

Strengthening the Rule of Law: Role of the Finance Commission

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Abstract

This paper examines an essential yet underexplored aspect of judicial reform in India – the budgeting process and the allocation of funds to the judiciary. By analysing the budgetary allocation towards the judiciary at both the union and state government level, this paper reveals both a vertical disparity (between the union and state governments) and horizontal disparities (across the states) in budgetary allocation towards the judiciary in India. The paper utilises several metrics (pending cases per lakh population, judicial expenditure per capita, expenditure per subordinate court, case burden per subordinate court, etc.) to understand the disparity of public funding of judiciary from various dimensions. The paper also highlights archaic budgeting processes and severe underutilisation of funds, and underscores the role of the Finance Commission in addressing funding disparities and improving budgetary practices. The paper proposes reform measures to the Sixteenth Finance Commission to improve the budgeting for the judiciary, allocation of money to courts, and the utilisation of funds.

Keywords: Budgetary allocation to judiciary, Budgetary practices, Funding disparities, Finance Commission, Judicial reforms, Rule of Law

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1. Introduction

In any democratic nation-state today, the judiciary is an important wing of the government. In India, the judiciary is considered by many citizens as the last hope in their pursuit of justice. The judiciary in India has the power to examine the validity / constitutionality of the legislations passed by the legislative, and has sometimes examined policies of the executive that might have been construed as unconstitutional. Therefore, the judiciary is the ultimate custodian of rule of law in India.

The judiciary in India faces problems like outdated and archaic processes, large percentage of judicial vacancies, lack of technological integration, etc., and there have been several studies on the same (DAKSH 2016, 3-24) (Khaitan, Seetharam and Chandrashekar 2017, 14-20). A major aspect that most of the studies miss is the role of the budgeting process and public funding towards the judiciary. Several studies (e.g. Viapiana 2018, 11-12) tell us that the budgeting system can have an impact on judges' autonomy, which shows the important role that judicial budgeting has on rule of law.

Several reports have highlighted the low budgetary allocation made to the judiciary by the executive in India (India Justice Report 2023). According to the estimates in this paper, the judiciary is allocated only 0.14% of GDP of India. This is much lower than global standards: a majority of the countries in the European Union spend around 0.31% of GDP on the judiciary (Council of Europe 2024). The lack of budgetary allocation and ineffective utilisation of resources leads to inadequate infrastructure and technological improvements, insufficient human resources and other problems that lead to increased pendency of cases. This ultimately affects access to justice, and weakens public trust in the judiciary.

The importance of an efficient judiciary has also been highlighted by economists as imperative for a nation's economic growth. From economic studies that have studied the link between legal institutions and economic growth (North 1990, 100-104) (Voigt, Gutmann, and Feld 2015, 14-15), to reports by the OECD and various governments, there has been a lot of emphasis placed on the importance of improving judiciary for boosting the economy of a country.

The Economic Survey of India for 2017-18 (Ministry of Finance 2017-18, 131) highlighted the fact that an efficient judiciary enables contract enforcement, which in turn improves the ease of doing business in a country. Economists like Arvind Panagariya have identified judicial reforms, like the introduction of National Company Law Tribunals, that have improved the insolvency framework, which bodes well for the industrial and service sector in the longer run (Panagariya 2008, 297-298).

In the above context, this paper¹ aims at understanding one of the aspects of the judiciary which requires a deeper analysis for formulation of steps for judicial reforms – the budgeting process and budgetary allocation to the judiciary – and the role of the Finance Commission (FC) in reducing the disparity in public funding towards the judiciary across the states. This paper examines issues in budget formulation, allocation, and utilisation. In the last section, we suggest where the Finance

Commission can intervene to enhance the budgeting and resource allocation process, in addition to improving technological and scientific infrastructure, as a means to improve the capacity of the judiciary.

2. Review of Budgetary Allocation to the Judiciary in India

2.1 Examining Major Challenges in the Indian Judiciary

2.1.1 Rise in Backlog of Pending Cases post COVID-19

According to the data from the National Judicial Data Grid (NJDG), as of October 2024, 4.48 crore cases are pending in the subordinate courts, 60.35 lakh cases are pending in the high courts and 66,103 cases are pending in the Supreme Court, adding up to 5.09 crore cases in total. The COVID-19 pandemic led to disruption in operations of the courts, resulting in the number of cases in the judiciary to cross the 5-crore figure mark.

According to the NJDG, five states- Uttar Pradesh (1.14 crore cases), Maharashtra (53.1 lakh cases), Bihar (35.97 lakh cases), West Bengal (32.2 lakh cases), and Karnataka (20.54 lakh cases) account for 57.51% of the pending cases.

2.1.2 Shortage of judges and court staff

Large vacancies for the posts of judges, along with a lack of court halls and court staff, have always been major issues in the Indian judiciary. Increasing the number of judges, setting up more courts, and simplification of procedures are often recommended as a major solution to the problem of huge case pendency in India (Rao 2024, 28).

Nearly 21.1% of the judges' post lie vacant (See table 1) according to the data stated by the Ministry of Law and Justice in the Lok Sabha (2025). The Supreme Court has two vacancies (which is 5.88% vacancy). In the high courts, it is higher at 33.2%; in the subordinate courts it is 20.6%.

Table 1 Vacant Positions of Judges/Judicial Officers at Various tiers (2025)

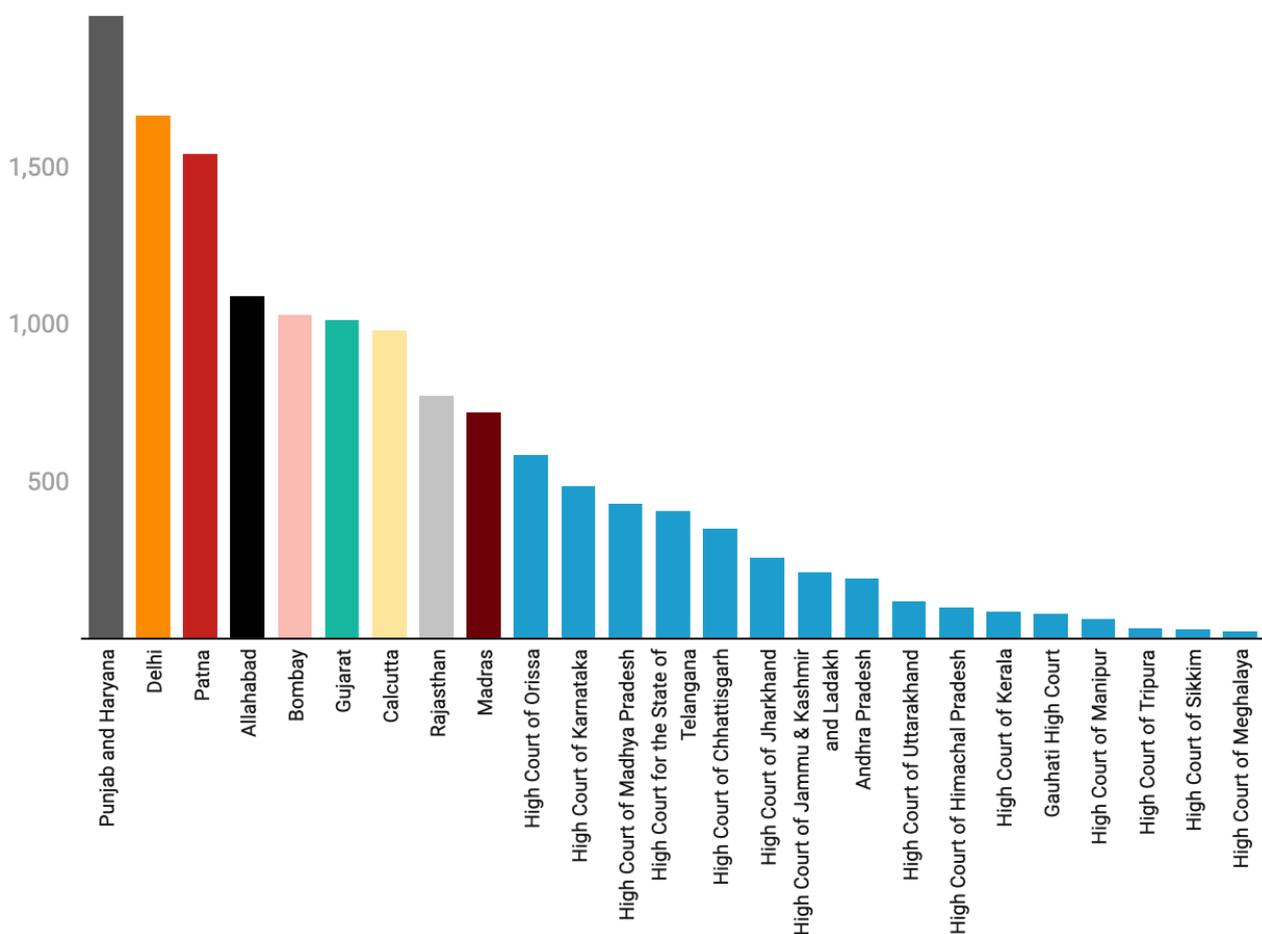
| Courts | Sanctioned | In Position | Vacancies | Vacancy % |
|--------------------|--------------|--------------|-------------|-------------|
| Supreme Court | 34 | 32 | 2 | 5.9 |
| High Court | 1114 | 751 | 370 | 33.2 |
| Subordinate Courts | 25786 | 20466 | 5320 | 20.6 |
| Total | 26934 | 21249 | 5692 | 21.1 |

Source: Authors' calculation based on data from Rajya Sabha Unstarred Question No. 1073 answered on 13.02.25.

What most analyses of the Indian judicial system overlook are vacancies in non-judicial staff. The non-judicial staff manage the day-to-day administration of the court, including the movement of case files, and assist the advocates and the judges in conducting judicial process and hearings.

If we consider the data from the ‘State of the Judiciary’ report by the Centre for Research and Planning, Supreme Court of India, 27.23% of the sanctioned posts of court staff are vacant. As against a total sanctioned strength of 2,73,696 for staff, employees, and officials in subordinate courts, only 1,99,172 (less than 75%) were filled in 2023 (Centre for Research and Planning 2023, 119-120). When we look at the high courts (see figure 1), as against a total sanctioned strength of 53,124 court staff, the working strength was only 38,927, a vacancy of 26.7%.

Figure 1 Vacancies of non-judicial court staff in various High Courts (2023)



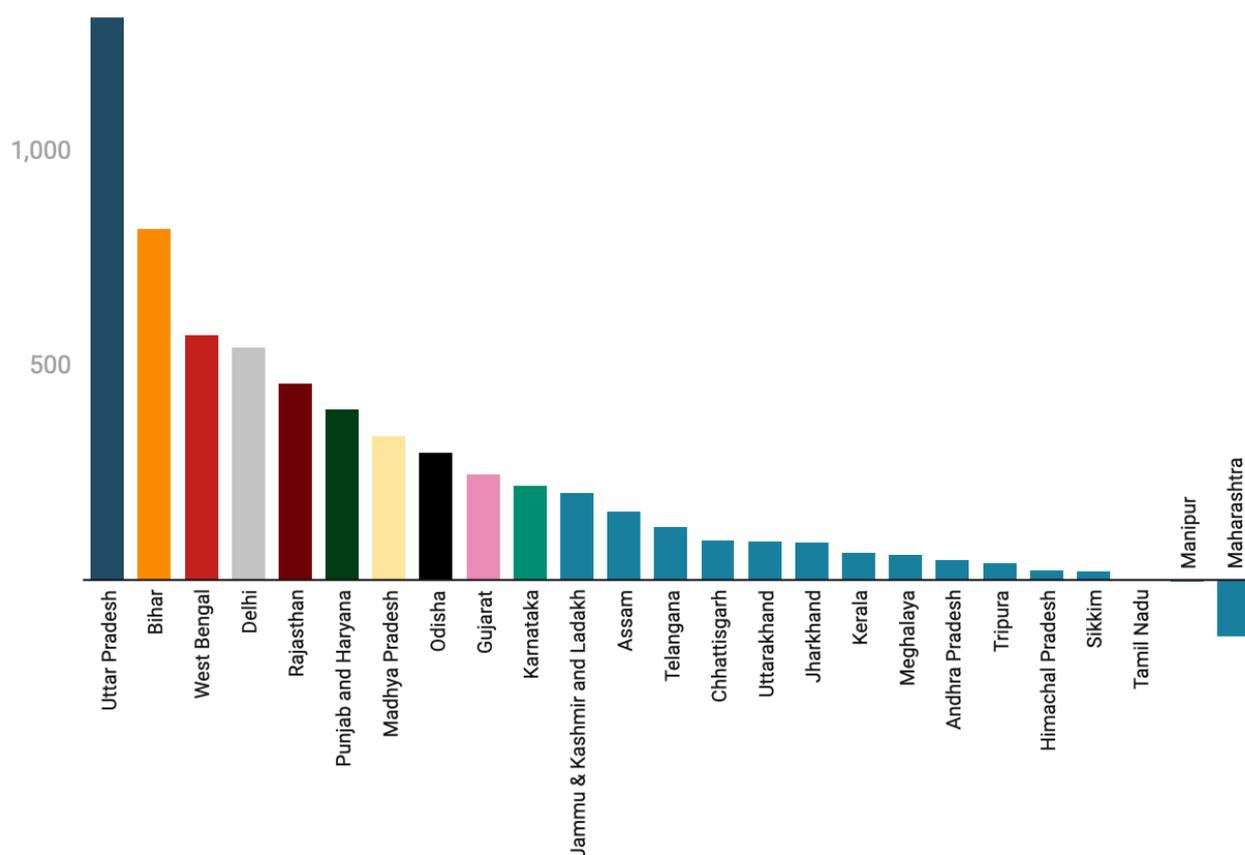
Source of data: Indian Judiciary- Annual Report 2023-24, Volume 2- High Courts (Supreme Court of India)

2.1.3 Shortfall in Physical Infrastructure

As per the ‘State of the Indian Judiciary Report 2023’ (Centre for Research and Planning 2023, 119), there are not enough courtrooms for judicial officers in the subordinate courts. As against a total sanctioned strength of 25,081 judges/judicial officers, only 21,811 court rooms were available in 2023 in the subordinate courts. This resulted in a significant shortage of 16.95% of court room infrastructure (Centre for Research and Planning 2023, 7).

In addition to the above issues, there is also a shortage of residential accommodation for judicial officers (see figure 2 for state-wise details). Only 19,001 judicial residences were available for the total sanctioned strength of 25,081 judicial officers, resulting in a shortfall of 24.24% (Centre for Research and Planning 2023, 16). The availability of residential accommodation can improve efficiency by reducing travel time and enabling prompt response to emergencies.

Figure 2 Infrastructure Gaps in Subordinate Courts (State-Wise) - Accommodation for Judicial Officers (2023)



Source of data: State of the Indian Judiciary Report, 2023 (Centre for Research and Planning, Supreme Court)

2.2 Expenditure on the Judiciary by the Union and State Governments: Key Trends

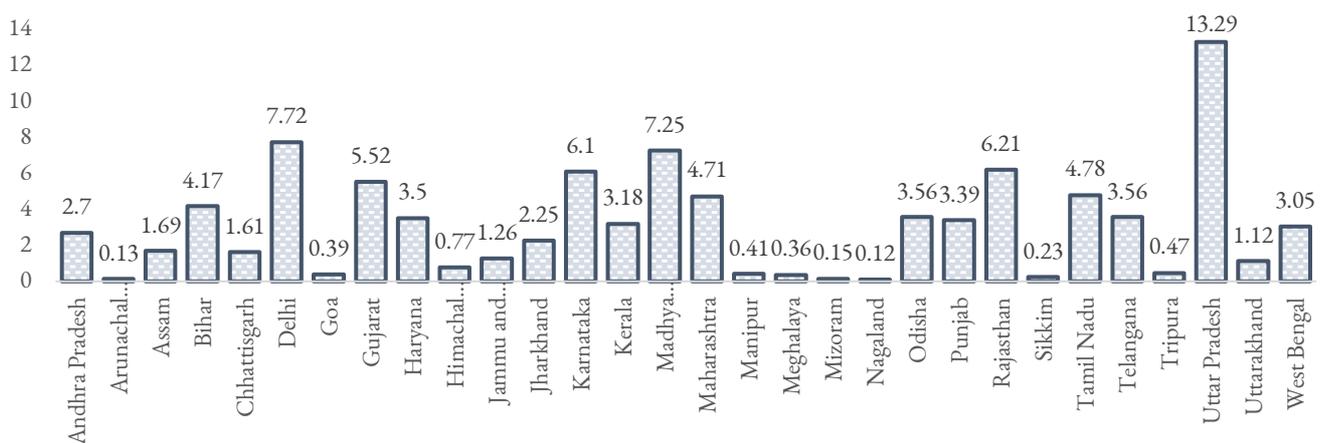
In this section, we examine trends and patterns in expenditure by the Union and the states using multiple metrics. For the states, we have analysed their per capita expenditure on the judiciary, expenditure per pending case, and expenditure per court. The importance accorded to the judiciary by each state is gauged by the budgetary allocation towards the judiciary as a percentage of the overall budget of that state.

According to our calculations, the combined expenditure on the judiciary by the Union and the state governments increased from 0.11% of GDP in 2019-20 to 0.14% of GDP in 2024-25. While this overall share remains low, in absolute terms, the expenditure on the judiciary by the Union and states taken together has increased by 81.27% from Rs. 21,888 crore in 2019-2020 to Rs. 40,126 crore in 2024-25. This sharp rise, when viewed alongside the modest increase in GDP share, reflects the low base of expenditure on the judiciary in 2019–20. These figures indicate that, despite significant growth in absolute budgetary allocation to the judiciary, India’s expenditure remains below international standards, such as the 0.31% of GDP spent by European countries.

The union government’s share in the All-India judicial budget has increased marginally over the last 5 years, largely due to initiatives like e-Courts phase 3, which is a project by Union government to improve integration of technology in the judiciary, and creating a fully digital, paperless, and citizen-centric judicial ecosystem. The e-Courts phase 3 has a financial outlay of Rs. 7,210 crore (Ministry of Law and Justice 2024).

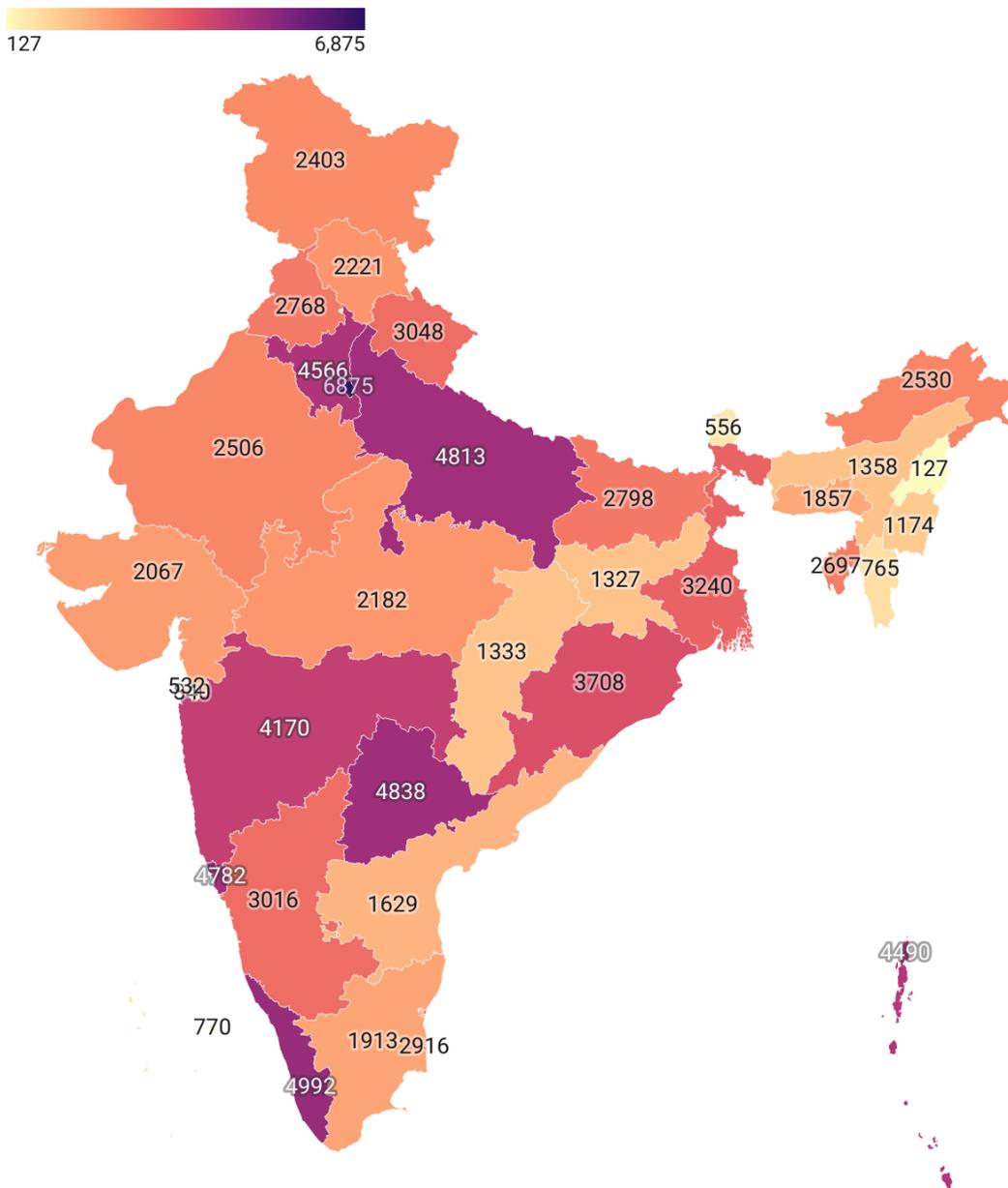
In 2019-20, 95.82% of the All-India budget for the administration of justice was allocated by the states. In 2024-25, this percentage has reduced marginally, with the states spending 93.64% of the All-India budget for the judiciary, and the Union spending 6.36%. It is interesting to note that the Union Government’s contribution to the All-India budget for the administration of justice is lower than the contributions of some individual states. For instance, Uttar Pradesh accounts for 13.29%, and Delhi contributes 7.72% to the All-India budget for the administration of justice (See figure 3). This highlights the significant role that states play in the overall funding of the justice administration system.

Figure 3 Percentage share of states in total expenditure on the judiciary by all states and the Union government (2024-25 B.E.)



Source: Authors’ calculation based on data from Annual Financial Statements of Departments of Law of various States; Union Budget.

Figure 5 State-wise Pending Cases per lakh of population in 2024



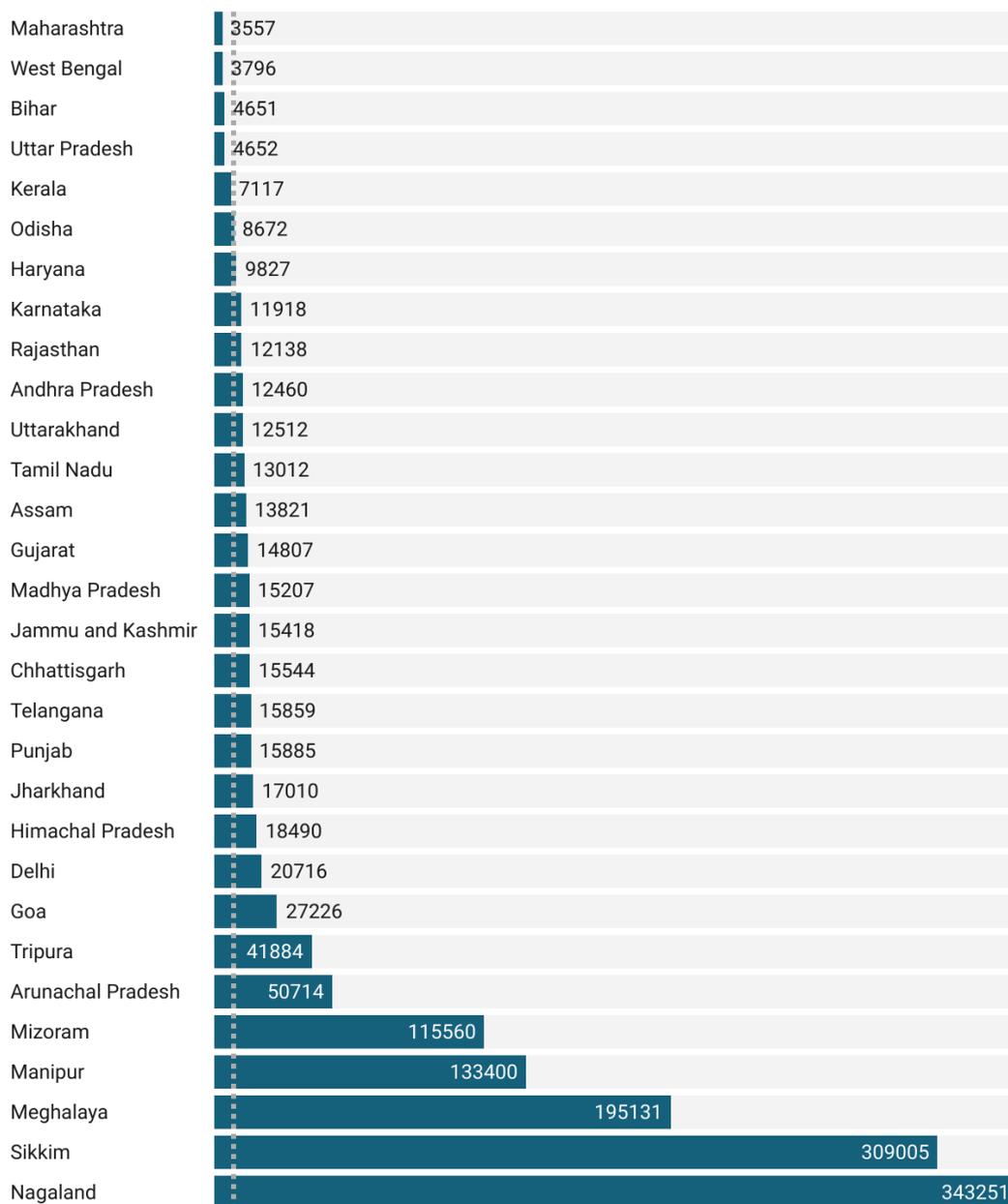
Source: Authors’ calculation based on data from Population Projection by National Commission on Population (2019) (estimated for 2024); NJDG, DCI, October, 2024

The impact of the variation among the states’ prioritisation of the judiciary on the performance of the judiciary becomes clearer when we view this variation in relation to the burden on their courts. There is a significant disparity across states with regard to the budget of the judiciary per pending case. According to the authors’ calculations, the average budget per pending case across all states is Rs. 8,553. State-level, these values range from as high as Rs. 3,43,251 per case for Nagaland to as low as Rs. 3,796 per case in West Bengal.

The reason this metric is important is that the relative priority given to funding of the judiciary in the state does not necessarily mean that the state has adequate resources to address the volume of its

pending cases (DAKSH and CBGA 2018). Take Uttar Pradesh, for example, which has allocated 0.76% of its budget towards the judiciary, which is among the larger allocations by the states. But it has one of the lowest expenditures per pending case, at Rs. 4,652. Figure 6 below represents budgetary spending per pending case by all states in India.

Figure 6 Budget Expenditure per Pending Case (in Rs.) in States (2024-25 BE)



Source: Authors' calculation based on data from Annual Financial Statements of Various States; Various State Budgets; NJDG, DCI, October, 2024

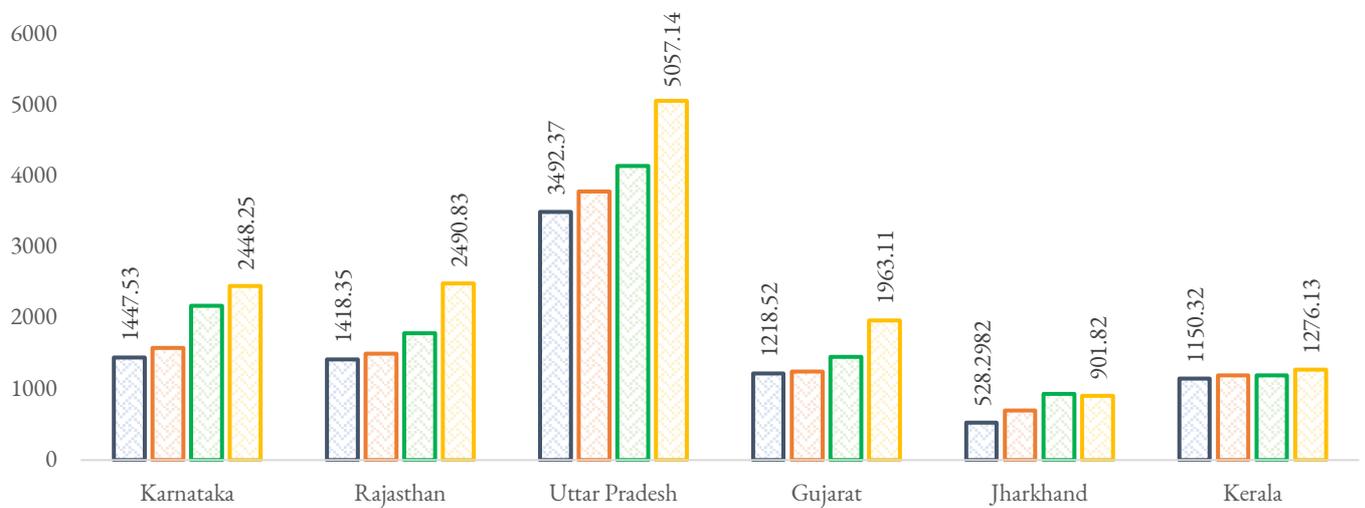
The comparison of the state government's judicial expenditure per capita is another important metric for analysis when it comes to understanding the disparity in budgetary allocation. As per the authors' calculation, the national average for per capita spending on the judiciary in the year 2024-25

3. Public Expenditure and the Performance of Judiciary: A Comparative Analysis of Six States²

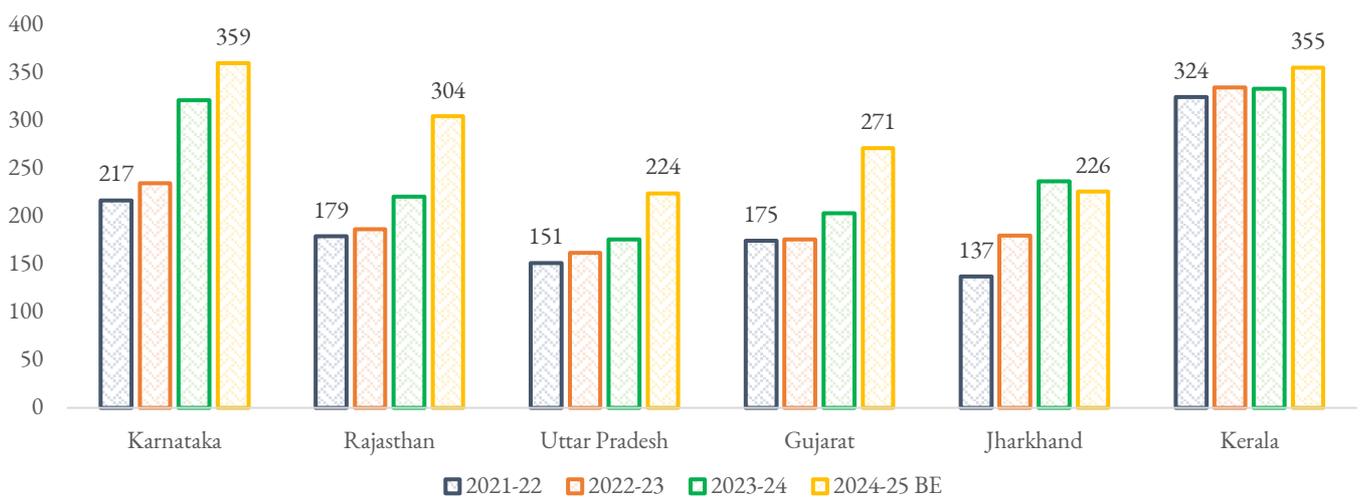
3.1 Trends and Patterns in Expenditure on Judiciary across States

Analysis of Karnataka, Rajasthan, Uttar Pradesh, Gujarat, Jharkhand, and Kerala based on various metrics will reveal the additional patterns of inter-state disparity of expenditure across states. While the budget has increased significantly for Uttar Pradesh (79%) from 2022-23 Actual Estimate (A.E.) to 2024-25 Budget Estimate (B.E.), for Kerala, it has only been a 14% increase, as seen in figure 8a below.

Figure 8:(a) State-wise Trends in Total Budget of Judiciary during Fifteenth FC period (in Rs. crore)



(b) State-wise Trends in Budgetary allocation to the judiciary per capita during Fifteenth FC Period (in Rs.)



Source: Authors’ calculation based on data from Authors’ calculation based on data from Annual Financial Statement of Various States; Various State Budgets: Various Years; Population Projection by National Commission on Population (2019) (estimated for years 2021-2024)

When we analyse the trend of per capita budgetary allocations to the judiciary (see figure 8b), certain states have performed notably better than others. Rajasthan, for instance, experienced a 70% increase during the 15th FC period. Karnataka (66%) and Jharkhand (64%) also reported substantial growth rates. In contrast, Kerala recorded a relatively modest increase of only 9% during the same period.

3.2 Varying priority of the judiciary budget across states

Table 2 State-wise growth in Judiciary budget and their share in State Budget

| State | %growth in 2024-25 BE over 2022-23 A, towards judiciary | Share of state budget in All India expenditure on Judiciary in 2024-24 BE | % of state budget spent on judiciary, 2022-23 A | % of state budget spent on judiciary, 2024-25 BE |
|---------------|---|---|---|--|
| Karnataka | 48.59 | 6.17 | 0.56 | 0.71 |
| Rajasthan | 55.84 | 6.28 | 0.43 | 0.74 |
| Uttar Pradesh | 79.1 | 13.44 | 0.56 | 0.73 |
| Gujarat | 55.41 | 5.58 | 0.53 | 0.66 |
| Jharkhand | 48.62 | 2.27 | 0.66 | 0.75 |
| Kerala | 14.01 | 3.22 | 0.57 | 0.69 |

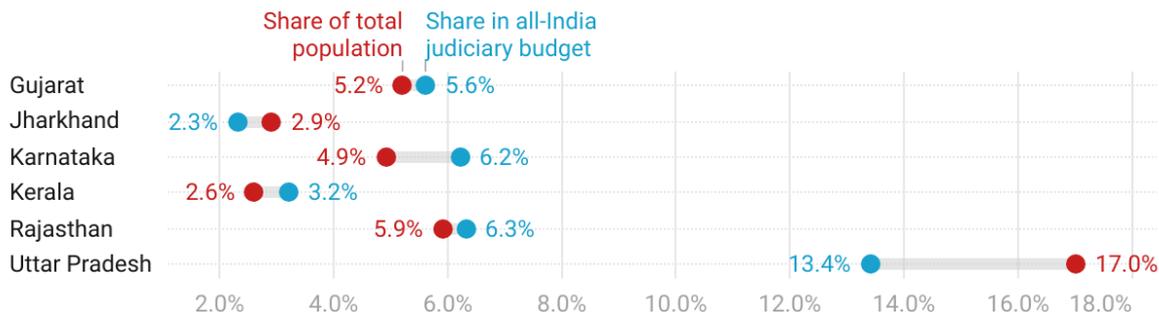
Source: Authors' calculation Authors' calculation based on data from Annual Financial Statement of Various States; Various State Budgets; Various Years; Union Budget Various Years

From table 2, we can see how different states have assigned differing priorities to spending on the judiciary over time. While Uttar Pradesh has drastically increased its budget on the judiciary by 79% (in 2024-25 B.E from 2022-23 A.E), Kerala has increased its budget by only 14%. Rajasthan (38%), Gujarat (33%), and Uttar Pradesh (27%) recorded substantial year-on-year increases in judicial allocations in the 2024–25 B.E. These recent one-year increments suggest that overall growth rates must be interpreted with caution, as recent surges may obscure longer-term spending patterns and priorities.

When we look at other trends within table 2, a positive sign that we see is the equalising trend when it comes to the proportion of state budget allocated to the judiciary in 2024-25 BE. The range among many states is very low, from 0.66% (Gujarat) to 0.75% in Jharkhand. However, it needs to be mentioned that major states like Maharashtra (0.31%) and West Bengal (0.40%) have allocated a lower proportion of their budget to the judiciary in the same period.

Once we factor in the population of each state, the disparity in judicial budgeting becomes even more apparent. If we look at figure 9 below, we can see that there are states disproportionately contributing, like Kerala (3.2% of the All-India budget vs. 2.6% of the All-India population), Gujarat (5.6% vs. 5.2%), Karnataka (6.2% vs. 4.9%), and Rajasthan (6.3% vs. 5.9%), which allocate a higher proportion to the All-India judicial budget compared to their share of the population. States like Jharkhand (2.3% vs. 2.9%) and Uttar Pradesh (13.4% vs. 17%) contribute a lower proportion to the All-India judicial budget relative to their population.

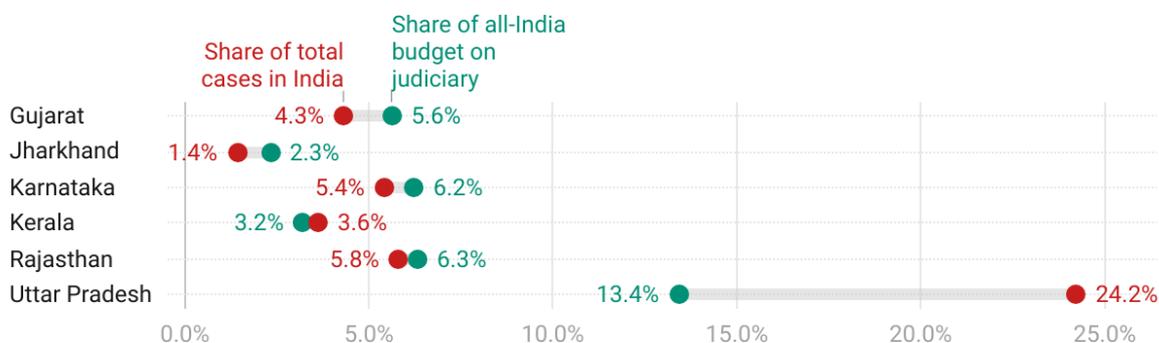
Figure 9 Share of States in All India Judiciary Budget (2024-25 BE) and Population of India



Source: Authors’ calculation based on data from Population Projection by National Commission on Population (2019) (estimated for 2024); Annual Financial Statements of Various States; Union Budget.

Disproportionality between the state’s share of the total number of cases and its share in the all-India budget for the judiciary. As seen in figure 10 below, there is a large variation in the share of states in the total number of cases as compared to their share of contribution to the All-India judiciary budget. Take Uttar Pradesh, for example, which has 24.2% of the total number of cases in the country in 2024, as compared to its share in the All-India judiciary budget, which is only 13.4% (2024-25 BE). This is in contrast to Gujarat (4.3% of the total number of cases vs 5.6% of the overall judiciary budget).

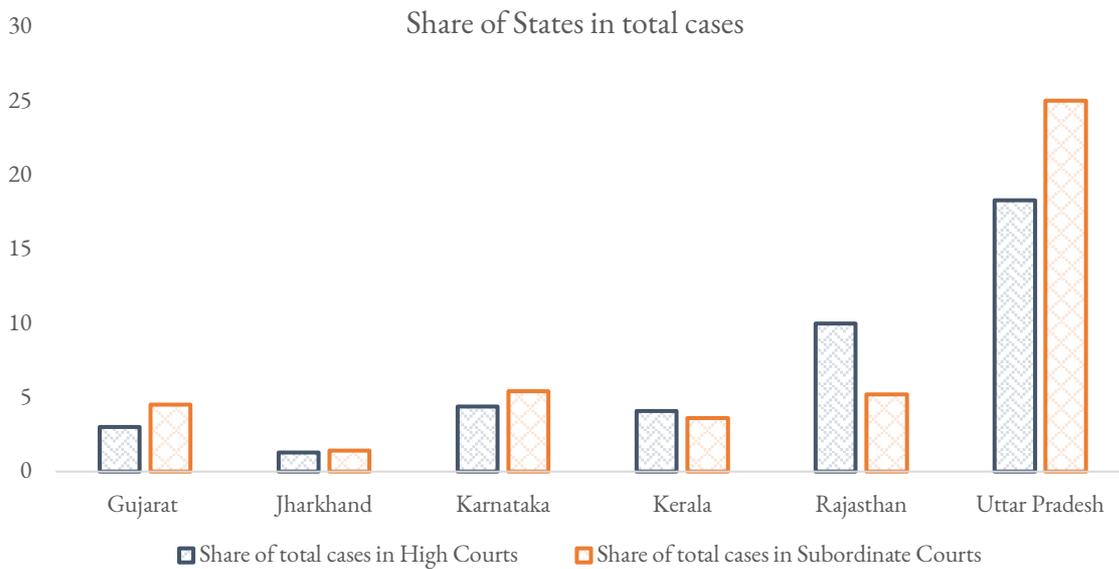
Figure 10 Share of States in total cases at All India level in 2024 and its share in all-India Judiciary Budget 2024-25 BE (in %)



Source: Authors’ calculation based on data from NJDG, DCI, October 2024; NJDG, HC of India, October 2024; Annual Financial Statements of Various States; Union Budget

Comparison of share of states in total cases in High Courts and Subordinate Courts. The comparison of share of each of the state’s share of total number of cases in the high courts and subordinate courts can help us understand behaviour of each tier of court in the states studied. It enables us to have a better understanding of judicial demand and structural bottlenecks in the various tiers of the judiciary. Figure 11 shows the comparison between the share of each state in the total cases in high courts and subordinate courts.

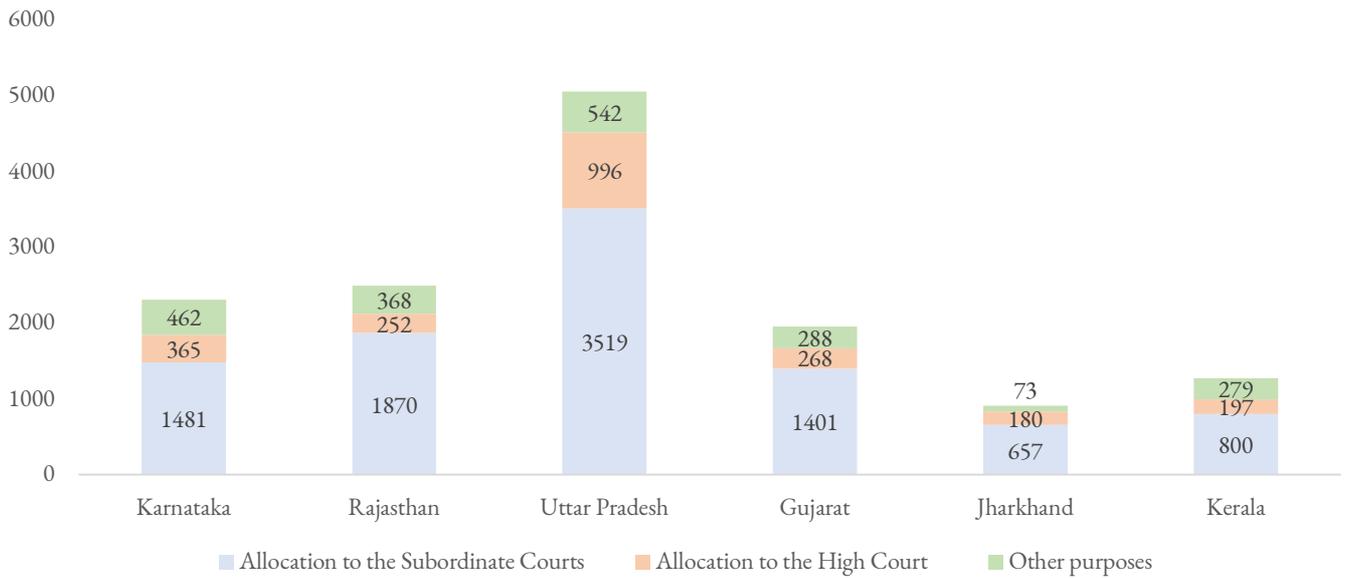
Figure 11 Comparison of share of states in total number of cases in high courts and subordinate courts



Source: NJDG, HC of India, October 2024; NJDG, District Court of India, October 2024

Relative share of subordinate courts and high courts in budgets- When we consider the 2024-25 budget estimate, these six states collectively have allocated 69.5% of the overall budget of the Department of Law (of these six states) to the subordinate courts, and 16.13% towards the high courts (see figure 12). The remaining 15% includes judicial academy expenses, legal counsel expenses, law college aid, etc. The varying expenditure of each state can be seen from figure 12 below.

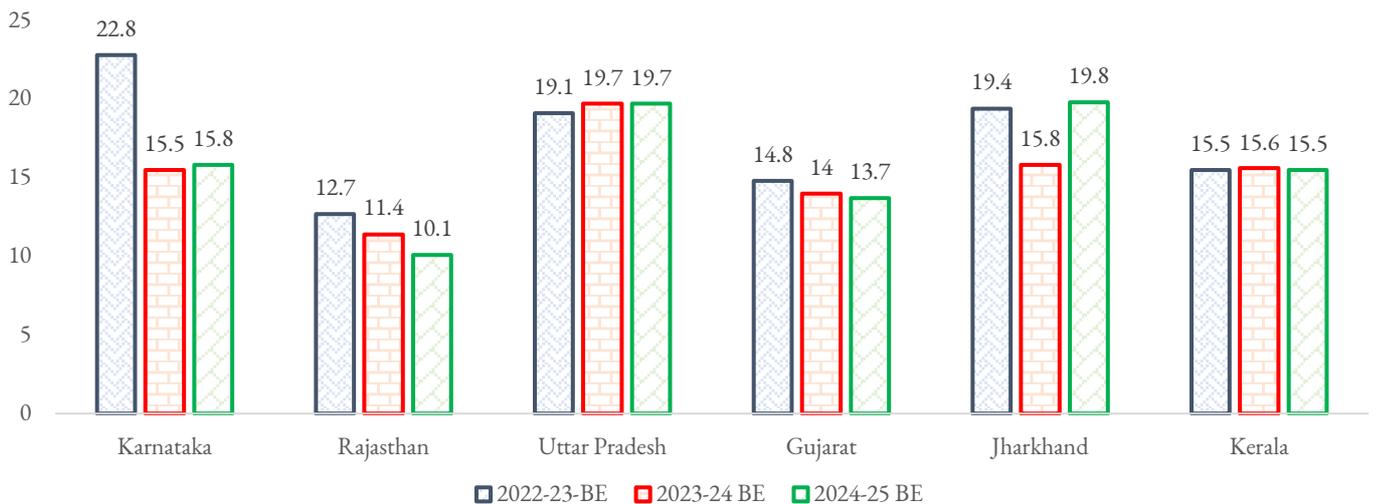
Figure 12 Components of Judiciary Expenditure for 2024-25 BE (in Rs. crore)



Source: Authors’ calculation based on data from Detailed Budget Estimates of Various States (2024-25 BE)

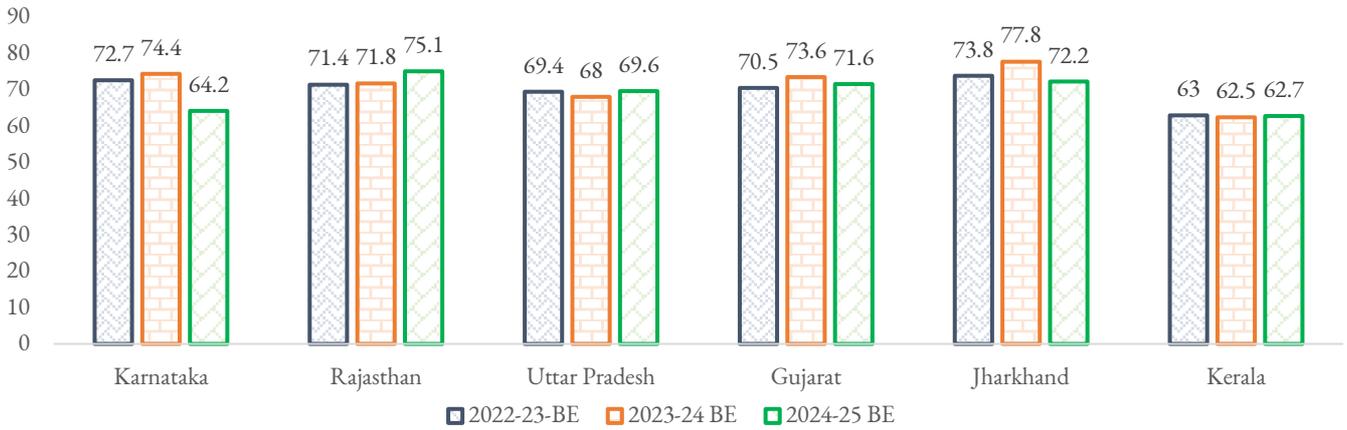
For most of the states under study, the proportion of judiciary budget spent on high courts ranges from 10-22% (See figure 13). Apart from Jharkhand, all the other states have their expenditure on high courts either plateauing or decreasing. At the same time, when we look at the data of the proportion of the judiciary budget spent on the subordinate courts (See figure 14), the number ranges from 10% (in Rajasthan) to 19% (in Jharkhand). There seems to be a plateauing of the proportion of judicial expenditure on subordinate courts across states.

Figure 13 Share of High Courts in budget allocated to the Department of Law (in %)



Source: Authors’ calculation based on data from Detailed Budget Estimates of Various States (2024-25 BE); Various Years.

Figure 14 Share of Subordinate Courts in budget allocated to the Department of Law (in %)



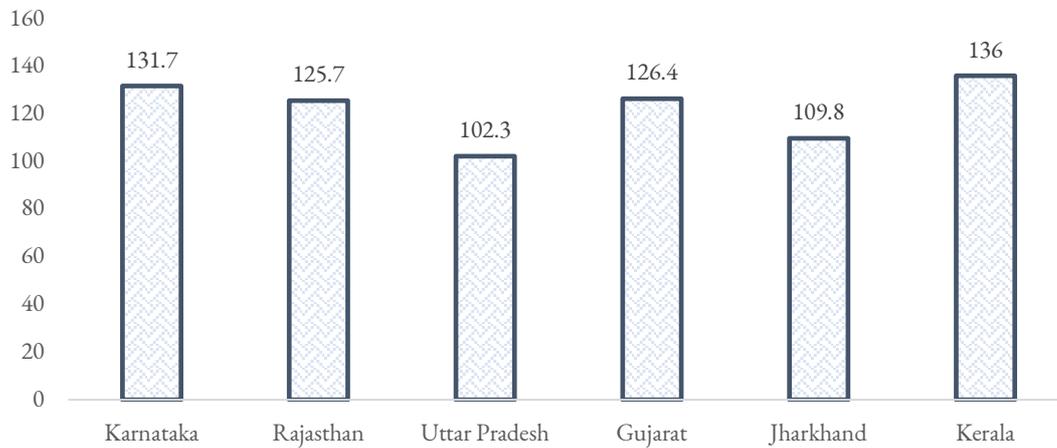
Source: Authors’ calculation based on data from Detailed Budget Estimates of Various States (2024-25 BE); Various Years.

3.4 High Courts versus Subordinate Courts: Burden of Pendency of Cases, Priorities in Budgets and Underutilisation of Budgetary Allocations

3.4.1 Average expenditure per court

If we take a look at the average expenditure per subordinate court for the six states selected above, the range is from Rs. 102 lakhs in Uttar Pradesh to Rs. 136 lakhs in Kerala (See figure 15).

Figure 15 Expenditure per subordinate court (in Rs. Lakhs)



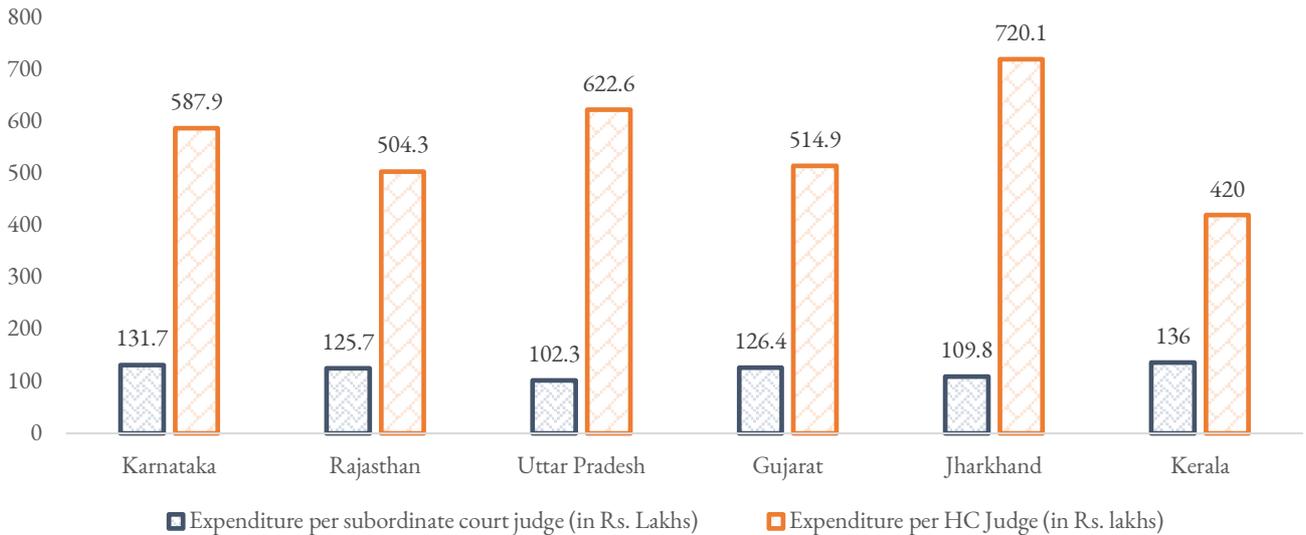
Source: Authors’ calculation based on data from Detailed Budget Estimates of Various States (2024-25 BE); NJDG, DCI (Court judge report), November 2024

3.4.2 Average expenditure per Judge

If we take a look at figure 16 below, we see that the average expenditure per judge in the high courts is much higher than the average expenditure per judge in subordinate courts. Considering the expenditure in the six states under this study, the combined average expenditure on high court judges

of the six states is 4.6 times the combined average expenditure on subordinate court judges. There is also a lot of variation even within these six states, with Uttar Pradesh spending 6 times on a high court judge compared to a subordinate judge, and on the other side, Kerala spends only 3 times on a high court judge compared with a subordinate judge.

Figure 16 Comparison of Expenditure per judge, between High Court and Subordinate Courts (in Rs. Lakhs)

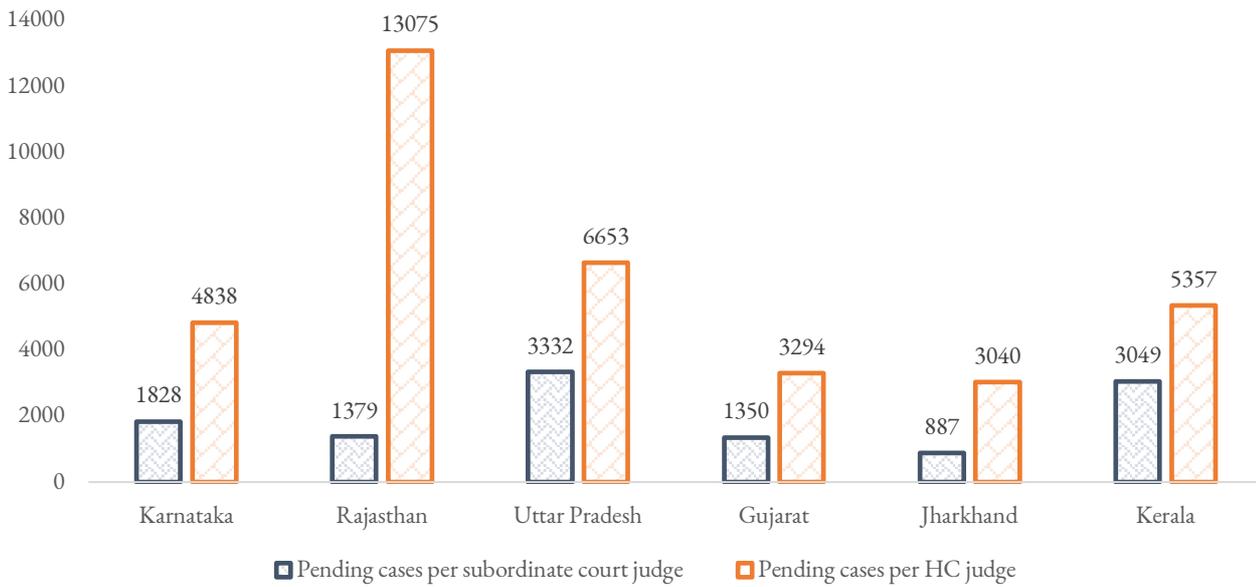


Source: Authors’ calculation based on data from Detailed Budget Estimates of Various States (2024-25 B.E.); NJDG, DCI (Court Judge Count Report), October 2024; Department of Justice, Government of India

3.4.3 Case burden per judge –

However, the above metric also needs to be seen in the context of case burden per judge. If we look at figure 17, it can be seen that the number of pending cases per high court judge is around 3 times the number of cases pending with each subordinate court judge. Here also, this ratio differs widely across the states. Even in the 6 states studied, the range is quite high, with Uttar Pradesh having a ratio of 9.48 (cases pending per high court judge to cases pending per subordinate court judge), and then on the other side, there is Kerala with a ratio of 1.75 times.

Figure 17 Comparison of case burden per judge, between High Courts and Subordinate Courts



Source: Authors’ calculation based on data from NJDG, DCI, October 2024; NJDG, HCI, October 2024; Parliament Questions- Lok Sabha Unstarred Question No. 1354 answered on 26.07.24; Department of Justice, Government of India

3.4.4 Growth in Budget: High Courts vs Subordinate Courts

When we analyse the growth of the budget in 2024-25 B.E. compared to 2023-24 B.E. on each tier of the judiciary (and also overall budget for the judiciary) in each of the six states studied, there is quite a large variance in the growth rate. In Karnataka and Jharkhand, the expenditure on subordinate courts is witnessing a decrease (See figure 18). Jharkhand’s overall budget for the judiciary has also fallen. On the other hand, Gujarat, Uttar Pradesh, and Rajasthan are witnessing a huge increase across all components.

Figure 18 Growth rates of the components of the Judiciary Budget, for six States (in %)



Source: Authors’ calculation based on data from Detailed Budget Estimates of Various State; Various Years

3.5 Relevance of Finance Commission in Financing of the courts and tribunals and Rule of Law in India

It is in the above context of disparity of budgetary allocation to the judiciary that the relevance of the Finance Commission increases, to correct the imbalances in funding of the judiciary, and also to make policy recommendations. The inequality in budgeting for the judiciary is both horizontal (different priorities and budget size for the judiciary among the states) and vertical (states spend more than 90% of the All-India Judicial Budget). These disparities have far-reaching implications, not only for the judicial system, but also for the broader economic and governance framework of the country.

The above vertical nature of disparity needs to be looked at in the context of the changing nature of taxes imposed by the Union government in recent times. According to a study by the Fifteenth Finance Commission, the share of surcharges and cesses in Gross Tax Revenue of the Union government has gone up from 10.4% in 2011-12 to 28.1% in 2021-22 (Pavithra K.M 2023). According to the Finance Ministry data, the surcharges and cesses have increased by 133% in 5 years between 2017-18 and 2022-23 (IANS 2023).

These surcharges and cesses do not come under the divisible pool of the tax collected by the Union government. As a result, it is only fair if the union government utilises these to allocate more funds towards the improvement of governance in all tiers and wings of the government, especially the judiciary.

The Finance Commission is the appropriate forum through which these changes in financial allocation and policy recommendations can be introduced. The Finance Commission is a constitutional body that is constituted every five years by the Union government to define financial relations between the Union and the state governments, along with local governments.

In addition to this important function, the Finance Commission also recommends grants-in-aid, which are also given to certain sectors like health, education, road infrastructure, agriculture, and sometimes even the judiciary. These grants-in-aid (including sectoral grants) derive their constitutional authority from Article 275, which deals with statutory grants-in-aid to states, and Article 282 (discretionary grants to states) that are incorporated to improve governance and administration across the country (Sixteenth Finance Commission of India 2024).

Sectoral grants started being granted to the judiciary from the Thirteenth Commission onwards. The latest grant towards the judiciary was by the Fifteenth Finance Commission, which granted Rs. 10,425 crore to build more Special Courts (Fast track Courts) for POCSO, heinous crimes, etc. (Fifteenth Finance Commission 2020, 310). The purpose of this grant was to support governance and administrative reforms in India in general, with the strengthening of the judiciary being identified as a key step towards that goal. The basis for this allocation, according to the 15th Finance Commission, was to fulfil the principles of 'equality of basic services across states' and 'to address special burdens or obligations of national concern, though within the state's sphere'.

3.5.1 Need for Improving the Judiciary's Capacity for Budgeting

The underutilisation and under-allocation of funds (by the FC) to the judiciary is mainly due to the judiciary's lack of capacity for budgeting. The judges are usually preoccupied and overburdened with a huge number of pending cases, and often do not have time to focus their attention on infrastructural deficits of the court system (DAKSH and CBGA 2018, 22).

There are also several other obligations tied to a grant from the Finance Commission that also make it harder for the already burdened judiciary to get access to the required funds. For example, a performance audit done by the CAG on the General and Social Sector of Kerala for the year ended 2016 had a chapter that studied the utilisation of funds for the judiciary from the 13th Finance Commission. It reported that Kerala utilised only 54% of the funds allocated to the judiciary by the 13th Finance Commission, and the main reason was the delay in submission of the State Litigation Policy (SLP) by the State of Kerala (Comptroller and Auditor General of India 2017, 61-62). (The State Litigation Policy was intended to ensure the conduct of responsible litigation to reduce Government litigation in courts.) The report stated that the SLP was given 9 months late. The grants from the union government were tied to obligations such as the submission of SLP, and this affected the grant allocation. This is an example of how a lack of capacity within the judiciary, especially research and budgeting-specific expertise, is a major lacuna affecting financial processes.

4. Budgeting for the Judiciary in India

Judicial budgeting processes in India have traditionally relied on historical recurring costs rather than a scientific approach (Durani, Kumar, & Sinha 2017, 225). The judiciary in India follows an incremental approach, where small adjustments are made to the previous year's budget to arrive at the demand for grants for the present year. A policy document prepared by the National Court Management System Committee appointed by the Supreme Court reveals this system of budgeting -

'In Taluka Courts, District Courts and High Courts, experience shows that the clerical staff picks up demands as were made in the earlier years for funds and grants and the same is forwarded to the Government by taking signature of the Judges in the Districts or Registrar General at the level of High Court. Most of the Judicial Officers are not proficient in the art of planning and preparation of Budgets so that the Budget meets the requirements for the next year and is neither excessive nor short. Need of expert assistance at these levels is matter of consideration'. (National Case Management Systems Committee 2012, 44)

The problem is not simply insufficient funds but rather improper planning and allocation of financial resources for judicial administration.

4.1 Issues relating to budgeting in the Judiciary

In addition to previously mentioned challenges like underutilisation of funds, inefficient budget planning, manpower shortage and several other issues, the judiciary in India faces several other systemic issues. The following sections delve into those issues.

4.1.1 Nature of fiscal federalism in India and the Judiciary's Funding Constraints

According to the Department of Justice (DoJ), the primary responsibility for funding the infrastructure of the district/subordinate judiciary lies with the state governments. However, India's fiscal federalism creates an imbalance, which results in the union government having access to a larger share of tax revenue than the states. As a result, states have often relied on union government support for major projects, typically provided through grants recommended by the Finance Commission for specific schemes.

With the 14th F.C. recommendations, the responsibility for providing additional funds to the judiciary rests primarily with the states. When the DoJ requested Rs. 9.749 crore in grants towards the judiciary, the Commission endorsed the proposal but directed states to utilise their increase tax devolutions (and grants) to meet these basic needs. This shift has placed a greater burden on the states, potentially impacting judicial infrastructure and efficiency (Department of Justice 2015).

4.1.2 Lack of accountability

A lack of regular audits for judicial budgets is a hindrance to those in charge of planning the budget. While the union government has designed a host of IT platforms for financial accountability, such as the Central Plan Schemes Monitoring System (CPSMS), Public Finance Management System (PFMS), these systems cannot track tangible progress of targets under various schemes. As a result, there is insufficient information on where fund utilisation has been most effective and where it has fallen short.

CAG audits, especially performance audits, are considered the most credible studies on the efficiency and effectiveness of government schemes. If we take a look at all the performance audit reports published by CAG on its website (Comptroller and Auditor General of India 2024), only around 13 reports (from 2009 to 2021) are on the performance of various aspects of the judiciary (Modernisation of the judiciary, utilisation of Finance Commission funds, etc.). These 13 reports are from performance audits done in 11 states (Maharashtra and Mizoram have had such audits done twice). This shows that most states have not done any performance audit of schemes for the judiciary.

As mentioned in the previous sections, funding from the Union to the judiciary has increased in recent years largely due to the implementation of e-Courts Phase 3. Funding under the e-Courts projects is mostly for capital expenditure (technology adoption and upgradation). The e-Courts phase 3 outlay is Rs. 7,210 crore (Ministry of Law and Justice 2024). Given the scale of this project, it is

crucial to assess the outcomes of these expenditures. This can be effectively achieved through regular performance audits conducted by the CAG.

Frequent performance audits by the CAG will enable a better understanding of the schemes and will also enable the creation of a system of performance-based budgeting. Another important outcome is the improved credibility of the judiciary, since at present judiciary representatives have mostly been reluctant to appear before the Public Accounts Committee (an important committee of the Parliament) (Jain, Jain, & Tripathy 2019, 9).

4.1.3 Lack of implementation of funds granted by Finance Commission

As mentioned before, there has been a large underutilisation of grants recommended by the earlier Finance Commissions towards the judiciary. For example, only 20% of the funds recommended by the 13th Finance Commission towards the judiciary were utilised (Surya Prakash 2016, 78). Even when we take a look at the grant made by the 15th Finance Commission, there is a huge shortfall.

According to the information provided in the report of the 15th Finance Commission, for the first three years (2021-22, 2022-23 and 2023-24), Rs. 6,255 crore were supposed to be allocated as grant to all the states collectively for construction of Special Fast Track Courts as well for running existing fast track courts. The report states that 2,530 fast track courts are planned to be started and maintained over the 5 years using the grant made to the judiciary. The reality, however, is much different. According to the reply given by the Ministry of Law and Justice Department to the Lok Sabha on 09.02.2024 (Department of Justice, Ministry of Law and Justice 2024), there are only 851 functional fast-track courts in India. According to the Department of Justice website, there were only 747 fast-track special courts in India as of December 2024 (Department of Justice, Ministry of Law and Justice 2025).

It is to be noted that the establishment of these fast-track special courts began in October 2019, under the Centrally Sponsored Scheme of the DoJ to set up FTSCs (Department of Justice, Ministry of Law and Justice 2025). This was before the recommendations of the present Finance Commission came into effect.

The main issue with the above is that the implementing agencies for the Special Fast Track Courts scheme (court buildings) are the individual State Public Works Departments, and not the judiciary. Therefore, the lack of oversight by the judiciary leads to a lack of prioritisation of building SFTCs. In the subsequent schemes and grants, the judiciary needs to be appointed as the implementing agency. Direct supervision and authority will lead to more effective utilisation of funds (Similar to how the Military Engineer Service, which provides engineering and construction support to the Indian Armed Forces, comes directly under the Army Chief). The 100 percent utilisation of funds by the high courts at the Department of Justice level for the e-Courts phase III 2023-24 tranche (Lok Sabha 2024) is an example of how assigning the judiciary the responsibility will improve utilisation of funds (High Courts are the implementing agencies of e-Courts projects).

In addition to the above, a recent study published in a daily newspaper suggested that several states in India do not have any functional special fast-track courts (these include major states like Odisha, Kerala, Rajasthan, and Telangana) (Ahamed & Biswas 2024). The reason for this is the lack of resources. The grant for setting up special fast-track court is given by the Union government, but the daily operations are to be done by the states, and the states are fund-constrained to run these special fast-track courts.

Also, the study mentions that the addition of special fast-track courts has not led to a decrease in case pendency in these high-priority cases. The remedy offered by the study is improved adoption of digital infrastructure and technology, in addition to improvements in forensic sciences. Therefore, merely adding Special Fast Track Courts is not a solution. The 16th Finance Commission needs to look at technological and scientific infrastructure as a means to improve judicial performance in India.

4.1.4 Lack of a holistic vision

Budgeting is generally an outcome of the vision for the institution or the sector. If there is no coherent long-term vision that an institution is working towards, it will show up in its resourcing plan. There is a need for a long-term vision for the law and justice system to be fleshed out with clarity on short-term, medium-term, and long-term plans to realise the vision.

5. Reform Suggestions to the Sixteenth Finance Commission on Grants for the Judiciary

The grants made by the Finance Commission towards the judiciary in the previous years have largely been for the construction of newer Fast Track Special Courts (FTSC) and the maintenance of existing FTSCs (Fifteenth Finance Commission 2020, 16). The FTSCs, as mentioned in the previous sections, have not led to a decrease in case pendency in those high-priority cases, and the FTSCs are also facing funding issues due to the fund constraints faced by the state governments (Ahamed & Biswas 2024), ultimately leading to several FTSCs becoming non-functional.

In this context, it is important that the Finance Commission reexamines the purpose of grants towards the judiciary. The funding needs to go beyond the addition of FTSC, and should look at strengthening the institutional capacity of the judiciary. We suggest the following reforms that are aimed at improving not only the budgetary aspects, but also addressing other concerns pertaining to resource allocation like shortage of judges and court-staff.

5.1 Establishment of Reform and Research Offices

As proposed in the Memorandum to the 15th Finance Commission (DAKSH and CBGA 2018, 25), we are advocating for establishment of Reform and Research Offices in each high court and in the Supreme Court. These teams need to be comprised of personnel with expertise in judicial system, technology (specifically data science), behavioural science, and judicial policies. Each of these teams,

with Judicial Officers supported by a team of experts in data science, behavioural science, and organisational development, will be formed to study the judicial process and performance, and identify issues affecting the performance of courts, and then accordingly formulate solutions for the same.

The teams' duties and authorities need to be well-defined, and the differences in the work done by them and the registry staff should be clearly explained and understood. This will enable a cooperative environment for both the reforms team and the registry staff. Also, it is essential to have an appropriate authority for oversight, like the Chief Justice of India for the Supreme Court or a committee of judges for the High Court (DAKSH and CBGA 2018, 25).

We estimate the total cost of one such office over the Sixteenth Finance Commission period to be Rs.30.12 crore. (See Annexure A for more details)

5.2 Secretariat for Judicial Appointments

The perennial issue of shortage of judicial officers and court staff was elucidated in the previous sections of this paper. This issue would require a dedicated team to calculate the requirement of human resources in a court. At present, it is done by the court registry staff, who are already engaged in several other responsibilities. The process of appointment to the judiciary is a long one, involving several tasks like calculation of required strength of judges based on the present (and also projected future) number of pending cases, requesting for applications for the posts, processing the applications, and evaluating the applicants for their experience and suitability (DAKSH and CBGA 2018, 25-26).

As mentioned in the Memorandum to the 15th Finance Commission (DAKSH and CBGA 2018, 25-26), we propose the creation of a Secretariat for Judicial Appointments in each High Court and the Supreme Court. These Secretariats will be able to dedicate their resources specifically to the administrative and procedural process of judicial appointments, thereby improving the efficiency and speed of the selection process.

We estimate the total cost of one such Secretariat over the Sixteenth Finance Commission period to be Rs.15.32 crore. (See Annexure B for more details)

5.3 Capacity for Technological Initiatives

While e-Courts Phase 3 has made substantial allocations (Rs. 7210 crore over 4 years, approved in October 2023) towards technology for courts, the human resources aspect of the project is unclear. While the process of digitisation of courts is ongoing with assistance from the NIC, a dedicated state-level team with technological expertise as proposed in the 'Memorandum to the 15th Finance Commission' (DAKSH and CBGA 2018, 26) should be established to formulate and implement the tools and training required to address the needs of the judiciary. With the e-Courts Phase 3 funding ending in 2027, this allocation by the Finance Commission will ensure that the initiatives undertaken under e-Courts Phase 3 are sustained over the next few years.

We estimate the cost of such a team at the High Court level over the Sixteenth Finance Commission period to be Rs. 7.53 crore. (See Annexure C for more details)

5.4 Budgeting Practices Initiative

As has been mentioned several times in the previous sections, the capacity of the courts in terms of budgeting processes needs significant improvement. This would require a dedicated team to research the data on several aspects like expenditure, crime records, court data, etc. to estimate present and future requirement of resources to help the court to dispose of the cases efficiently (DAKSH and CBGA 2018, 26).

As mentioned in the Memorandum to the 15th Finance Commission (DAKSH and CBGA 2018, 26), we recommend the creation of a team at each High Court, to strengthen budgeting practices.

We estimate the cost of this initiative over the Sixteenth Finance Commission period to be Rs. 7.34 crore. (See Annexure D for more details)

5.5 Pilot Projects

As proposed in the Memorandum to the 15th Finance Commission (DAKSH and CBGA 2018, 26), we suggest conducting pilot projects at the district or taluka level (or even at the individual court level) to help understand and evaluate the effects of the above reform suggestions. Conducting the pilot projects can help enable understanding of the effects of these reforms at a micro level, and to understand how certain changes might be required to be tailored in each of the reform processes for each region to improve the performance of the courts. The effects evaluated at the micro level can be used to estimate their effect at a macro level (DAKSH and CBGA 2018, 26).

5.6 Transforming Tribunals

The union and state governments have established various tribunals to leverage domain experts as adjudicators, flexible procedures, and alleviate the pressure on already over-burdened courts. Tribunals, especially at the union government level e.g., NCLT, NCLAT, TDSAT, ITAT, CESTAT, GSTAT, CGIT, etc. have the potential to improve the ease of doing business and investment lifecycle. However, their functioning has fallen short of expectations and suffers from the shortcomings that regular courts do. The Finance Commission could revitalise the tribunals by allocating funds for their transformation.

5.7 Creation of Single Source for Laws

Every citizen encounters the impact of some legislation or the other at some time in their lives. Hence, the importance of disseminating information about laws cannot be understated. One of the basic elements of the rule of law is making laws available widely and ensuring that they are clear and certain. Access to laws is a significant component of access to justice. Accessing and disseminating

laws in India will involve collating all the existing primary and subordinate legislations, ranging from municipal laws to central legislations (Sandhya P.R 2021, 9).

In the Indian context, aggregating all laws in a digital format in one place will significantly improve clarity and access. Past attempts toward this objective, like India Code, lack vision and are poorly implemented (Sandhya P.R 2021, 25-26). The single source for law must be a digital point of reference that is comprehensive, updated, authentic, and reliable for the entire nation. This assumes even more importance in the age of AI, where data sets are required to train AI models for law and justice, a sovereign function.

5.8 Revisiting court fees and imposition of costs regime

Court fees play a huge part in the adoption, feasibility, and sustainability of the court facilities. The Finance Commission should encourage courts and governments to revisit the court fees and the imposition of cost regime. The regime should ensure a balance of affordability and accessibility for litigants, along with ensuring maintenance and continuous improvement of the physical and digital infrastructure of the courts and tribunals.

As per our estimations, the cost of conducting the initiatives (4.1) to (4.4) above, at any one location is Rs. 60.30 crore, and across the Supreme Court and 25 High Courts, it would total to around Rs.1,600 crore.

6. Conclusion

In this paper, we have highlighted the vertical inequality in the contribution of the Union and the State governments towards the judiciary. The Union government depends on the subordinate judiciary to enforce the legislations of the Union government; despite this, the Union government contributes only 6.5% of the proportion of the all-India judiciary budget. This is despite the fact that the states' share in the central divisible pool has been reducing consistently due to the increased surcharges and cesses.

We have also highlighted the horizontal disparities in the funding and prioritisation of judicial budgets by individual states. We have presented these inequalities in the context of various states' populations and case pendency per lakh population. This showed the inability of each state to increase their budget towards the judiciary in accordance with case burden (per lakh population). There are also inequalities persisting in budgetary allocation between various tiers of the judiciary, with subordinate courts getting much less than high courts.

Despite a large grant to the judiciary by the 15th Finance Commission, the funds largely remain unspent, as was the case with previous Finance Commission grants towards the judiciary as well. This is mainly due to the inefficient and outdated administrative procedures, and also due to the lack of capacity on the part of the judiciary to monitor the utilisation of funds. Therefore, there needs to be

an emphasis by the 16th Finance Commission towards capacity building and quality of expenditure measures, which can improve the law and justice system in the medium to long term.

In this paper, we have proposed several initiatives and policy recommendations to enhance the budgeting and resource allocation process in the judiciary. These initiatives aim to transform the judiciary through the introduction of a multidisciplinary research team to study and propose solutions for issues affecting judicial performance, introducing rigorous budgeting practices through a budgeting practices initiative team, the development of technological offices, and a dedicated secretariat to efficiently expedite the process of judicial appointments.

These measures would require the employment of professionals with experience in fields such as budgeting, research, and technology. Additional reforms like the transformation of tribunals and reintroducing a single source of law, which is comprehensive and reliable, are also suggested in the paper as a means to improve the ease of doing business and investment lifecycle and the strength of the rule of law in India.

The reforms suggested in this paper are aimed at addressing the perennial inefficiencies and disparities in the quality of the delivery of justice and the functioning of the judiciary. By introducing an in-depth, evidence-based, and research-based understanding of the judiciary's needs and performance, these suggestions aim at creating a more efficient and capable judicial system. The improved performance of the judiciary will enhance the credibility of the courts in India, which in turn improves access to justice and the rule of law in India.

Enhanced access to justice also generates positive effects on a nation's social and economic development. Consequently, it is imperative for the judiciary and the Finance Commission to engage in dialogue on this critical topic.

Annexure

Annexure A: Cost and Resource Estimation for Reform and Research Offices

Note: The following team composition and other expenditure particulars, present from annexure A to annexure D, are based on the plan proposed in Memorandum to the 15th Finance Commission on Budgeting for the Judiciary in India (DAKSH and CBGA 2018, 29-34). The costs are calculated in accordance with present and projected Dearness Allowance, House Rental Allowance and Transport Allowance levels. Also to be noted is that the cost figures will change once the 8th Pay Commission (expected to be constituted soon) salary matrix is implemented¹.

Establishing a Reform and Research Office would require:

1. A dedicated team of Judicial Officers, comprising:

- a. 1 Reform Office Head at the Joint Registrar Level Pay Band- 4 (Grade Pay- 37400-67000 & Level 13-A)- Cost estimated to be Rs. 1.96 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).
- b. 5 team members At the Deputy Registrar Level PB- 4 (Grade Pay- 37400-67000 & Level 13)- Cost estimated to be Rs. 8.43 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).
- c. 10 Support team members at the Assistant Registrar Level/ Deputy Controller of Accounts PB- 4 (Grade Pay- 15600-39100 & Level 12)- Cost estimated to be Rs. 11.01 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

2. A six-member external technical support team comprising experts hired on consultancy contract to advise and support the dedicated team. The external team would consist of the following:

a. 1 Senior Expert and

b.1 Expert each in three areas of research and reform including: Organisational Development, Data Science and Behavioural Science. The team would receive a consolidated monthly consultancy fee of Rs.2 lakh per Senior Expert and Rs.1 lakh per Expert.

Cost collectively estimated to be Rs. 6.61 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

Other costs like capital expenditure (laptops, furniture, etc.) and admin costs are estimated to be at Rs. 2.12 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

- We have referred to the Report of the Seventh Pay Commission (2015) for the pay matrix. We have also referred to the pay scale of the Supreme Court (Supreme Court of India 2024) and Delhi High Court Officials (Delhi High Court 2017) as the basis for the calculation.

¹ For a detailed breakdown of the costs, refer to the annexure section of the working paper available at: <https://www.dakshindia.org/budgetary-allocation-to-the-judiciary/>

- Dearness allowance has been projected for 2026-27 onwards in accordance with yearly increase till 01.07.2024 (53 % D.A). House Rental Allowance (30 %) has been calculated in accordance with rate applicable for X city (population above 50 lakhs) as per the Compendium released by the Ministry of Finance and Department of Expenditure in Notification No. 2/4/2022-E.II B. (Rathod, 2024) Therefore, the ultimate fund requirement will be lesser than our estimated cost, since most high courts are in Y city (Population of 5 to 50 lakh) where the House Rental Allowance is 20% presently.
- Cost estimates of the external team are based on market rates.

Annexure B: Cost and Resource Estimation for Secretariat for Judicial Appointments

The proposed Secretariat will comprise:

1. 1 Head the Joint Registrar Level PB- 4 (Grade Pay- 37400-67000 & Level 13-A)- Cost estimated to be Rs. 1.96 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).
2. 3 Senior Team Members the Deputy Registrar Level PB- 4 (Grade Pay- 37400-67000 & Level 13)- Cost estimated to be Rs. 5.06 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).
3. 5-member Support Team the Assistant Registrar Level/ Deputy Controller of Accounts PB- 4 (Grade Pay- 15600-39100 & Level 12)- Cost estimated to be Rs. 5.50 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

Other costs include operational costs (recruitment process, vetting, handling complaints, etc.), capital expenditure (laptops, furniture, etc.) and admin cost, which are collectively estimated to be Rs. 2.78 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

The above team may be allowed to consult Human Resource specialists whenever required in order to improve the quality and strategy of selection process. The expenditure on technical support can be sourced from the heading 'Operational Cost' (DAKSH and CBGA 2018, 32).

Annexure C: Cost and Resource Estimation for Technology Offices

This initiative comprises:

1. 1 Joint Registrar at PB- 4 level (Grade Pay- 37400-67000 & Level 13-A) as Head- Cost estimated to be Rs. 1.96 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31) and
2. 2 IT Specialists at the level of Deputy Registrar Level PB- 4 (Grade Pay- 37400-67000 & Level 13). – Cost estimated to be Rs. 3.37 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

Other costs like operational costs, capital expenditure, and admin costs are estimated to be Rs. 2.18 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

The IT specialists can either be recruited on a regular basis or can be hired on contract.

Annexure D: Cost and Resource Estimation for the Budgeting Practices Initiative

The Budgeting Practices Initiative team will comprise:

1. Research Coordinator at the level of Administrative officer (Judicial) PB-3 (Grade pay 15600-39100 & Level 11)- Cost estimated to be Rs. 0.95 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).
2. Senior Research Officers at the level of court officer/Reader/Sr. PA PB- 2 (Grade Pay- 9300-34800 & Level 9)- Cost estimated to be Rs. 1.52 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31) and
3. 3 Research Associates at the level of Asst Lib/ Judicial Asst./ PA PB-2 (Grade pay- 9300- 34800 and level 6)- Cost estimated to be Rs. 1.52 crore (for five years from F.Y. 2026-27 to F.Y. 2030-31).

Other costs capacity building, research support from external specialists, capital expenditure, furniture and admin costs collectively are estimated to be Rs. 3.34 crore. (for five years from F.Y. 2026-27 to F.Y. 2030-31).

The team mentioned above may be allowed to consult organisations which have expertise and specialisation on research focussed on government budget. This can enable a holistic improvement on budgeting practices by learning from the best practices around the country and the world (DAKSH and CBGA 2018, 34).

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Notes

¹ This paper builds upon the structure, methodology, analysis and metrics used in the Memorandum to the 15th Finance Commission on Budgeting for the Judiciary in India (DAKSH and CBGA 2018). See: <https://www.dakshindia.org/wp-content/uploads/2019/06/Memorandum-on-Budgeting-for-Judiciary-in-India-from-CBGA-Website.pdf>. The working paper version of this article was published on DAKSH website. You can read the working paper at: <https://www.dakshindia.org/budgetary-allocation-to-the-judiciary/>

² The six states analysed in this section were selected based on their geographical spread, economic significance (measured by State GDP), and number of cases pending to ensure a diverse and representative sample for studying judicial budgets.