

BIGGER AND BETTER: ON NUMBER OF SUPREME COURT JUDGES

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Any move to increase the strength of the judiciary ought to be welcomed, given the perennial complaint that availability of judges is not increasing in proportion to the institution of cases. In this perspective, the Union Cabinet's decision to raise the strength of the Supreme Court from 31 to 34, including the Chief Justice of India, will help in dealing with the large pendency — 59,331 cases on July 11. The law that fixes the number of judges in the highest court was last amended in 2009 to raise the figure from 26 to 31. Chief Justice Ranjan Gogoi had written to the Prime Minister recently, highlighting the problem of paucity of judges, due to which he was unable to constitute enough Constitution Benches to decide important questions of law. However, a moot question is whether the highest court should go into the correctness of every decision of every high court. Are the judicial resources available being used optimally? Is valuable time being taken up by mundane matters that do not impinge on larger questions that involve interpretation of laws and constitutional provisions? For instance, routine bail matters land up in the Supreme Court within days of persons being arrested. Every major crime or disaster seems to invite a litigant, ostensibly in public interest, who mentions the matter before the Chief Justice for urgent hearing. The court is being invited to even oversee flood relief work.

A mere increase in the court's strength may not be enough to liquidate the burgeoning docket. Another set of measures that would save the court's time, including a reasonable restraint on the duration of oral arguments and a disciplined adherence to a schedule of hearings may be needed. In this case, one of the principal objectives should be to preserve the apex court's primary role as the ultimate arbiter of constitutional questions and statutory interpretation. All other questions involving a final decision on routine matters, especially civil cases that involve nothing more than the interests of the parties before it, ought to be considered by a mechanism that will not detract from the court's primary role. Some countries have brought in a clear division at the level of the apex judiciary by having separate constitutional courts, which limit themselves to deciding questions of constitutional importance. It may be worthwhile considering the 229th Report of the Law Commission, suggesting a new system under which there will be one Constitution Bench in Delhi, and four 'Cassation Benches' for different regions of the country. These will be final appellate courts for routine litigation. This arrangement may also increase access to justice to those living in far-flung areas of the country and who may otherwise have to come to Delhi and spend more time and money in pursuing appeals. It may also cut down on the time taken for disposal of cases.

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