

Judicial 'Bureaucracy': Costs & Alternatives

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Introduction

The Constitution of India provides for an independent Judiciary, along with the Executive and the Legislature. It is on the lines of the principle of division of powers and having a system of checks and balances in place. It provides for a legal court system under the Central and the State Governments.

The Supreme Court is provided under Articles 124 to 147 and is the apex court in the country. The High Courts are at the head of the judicial system in the various states and are provided for under Articles 214 to 232. The various 'lower judiciary' are formed by acts of the legislatures of the respective States' and are provided for under Articles 233 to 237, placed under the control and jurisdiction of the respective High Courts.

The paper aims to chart the structure of Indian judiciary, separately for the Criminal Justice and the Civil Justice systems. Further, it aims to take a look at the various forms specialised, quasi-judicial bodies like consumer courts and lok adalats. The next part of the paper briefly looks at the funding of the judiciary and the various reasons for low effectiveness of the judiciary – the pendency of cases, unfilled vacancies of judges. The paper also details the procedure for selection of judges to the 'lower judiciary' and also delves into the other forms or processes through which justice could be served.

The Indian Judiciary

Indian judicial system has three basic tiers: there are courts at the district level, at the state level and at the national level.¹ Judgements of district level courts may be appealed in the state level court and judgements of the state courts may be appealed in the national-level court, following the said hierarchy.

A brief vocabulary is necessary for understanding this system: At the district level, a **Sessions' Court** is one that tries criminal cases; a **District Court** tries civil cases. At the district level one also finds several specialised courts. These include the Rent Tribunal, Consumer Court, Labour Court, Revenue Court and Executive Court. A state-level court in India is called a High Court. There is a common High Court for the states of Punjab and Haryana and the Union Territory of Chandigarh. In addition to exercising original writ² jurisdiction, it has appellate jurisdiction and is also a Court of Record. All courts work under the High Court that has powers of superintendence and control over subordinate courts. Above the High Court is the national level court -- **the Supreme Court**.

Supreme Court

The Supreme Court is the highest court in the country. It has original, appellate³ and advisory jurisdiction. Its exclusive original jurisdiction extends to all disputes between the Union of India and one or more states or between two or more states. Besides this, the Constitution gives an extensive original jurisdiction to the Supreme Court to enforce fundamental rights.

Appellate jurisdiction of the Supreme Court can be invoked by a certificate of the High Court concerned or by special leave granted by the Supreme Court in respect of any judgement, decree or final order of a High Court in cases (both civil and criminal), involving substantial

¹ A court is any official tribunal (court) presided over by a judge or judges in which legal issues and claims are heard and determined.

² Writ is a written order of a judge requiring specific action by the person or entity to whom the writ is directed.

³ An appellate court is a higher court that reviews the decision of a lower court when a losing party files for an appeal.

questions of law as to the interpretation of the Constitution. Further, the President may consult the Supreme Court on any question of fact or law of 'public importance'.

High Courts

There are 21 High Courts in the country, three having jurisdiction over more than one state. Bombay High Court has the jurisdiction over Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu. Guwahati High Court, which was earlier known as Assam High Court, has the jurisdiction over Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh. Punjab and Haryana High Court has the jurisdiction over Punjab, Haryana and Chandigarh. Among the Union Territories, Delhi alone has had a High Court of its own. The other six Union Territories come under jurisdiction of different state High Courts. The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the state. Each High Court has powers of superintendence over all courts within its jurisdiction. High Court judges retire at the age of 62. The jurisdiction as well as the laws administered by a High Court can be altered both by the Union and State Legislatures.

Certain High Courts, like those at Bombay, Calcutta and Madras, have original as well as appellate jurisdictions. Under the original jurisdiction, suits where the subject matter is valued at Rs. 25,000 or more can be filed directly in the High Court. Most High Courts have only appellate jurisdiction. For complete list of High Courts, refer Annexure A.

Sessions' Court

The principle Sessions' Court is presided over by a Sessions' Judge. There are two additional Sessions' Judges. These three courts have the same powers, although the Sessions' Judge is the administrative head. He also assigns cases to the Additional Sessions' Judges. These courts have original, appellate and revisional jurisdiction. The structure of the Sessions' Court is as in FIGURE 1.

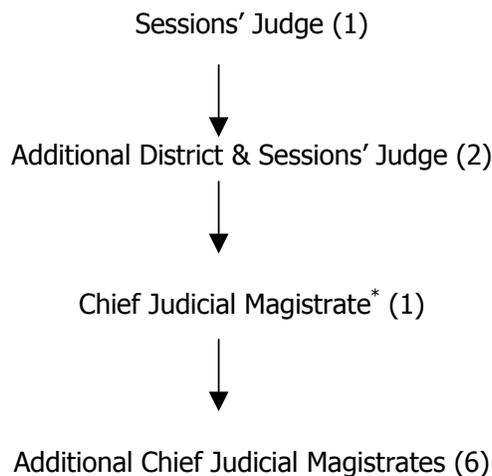


FIGURE 1: Criminal Justice System Set-up

** Each Chief Judicial Magistrate's court typically has one or more police stations under them.*

Cases of a heinous nature are categorised as Sessions' cases under the Criminal Procedure Code, 1973. Appeals and revisions against orders passed by lower courts are also heard and decided by the Sessions' Court.

Below the Sessions' Courts are the courts of the Chief Judicial Magistrate. A Chief Judicial Magistrate is the administrative head; he assigns cases to six Additional Chief Judicial Magistrates. Each of these courts has one or more police stations assigned to it. The designated court decides criminal cases from those police stations. The Chief Judicial Magistrates also commit cases for trial to the Sessions' Courts. In addition to the regular criminal courts, there are special courts for certain offences. These include narcotics cases, corruption cases, and terrorist cases among others.

Magistrates' Court

Indian Judicial Magistrates deal with such things as breach of public peace, nuisance, apprehended danger and dispute of immovable property likely to cause breach of peace. Judicial Magistrates are officers from the Executive cadre.

District Court

The principal Civil Court, called the District Court, is presided over by the District Judge and there are two more courts of Additional District and Sessions' Judges to cope with the cases. The District Judge and the Additional District Judges are vested with the same powers. The Code of Civil Procedure, 1908, with the 1976 amendment, governs procedure in Civil Courts. The rules and orders of the High Court supplement this Code.

Disputes over trademarks (under the Trade and Merchandise Marks Act, 1958), patents (under the Copyright, Designs and Patents Act, 1958), probates (under the Indian Succession Act, 1925) are dealt within the courts of District or Additional District judges. These judges also deal with matrimonial cases under the Hindu Marriage Act, 1955, the Christian Marriage Act, 1872, and the Indian Succession Act, 1925.

Below the District Courts are two courts of Civil Judges (Senior Division) and seven courts of Civil Judges (Junior Division). The 'Senior' and 'Junior' labels do not have anything to do with the competence of powers of the judges but reflect the nature of the cases. Civil Judges (Senior Division) and Civil Judges (Junior Division) have only original jurisdiction whereas the courts of District and Additional District Judges exercise appellate jurisdiction as well. Civil suits are mainly between private persons or private persons and the state and concern adjudication of civil rights. The structure of the District Court is as in FIGURE 2.

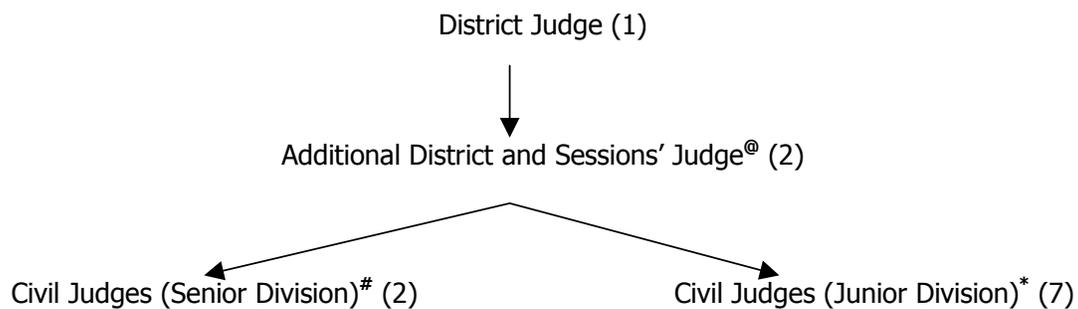


FIGURE 2: Civil Justice System Set-up

@ It only has appellate jurisdiction over cases referred to by the District Judge.

Comprise the Subordinate Judge Class I and II.

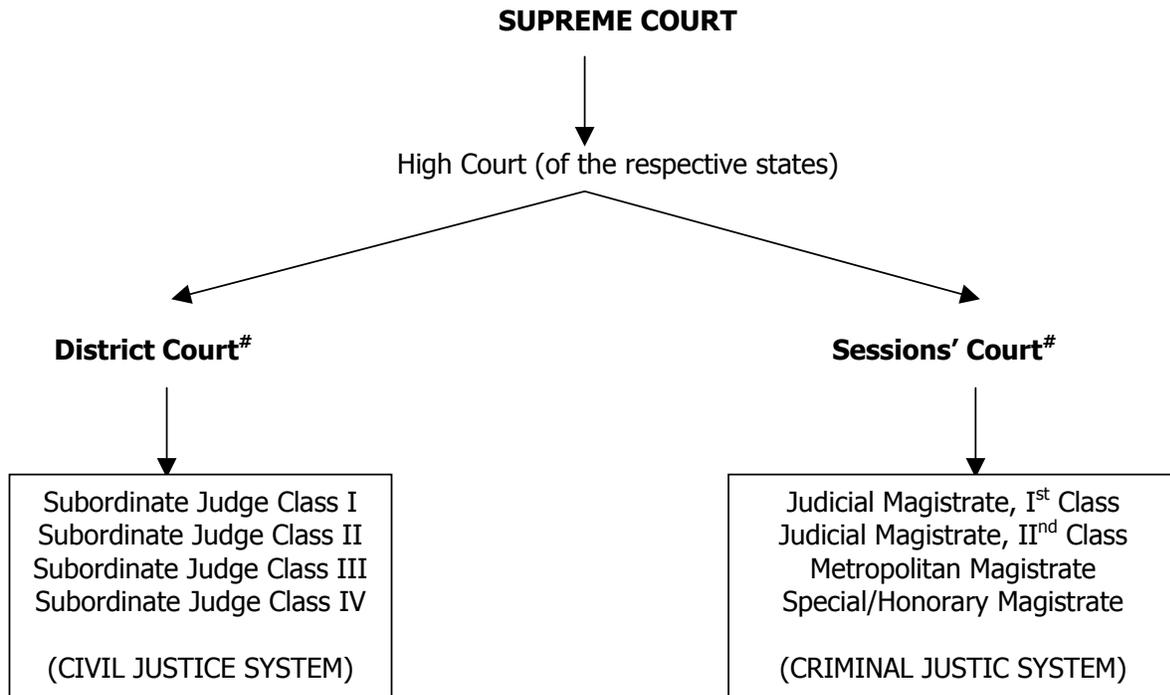
* Comprise the Subordinate Judge Class III and IV.

Most District Courts are set-up at the headquarters of every revenue district. Appeals against the judgement of the courts of Civil Judges, whether of Senior or Junior Division, lie

before the District Judge, who can decide the appeal himself or assign it to an Additional District and Sessions' Judge.

In civil matters, the District Courts do not have revision power. This can be exercised only by the High Court. The current structure of Indian judiciary, as illustrated above, is as follows:

FIGURE 3: The Judicial System Set-up – the broad overview.



- They are the principal appellate courts.

Specialised Courts

Rent Control Tribunal⁴

The East Punjab Urban Rent Restriction Act, 1949, is one of the laws that govern landlords and tenants; it deals with disputes regarding increase in rent and vacation of premises and applies within urban areas. The judicial officer presiding over this tribunal is known as the Rent Controller. Judgements of the Rent Controller may be appealed before a District Judge or Additional District Judge.

Consumer Courts

The Consumer Protection Act, 1996, provides a three-tier system to arbitrate disputes. The lowest level, corresponding to a district court, is the Consumer Disputes Redressal Forum; the next highest rung, corresponding to a High Court, is the Consumer Disputes Redressal Commission and at the apex level, corresponding to the Supreme Court, is the National Consumer Disputes Redressal Commission.

The District Forum is headed by a president not below the rank of District Sessions' judge who is assisted by two other members, one of whom must be a woman. Appointments to this Forum are made by the State Administration. A person who is or has been a Judge of the High Court heads the State Commission and two other members assist him. District

⁴ A tribunal is any court, judicial body or board (including one or more judges) which has quasi-judicial functions, such as a public utilities board which sets rates or a planning commission which can allow variances from zoning regulations.

Forums are located at district headquarters; State Commission at state headquarters and the National Commissions are located in Delhi.

When the value of the goods or services and the compensation claimed does not exceed Rs 5 lac, the complaint is filed in a District Forum. When value or compensation exceeds this limit, the case is filed straightaway in the State Commission. The State Commission has appellate jurisdiction over the matters decided by the District Forum. From the State Commission, the case goes to the National Commission.

Family Courts

The Family Courts Act, 1984, aims at promoting conciliation in and securing speedy settlement of disputes relating to marriage and family affairs and related matters. It envisaged that courts should be set up in a city or town with a population of more than 10 lac and at such other places as the state government may deem necessary. Family courts have been set up in the following places: Andhra Pradesh – seven, Assam – one, Bihar – two, Karnataka – five, Kerala – five, Maharashtra – sixteen, Manipur – one, Orissa – two, Pondicherry – one, Punjab – two, Rajasthan – five, Sikkim – one, Tamil Nadu – six, Uttar Pradesh – sixteen and West Bengal – one. Besides, necessary notifications extending the jurisdiction of the Family Courts Act have also been issued by the Government of India with respect to Haryana, Madhya Pradesh and the Union Territory of Andaman and Nicobar Islands, among other states.

Lok Adalats

The State Legal Aid and Advice Boards monitor Lok Adalats, which are voluntary agencies. They are alternative forums for resolving disputes through conciliation. The movement of funds for these is under the Legal Services Authorities Act, 1987. Every award of a lok adulate is deemed to be a decree of a civil court or order of a tribunal and is deemed to be binding on the parties involved in the dispute. Also, with respect to cases decided at a lok adalat, the court fee paid by the parties is refunded.

Central Labour Tribunals and the Labour-cum-Industrial Tribunal

In accordance with the provisions of the Industrial Disputes Act, 1947, the Central Government Industrial Tribunal-cum-Labour Court adjudicates disputes involving workers employed in establishments connected with or under the control of the Central government. References to this court are made by the Central government. A separate Labour Court-cum-Industrial Tribunal adjudicates disputes involving workers employed in establishments that are not connected with the Central government. Its terms of reference come under Section 10 of the Industrial Disputes Act. Its presiding officer is an Additional District and Sessions' Judge.

Revenue Courts

Revenue Courts deal with the making and maintenance of record of rights in land, assessment and collection of land revenue and other matters relating to land and its liabilities. The lowest of these courts is that of the Assistant Collector, Grade II (This officer is known by a Hindi name -- Tehsildar). The next highest court is that of the Assistant Collector, Grade I. (This officer is a Sub-Divisional Magistrate) Orders of the Assistant Collector, Grade II and Assistant Collector, Grade I, may be appealed before the Collector. Orders of the Collector may be appealed before the Financial Commissioner. The Home Secretary presides over the Court of the Commissioner. The final authority is the Advisor to the Administrator who exercises the powers of the Financial Commissioner.

Executive Courts

Executive Courts adjudicate disputes with regard to payment. On failure of payment or breach of conditions of sale, the Estate Officer is competent to resume the site or building and declare the claim of the allottees forfeited. The Estate Officer observes a set of formalities in taking action: he gives notice to the defaulters and takes evidence from the parties. Orders of the Estate Officer may be appealed before the Chief Administrator.

The Central Administrative Tribunal (CAT)

This tribunal hears cases involving service of employees of the Union of India and the Central Government, including all-India officers and employees of corporations and other autonomous bodies brought into being by the Central legislation. Its seat is at Delhi but it has benches in many other cities.

Prior to the judgement of the Supreme Court of the case of Chandra Kumar (reported in 1977 3 Supreme Court Cases 261) the appeals against the orders of the CAT used to lie in the Supreme Court of India. Now the appeals lie in the respective High Courts and thereafter the Supreme Court of India.

Prosecution Department

All criminal prosecutions are conducted in the name of the respective State or Union Territory Administration and prosecution work is done by the Prosecution Department, headed by a director at the top, with district attorneys/deputy district attorneys/assistant district attorneys working under him. The responsibility of the attorneys of the Prosecution Department is to defend civil and criminal cases of the State Administration in the district courts as well as before other courts such as the Consumer Forum and Labour Tribunal as also in Industrial Tribunals. When there are cases before the Supreme Court, High Court and Central Administrative Tribunals, the Administration appoints practising lawyers as standing counsel to plead and defend the cases.

The Law and Prosecution Department functions under the overall supervision of the Home Secretary who is also the Secretary, Law.

Shortage of Judges and Increasing Number of Pending Cases

A staggering total of about two and a half crore cases are pending at the various levels of the judiciary (in the year 2002). A large proportion of that is in the lower courts – 2.03 crore or 81.2% of the total pending cases, and about 14% or 35.6 lac in the various High Courts, with the Supreme Court filling up the remaining numbers. This is also reflected in the delay in appointment of judges to the various courts. The number of vacancies in the High Courts and the lower courts stand at 156 and 1,857 respectively. These figures are against the approved strengths of 655 and 12,737. In other words, the percentage of shortage of judges in the lower courts and High Courts stand at 21.9% and 12.3% respectively.

Table 1: Pending Cases (2002)

Supreme Court	23, 012*
High Courts	36.2 lakh#
Allahabad	8.7 lakh
Kerala	4.1 lakh
Madras	3.5 lakh
Bombay	3.0 lakh
Delhi	1.8 lakh
Andhra Pradesh	1.5 lakh
Gujarat	1.4 lakh
Rajasthan	1.3 lakh
Average (per judge)	5, 600

Source: Jayaprakash Narayan. 2003. *People Power: Governance and Development*. Lok Satta. Available at www.loksatta.org.

* Down from 1, 04, 936 in 1991

Down from 26.5 lakh in 1993

Further, at present, the average number of judges in India (per 10 lac of population), as per various estimates, is 10.5 to 13.⁵ These figures are pale in comparison with the world average of 50⁶ and the corresponding figures for some other countries are as follows:

Table 2: Average number of Judges (per 10 lac of population)

Country	Avg. No. of Judges
United States of America	107
United Kingdom	51
Canada	75
Australia	41 (13 years ago)

Source: Malimath Committee. 2003. *Reforms of the Criminal Justice System in India*. Volume I.

⁵ The Supreme Court, in its judgement of 21 March, 2002, in All India Judges' Association & Others vs Union of India & Others, had directed that an increase in the judge's strength from the existing ratio of 10.5-13 per one million people to 50 judges per one million people should be implemented within a period of five years in a phased manner...

⁶ The average in countries in the West is 135 to 150 judges per 10 lac people. – Khare, V. N. 2004. *'As a judge, my job is to wipe tears'*. By Diwanji A.K. Available on www.rediff.com.

Table 3: Vacancies in the High Courts

No.	Name of the High Court	Present Approved Strength	Vacancies as on 1.12.2003	% Vacancies
1	Allahabad	95	29	30.53
2	Andhra Pradesh	39	7	17.95
3	Bombay	60	6	10.00
4	Calcutta	50	9	18.00
5	Chhattisgarh	6	3	50.00
6	Delhi	33	8	24.24
7	Guwahati	19	7	36.84
8	Gujarat	42	12	28.57
9	Himachal Pradesh	8	2	25.00
10	Jammu & Kashmir	14	6	42.86
11	Jharkhand	12	1	8.33
12	Karnataka	40	4	10.00
13	Kerala	29	4	13.79
14	Madhya Pradesh	29	3	10.34
15	Madras	42	7	16.67
16	Orissa	16	4	25.00
17	Patna	31	8	25.81
18	Punjab & Haryana	40	14	35.00
19	Rajasthan	40	19	47.50
20	Sikkim	3	1	33.33
21	Uttaranchal	7	2	28.57
	Total	655	156	23.82

Source: Reply to unstarred question in Parliament. 2003. Thomas PC. Available at <http://parliamentofindia.nic.in>.

Table 4: Vacancies in Lower Courts

S.No.	Name of State/UT	No.of sanctioned posts of Judicial Officers	No.of Judicial Officers	% of Vacant Posts as on 1.6.2001
1	Andhra Pradesh	682	661	3.08
2	Assam	259	205	20.85
3	Arunachal Pradesh	293	293	0.00
4	Bihar	1,065	874	17.93
5	Jharkhand	533	370	30.58
6	Gujarat	636	581	8.65
7	Goa	44	39	11.36
8	Haryana	266	233	12.41
9	Himachal Pradesh	98	93	5.10
10	Jammu & Kashmir	156	141	9.62
11	Karnataka	665	589	11.43
12	Kerala	370	369	0.27
13	Madhya Pradesh	798	665	16.67
14	Chhattisgarh	190	175	7.89
15	Maharashtra	1,280	1,107	13.52
16	Manipur	32	28	12.50
17	Meghalaya	7	6	14.29
18	Mizoram	35	21	40.00
19	Nagaland	21	21	0.00
20	Orissa	483	404	16.36
21	Punjab	301	279	7.31
22	Rajasthan	790	663	16.08
23	Sikkim	12	9	25.00
24	Tamilnadu	692	688	0.58
25	Tripura	74	55	25.68
26	Uttar Pradesh	1,929	1,517	21.36
27	Uttaranchal			
28	West Bengal	588	507	13.78
29	A & N Islands	8	8	0.00
30	Chandigarh	19	19	0.00
31	Delhi	385	239	37.92
32	Dadra & Nagar Haveli	2	2	0.00
33	Daman & Diu	2	2	0.00
34	Lakshwadweep	3	3	0.00
35	Pondicherry	19	14	26.32
	Total	12,737	10,880	14.58

Source: Reply to unstarred question in Parliament. 2003. Thomas P.C. Available at <http://parliamentofindia.nic.in>.

This shortfall in the number of judges and the long list of pending cases in the High Courts and the lower courts is in no way reflected in the allocation of funds. 21.4% of the total annual allocation for the year 2002-03 (from the Rs 700 crore under the Tenth five-year

plan) was allocated for the Supreme Court, despite the fact that the number of pending cases in the Supreme Court has actually come down to about 22,000 from a high of 1.05 lac on 31.12.1991.

Further, during the period 1993-94 to 2001-02 an amount of Rs.478.05 crore has been released to various States/Union Territories. With the matching State's share, the States/Union Territories are required to spend an amount of Rs.884.28 crore. Against this the State Governments/Union Territories' Administrations have spent an amount of Rs.1024.53 crore so far.⁷ (refer Annexure B for detailed State-wise break-up of funds released under centrally sponsored schemes)

So, is this model for allocation of funds to the judiciary THE most effective way to serve justice?

Costs of having Undertrials

As per the latest statistics, for the year 2001, released by the National Crime and Records Bureau (NCRB), there are 2.2 lac undertrials⁸ and a further 3,510 detenues⁹ in Indian jails. These two categories together comprise 71.6% of the total number of people in jails.

As per the estimates of NC Jain, Member, Eleventh Finance Commission, the average cost per undertrial per day is Rs 55, covering food, medicine and clothing, with extra provision for sanitation and water correctional programmes, and transportation to and from courts.¹⁰ This takes the annual expenditure per undertrial to about Rs 20,000 and the total annual expenditure on all undertrials to Rs 441.63 crore.¹¹ This figure is 87.82% of the total annual allocation to the judiciary for setting up 1,734 fast track courts for clearing long pending cases.

This puts a very big question mark on the prevalent judicial system. Has our judiciary actually been able to provide speedy and effective justice to the people of the country? The above facts point to the contrary.

Alternatives to State-sponsored Judiciary

Clearly, the Indian judicial system has been ineffective in serving justice to the people. So, is it time to look for other modes of delivering justice?

The time seems to be ripe to begin the debate on alternatives to state-sponsored judiciary. One of the first thought that comes to mind is one of utter disbelief and rebellion as to the fact that there COULD be an alternative to the present judicial system. This feeling quickly gives way to a feeling of relief as the thought of the huge number of cases pending trial and the various people in jails – awaiting judgment – comes to mind.

So, can there really be any alternative to the judiciary? The Constitution of India does not provide for any other form of judiciary besides the State-sponsored one. Thus, even though a start has been made towards using other forms of justice

⁷ Krishnamurthy Jana. 2002. Reply to Unstarred Question no 4834 in Lok Sabha. Available at <http://parliamentofindia.nic.in>.

⁸ An undertrial is a person undergoing trial in a court, awaiting a final judgement while in judicial custody.

⁹ A detenue is a person detained in jail for reasons like preventive arrest and arrest on suspicion.

¹⁰ Venkatesan, V. 2001. For Fast Track Justice. *Frontline*. July 07-20. New Delhi.

¹¹ The corresponding All-India average figure, as in the NCRB report, is Rs 8,598.20 during the year 2001-02.

delivery like arbitration¹² (explained later in the paper), they lack Constitutional authority. Thus, even after the arbitration committee passes a ruling, it has to go to the respective High Court to get judicial approval.

The entire system of arbitration works in the following way. When two parties sign a contract, they either agree on a common arbitrator (or a committee of arbitrators, necessarily odd in number), who would perform the function of a quasi-judicial authority in cases of disputes among the concerned parties. The appointment of the arbitrator can also be made after a dispute has occurred, provided such a provision has been made in the contract.

Arbitration is the closest form of non State-sponsored judicial system in existence in India. Besides the obvious drawback of getting its ruling approved by the High Court, another one that is not that apparent is that arbitration is applicable only to civil suits and not criminal ones. This is because the latter are deemed to have been performed against the society and thus out of the realm of reconciliation.

Even then, the usual noises against 'private' forms of judiciary will emanate from various quarters. The most voluble of these will be the one that any form of 'private' intervention will be geared more towards profit generation and less towards proper and effective justice delivery. This is countered by the fact that a 'private' judicial system cannot be geared only towards profit generation as in that case people will stop going to it for dispute redressal.

Thus, the stage is clearly set for a thought process on 'private' forms of the judiciary.

¹² Under the Arbitration and Conciliation Act, 1996.

Annexure A

Name	Year	Territorial establishment jurisdiction	Seat
Allahabad	1866	Uttar Pradesh	Allahabad (Bench at Lucknow – High Court of Uttaranchal set-up at Nainital in 2000)
Andhra Pradesh	1956	Andhra Pradesh	Hyderabad
Bombay	1862	Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu	Bombay (Benches at Nagpur, Panaji and Aurangabad)
Calcutta	1862	West Bengal	Calcutta (Circuit Bench at Port Blair)
Delhi	1966	Delhi	Delhi
Guwahati(1)	1948	Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh	Guwahati (Benches at Kohima, Aizwal & Imphal. Circuit Bench at Agartala & Shillong)
Gujarat	1960	Gujarat	Ahmedabad
Himachal Pradesh	1971	Himachal Pradesh	Shimla
Jammu & Kashmir	1928	Jammu & Kashmir	Srinagar & Jammu
Karnataka(2)	1884	Karnataka	Bangalore
Kerala	1958	Kerala & Lakshadweep	Ernakulam
Madhya Pradesh	1956	Madhya Pradesh	Jabalpur (Benches at Gwalior and Indore – High Court of Chhattisgarh set-up at Raipur in 2000)
Madras	1862	Tamil Nadu & Pondicherry	Madras
Orissa	1948	Orissa	Cuttack
Patna	1916	Bihar	Patna (Bench at Ranchi – now seat of High Court of Jharkhand in 2000)
Punjab & Haryana(3)	1975	Punjab, Haryana & Chandigarh	Chandigarh
Rajasthan	1949	Rajasthan	Jodhpur (Bench at Jaipur)
Sikkim	1975	Sikkim	Gangtok

1. Originally known as the Assam High Court, renamed as Guwahati High Court in 1971.
2. Originally known as Mysore High Court, renamed as Karnataka High Court in 1973.
3. Originally known as Punjab High Court, renamed as Punjab & Haryana High Court in 1966.

Annexure B

Statement indicating the amount allocated to various states / union territories under the centrally sponsored scheme during 1999-2000. (Rs in lac)

Name of the State	Amount Allocated
1. Andhra Pradesh	405.05
2. Arunachal Pradesh	45.00
3. Assam	280.00
4. Bihar	314.93
5. Goa	39.00
6. Gujarat	181.78
7. Haryana	86.70
8. Himachal Pradesh	39.00
9. Jammu & Kashmir	39.00
10. Karnataka	263.96
11. Kerala	175.90
12. Madhya Pradesh	323.82
13. Maharashtra	347.43
14. Manipur	45.00
15. Meghalaya	44.99
16. Mizoram	45.00
17. Nagaland	45.00
18. Orissa	206.54
19. Punjab	92.87
20. Rajasthan	249.47
21. Sikkim	39.00
22. Tamil Nadu	349.39
23. Tripura	45.00
24. Uttar Pradesh	774.54
25. West Bengal	521.63
Union Territories	
1. A & N Islands	30.00
2. Chandigarh	29.00
3. Dadra & Nagar Haveli	19.00
4. Daman & Diu	18.00
5. Delhi	350.00
6. Lakshadweep	18.00
7. Pondicherry	36.00
Total	5500.00

Source: Reply to unstarred question no 663 in Lok Sabha. 2003. Jethmalani Ram. Available at <http://parliamentofindia.nic.in>.

Annexure C

ANDHRA PRADESH

(i) Rules	The Andhra Pradesh State Higher Judicial Service - Special Rules, 1958 (Relevant Rules annexed)
(ii) Quota	33.33% of the total number of posts.
(iii) Qualifications	Shall be an Advocate or a Pleader of not less than seven years standing at the Bar and must not have completed 45 years of age on the first day of the month in which the notification inviting applications has been published.
(iv) Procedure for Selection	a) Written Test with 80 marks. b) Interview - 20 marks. Interviews will be conducted for candidates who qualify in the written examination.

ASSAM

(i) Rules	The Assam Judicial Service Rules, 1967. (Relevant Rules annexed)
(ii) Quota	Not more than 1/3rd of the posts.
(iii) Qualifications	Shall be a practising Advocate of the High Court or of the District Court and should have so practised for a period of not less than seven years. Shall not have completed 45 years of age on the first day of January of the year of recruitment.
(iv) Procedure for Selection	There is no mention in the Assam Judicial Service Rules, 1967. Decision in this regard is taken by the Chief Justice or by any Sub-Committee of Judges constituted as desired by the Chief Justice. However, in the last direct recruitment, written test with 70 marks and viva voce test with 30 marks, with cut off marks of 60% for selection have been prescribed.

BIHAR

(i) Rules	Bihar Superior Judicial Service Rules, 1951. (Relevant Rules annexed)
(ii) Quota	1/3rd of the posts in the cadre of the service. Provided that the State Government may in consultation with the High Court deviate from the said proportion in either direction.
(iii) Qualifications	Minimum practice of 7 years at Bar.
(iv) Procedure for Selection	All eligible candidates are required to appear at an objective test to be conducted by the Chief Justice in this behalf with the assistance of any of the Judges that the Chief Justice may consider necessary for a preliminary screening to judge their suitability. On the basis of the result of this screening test, four times the number of candidates to be selected for appointment are called for interview. Thereafter, the list of candidates is prepared on the basis of written & viva-voce test and names are recommended to the State Govt.

DELHI

(i) Rules	Delhi Judicial Service Rules, 1970. (Relevant Rules annexed)
(ii) Quota	Not more than a third of the posts in the service.
(iii) Qualifications	Must have practised as an Advocate for not less than 7 years. Must have attained the age of 35 years and not attained the age of 45 years on the first day of January of the year in which the applications for appointment are invited.
(iv) Procedure for Selection	Advertisement is issued in a number of national dailies having circulation all over India. After scrutiny of the applications, the Registry places these applications before the Screening Committee constituted by the Full Court for screening the applications, interviewing the screened candidates and preparing a panel of suitable candidates for consideration of the Full Court. Thereafter, recommendation is sent to the Administrator. (Lt. Governor, Delhi.)

GOA

(i) Rules	Goa Civil Service (Judicial Branch) Rules 1992. (Relevant Rules annexed).
(ii) Quota	50%.
(iii) Qualifications	Not less than seven years practice as Advocate in the High Court or Courts subordinate thereto.
(iv) Procedure for Selection	Advertisements are issued and interviews are held. No written test is conducted.

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GUJARAT

(i) Rules	The Gujarat Judicial Service Recruitment Rules, 1961 (Relevant Rules annexed).
(ii) Quota	50%.
(iii) Qualifications	Members of the Bar who have practised as advocates or pleaders for not less than seven years and recommended by the High Court. Provided that a person recruited at the age of not more than 45 years (except in the case of a person belonging to a community recognised as Backward by Government for the purpose of recruitment in whose case at the age of not more than 48 years) shall before he is appointed as a District Judge, be appointed in the first instance to be an Asst. Judge for such period as may, on the recommendation of the High Court, be decided by Government on the merits of his case.
(iv) Procedure for Selection	The practice of calling for names of suitable members of the Bar from all District Judges in the State as well as Principal Officers of the City Courts in Ahmedabad for being considered for appointment to the post of District Judge has been adopted so far. However, in the current practice of the selection procedure, advertisement is published in the local as well as national newspapers notifying the vacancies and inviting applications. The selection procedure is presently under process of the High Court.

HARYANA

(i) Rules	Punjab Superior Judicial Service Rules, 1963. (Relevant Rules annexed).
(ii) Quota	25% of the cadre strength.
(iii) Qualifications	Not less than 10 years as Advocate or a Pleader and is recommended by the High Court for such appointment. Not less than 35 years and not more than 45 years of age on the first day of January next following the year in which his appointment is made.
(iv) Procedure for Selection	Post is notified by means of notification and the same is circulated to all the District and Sessions Judges in the States of Punjab, Haryana and U.T. of Chandigarh. On receipt of applications, eligible candidates are called for interview, which is to be conducted by the Screening Committee. The report of the Screening Committee is considered by the Judges of the Full Court and recommendation is made to the Govt. for selection / appointment of the candidates.

HIMACHAL PRADESH

(i) Rules	The Himachal Pradesh Higher Judicial Service Rules, 1973 (Relevant Rules annexed)
(ii) Quota	1/3rd by direct recruitment and 2/3rd by promotion; Provided that nothing in this rule shall prevent the officiating appointment of a member of the Himachal Pradesh Judicial Service on any post which is to be filled up by direct recruitment, till a direct recruit is appointed. Provided further that the direct appointments to the service shall be subject to the orders regarding reservation in the service for SC/ST/Backward Classes issued by the Himachal Pradesh Government from time to time and made applicable to such appointments in consultation with the High Court.
(iii) Qualifications	Has been for not less than 7 years an Advocate or a Pleader and is recommended by the High Court. Not less than 35 years and not more than 45 years of age on the first day of January next following the year in which his appointment is made.
(iv) Procedure for Selection	After holding an interview or an examination or both as may be prescribed by the High Court for such appointment.

JAMMU & KASHMIR

(i) Rules	The Jammu & Kashmir Higher Judicial Service Rules, 1983 (Relevant Rules annexed).
(ii) Quota	25% by direct recruitment and 75% by promotion. In case suitable candidates are not available for direct recruitment, posts reserved for that category shall be filled up by promotion.
(iii) Qualifications	Has at least 7 years continuous practice at the Bar as an Advocate or Pleader and is recommended by the High Court. Not more than 45 years of age on the first day of January of the year in which the advertisement inviting applications for the posts is issued.

(iv) Procedure for Selection	By holding an examination followed by an interview as may be prescribed by the High Court for such appointment. Every person who qualifies in the written examination shall be examined by a Medical Board constituted by the Director, Health Services of the respective Divisions and shall be called for interview only after the Board certifies that the candidate possesses sound physical and mental health.
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KARNATAKA

(i) Rules	The Karnataka Judicial Services (Recruitment) Rules, 1983. (Relevant Rules annexed).
(ii) Quota	Not exceeding 33.50 %.
(iii) Qualifications	Must be practising on the last date fixed for submission of applications as an Advocate and must have so practised for not less than seven years as on such date. Must not have attained the age of 48 years on the last date fixed for submission of applications.
(iv) Procedure for Selection	There is no specific provision regulating the details of recruitment in respect of selection of candidates.

KERALA

(i) Quota	Number of posts to be filled up or reserved to be filled up by direct recruitment shall be 1/3rd of the permanent posts in the categories of Selection Grade District Judges and District Judges taken together.
(ii) Qualifications	Shall not have completed 47 years of age on the first day of January of the year in which applications for appointment are invited. Shall be a practising Advocate and should have so practised for a period of not less than seven years.
(iii) Procedure for Selection	Notification is issued in leading newspapers, <i>Kerala Gazette</i> , ILR (Kerala series), K.L.J. & K.L.T. inviting applications. Chief Justice calls for reports about each candidate in a prescribed format which is kept in a confidential cover and placed before the Selection Committee at the time of oral examination. Maximum marks shall be 100. The cut off marks shall be 60%, except for SC/ST for whom it is 50%.

MADHYA PRADESH

(i) Rules	Madhya Pradesh Uchchar Nyayik Seva (Bharti Tatha Seva Sharten) Niyam, 1994. (Relevant Rules annexed).
(ii) Quota	Not to exceed 10% of the total permanent strength.
(iii) Qualifications	Has been for not less than seven years an Advocate or a Pleader. Has attained the age of 35 years and not attained the age of 48 years on the first of January of the year in which applications for appointment are invited.
(iv) Procedure for Selection	(a) Written test (Two papers) - 100 marks each. (b) Interview - 25 marks. Candidates who secure 55% marks in the aggregate in the two papers (except SC/ST for whom the aggregate is 45%) will be called for interview.

MAHARASHTRA

(i) Rules	The Bombay Judicial Service Recruitment Rules, 1956 (Relevant Rules annexed).
(ii) Quota	50%
(iii) Qualifications	With not less than seven years as Advocate or Pleader in the High Court or Courts subordinate thereto and recommended by the High Court.
(iv) Procedure for Selection	Advertisement is issued and interview is held as per the guidelines of the Full House for the purpose of selection. No written test is conducted.

MANIPUR

(i) Rules	The Manipur Judicial Services Rules, 1976. (Relevant Rules annexed).
(ii) Quota	
(iii) Qualifications	Shall be a practising Advocate of a High Court or of a District Court in India and should have so practised for a period not less than 7 years. Shall not be less than 35 years and not more than 45 years of age on the first day of January of the year of recruitment.
(iv) Procedure for Selection	Decision in this regard is taken by the Chief Justice or by any Sub-Committee of Judges constituted as desired by the Chief Justice of the Guwahati High Court. A written test with 70 marks and viva voce test with 30 marks is followed by the Guwahati High Court. 60% is the cut off marks for selection.

MEGHALAYA

(i) Rules	The Meghalaya Judicial Service Rules, 1988. (Relevant Rules annexed).
(ii) Quota	Not more than 1/3 rd of the posts.
(iii) Qualifications	Shall be a practising Advocate of the High Court or of a District Court and should have so practised for a period not less than 7 years. Shall not have completed 45 years of age on the first day of January of the year of recruitment.
(iv) Procedure for Selection	Decision in this regard is taken by the Chief Justice or by any Sub-Committee of Judges constituted as desired by the Chief Justice of the Guwahati High Court. A written test with 70 marks and viva voce test with 30 marks is followed by the Guwahati High Court. 60% is the cut off marks for selection.

MIZORAM

(i) Rules	The Mizoram Judicial Service Rules, 1989. (Relevant Rules Annexed).
(ii) Quota	Upto 25% of the posts.
(iii) Qualifications	Shall be a practising Advocate of any Court in India for a period of not less than 7years. Shall not be less than 30 years and not more than 45 years on the 1st day of January in the year in which the recruitment is made, which is relaxable upto 5 years for SC/ST.
(iv) Procedure for Selection	Decision in this regard is taken by the Chief Justice or by any Sub-Committee of Judges constituted as desired by the Chief Justice of the Guwahati High Court. A written test with 70 marks and viva voce test with 30 marks is prescribed by the Guwahati High Court. 60% is the cut off marks for selection.

NAGALAND

(i) Rules	The Nagaland Judicial Service Rules, 1995. (Relevant Rules annexed),
(ii) Quota	25% of the posts.
(iii) Qualifications	Shall be a practising Advocate of the High Court or of the District Court and should have practised for a period of not less than 7 years. Shall not have completed 45 years of age on the first day of January of the year of recruitment.
(iv) Procedure for Selection	Decision in this regard is taken by the Chief Justice or by any Sub-Committee of Judges constituted as desired by the Chief Justice of the Guwahati High Court. A written test with 70 marks and viva voice test with 30 marks is prescribed by the Guwahati High Court. 60% is the cut off marks for selection.

ORISSA

(i) Rules	Orissa Superior Judicial Service Rules, 1963 (Relevant Rules annexed).
(ii) Quota	Not exceeding 25%.
(iii) Qualifications	At least seven years standing at the Bar on the 1st August of the year in which the advertisement for receipt of applications is published. Not under 35 years of age and not over 45 years of age on the 1st August of the year in which the advertisement for receipt of applications is published.
(iv) Procedure for Selection	(a) Written test (2 papers)- 200 marks. (b) Viva voce test - 30 marks (c) Length of service - 5 marks (d) Career in law - 5 marks Candidates are called for viva voice test provided they obtain 50% of marks in each of the two papers.

PONDICHERRY

(i) Rules	Pondicherry Judicial Service (Cadre and Recruitment Rules, 1996 (Relevant Rules annexed).
(ii) Quota	Not exceeding 33.33% of the posts in the cadre.
(iii) Qualifications	Not less than 7 years experience at the Bar. Must not have attained the age of 48 Years.
(iv) Procedure for Selection	The selection shall be made by a Committee of five Judges of the High Court constituted for this purpose by the Full Court of the High Court, the Chief Secretary to Govt. of Pondicherry and the Secretary (Law), Govt. of Pondicherry. A viva voice examination with 100 marks is held to test the candidate's general knowledge, grasp of principles of law and suitability for appointment. Minimum marks for clearing the examination shall be 30 for candidates belonging to SC/ST/OBC and 40 for others.

PUNJAB

(i) Rules	Punjab Superior Judicial Service Rules, 1963. (Relevant Rules annexed).
(ii) Quota	1/4th of the total number of cadre posts.
(iii) Qualifications	Has been for not less than 10 years an Advocate or Pleader and is recommended by the High Court for such appointment. Not less than 35 years and not more than 45 years of age on the first day of January of next following the year in which his appointment is made.
(iv) Procedure for Selection	Post is notified by means of notification and the same is circulated to all the District and Sessions Judges in the States of Punjab & Haryana and U.T. Chandigarh. On receipt of applications, eligible candidates are called for interview, which is to be conducted by the Screening Committee. The report of the Screening Committee is considered by the Judges of the Full Court and recommendation is made to the Govt. for selection / appointment of the candidates.

RAJASTHAN

(i) Rules	The Rajasthan Higher Judicial Service Rules, 1969 (Relevant Rules annexed).
(ii) Quota	Direct Recruitment is made in the ratio of 1:3 with a rider that the total of direct recruits shall at no time exceed one third of the cadre strength.
(iii) Qualifications	Must have attained the age of 35 years and must not have attained the age of 45 years on the first day of January preceding the last date fixed for submission of the application.
(iv) Procedure for Selection	The High Court shall scrutinise the applications and call for interview only those who, in its opinion, are fit to be called for that purpose. Such candidates shall be interviewed by a Committee constituted by the High Court consisting of the Chief Justice, the Administrative Judge and two other Judges. The recommendations of the Committee shall be placed before the Full Court with the relevant record and the Court shall make the final selection of the candidates suitable for appointment to the service in order of merit.

SIKKIM

(i) Rules	Sikkim Superior Judicial Service Rules, 1980. (Relevant Rules annexed).
(ii) Quota	1/3rd of the total number of posts.
(iii) Qualifications	Has been for not less than 7 years an Advocate or a Pleader and is recommended by the High Court for such appointment. Not less than 35 years and not more than 45 years of age on the first day of January next following the year in which his appointment is made.
(iv) Procedure for Selection	Selection is done on the basis of an interview to be conducted by Chief Justice and Judges of the High Court.

TAMIL NADU

(i) Rules	The Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 1995. (Relevant Rules annexed).
(ii) Quota	In the ratio of 1 : 5.
(iii) Qualifications	Must be practising on the date of notification as an Advocate or Pleader for not less than seven years. Must not have attained the age of 48 years on the 1st July of the year in which the selection for appointment is made.
(iv) Procedure for Selection	Seven Judges as nominated by the Chief Justice will conduct interviews (viva voice) and send a panel of names for consideration by the Government for appointment.

TRIPURA

(i) Rules	Tripura Judicial Service Rules, 1974. (Relevant Rules annexed).
(ii) Quota	25% of posts.
(iii) Qualifications	Shall be a practising Advocate of any Court in India and should have so practised commendably for a period of not less than 7 years. Shall not be less than 35 years and more than 45 years on the first day of January of the year of recruitment.
(iv) Procedure for Selection	Decision in this regard is taken by the Chief Justice or by any Sub-Committee of Judges constituted as desired by the Chief Justice of the Guwahati High Court. A written test with 70 marks and viva voice test with 30 marks is prescribed by the Guwahati High Court. 60% is the cut off marks for selection.

UTTAR PRADESH

(i) Rules	The Uttar Pradesh Higher Judicial Service Rules, 1975. (Relevant Rules annexed).
(ii) Quota	15% of the vacancies.
(iii) Qualifications	Pleaders and Advocates of not less than seven years standing on the first day of January next following the year in which the notice inviting applications is published.
(iv) Procedure for Selection	Vacancies are notified in newspapers. Scrutiny of the applications received is made by the Selection Committee - normally comprising three sitting Judges of the High Court. A written test comprising of two papers is held. The first paper contains the questions on substantive law (including U.P. Local Acts) and the other paper is of procedural law. Both papers carry 150 marks each. The candidates who in the opinion of the Selection Committee qualify after scrutiny of applications and written test are called for interview, which carry 100 marks. The cut-off marks shall be 45% in the general category and 35% in the reserve category. The candidates are called for interview in the ratio of 1:4. The report of the Committee is placed in the Judges' meeting and thereafter, recommendation is forwarded to the Government.

WEST BENGAL

(i) Rules	West Bengal Higher Judicial Service (Direct Recruitment) Rules, 1956.
(ii) Quota	
(iii) Qualifications	Has been for not less than seven years an Advocate or a Pleader and is recommended by the High Court for such appointment. Not less than 35 years and not more than 45 years of age on such date as the State Government may fix in this behalf.
(iv) Procedure for Selection	Applications shall be invited by the State Government and on receipt shall be forwarded to the High Court with a view to enabling the High Court to make its recommendations for the purpose of filling the vacancy. However, direct recruitment has been rescinded since 1977.