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PENDENCY OF COURT CASES IN INDIA: A ROARING ISSUE

INTRODUCTION

Delay in disposal of cases has become a major concern leading to huge backlog in the Indian Courts. This has inversely affected large number of aggrieved persons who are coming to court with a hope of fair hearing since they are not sure if the delayed hearing would impart justice to them. Even after several discussions and reports from the Law Commissions, Hon'ble Supreme Court Judges and High Court Judges on the widely identified crisis of pendency of cases now across the country, we see that the problem is still not in control and raises questions in our minds on the efficacy of administration of justice, not only at the higher level, but even more so at the district and subordinate level.

FACTORS LEADING TO PENDENCY

Main causes for the delayed disposal and huge backlog of cases are enumerated as below:-

- Judge-Strength

The pendency of cases is on the rise as the number of judges to decide cases are not adequate. Since the ratio the number of judges to the pending number of cases is low, the need for having sufficient judge strength is a must. Statistics show that there are 13 Judges per one million in our country; whereas, the need is to have 50 Judges to a million. This issue has been duly considered by Judges of the Hon'ble Supreme Court.

Our previous Chief Justice of India, Retd. Justice T.S. Thakur and the then Hon'ble Chief Justice of India, H.L. Dattu have addressed the problem on vacant Judge's position which the government is not able to

fulfill. Former CJI's suggested inclination to curb number of pending cases in the Apex Court as well as subordinate courts, stating that pendency is the biggest single challenge faced by our legal system. Hon'ble Retd. Justice Mr. Dattu at a function by Supreme Court Bar Association held in 2015 said that, "If right to access justice is to remain meaningful then it should be the disposal of cases within a reasonable time."

The current statistics on vacancy of Judges that is available with the Department of Justice, Ministry of Law and Justice shows that there are 6 vacant positions with the Apex court wherein, the approved strength is 31 and the present working strength is 25; similarly 398 vacant positions are lying vacant with the High Court's across the country wherein, the approved strength is 1079 and the working strength is simply 681.[1]

Apart from the higher judiciary, an alarming backlog lies when it comes to the District courts of the nation. About 2.5 Crore cases are pending with the District Courts. Indian Express, a leading newspaper, in its issue dated January 15th, 2017, cited that to overcome this huge fissure, appointment of Judges has to be amplified seven times.

Below is the analysis of pendency of cases in various States across the country in the form of Pie Charts for better understanding of the percentage of pendency on year wise basis.



Ayushi Gupta

LLB (Hons.)
Campus Law Centre
Faculty of Law
University of Delhi

Expertise:

Corporate Due Diligence
Transaction Documentations
Third Party Diligence
Compliances and
Commercial Arbitrations.

✉ ayushi.g@mcolegals.in



Aishwarya Kumar

LLM in International
Business Laws
NUS Singapore

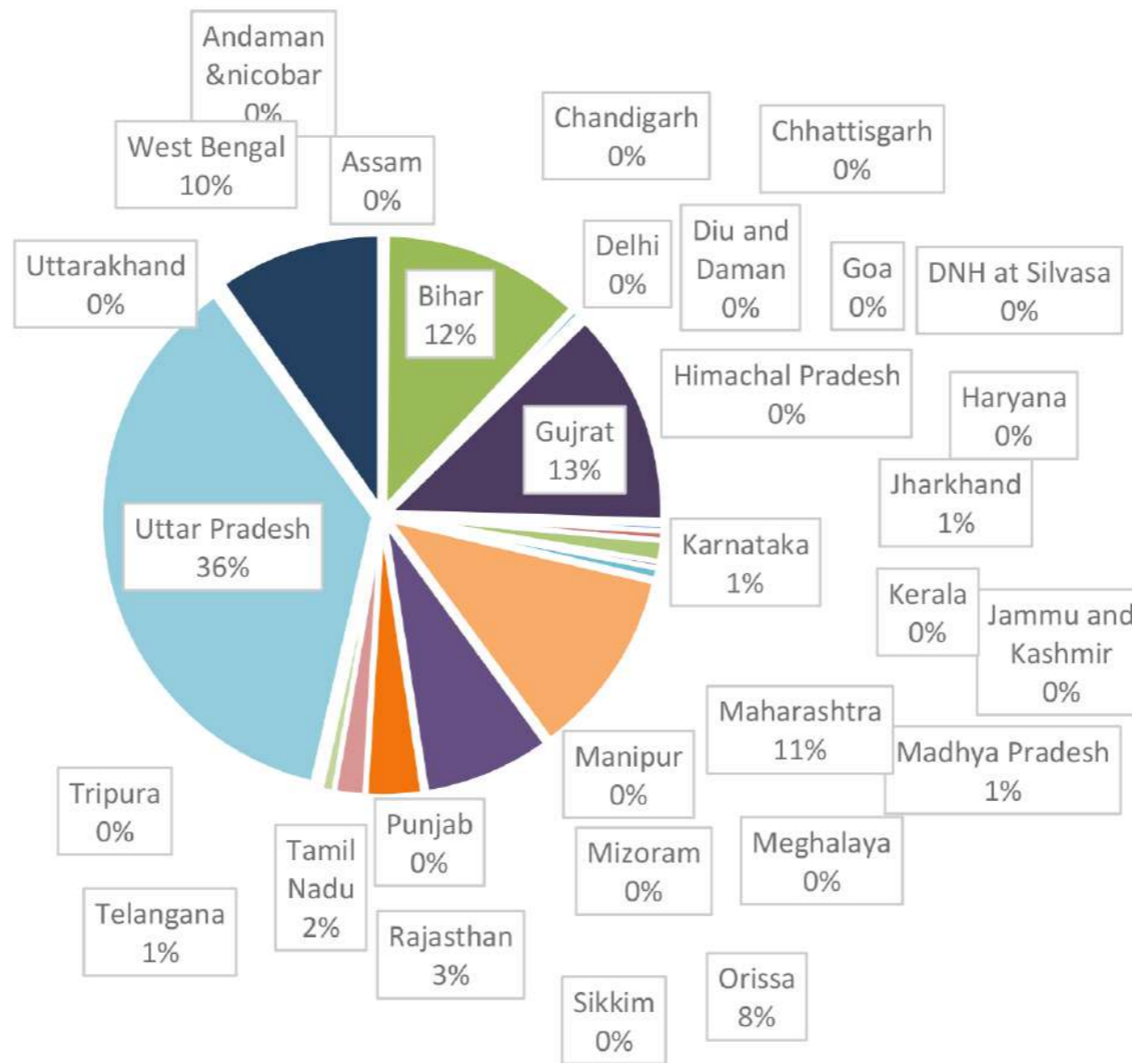
Expertise:

Litigation, Arbitration,
Trademark Area

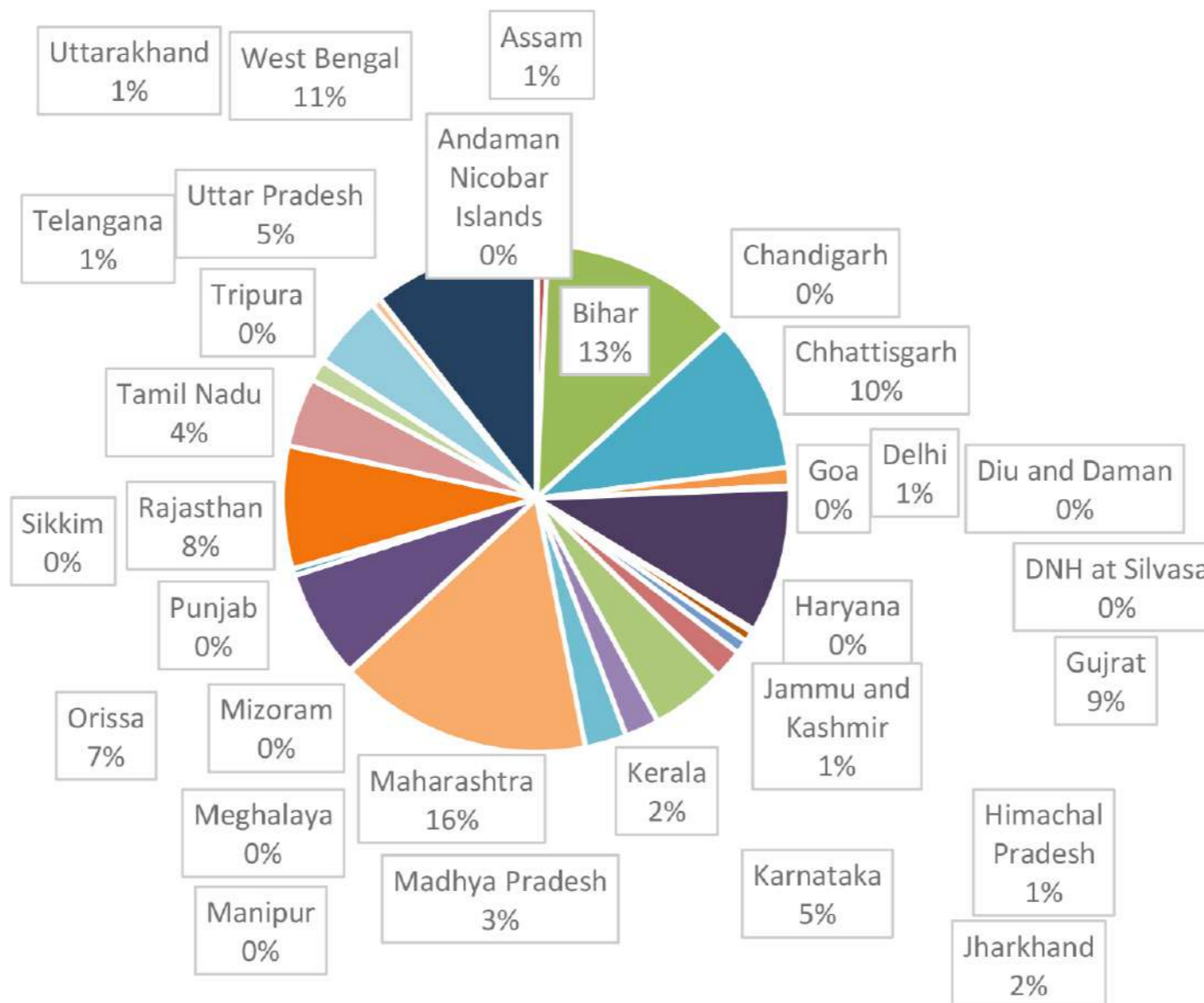
✉ aishwarya.k@mcolegals.in

[1] Webpage: <http://doj.gov.in/appointment-of-judges/vacancy-positions>

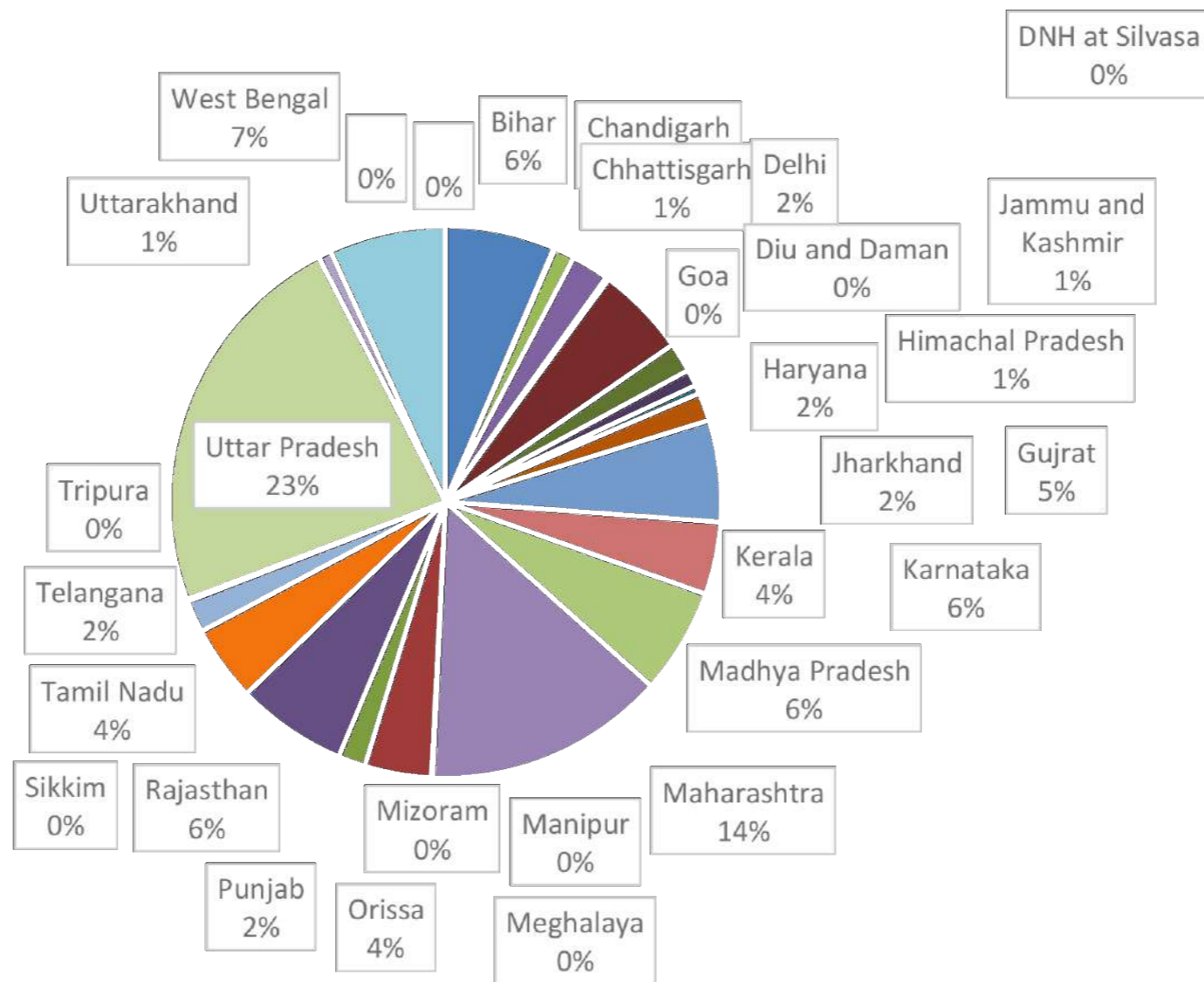
CASES PENDING OVER 10 YEARS



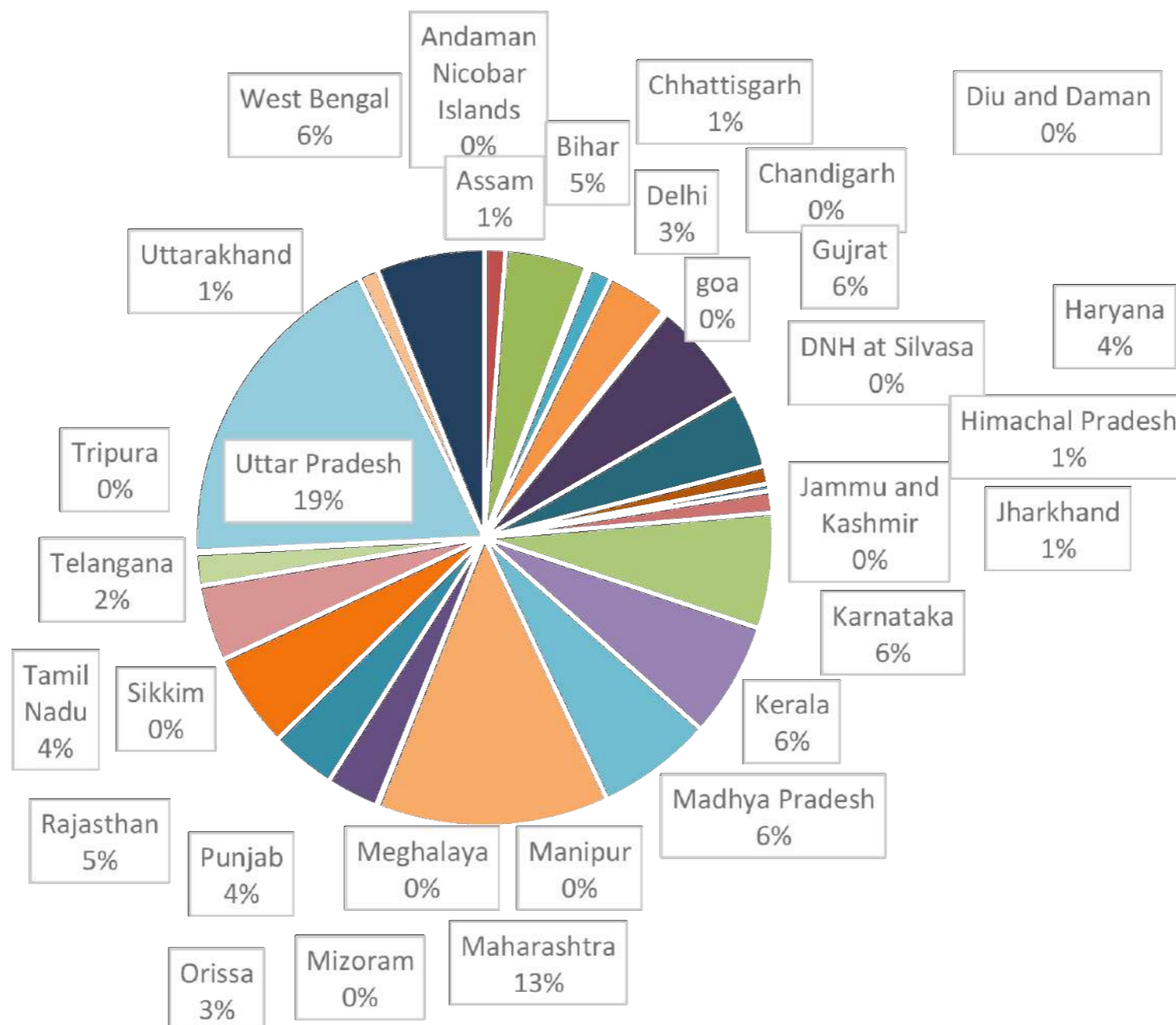
CASES PENDING (BETWEEN 5 TO 10 YEARS)



CASES PENDING (BETWEEN 2 TO 5 YEARS)



CASES PENDING LESS THAN 2 YEARS



Nearly 15,000 Judges position needs to be filled up in near future. Suggestion have been made, in the two reports, on additional judicial manpower and infrastructural requirement to handle the current crisis issued by the Hon'ble Supreme Court namely, 'Indian Judiciary Annual Report 2015-2016' and 'Subordinate Courts of India: A Report on Access to Justice 2016'.

In case of subordinate Courts existing shortage of 4,954 posts of Judges against the sanctioned strength of 21,324 posts is again one of the main reasons for pendency.^[2] The present Judge strength is only adequate to handle the fresh cases filed each year. With the existing rate of disposal of cases by Indian District Courts, it may take 10 years to get rid of complete backlog.

Data available with the Ministry of Law & Justice depicts that the number for civil and criminal cases pending with the Apex court, as on 19.02.2016, are 48,418 and 11,050 respectively and number of civil and criminal cases pending for more than 10 years, as on 19.02.2016, are 1,132 and 84.^[3] Similarly, the number of pending cases in High courts as on 31.12.2014 for civil and criminal are 3116492 and 1037465, respectively.

The number of cases pending for more than 10 years in High Courts, as on 31.12.2014, is about 5,89,631 civil and 1,87,999 criminal matters. The figures are quite glaring with the District and Subordinate Courts where about 8234281 civil cases and 18254124 criminal cases are pending.

Over burdened Judges and over worked Court staff along with lack of required Court space facility are posing difficulties that does not complement with our State policies. Other limbs of State also need to peep into the issue of influx of cases for speedy remedies.

- On-going fight between Executive and Judiciary

The resistance which has been constantly coming on proposed Memorandum of Procedure for appointment of Judges also needs some thought. Our previous Chief Justice of India, Retd. Justice T.S. Thakur had persuasively expressed his sorrow, in a conference in 2016, in the presence of the Prime Minister, over the inaction of government on judicial delays. It is significant to refer to the S.P. Gupta's Case or the First Judges Case, where it was held that primacy may be refused to CJI's recommendations on Judges Appointments for "cogent reasons" giving primacy to the Executive, however, it was reversed in 1993 and 1998. Though the collegiums authority is upheld, it yet aligns with constitutional irony on our claim of having innate checks and balances on three branches, i.e., Legislature, Executive and Judiciary for having political interventions^[4] from time to time, where the power to appoint judges could be marred by the Executive. At present, the old collegiums system has received agreement; however, only 170 names have been approved against the requirement of 462 Judges.

- Filing of False/Frivolous Cases and Unnecessary Adjournments

Significant time of the Courts is consumed in proceedings before coming to conclusion that whether a case is false or frivolous. This leads to delayed justice in several matters and also a loss of opportunity of the parties for the purpose of timely hearing which effectively is equivalent to having no relief. Delayed proceedings are cause of major agony and stress to the victims.

This apart, from the point of view of Judges, lawyers often are in practice of using delaying tactics. In the words of

former High Court Judge, Mukul Mugdal, "routinely appealing against verdicts and showing sick/ indisposed as a cause to not appear before the Court, has lead to a large number of adjournments.^[5] Further, to add on to this the tendency of people to file cases for almost negligible issues has taken a toll on influx of Court cases. Many people are often dragged to Courts for trivial disputes, that becomes a never ending chain.

- Infrastructural Deficit

Adequate infrastructure is also vital to reduce the backlog of cases in Courts. If we see the number of court-rooms at the district level, we will realize that the capacity of Judges is more than the availability of existing court rooms that are required for the Judges to function.

In 2015, there were 16,513 court rooms for district and subordinate courts, against 16,851 numbers of Judges, as per the National Mission for Justice Delivery and Legal Reforms. Government maintains that court buildings are under construction, for currently if the appointment takes place many Judges would not have a place to function from. Lack of arrangements for monitoring of cases, shortage of administration staff, space facility and complete computerization are one of the root causes for amplified pendency of cases.

In furtherance of above, due consideration is also to be given to the allocation of Union budget and funds for judiciary to undertake various infrastructural works. The Union budget of 2016-17 allotted Rs.900 crore for 'Administration of Justice', inclusive of setting up E-courts and raising capacity of the lower and subordinate judiciary. In 2015-16, the budget was minimized by some 40 crores from 500 to 460 crores for infrastructural works.^[6] Understanding this lag, we must accept that if the judiciary is not free from the Executive interference when it comes to utilization and appropriation of resources in relation to funds, the whole exercise may become redundant and not meet the requisite ends. Therefore, proper budgetary has to be allocated for setting up Additional Courts, efficient progressive re-designing works at Court complexes, support staff, engaging qualified para-legals and ensuring them a satisfactory working and living conditions.

CONCLUSION

There is an ardent need to be pro-active on the pivotal problem of pendency for if we act today we can only notice change after a span of five to ten years. Timely disposal of cases is an essential to maintain the rule of law but with already existing backlogs the system is facing difficulties to pace up with fresh institution of cases. Our bar and bench both need to collectively march ahead to ensure speedy disposal of cases. Judges-strength has to be increased manifolds; adequate funds have to be allotted for infrastructural improvements and proper judicial manpower planning has to be undertaken. Only when we reduce backlogs in a progressive manner can Judiciary serve its purpose in true spirit.

[2] Webpage: <http://indianexpress.com/article/india/district-courts-2-81-crore-cases-pending-5000-judges-short-across-india-4475043/>

[3] Webpage: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137291>

[4] Wepgae: <http://indianexpress.com/article/opinion/columns/cji-points-to-judicial-backlog-but-judiciary-must-also-identify-the-root-cause-2814269/>

[5] Webpage: <https://www.theguardian.com/world/2016/may/05/indias-long-wait-for-justice-27-million-court-cases-trapped-in-a-legal-logjam>

[6] Webpage: <http://www.hindustantimes.com/india-news/few-judges-fewer-courtrooms-indian-judiciary-tripped-by-poor-infrastructure/story-uah3AyEY7OsBsT4VwXY5pN.html>