

1 in every 4 sanctioned High Court judge positions had not been filled

Each of the 18 Large and Mid-sized states in the country (population above 1 crore) had High Court judge vacancies of above 25 per cent i.e. 1 in every 4 sanctioned High Court judge positions had not been filled, as of 2016-17.

This is one among many findings on the status of the judiciary in India of the first-ever India Justice Report (IJR), an initiative of Tata Trusts. The India Justice Report is a quantitative analysis of the capacity of the four pillars of justice - judiciary, police, prisons, and legal aid. This is the first time that these four pillars are being quantitatively studied together using six filters – budgets, human resources, work load, diversity, infrastructure and trends (change of the last five years). The report presents a state-wise picture of each pillar, in separate clusters, of 18 Large and Mid-sized states and seven Small states, basis population, and seven Union Territories (UTs) and 4 other ‘unranked’ states.

Budget allocation on judiciary 0.08%

Nationally, India spends 0.08% of its GDP on the judiciary. On an average, except Delhi (1.9%), every other state and UT spends less than 1% on its judiciary. There being no guideline for state expenditure on the judiciary to ensure effective functioning, the IJR used per capita expenditure as a comparator. Among the Large and Mid-sized states, the expenditure ranges between Rs.52 and Rs.201. Among the Small states, the range is between Rs.78 and Rs.464.

The report says that given the competition for financial resources, the judiciary is not generally perceived as a ‘direct public service’, like health, housing or education, which places it at a disadvantage. The budgets overwhelmingly cover establishment costs, of salary, allowances, and operational costs. This leaves little for capacity building and infrastructure development.

One judge per 50,000 people

A crucial capacity building need is recruitment of the required human resources. According to the data, not a single High Court or state’s subordinate judiciary, as of 2016-17, met its sanctioned numbers. Each of the 18 Large and Mid-sized states had High Court judge vacancy of above 25%; at the subordinate Court level, six of the 18 had over 25% vacancy.

At an all-India level, in 27 states and UTs including, Haryana, Maharashtra and Kerala, there is just one subordinate court judge for over 50,000 people.

Several factors, like inadequate support staff, lawyers’ delays, absence of witnesses and case preparation, impact the progress of a case. But there is an undeniable influence of excessive and persistent vacancies.

Delays cost 0.5% of GDP

The IJR analysed average pendency – how long a case remains pending – and the clearance rate – number of cases disposed in a year, as against the number of cases filed during the year.

At the Subordinate Court level, a case remains pending for five years or more on an average. In general, the number of cases pending is on the rise. On a five-year basis, only seven of 18 Large and Mid-sized states have lowered the number of pending cases in Subordinate Courts, and only six in High Courts.

Judicial delays cost the country about 0.5% of GDP annually, about Rs. 50,000 crores (2015-16 GDP).

Judges without rooms

A key factor for amelioration is infrastructure. Ideally, every judge must have a court room.

Nationally, as of March 2018, the number of court rooms is sufficient for the current working strength of judges. But compared with the sanctioned strength (23,754), there is an 18% deficit. There would be a shortfall of about 4,071 court rooms, if the country had appointed all the sanctioned judges.

The slow pace of constructing court rooms, due to budget constraints, will impact judge recruitment. This in turn will impact pendency and clearance, with a cascading effect.

The India Justice Report evidences such gaps and deficits at the level of each State and UT, allowing perusers to realise the urgency needed in repairing the system. This will allow duty holders and policymakers to identify where weaknesses are and undertake appropriate interventions with ease, working towards improving the overall capacity of the justice system to deliver to all citizens.
