neglected.”

~ Kamandak's Nitisara, 4th century A.D.

As mentioned above, the relationship between governance and the judiciary has been emphasized long back by great thinkers of ancient India. But if we look today, we seemed to be moving in the other direction when it comes to enforce laws and resolve disputes. The number of cases in Indian courts is piling up and addressing the cases is taking way more prolonged time, that sometimes, when the cases are resolved, one or both the parties had been dead for years.

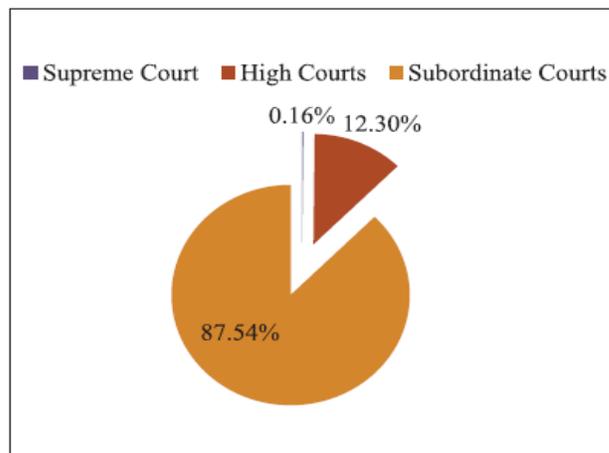
Key Issues

The major issue that is facing the Indian Judiciary is the backlog of cases that weighs down the judiciary system, which further leads to lower economic activities in the country. If we look at the biggest constraint for “Ease of Doing Business in India,” that is our inability to rapidly enforcing contracts and resolving disputes. As a result of which, India could climb only one spot in these criteria from 164 to 163, according to the latest EODB report, 2018. This is because the 3.5 crore case is pending in the judicial system. Among these cases, majority of cases are in District and Subordinate Courts, as seen from figure 1 below.

From all these pending cases, more than 64% of cases have been pending for more than a year. Figure 2 shows the percentage distribution of all civil and criminal cases pending for many years in District and Subordinate courts.

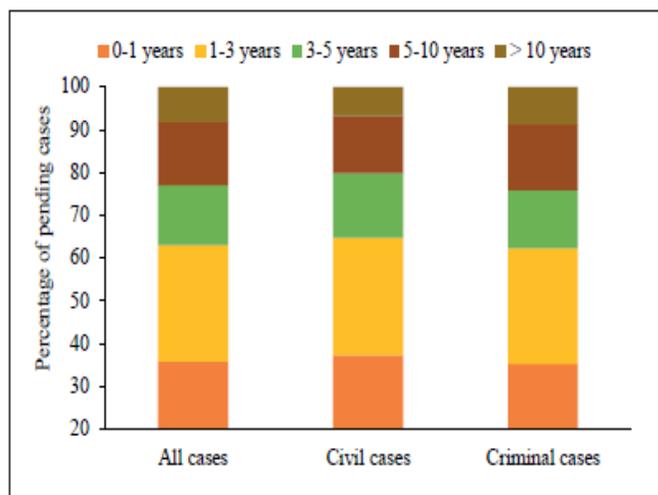
Apart from this, if we look at the number of working days of courts in India, it is quite low

Figure 1: Distribution of Pending Cases among different levels of Courts in India



Also, the number of judges in Indian courts is not sufficient to handle such a high number of pending cases. The sanctioned strength of judges

Figure 2: Distribution of Pending Cases (age-wise) in D&S courts



at District courts is 22750, but only 17891 judges are appointed, which is 79% of the sanctioned strength till Dec'18. This number is even lower for the High Courts, which is 62% of the sanctioned strength.

Besides this, there are several other administrative functions to be performed for running the judiciary system like Admission and Denial of cases, Notice/ Summons, etc. These functions constitute the significant portion of the case life cycle which can be seen from the figure given below. Chief Judicial Officer monitors these functions. As a result of which the majority of his time is eaten by these functions, instead of focusing on key activities like hearing the case and delivery of justice. This puts Judiciary Officer as a “Bottleneck” in the system because they are “Critical Resources,” but not appropriately utilized.

Solutions

The solution to the above problems can be in two different ways, either by increasing the number of judges, keeping in mind current efficiency or making the system more efficient. If we go for the first solution, it is in the hands of the

judges. In order to increase the efficiency, first we need to look at the Case Clearance Rate (CCR). It is the ratio of the number of cases disposed of in a given year to the number of cases

Chart 2: Additional Judges required in High Courts (At Current Efficiency)

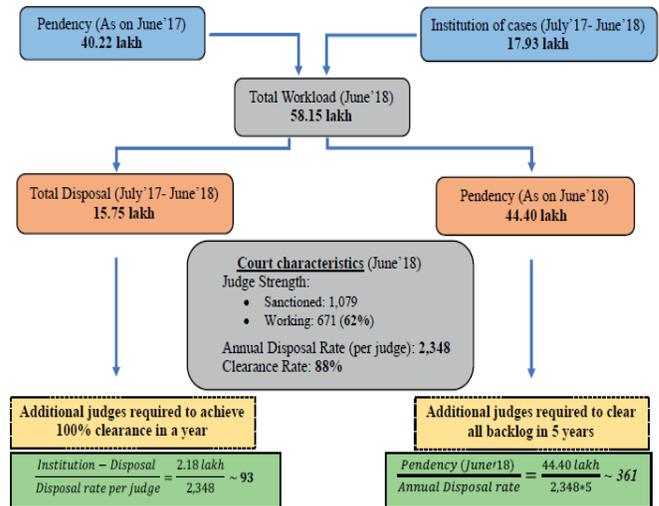
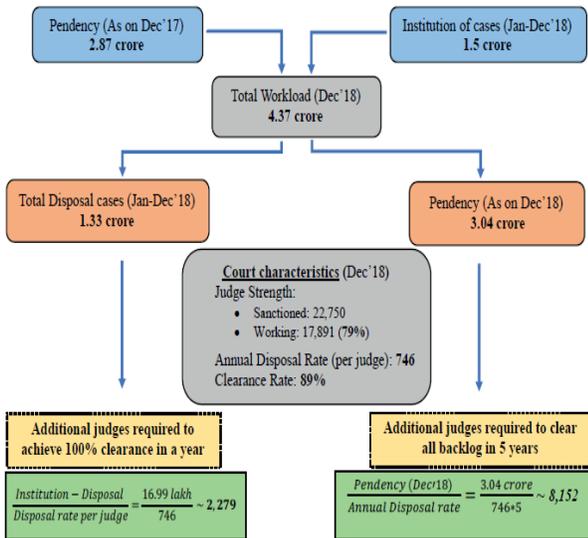


Chart 1: Additional Judges required in D&S courts (At Current Efficiency)

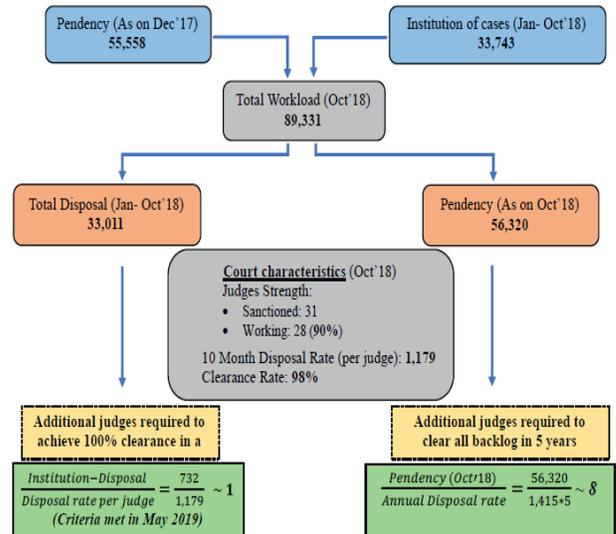


government to increase the number of judges. Calculations for the first solution are shown in below figures for District, High, and Supreme courts.

But this solution is not very efficient as the number of new cases in the courts will be increasing year after year because of rising awareness among the common people about their rights. The other solution includes the managerial aspects of it. We need to increase the efficiency of the system with increment in the number of

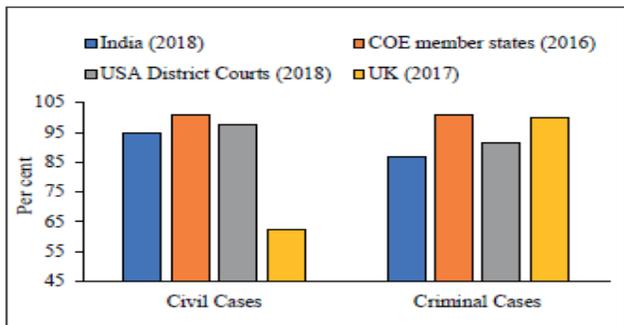
instituted in that year, expressed as a percentage. In order to dispose of pending cases, CCR needs

Chart 3: Additional Judges required in the Supreme Court (At Current Efficiency)



to be above 100 percent. The Case Clearance Rate of civil & criminal cases in India was 94.76 percent and 87.41 percent respectively in 2018. CCR comparison is given in figure 4 with other countries.

Figure 3: International Comparison of CCR



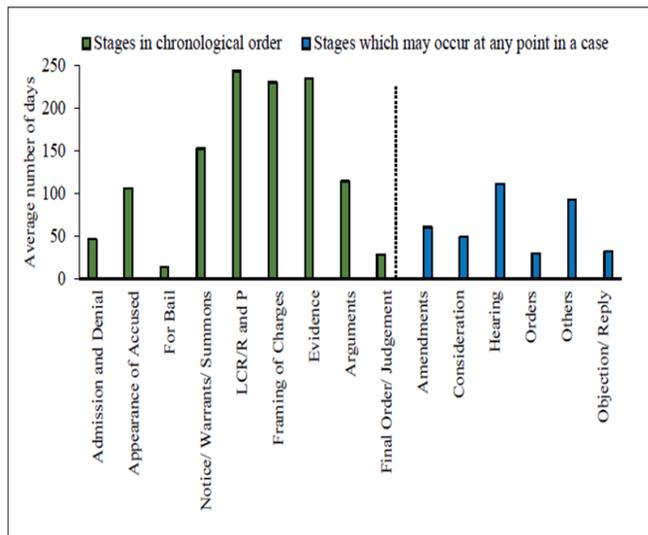
In order to improve CCR, we need to improve the efficiency of the system. As we have seen above, Judges are the “Critical Resources” here, and their unavailability is the real bottleneck. In order to utilize these “Critical Resources,” we need to introduce “Law Managers,” whose function will be to monitor the administration work and making sure of the availability of all the required documents before it goes to the judge. “Law Managers” will be appointed by the respective states for their high courts and district courts. The Central government can select the same for supreme courts. They will be the link between the lawyers and the judges. We can appoint 3-40 “law managers” per judge.

Figure 4: Average number of days spent at given stage- Civil Cases

If we look at different stages in case life cycle (as shown in figure 4), we come to know that major stages that must be handled by judges are Evidence, Arguments, and Final Ordered Judgment. Other stages are more of administrative duties that can be outsourced to law managers. Also, in order to further improve the efficiency of the system, the above mentioned three stages can also partially be handled by law managers, like gathering all evidence and preparing a report, fixing the time limit for the arguments of both parties and other documentation for the Final Ordered Judgment. This way, we can reduce the number of days required for each stage significantly, which can directly be seen in efficiency increment.

In order to achieve this, we need to bring some structural changes in the administrative procedures of judiciary and redefine the

functions and duties of lawyers, law managers, and judges. We can form a structure where there is continuous coordination among law managers



and lawyers. We can remove the “Bottleneck” of the scarcity of judges by utilizing them for their “Core” activities.

If we can achieve this, the disposal rate per judge, which is 746 (for district court), can easily be improved to at least 900 and with the increased strength of the judges, we can clear all the backlogs in 5-6 years.

The below figures show the calculation for the same with higher efficiency and increased strength of working judges.

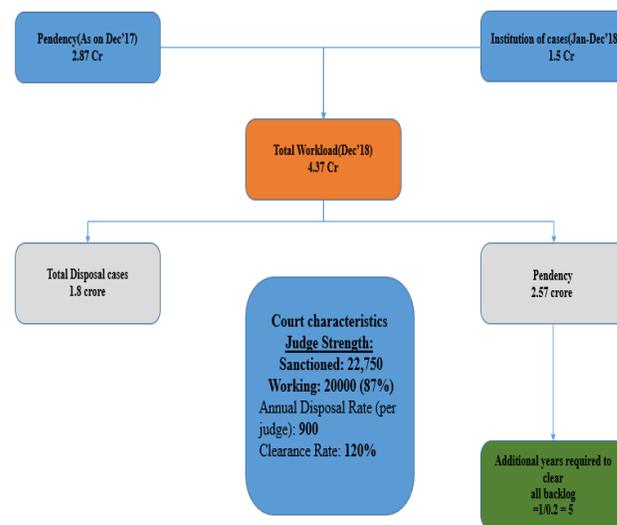
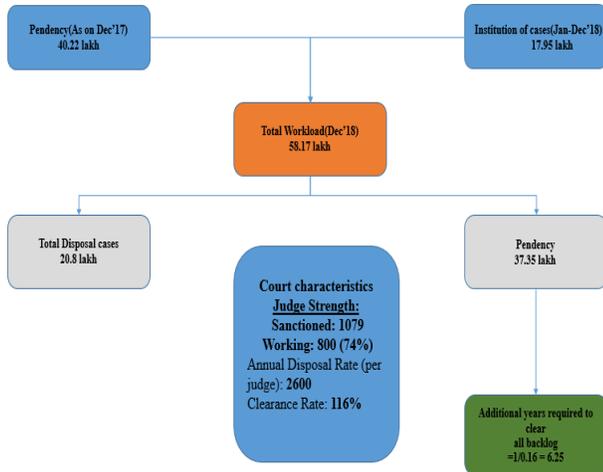


Figure 5: Increasing efficiency with increased strength (District courts)

Figure 5: Increasing efficiency with increased strength (High Courts)



judiciary will make that faster, which will boost our ranking in “Ease of Doing business”, which will bring more investment in India and generate jobs, which are essential for India’s growth.

But all this is just an imagination. As Barbara Sher quotes,

“Doing is a quantum leap from Imagining”.

Let’s take this leap and make our country, a better home for its 1.3 billion citizens.

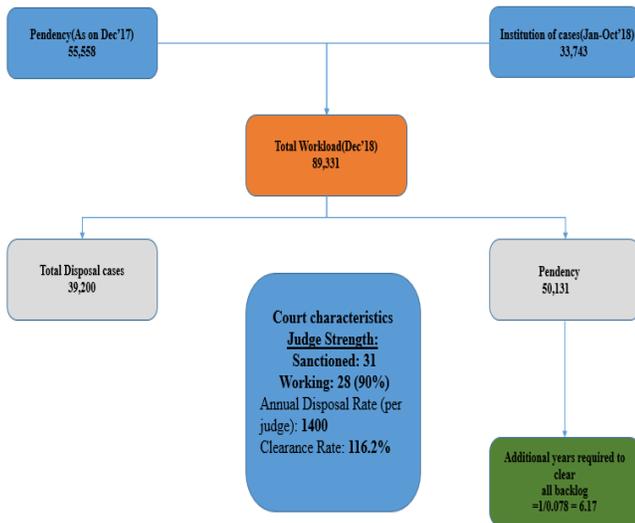
Reference:

Economic Survey 2018-19

Figure 5: Increasing efficiency with increased strength (Supreme Court)

Importance of Efficient Judiciary System

Judiciary is an important organ of the government. Judiciary helps in interpreting and protecting the constitution of India. Efficient judiciary makes people feel safe and satisfied that their rights are protected and the criminals, who try to harm society, are punished, which leads to



decrease in crime and more peaceful society. The majority of the cases in Indian Judiciary are the cases between internal departments of the government. So, efficient judiciary will address their concerns faster, which will make government more efficient. Also, as discussed above, we are very poor in enforcing contracts and resolving disputes faster. But, efficient