

# Analysis of Causes for Pendency in High Courts and Subordinate Courts in Maharashtra

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# Agenda

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- ▶ **Methodology followed**
- ▶ **Analysis of Causes for Pendency**
  - ▶ Comparison of Pendency Statistics
  - ▶ Causes for Pendency
  - ▶ Perspective of Stakeholders
- ▶ **Conclusion**

# Methodology Followed

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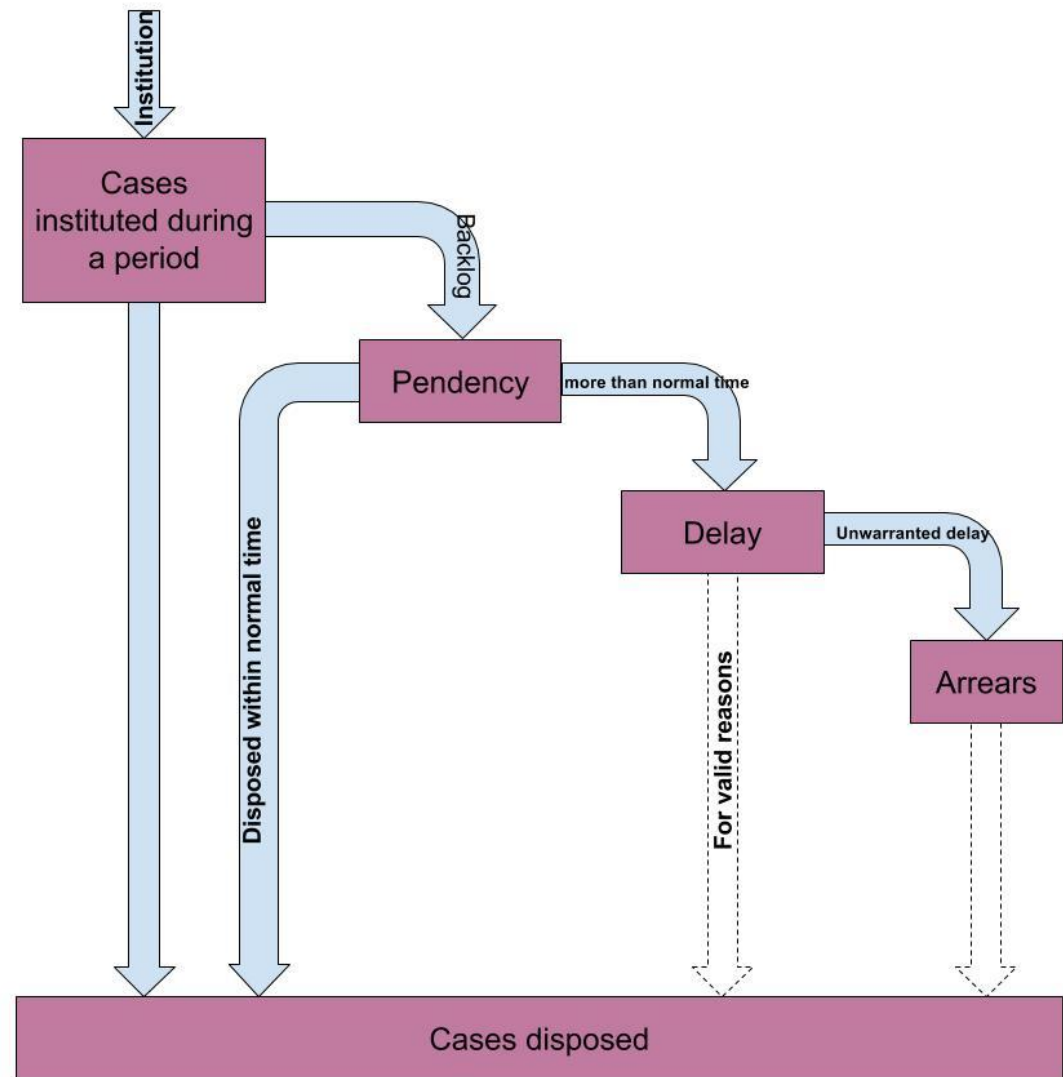
- ▶ Study started in March 2016 with desk research and questionnaire preparation. Pilot tested in June.
- ▶ Benchmarking with 5 jurisdictions that are ranked better in the World Justice Project – Rule of Law Index.
- ▶ Stakeholder perceptions from 8 districts of Maharashtra
- ▶ Observations from court sittings and case-histories.
- ▶ Field visits were conducted from September 2016 to March 2017 for data collection.
- ▶ Frequency analysis of data available on eCourts website.
- ▶ Team of nine members contributed to the study.

# Analysis of Causes for Pendency

Pendency Statistics  
Causes for Pendency  
Perspective of Stakeholders

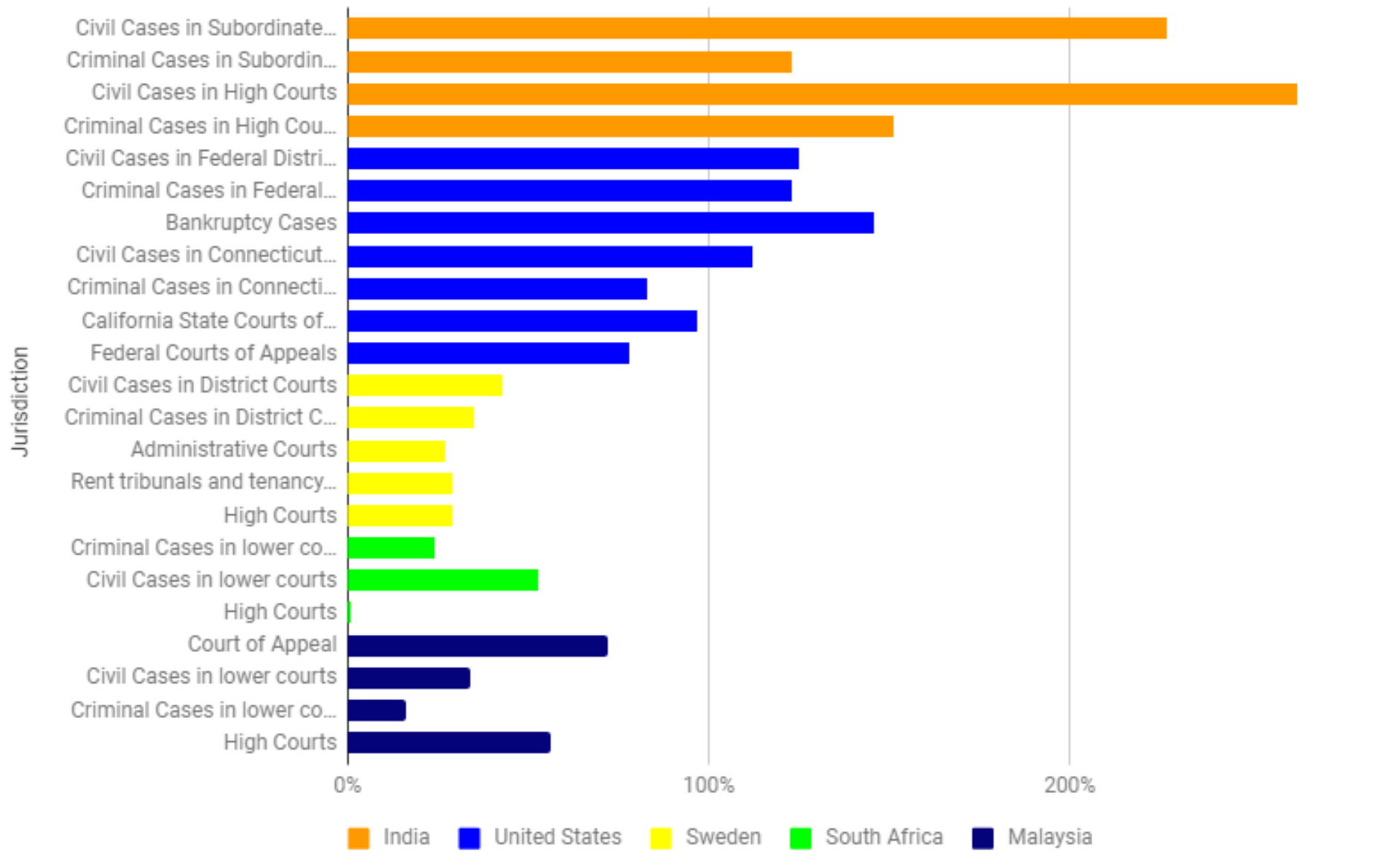
▶ Pendency Rate: Cases pending on a given date (31<sup>st</sup> December)  
/ Cases instituted during last 365 days

▶ Rate of Arrears:  
Cases older than 5 years  
/ Total pending cases



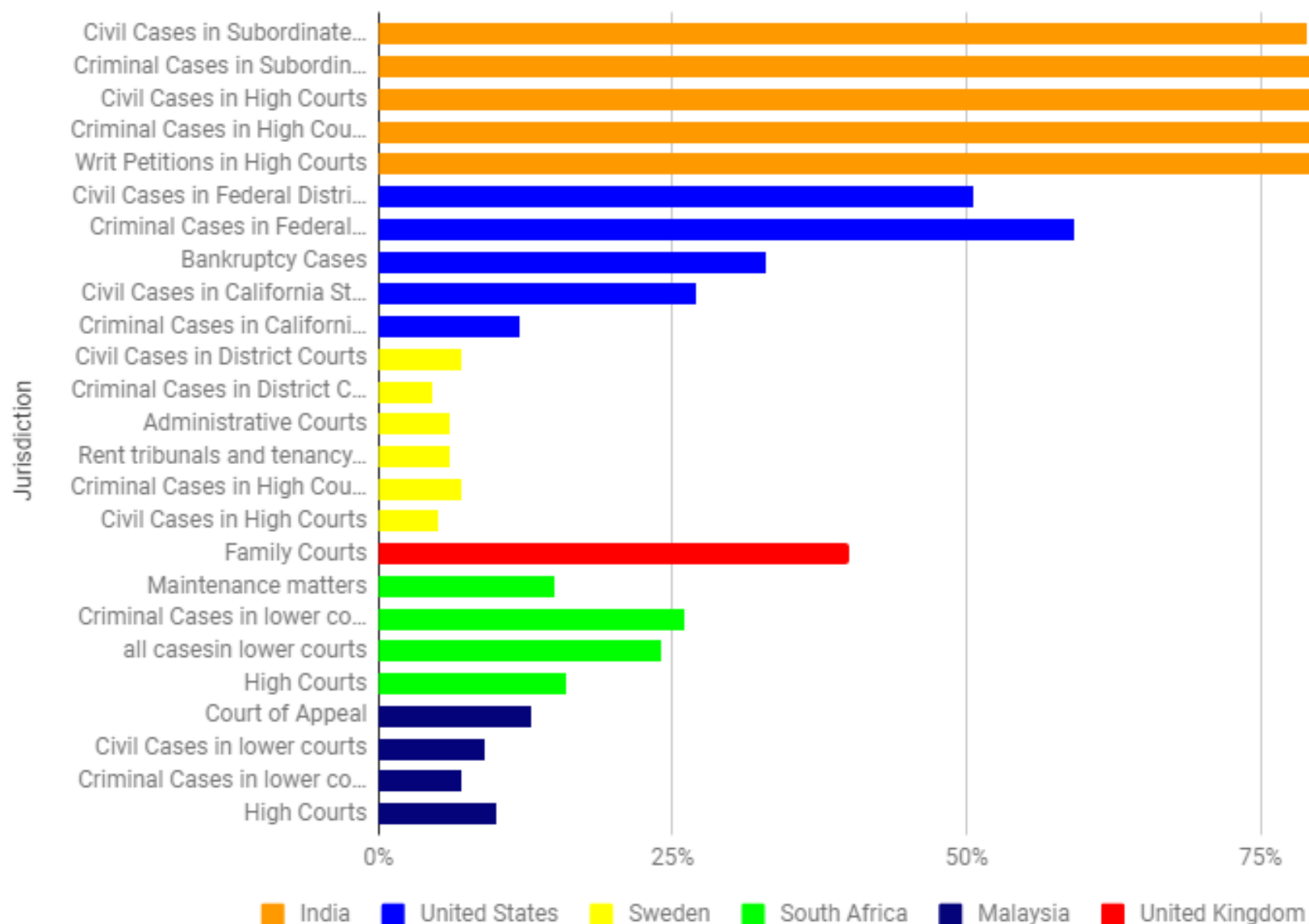
▶ Analysis of Causes for Pendency,

# Pendency Comparison with other Jurisdictions



118548/2018/NM

# Cases older than one year in other Jurisdictions



# Case Arrears in Maharashtra

District	Civil	Criminal	High Court / Bench	Arrears
Aurangabad	23%	17%	Appellate Side, Bombay, Civil	68%
Jalgaon	23%	15%	Original Side, Bombay, Civil	49%
Kolhapur	24%	19%	Bench at Aurangabad, Civil	66%
Mumbai Motor Accident Claims	21%	--	Bench at Nagpur, Civil	54%
Parbhani	15%	11%	Appellate Side, Bombay, Cr	53%
Ratnagiri	19%	9%	Bench at Aurangabad, Cr	34%
Satara	27%	16%	Bench at Nagpur, Criminal	19%
Yavatmal	28%	11%	Appellate Side, Bombay, Writ	44%
<b>State Total</b>	<b>24%</b>	<b>23%</b>	Original Side, Bombay, Writ	51%
India	21%	24%	Bench at Aurangabad, Writ	39%
			Bench at Nagpur, Writ Petitions	30%
			<b>State Total</b>	<b>55%</b>
			India	44%





# Comparison with Other States

States	Pendency Rate	Rate of Arrears (<5 years)	Average Cases per Judge	Judge to Population Ratio
Haryana	92%	1%	2,951	1:53,484
Himachal Pradesh	70%	10%	4,428	1:51,228
Kerala	99%	7%	3,212	1:75,579
Madhya Pradesh	110%	9%	2,572	1:59,775
<b>Maharashtra</b>	<b>169%</b>	<b>23%</b>	<b>1,893</b>	<b>1:58,619</b>
Punjab	88%	3%	2,950	1:56,619
All States of India	143%	25%	2,957	1:75,102

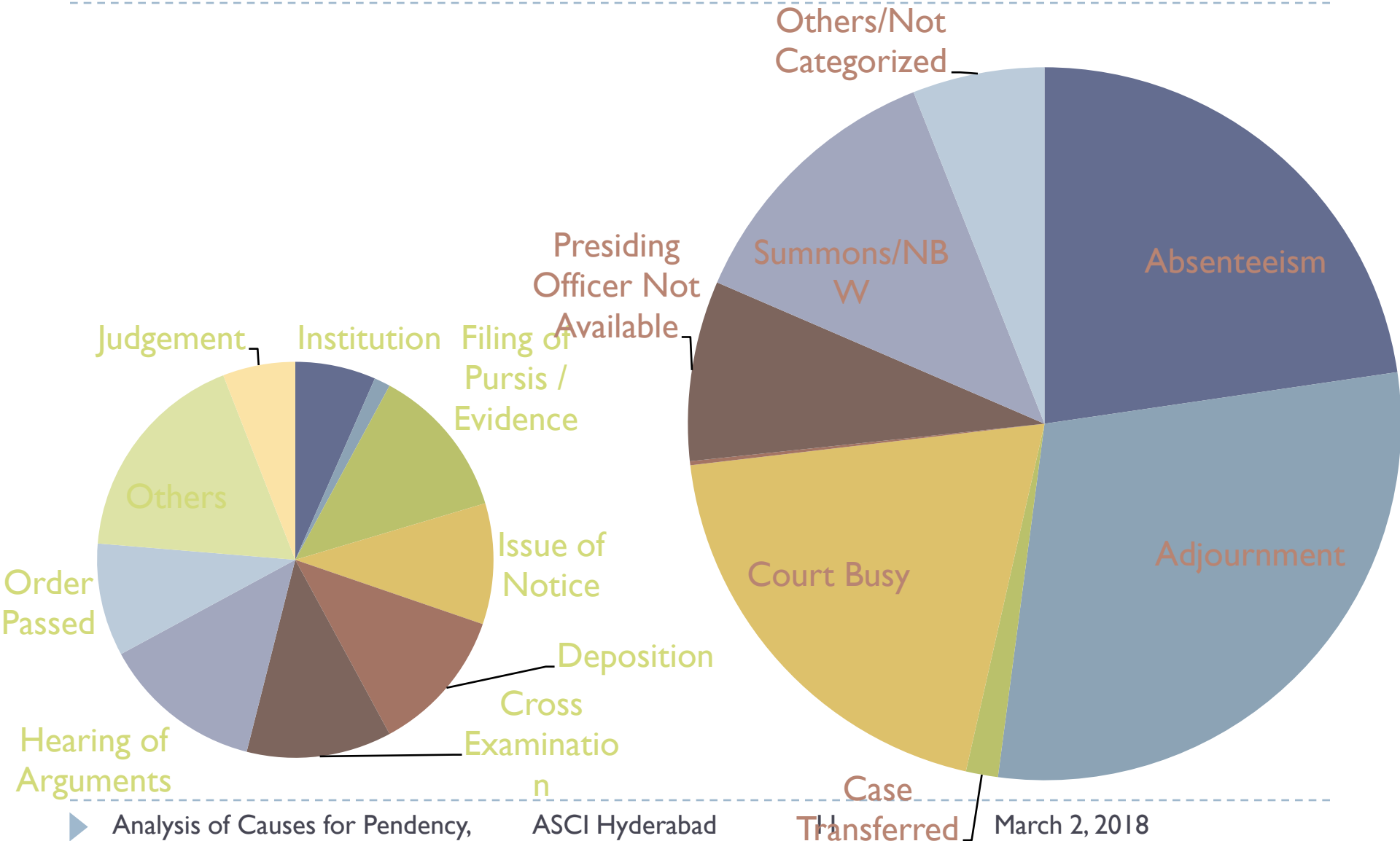
# Timeline for a Typical Case

Stage in a Civil Case	Mode	Range	Stage in a Criminal Case	Mode	Range
Case Institution	1	1-45	First Information Report	1	1-345
Issue of Summons	30	1-1229	Investigation	730	8-730
Appearance of Defendant	--	2-711	Charge Sheet	90	1-700
Written Statement/Set-off	90	2-235	Framing of Charges	7	1-730
Framing of Issues	30	1-730	Prosecution Evidence and Cross-Examination	365	1-1095
Plaintiff Evidence	--	3-548	Statement of Accused	15	1-180
Final Hearing	60	1-1095	Defence Evidence and Cross-Examination	30	1-545
Judgment	15	1-155	Final Arguments	30	1-210
Appeal	30	15-2738	Judgment	15	1-180
			Arguments on Sentence	2	1-90



# Causes for Pendency

## ► Fate of a case listed on daily causelist



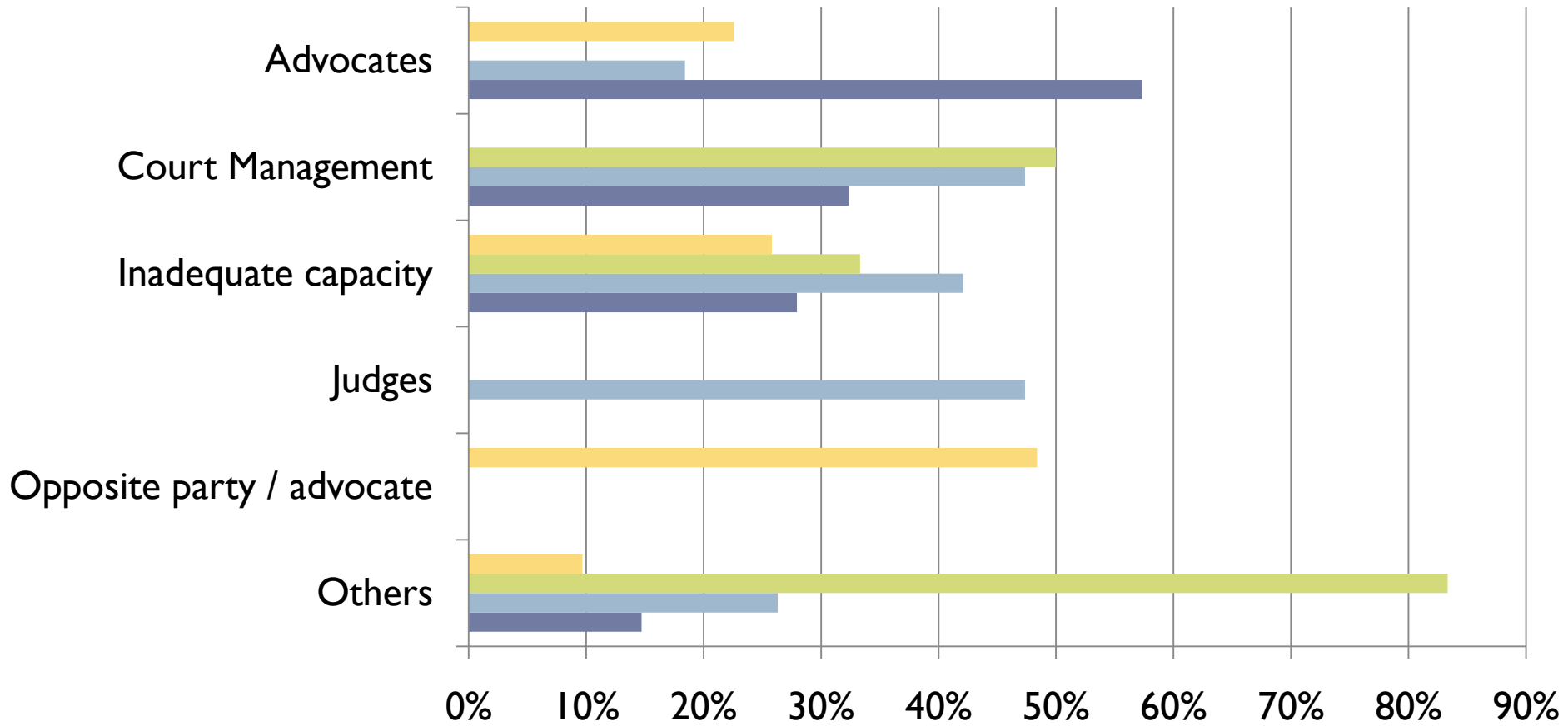
► Analysis of Causes for Pendency,

ASCI Hyderabad

March 2, 2018

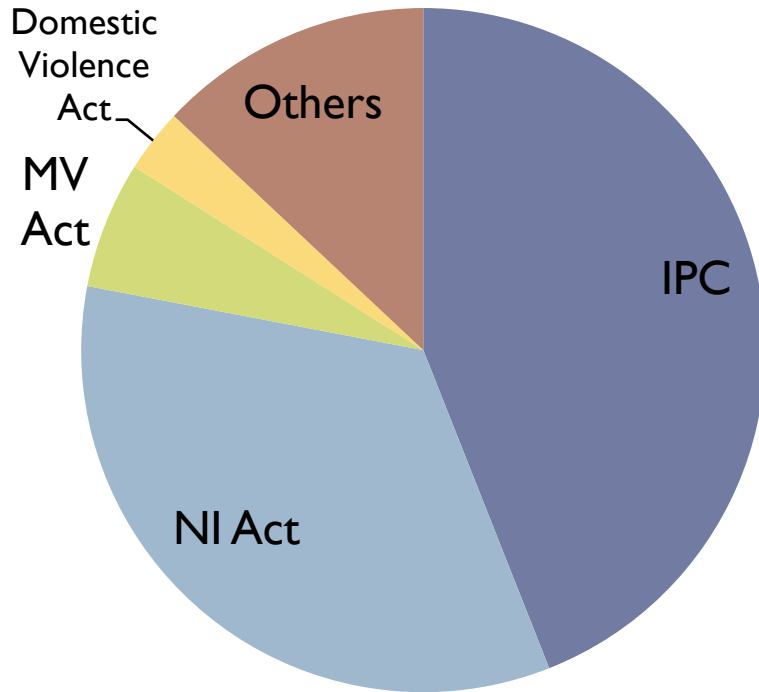
# Causes for Pendency

- Response from Litigants
- Response from Prosecutors
- Response from Advocates
- Response from Judges

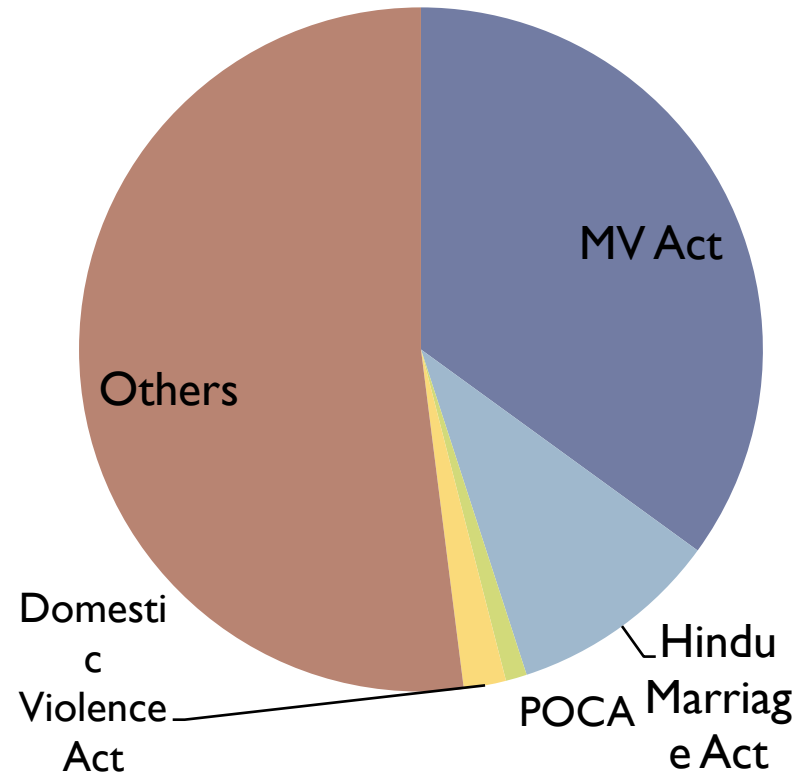


# Break-up of Pending Cases

## Representative Criminal Court



## Representative Civil Court



# Impact of Measures Proposed / Taken

Measure to reduce pendency	Judges in support	Advocates in support	Prosecutors in support
Written submissions over oral	69%	50%	33%
Time limits for arguments	69%	50%	42%
eCourts Project	65-87%	39-50%	50-58%
Lok Adalats <sup>†</sup>	72%	34%	75%
Levying cost of frivolous litigation	75-82%	58-66%	--

<sup>†</sup> Litigants find it is possible to settle out of court (55%), but few (29%) are willing to approach Lok Adalats



# Recommendations and Conclusion

# Key Recommendations

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- ▶ **Nimble system for data analysis**
  - ▶ Rich database from eCourts project needs to be exploited for timely monitoring and case management decisions
- ▶ **Curbing the gaming behavior of litigants**
  - ▶ Using data related to absenteeism and adjournments, a high court level task force may be able to guide lower judiciary
- ▶ **Creation of a temporary capacity**
  - ▶ Fixed term judges (retired judges, or senior lawyers, or other professionals and citizens) to clear the backlog in system
- ▶ **Process Reengineering**
  - ▶ Re-look at the activities and exceptions that are no longer relevant in this day and age
- ▶ **Awareness about Lok Adalats and ADR:**
  - ▶ Stakeholders are positively disposed towards ADR, but the awareness is low



Thank you

# Back Up Slides

# International Comparison of Judge: Population Ratio and Cases per Judge

## Superior Courts

Jurisdiction	C/J	J/P
India, high courts	1:2,948	1:2,024,364
Malaysia, high courts	1:1,128	1:348,837
South Africa, high courts	1:2,913	1:797,101
California (US) state courts of appeal	1:149	1:376,238
United States (courts of appeal)	1:312	1:1,823,529
United Kingdom, high courts and courts of appeal	--	1:388,888

## Lower Courts

Jurisdiction	C/J	J/P
India, subordinate courts	1:1,175	1:75,102
Malaysia, sessions courts	1:744	1:256,410
Malaysia, magistrates	1:2,248	1:181,818
South Africa, lower	1:558	1:29,054
Sweden	1:234	1:5,668
United Kingdom, subordinate courts	1:3,292	1:45,939
California (US) subordinate courts	1:3,394	1:18,877
Connecticut (US) subordinate courts	1:810	1:19,565
United States (district)	1:574	1:500,000
United States (bankruptcy courts)	1:2,671	1:981,013



# Findings

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- ▶ Pendency in civil cases is higher, and pendency at superior courts is higher
- ▶ Apart from high pendency rate, Indian courts also have a far more percent of older cases than the benchmarked jurisdictions
- ▶ There are over 500 case types in the state of Maharashtra making it difficult to standardize the case flow
- ▶ As per NJDG and eDISNIC data, a large proportion of cases have been registered under one of three acts – NI Act, MV Act and Hindu Marriage Act.
- ▶ Absenteeism and Adjournments are leading reasons for lack of court business on a given date. Which could be a part of delaying tactic by one of the litigants / advocates.

# Findings

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- ▶ Caseload per judge and judge to population ratio were found to be comparable to international benchmarks. Even stakeholders did not rank inadequate capacity as top reason for pendency.
- ▶ Case flow management is perceived to be the biggest reason for pendency.
- ▶ The amount of time (in days) required for any stage of case can be predicted using a Poisson distribution
- ▶ Computerization and automation has been achieved in a mission mode. It needs to be followed up with meticulous data entry and regular analysis.

# Recommendations

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- ▶ Improvements possible in accuracy, timeliness and consistency of database at NJDG
- ▶ Information needs to be extracted from nearly real-time data from NJDG. Periodic reporting for good governance.
- ▶ Data driven decision making and applying data science for policy making.
- ▶ Review of time consuming processes, in line with 'practical guidelines' in UK.
- ▶ Better coding and numbering system and classification of cases to help appropriate case flow management.
- ▶ Utilizing the potential of Court Managers through closer collaboration with Managing Judges or PDJs

# Recommendations

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- ▶ Practical guidelines to help lower judiciary in dealing with absenteeism – marking repeat absenteeism as perjury, hearing in absence, fines, imposing a statute of limitation
- ▶ Litigant friendly courtrooms, as for over half the litigants; it is the first direct encounter with the justice system
- ▶ Additional capacity through more judges only till the backlog is cleared. Current system is able to clear as many cases as instituted.
- ▶ Smart case scheduling that avoids conflicting appearances of litigants and more importantly advocates
- ▶ Selective imposition of written statements, over oral hearings
- ▶ Rational basis for allocating resources among courts and creation of special courts

# Recommendations

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- ▶ Optimizing the length of cause-list to avoid cases not coming up for hearing
- ▶ Advance notice to all parties, in case of court not working due to unavailability of presiding officer
- ▶ Day-to-day hearing of old cases
- ▶ Detailed studies to assess the time utilized in different activities (also recommended by LCR 245)
- ▶ Utilize automation to remove non-essential human interface would help not only in improving turn-around times, but also accompanying biases in the process.
- ▶ Greater push for ADR, esp awareness among litigants
- ▶ Concerns of lawyers regarding ADR may be understood better