



LITIGATION LANDSCAPE OF BENGALURU

SERIES 1: BENGALURU RURAL COURTS

July 2019

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Executive Summary

Vidhi Centre for Legal Policy (‘Vidhi’) and DAKSH have collaborated in producing this Report, the first in a series aimed at better understanding the litigation landscape of Bengaluru. The objectives of this Report are to: one, understand the structure and functioning of the subordinate judiciary, specifically in the Bengaluru Rural District (“Rural Court”); and two, propose measures to improve the status quo based on a scientific analysis.

To ensure accurate assessment of the manner in which the subordinate judiciary is presently functioning, the researchers adopted a participative stakeholder approach by conducting extensive interviews with court staff and judges in the Rural Courts. The researchers have also conducted an in-depth analysis of case-data across three years – 2015 to 2017 along with a ‘time and motion study’ of five court halls to get both an overview as well as real-time data of case-load management in these courts.

The key findings that have emerged are as follows:

a. Case Management

- i. Cases in general remain pending for an average of 1,300 days (3.5 years), and land acquisition cases show the highest pendency average of 2,390 days (6.5 years). (See page number 39)
- ii. At a Police Station (PS) level, it was found that there is a wide variation in the number of days cases remain pending - Madanayakanahalli PS (1,483 days),

Nelamangala Town PS (1,452 days), and Thalaghattapura PS (791 days). Around 60% of the pending cases in these PS are at the notice/summons/warrants stage. A dedicated focus team should be set up to tackle these hurdles. (See page number 43)

- iii. Most of the civil and criminal cases are pending at the stage of notice/warrants/summons indicating the need for drastically reimagining how this task is performed. (See page number 42)

- iv. The number of fresh cases allocated to different judges has no co-relation with their already existing case-load. The uneven distribution of workload is leading to inefficiency and delay. (See page number 47)

- v. Devanahalli courts have an average of 8 hearings per case with a gap of nearly 258 days between each hearing (for civil cases). This inordinate delay in case progression is a direct result of multiple concerns such as unmanageable case-load, inefficient procedures, and vacancies in staff. (See page number 53)



vi. Sessions cases take the maximum amount of time per hearing, with 20.5 minutes being spent per such case. Similarly, regular appeals and miscellaneous cases were heard for an average of 16.6 minutes and 12.7 minutes, respectively. While creating the cause list for a day, judges can consider the average time spent on certain stages and case types, and accordingly list cases to optimise judicial time and ensure effective hearings. (See page number 65)

vii. The current system of calling out all the cases listed for the day in front of the presiding judge in the first round of hearings is leading to a massive loss of time that could otherwise be used for substantive hearings. It is essential that a more efficient manner of recording attendance of the lawyers/ parties be explored—either through delegating the power to Shirastedars or through technological solutions. (See page number 61)

viii. Data suggests that with more number of cases listed per day, the time spent on a case decreases. This finding should serve as a guiding principle to all the judges to list only a manageable number of cases so that the cases progress faster through the system. Karnataka Case Flow Management Rules, 2005 provides for procedures to be followed while listing cases. Tools and staff required to implement the Rules need to be provided on priority to courts. (See page number 62)

b. Human Resource Management

The average vacancy of 58 per cent as of 5 May 2018 across all staff positions indicates that there is a pressing need for reforms in the recruitment process. There is an anomalous bifurcation of recruitment power between the District Courts, and the Karnataka Public Services Commission (KPSC). This has resulted in undue delay in filling up of vacancies since KPSC, an executive body, conducts examinations based on the combined

needs of the executive and the judiciary. It is therefore recommended that the power to appoint administrative staff be transferred to a Recruitment Committee, assisted by a Recruitment Registrar, which will have the sole responsibility to hire administrative staff for all subordinate courts in the state. (See page number 72)

c. Infrastructure

The infrastructure across all Rural Courts has been an issue. Most of the staff suffer due to lack of adequate light and ventilation, especially those working in pending branches and record rooms. Further, there was a distinct lack of adequate and clean drinking water facilities, and restroom facilities, especially for women staff. It is imperative that court infrastructure be improved drastically in the Rural Courts to ensure humane working conditions for the staff. (See page number 75)

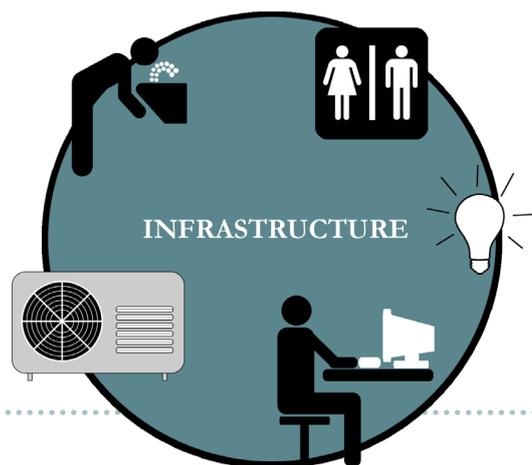


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Glossary of terms

1. **Average disposal days:** Average number of calendar days taken to dispose cases. Average disposal is calculated by subtracting decision date and filing date for each case, and then taking an average across all cases.
2. **Average pendency days:** Average number of calendar days for which cases are pending in the court. Average pendency is calculated by subtracting the date on which data was taken from the e-courts website with the filing date for each case, and then taking an average across all cases.
3. **Bengaluru City Civil Court:** Courts established under Bangalore City Civil Court Act, 1979.
4. **Bengaluru Metropolitan Area:** Areas designated as per Section 8 of the Criminal Procedure Code, 1973.
5. **Bengaluru Rural Court Complex:** Court complex located inside the Bengaluru City Civil Court complex and whose courts have jurisdiction over areas in Bengaluru Rural district and Bengaluru Urban district.
6. **Bengaluru Rural district:** Areas comprising of Hosakote, Doddaballapur, Devanahalli, and Nelamangala.
7. **Bengaluru Urban district:** Areas falling within Bengaluru North, Bengaluru South, Bengaluru East, and Anekal, but excluding the Bengaluru Metropolitan Area.
8. **Case Clearance Rate:** The rate at which cases are disposed in courts in a given time frame. Case clearance rate is calculated by dividing number of cases disposed in a given time frame by number of cases filed in the same time frame and multiplying by 100. A disposal rate of 100% would mean that courts were able to dispose equal number of cases that were filed in a given time frame.
9. **Case Types:** Classifications made by courts based on their nature and subject matter. For instance, Session Cases (SC), Land Acquisition Cases (LAC), etc.
10. **Court of a Civil Judge:** One or more courts established in every district, presided by a Civil Judge, with jurisdiction over all original suits and proceedings of a civil nature, not otherwise excluded from the Civil Judge's jurisdiction of which the amount or value of the subject matter does not exceed five lakh rupees.¹
11. **Court of a Senior Civil Judge:** A court established in every district having jurisdiction over original suits and proceedings of civil nature, but under the control of District Courts.²
12. **Courts of Judicial Magistrate First Class and Second Class:** The Courts established by the State Government after consultation with the High Court, in every district (not being a metropolitan area).³
13. **District and Sessions Judge:** A Judge who is appointed to a District Court as per the Karnataka Civil Courts Act, 1964 and to a Sessions Court as per the Code of Criminal Procedure, 1973, with a combined civil and criminal jurisdiction.
14. **District Court:** It is the principal civil court of original jurisdiction within the local limits of its jurisdiction, which is either a revenue district or any local area designated as a district by the State Government.⁴
15. **Hearings:** Dates on which cases are listed.
16. **Rural Court:** Comprises of the Bengaluru Rural Court Complex and court complexes in Doddaballapur, Devanahalli, Anekal, Nelamangala, Hosakote, with their corresponding jurisdictions.
17. **Sessions Courts:** The Courts established by the State Government for every 'sessions division' which is either a single district or multiple districts.⁵

¹ Karnataka Civil Courts Act, 1964, Section 7 read with Section 17.

² Karnataka Civil Courts Act, 1964, Section 6 read with Section 16.

³ Code of Criminal Procedure 1973, Section 11.

⁴ Karnataka Civil Courts Act, 1964, Section 2(c) read with Section 14.

⁵ Code of Criminal Procedure 1973, Section 7 and Section 9.



Introduction

Courts in India are arranged in a hierarchical pyramidal structure based on territorial, pecuniary, and subject matter jurisdictions.⁶ The top two tiers in this hierarchy, the Supreme Court of India and High Courts in every state, have their jurisdiction, powers, and composition laid down in the Constitution of India (“the Constitution”).⁷ However, the same level of detailing for the lower tiers i.e. the ‘subordinate courts’, comprising of district courts and courts subordinate thereto, seems to be lacking.

Chapter VI of Part VI (Articles 233 – 237) of the Constitution titled ‘Subordinate Courts’, lays down the bare minimum while focusing on only two aspects – one, appointment and qualification of ‘District Judges’ and ‘Subordinate Judges’⁸, and two, the bringing of subordinate civil judiciary under the authority of the High Court.⁹ In so far as the latter aspect is concerned, the Constitution carved out an exception for the subordinate criminal judiciary,¹⁰ since magistracy was then under the state executive’s control. However as of today, in most states including Karnataka,¹¹ the limited

purpose of Chapter VI - securing independence of the district judiciary from the state executive, and thereby opening possibilities of judicial review of executive power even at the lowest levels in the judiciary- seems to have been achieved.¹²

It is thus clear that unlike the ‘higher judiciary’, the subordinate judiciary not only has distinct civil and criminal judicial structure but also that these structures have evolved independently across different timelines in different states.¹³ For an ordinary litigant, whose encounter with the formal judicial system starts with the subordinate judiciary, it is critical that she has clarity as regards the unique hierarchical structure of the subordinate judiciary in her state – from the smallest (village) to the largest (district) administrative unit, as well as their respective jurisdictions. However, so far, no satisfactory attempt has been made to unravel the subordinate judiciary to an ordinary litigant.

In fact, even within the judiciary, there is a lack of clarity on several complex issues concerning the subordinate

⁶ 118th Report of Law Commission of India on Method of Appointments to Subordinate Courts/ Subordinate Judiciary, December 1986, available at, <http://lawcommissionofindia.nic.in/101-169/Report118.pdf> (last accessed on 10 March 2019).

⁷ Constitution of India, Chapter IV of Part V (Articles 124 to 147) deals with the Union Judiciary; Chapter V (Articles 214 to 232) of Part VI deals with the High Courts in the States.

⁸ Constitution of India, Art. 233 and Art. 234. See The MLJ, Manual on the Constitution of India, Volume 4 LexisNexis, 2016, pages 4562-4583.

⁹ Constitution of India, Art. 235.

¹⁰ Rajesh Suman, ‘District Judiciary in the Indian Constitution’, available at, <http://www.nja.nic.in/1CAD.pdf> (last accessed on 27 February 2019).

¹¹ S Ranga Rao v. State of Mysore, AIR 1959 Kant 199.

¹² The researchers could not conclusively identify the states which are yet to pass notification under Article 237. It appears that Mizoram is one of the few, if not the only state, which is yet to pass the said notification. See Kumar Padma Prasad v. Union of India, 1992 AIR 1213, available at, <https://www.sci.gov.in/jonew/judis/12467.pdf> (last accessed on 10 March 2019).

¹³ All India Judges Association v. Union of India and Ors., AIR 1993 SC 2493.

judiciary. So far, for most issues ranging from pendency to judge's vacancy, the popular narrative has been dominated by the higher judiciary, even though the same issues plague the subordinate judiciary with a more immediate impact on the litigants.¹⁴ This is not to say that there has been no focus on the subordinate judiciary. The Supreme Court and the various Law Commission Reports have time and again suggested reforms to tackle vacancy, infrastructure, and other issues concerning the subordinate courts.¹⁵ However, these attempts suffer from a lack of basis in qualitative and quantitative data emanating from the subordinate courts themselves.¹⁶

Indian judiciary is now at a critical juncture where 'judicial reforms' no longer remain an empty rhetoric but are deemed essential for the judiciary itself to remain relevant in a fast changing society.¹⁷ As a first step, we, the stakeholders interested in improving the judiciary, need to break away from the 'top-down' approach and move towards a more consultative mechanism to understand the subordinate courts. The question of why the judiciary is plagued by issues of pendency and inefficiency has thus far been answered primarily through a focus on the need for a higher number of judges.¹⁸

However, while acknowledging that inadequate number of judges leads to inefficiencies and delays in the subordinate judiciary, this Report aims to bring into focus two more aspects which have a substantial bearing on the performance of the judiciary: one, case management, and two, man-power management which includes both the judicial officers and administrative staff.¹⁹



This Report, a product of collaboration between DAKSH and Vidhi Centre for Legal Policy ('Vidhi'), therefore is an attempt to understand, analyse and provide customised inputs to improve these two aspects in the functioning of subordinate judiciary in the Rural Courts, thereby creating a model for the rest of the state.

¹⁴ 118th Report of Law Commission, supra note 6.

¹⁵ All India Judges Association v. Union of India and Ors. AIR 1993 SC 2493.

¹⁶ 245th Report of Law Commission of India suggests scientific methodologies to calculate the required (wo)manpower in higher and subordinate judiciary. However, it states that "most High Courts....could not provide the data/ information sought" and acknowledges the serious constraint posed by lack of scientific collection, collation, and analysis of data. See 245th Report of Law Commission of India on Arrears and Backlog: Creating Additional Judicial (wo)manpower, July 2014 at page 3, available at, http://lawcommissionofindia.nic.in/Reports/Report_No.245.pdf, (last accessed on 26 February 2019).

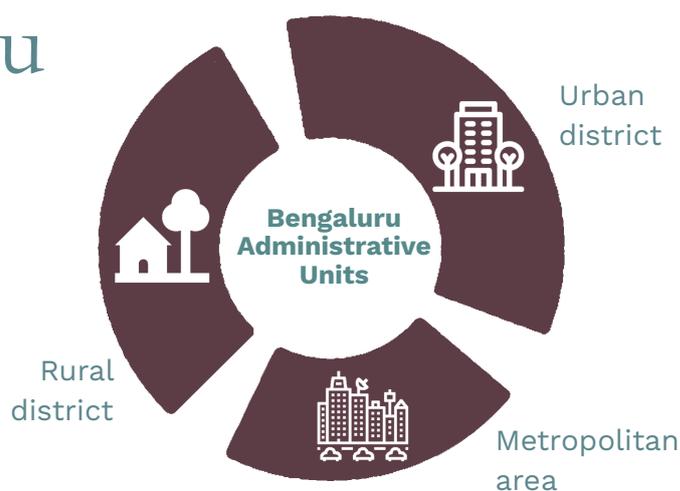
¹⁷ Alok Prasanna Kumar, "Are people losing faith in courts?", EPW, Volume 52, Issue No. 16, 22 April 2017 available at, <https://www.epw.in/journal/2017/16/law-and-society/are-people-losing-faith-inthe-courts.html> (last accessed on 20 April 2019).

¹⁸ 14th Report of Law Commission of India on Reform of Judicial Administration, 1958, available at <http://lawcommissionofindia.nic.in/1-50/Report14Vol1.pdf> (last accessed on 19 March 2019), identifies "inadequate judge strength" as the root cause for delay and arrears; In 2016, Chief Justice T S Thakur made an emotional appeal to double the number of Judges to "handle an avalanche of backlogged cases", available at, <https://www.hindustantimes.com/india/burden-on-judiciary-here-is-why-chief-justice-thakur-broke-down/story-6gFj51AWTpuAwl8waWNPoL.html> (last accessed on 24 April 2019). See also 245th Report of Law Commission of India on Arrears and Backlog: Creating Additional Judicial (wo)manpower, 2014, available at http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf (last accessed on 17 May 2019).

¹⁹ Ministry of Law and Justice reveals pendency not only due to shortage of judges: See http://doj.gov.in/sites/default/files/Tenth%20Meeting%20of%20Advisory%20Council_Minutes%20of%20Meeting_Final.pdf (last accessed on 22 April 2019).

The need for focus on Bengaluru

Karnataka has a total of thirty districts each with its own district court and courts subordinate thereto. As per data available on the National Judicial Data Grid (“NJDG”), Bengaluru urban and rural districts contribute to nearly 25.14% of the overall number of pending civil and criminal cases in Karnataka.²⁰ This lopsided contribution to the case-load from only two of the state’s thirty districts is marginally explained by reasons of high population (Bengaluru has nearly 20% of Karnataka’s population),²¹ high per capita income,²² and accessibility to courts²³. However, there are several other factors such as numerical sufficiency of judges, inefficiencies on the administrative and judicial side, quality of assistance provided by lawyers and litigants during adjudication, etc. which significantly impact the functioning of subordinate courts.²⁴ It is therefore in the interest of the entire state judiciary, that the systems and processes of the subordinate judiciary in Bengaluru are studied thoroughly.



Bengaluru is sub-divided into three administrative units- Bengaluru Rural district²⁵, Bengaluru Urban district,²⁶ and Bengaluru Metropolitan Area,²⁷ which has a direct bearing on the judicial structure and jurisdictions in each of these administrative units. For the purposes of this Report, all cases related to Bengaluru Rural district and Bengaluru Urban district have been analysed. Therefore, it is essential to distinguish these distinct units within Bengaluru geographically, and then map their judicial structure.

²⁰ See National Judicial Data Grid (NJDG) available at, http://njdg.ecourts.gov.in/njdg_public/main.php (last accessed on 20 July 2018).

²¹ Census 2011 available at <https://www.census2011.co.in/census/district/242-bangalore.html> (last accessed on 27 February 2019).

²² Economic Survey of Karnataka 2015-2016 by Department of Planning, Programme Monitoring and Statistic, Government of Karnataka, March 2016, available at <http://des.kar.nic.in/docs/Economic%20Survey%202015-16%20English%20Final.pdf> (last accessed on 5 April 2019); See also Nagesh Prabhu, “Bengaluru Urban tops state in per capita income”, The Hindu, 20 March 2016, available at <https://www.thehindu.com/news/cities/bangalore/bengaluru-urban-tops-state-in-per-capita-income-kalaburagi-last/article8376124.ece> (last accessed on 14 March 2019).

²³ Accessibility to courts is a by-product of affordability and awareness, both of which tend to be higher in urban areas.

²⁴ Subordinate Courts of India: A Report on Access to Justice by Centre for Research and Planning, Supreme Court of India, 2016, page 156, available at <https://www.sci.gov.in/pdf/AccessToJustice/Subordinate%20Court%20of%20India.pdf> (last accessed on 3 February 2019).

²⁵ Refer to Glossary.

²⁶ Refer to Glossary.

²⁷ Refer to Glossary.

Chapterisation

This Report is divided into the following chapters:



Chapter 1



Chapter 2



Chapter 3

Part A, will present the structure of the civil and criminal courts in the Bengaluru Rural district and Bengaluru Urban district by establishing the history and logic behind the tripartite division of Bengaluru in terms of area – Metropolitan, Urban, and Rural Districts, and corresponding judicial jurisdictions. This part seeks to bring in clarity regarding the jurisdiction of the courts in the Bengaluru Rural district and Bengaluru Urban district, which are the focus of this Report.

Part B will then provide an overview of the hierarchy of judges in Karnataka's and the Rural Court's judicial landscape.

Part A, will comprehensively analyse case data from the Rural Courts using multiple parameters such as case type, date of filing, date of disposal, stage, and court-wise efficiency. The information for this section has been obtained by scraping data from the E-courts website.

Part B will analyse the functioning of select courts through a Time and Motion Study conducted by the researchers.

It will focus primarily on various aspects concerning the administrative staff of the Rural Courts. The section examines matters such as recruitment practices, court infrastructure, and working conditions, which have a direct bearing on the efficiency of the judicial system in Karnataka.

Research methodology

OBJECTIVE

This Report, a first in a series to be published by the researchers, seeks to demystify the subordinate judiciary in Karnataka for the benefit of all stakeholders - ordinary litigants, lawyers, administrative staff, and the judges, by consulting them and gaining through their experiences. Through a participative stakeholder approach to understanding the civil and criminal litigation landscape in the Rural Courts, the Report unearths issues specific to these courts and aims to contribute to case and human resource management systems in the court complexes therein.

SCOPE

For clarity in presenting and explaining the same, this Report focusses only on the subordinate judiciary in Bengaluru Rural district and Bengaluru Urban district, both of which fall within the jurisdiction of Bengaluru Rural District Courts (hereinafter, Rural Courts)²⁸. The Report briefly explains the judicial structure in the Bengaluru Metropolitan Area, which has its own City Civil Court (hereinafter, CCC),²⁹ for the limited purpose of establishing the distinction between the Rural Courts and the CCC.

The Report broadly delves into the judicial structure, the administrative structure, and case management by the Rural Courts to present the manner in which they currently function.



²⁸ E-courts, available at <https://districts.ecourts.gov.in/bengaluru-rural/about-bengaluru-rural-court> (last accessed on 3 November 2018).

²⁹ E-courts, available at <https://districts.ecourts.gov.in/bengaluru/about-bengaluru-urban-court> (last accessed on 6 November 2018).



Interviews

METHODOLOGY

The researchers have adopted different methodologies to study Rural Courts in this Report.

A survey of applicable laws

A survey of applicable laws: The researchers have perused the laws and rules which lay down the hierarchy of judicial and administrative staff positions. While the Constitution, the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1973, lay down the bare-bone structure and composition of the subordinate judiciary, various enactments at the state level provide details as to the designation, jurisdiction, mode of recruitment, and hierarchy amongst judges and staff in the Bengaluru subordinate courts.

In addition, the researchers have relied on the Handbook on Administration and Inspection, 1971 (hereinafter, Handbook),³⁰ issued by the High Court of Mysore for the guidance of the subordinate civil and criminal courts in the State of Mysore, which is applicable across Karnataka to understand the roles of the administrative staff.

In a first of its kind exercise, the researchers conducted extensive interviews of the staff and judges across all six court complexes in the Rural Court. The researchers adopted this methodology to ensure an inclusive and holistic approach to the making of this Report, where the stakeholders contributed through their experiences within the judiciary.

The researchers interviewed a total of 51 administrative staff and 6 judges across the Rural Courts.³¹ The court staff interviews were conducted between 18 June 2018 and 16 July 2018, while the judges' interviews were conducted between 3 November 2018 and 4 December 2018. The researchers used customised questionnaires for the staff and the judges which broadly covered the following key issues:

Judges	Administrative staff
Case allocation and case management	Recruitment, job description and promotion
IT infrastructure and training	Working Conditions and job satisfaction
Assessment criteria and future prospects	Skills and knowledge training
Pendency and delay—causes and solutions	

³⁰ A scanned copy of the Handbook has been uploaded here: <https://drive.google.com/file/d/1KpA4YH2Y3JqLuT-tL1hm0chlOnOc4SEce/view?usp=sharing>

³¹ The permission to conduct the survey was provided to the Authors belonging to DAKSH and Vidhi graciously by the Principal District and Session Judge of the Bengaluru Rural District.

Data Analysis

The researchers have analysed data regarding cases and their hearings, as provided on e-courts, in order to understand how cases progress in the Rural Courts. In this section, primary data of civil and criminal cases that were pending with or disposed by the Rural Courts in the years 2015, 2016, and 2017 have been analysed. The analysis of data has been carried out on the basis of several parameters such as whether the case is pending or disposed, the court establishment, the nature of the case, the stage of the case, etc.

Through the analysis of data related to cases in the Rural Courts, the researchers aim to throw light on the functioning of these courts and provide suggestions to improve their efficiency.



Time and Motion study

The researchers with the help of volunteers conducted a time and motion study to understand the amount of time spent by judges on hearing cases through the day. The time and motion study helps in understanding the manner in which cases are listed and heard in the court. While the e-courts website captures certain case related information, a time and motion study helps in capturing additional information such as the amount of time spent on different hearings, sitting time of judges, etc. To get the data, a few court halls from the Rural Courts were chosen. These specific court halls were assigned to each of the volunteers who sat in the court throughout the day collecting the relevant data for two weeks. The data collected by the volunteers was later compiled and analysed. A detailed explanation regarding the study and findings from the data collected through the time and motion study have been provided in Chapter II.



Chapter 01

SUBORDINATE COURT STRUCTURE IN BENGALURU

An overview



Karnataka's Subordinate Judiciary

It is essential to clarify here that the term 'subordinate' by no means indicates absolute obedience to or unfettered interference by the higher courts. To illustrate, a High Court Judge cannot interfere in proceedings before a District and Sessions Judge, except when the case comes before her in an appeal or in revision.³² Professor Upendra Baxi observes that the 'district judiciary', not the 'subordinate judiciary' is a more apt description for the network of lower courts at the district level and below, "since no judge acting within her jurisdiction may be subordinate to any other".³³ Being mindful of the above, we use the phrase 'subordinate judiciary' as indicative of the pyramidal structure of the Indian judicial system, and in consonance with the phrase used in the Constitution.

Apart from the Constitution, the structure for civil and criminal courts in the subordinate judiciary in states, is provided for in the following:

1. Code of Civil Procedure, 1908,
2. Code of Criminal Procedure, 1973, and
3. The local statutes. These, in Karnataka are:
 - Karnataka Civil Courts Act, 1964, which lays down a uniform law relating to the constitution, powers, and jurisdiction of the civil courts in Karnataka subordinate to the High Court of Karnataka, and
 - Bangalore City Civil Courts Act, 1979, which provides for the establishment of the City Civil Court in Bengaluru city.³⁴

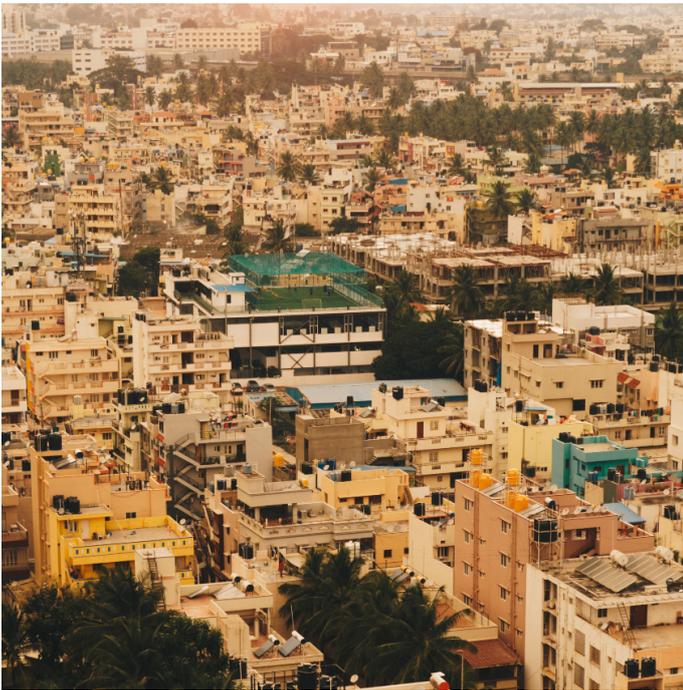
A combined reading of the above statutes provides for a pyramidal hierarchical structure for civil and criminal courts in Karnataka.

³² 118th Report of Law Commission, supra note 6 at para 4.8.

³³ Upendra Baxi, "The Judiciary as a resource for Indian democracy", available at http://www.india-seminar.com/2010/615/615_upendra_baxi.htm (last accessed on 27 February 2019).

³⁴ Bengaluru was renamed from 'Bangalore' in the year 2014. However, several statutes continue to retain the name Bangalore. In this Report we have used Bengaluru throughout, for the sake of uniformity, while demarcating the different jurisdictions under Bengaluru Metropolitan, Urban, and Rural areas.

Evolution of subordinate judiciary in Bengaluru City



In the introduction section, we have briefly referred to the unique administrative and commensurate judicial structure of Bengaluru, which is unlike other districts in Karnataka. It is however interesting to note that this distinction has evolved overtime, to keep pace with the rapidly growing (population-wise and geographically) city.³⁵ The City Civil Court for the Bengaluru Metropolitan Area, along the lines of metropolitan cities of Bombay, Madras, Calcutta, Hyderabad and Ahmedabad, was created to handle the enormous increase in litigation and also to reduce the delay resulting from multiple levels of appeal that otherwise exists in all other districts.³⁶ However, it is to be clarified

here that both the terms ‘civil’ and ‘city’ are misleading and are in need of elaborate clarification.

Originally, the state government intended the City Civil Court to handle only civil suits, with Sessions Judges being exclusively in-charge of criminal matters. Subsequently in 1980, the High Court recommended that the presiding officers of the City Civil Court also try criminal cases, which required declaration of the City of Bengaluru as a ‘metropolitan area’ under Section 8 of the Code for Criminal Procedure, 1908. Therefore, at present, the judges appointed to City Civil Court handle both civil and criminal matters, under the designation ‘Civil and Sessions Judges’. Further, such courts do not have jurisdiction over the whole of Bengaluru city, but only such region that comes under the ‘metropolitan area’, which excludes Bengaluru Urban district and Bengaluru Rural district. The structure and performance of the City Civil Court is the subject of our next Report and the above explanation is for the limited purpose of establishing a distinction between the City Civil Court in Bengaluru and the Rural Courts.



³⁵ E-courts, supra note 29.

³⁶ The Bengaluru City Civil Court Act, 1979, Statement of Objects and Reasons.

Structure of Courts

in the Bengaluru Rural District



The subordinate judicial structure for the Rural Courts is prescribed under the Karnataka Civil Courts Act, 1964. An anomalous feature of Rural Courts, which often leads to confusion as regards its jurisdiction, is that it caters to both Bengaluru Rural district and such areas of Bengaluru Urban district which falls outside the Bengaluru Metropolitan Area.³⁷

The specific taluks that fall within the Bengaluru Rural Court's jurisdiction, are:

1. Bengaluru Urban District comprising of the following regions: Bengaluru North, Bengaluru South, Bengaluru East, and Anekal while excluding regions that fall within the Bengaluru Metropolitan Area.³⁸
2. Bengaluru Rural District comprising of following regions: Doddaballapur, Devanahalli, Nelamangala and Hoskote taluks.

Therefore, the above 8 (eight) taluks come within the jurisdiction of the Bengaluru Rural Courts and these are the 6 (six) court complexes where this jurisdiction is exercised:



1. Anekal Rural Court complex in Anekal Taluk
2. Doddaballapur Rural Court complex in Doddaballapur Taluk
3. Devanahalli Rural Court complex in Devanahalli Taluk
4. Nelamangala Rural Court complex in Nelamangala Taluk
5. Hoskote Rural court complex in Hoskote Taluk and
6. Bengaluru Rural Court Complex having jurisdiction over only Bengaluru North, South and East (excluding the Bengaluru Metropolitan Area), functioning from within the City Civil Court Complex in Bengaluru.

It is pertinent to highlight here that the researchers' interactions with judges and the court staff, revealed that certain areas in Bengaluru, such as Electronic City, fall partly under the Bengaluru Rural Court's jurisdiction and partly under the City Civil Court's jurisdiction.

The civil and criminal court structure and jurisdiction for the Rural Courts are provided in the following pages.

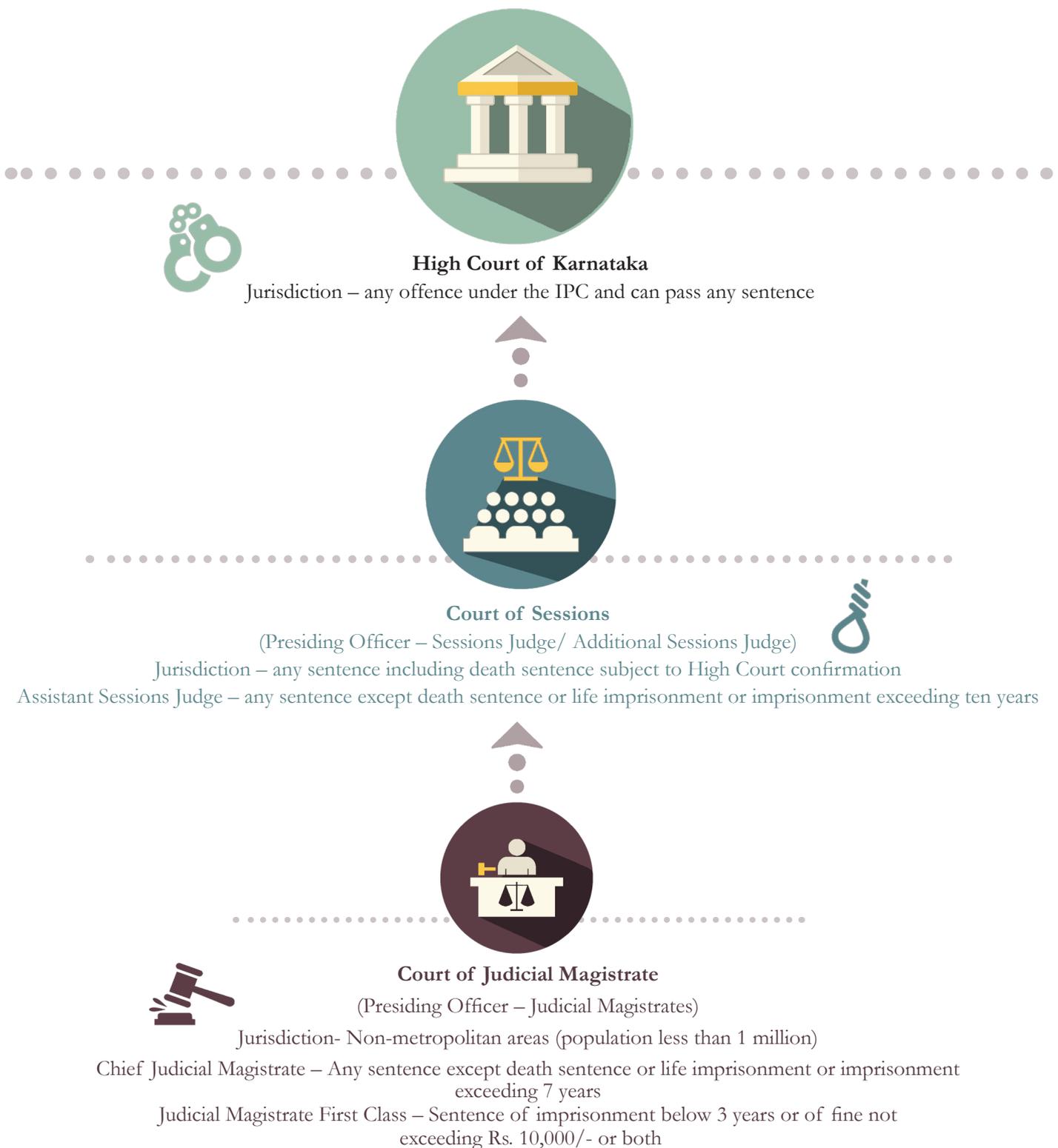
³⁷ E-courts, supra note 28.

³⁸ E-courts, supra note 29; See also Urban Development Secretariat, Notification, 16 January 2007, page 14, available at http://kea.kar.nic.in/cet2015/rural_area_2015.pdf (last accessed on 10 March 2019).



ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ
HIGH COURT OF KARNATAKA

Criminal Courts Jurisdiction and Appellate Structure



The hierarchical structure and jurisdiction of criminal courts in every state is laid down in Chapter II of the Code of Criminal Procedure (Cr.P.C). It prescribes a structure with the Court of Judicial Magistrates,³⁹ consisting of Judicial Magistrates First Class and Judicial Magistrate Second Class,⁴⁰ being subordinate to the Sessions Court. Appeals from the Magistrate's court lie to the Court of Sessions which is presided over by the Sessions Judge. Appeals from the Court of Sessions lie to the Karnataka High Court.

³⁹ Section 12 of the Criminal Procedure Code, 1973- a Judicial Magistrate of the First Class is appointed as the Chief Judicial Magistrate in every district, who shall have power of supervision and control over the work of all the other judicial magistrates in that district.

⁴⁰ Section 6 of the Code of Criminal Procedure lays down different classes of criminal courts, and provides for courts of 'Judicial Magistrates Second Class' in every district. However, in Karnataka, no such court has been established and hence the lowest court in the criminal subordinate judiciary in the state is that of Judicial Magistrate First Class; See High Court of Karnataka at <http://karnatakajudiciary.kar.nic.in/history.asp> (last accessed on 2 January 2019).



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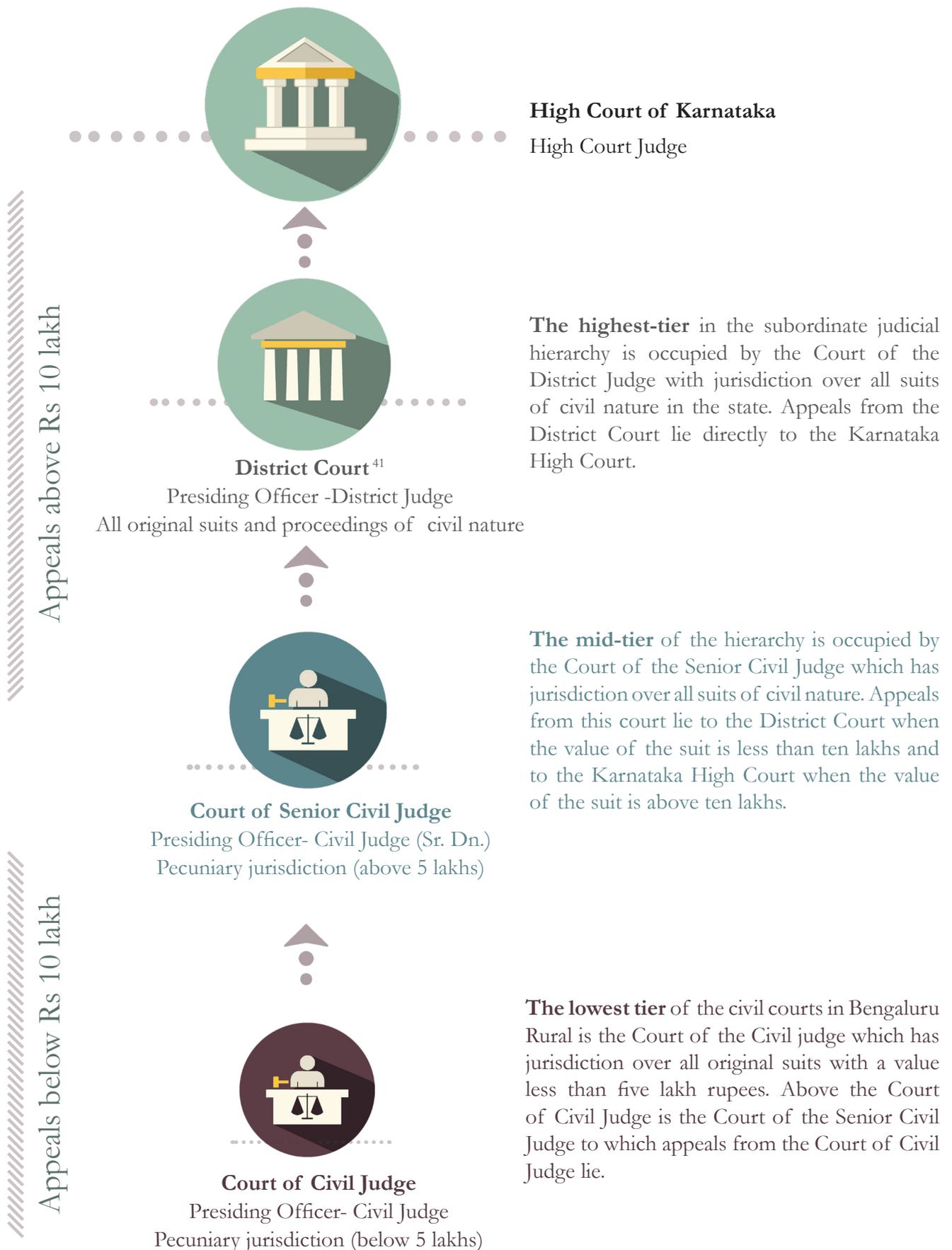
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Civil Courts Appellate Jurisdiction



⁴¹ As per Karnataka Civil Courts Act, 1964, both District Court and the Court of Civil Judge (Senior Division) have jurisdiction to try all original suits and proceedings of a civil nature. However, this should be read with Section 15 of the Code of Civil Procedure, 1908, which states that 'Every suit shall be instituted in the Court of the lowest grade competent to try it.'

An overview

of judges in Rural Courts

Table 1 shows the number of judges in each court complex in the Rural Courts.⁴²



Criteria	Subordinate Judiciary	Number of Judges per Court
1.	<ol style="list-style-type: none"> 1. Bengaluru Rural District Court (annexed to City Civil Court) <ol style="list-style-type: none"> a. District and Sessions Judges: 7 b. Senior Civil Judges: 4 c. Civil Judges: 3 d. Magistrates: 3 <p style="text-align: right;">Total: 17 Judges</p> 2. Anekal Rural Court <ol style="list-style-type: none"> a. District and Sessions Judge: 1 b. Senior Civil Judge: 1 c. Civil Judge and Judicial Magistrate First Class: 2 <p style="text-align: right;">Total: 04 Judges</p> 3. Devanahalli Rural Court <ol style="list-style-type: none"> a. District and Sessions Judge: 1 b. Senior Civil Judge and Judicial Magistrate First Class: 1 c. Civil Judge and Judicial Magistrate First Class: 2 <p style="text-align: right;">Total: 04 Judges</p> 4. Dodaballapura Rural Court <ol style="list-style-type: none"> a. District and Sessions Judge: 1 b. Senior Civil Judge: 1 c. Civil Judge and Judicial Magistrate First Class: 2 <p style="text-align: right;">Total: 04 Judges</p> 5. Hoskote Rural Court <ol style="list-style-type: none"> a. Civil Judge and Judicial Magistrate First Class: 2 <p style="text-align: right;">Total: 02 Judges</p> 6. Nelamangala Rural Court <ol style="list-style-type: none"> a. Senior Civil Judge and Judicial Magistrate First Class: 2 b. Civil Judge and Judicial Magistrates First Class: 2 <p style="text-align: right;">Total: 04 Judges</p> 	38

⁴² Information has been taken from E-courts as of 19 February 2019.

Recruitment

Judges to the subordinate courts of Karnataka are recruited under the Karnataka Judicial Service (Recruitment) Rules, 2004. The details of the authority empowered to recruit them along with the procedure therefore is provided in Annexure 1.

District Judge

The highest tier of judges in Karnataka's subordinate civil judiciary is the District Judge who is appointed by the Governor of the state. There are three different methods through which District Judges in the state are appointed, i.e., promotion based on merit cum seniority – 65 per cent, promotion of Senior Civil Judges between the ages of 35 and 45 years – 10 per cent, and through direct recruitment through a qualifying examination conducted by the High Court of Karnataka – 25 per cent. More detailed information may be found in Annexure 4 of this Report.



02

Senior Civil Judge

The middle tier of judges in Karnataka's subordinate civil judiciary is the Senior Civil Judge who is appointed by the High Court of Karnataka. Hundred percent of the Senior Civil Judges are recruited through promotions. The promotions are based on merit cum seniority, with the selecting authority being the High Court of Karnataka. To be eligible for consideration, they must have finished a tenure of at least 5 years as Civil Judges.



03

Civil Judge

The lowest tier of judges in Karnataka's subordinate civil judiciary is the Civil Judge who is appointed by the Governor of the state. Hundred percent of the Civil judges are recruited for the position by qualifying in the exam held by the High Court of Karnataka for the very purpose. They must have certain qualifications such as having completed a law degree from a recognized university, enrolment in the Karnataka Bar, etc. More detailed information may be found in Annexures 1 and 3 of this Report.



It is to be noted that although the Karnataka Judicial Service (Recruitment) Rules, 2004 as of now only mention the recruitment process for civil judges in the state, criminal judges are also recruited and promoted under the same Rules. This is as per information gleaned from interviews with judges and the Chief Librarian at the City Civil Court, Bengaluru.⁴³ The judges are currently allocated to either civil or criminal matters depending on vacancies alone.

It is suggested that the 2004 Judicial Recruitment Rules be amended to reflect their relevance to the recruitment and promotion of criminal judges as well.

⁴³ The researchers interviewed six Judges across different Rural Courts in Bengaluru and one Civil Judge and JMFC in Shimoga District Court.

Chapter 02

CASE DATA ANALYSIS

Numbers speak for themselves

Travel HiFuture



MOBILE



Analysis of Case-Data

extracted from e-courts



The objective of this section of the Report is to understand how cases progress in the Rural Courts, and to show litigants how their own cases may progress, based on the analysis of similar cases. This chapter presents a comprehensive picture of the functioning of the Rural Courts through extensive case-data analysis with wide-ranging practical applications such as identifying specific delayed case-types, their stages of pendency, variations in performance of different court halls across different cadre of judges etc. This gives individual judges as well as the judiciary a full picture of the existing case-load, which in turn enables precise identification of problems and recommendations to improve the overall performance.

We study the progress of cases that were heard by the courts in a three-year time period, i.e. 2015, 2016, and 2017. The data set analysed in this section consists of 1,11,281 pending cases and 1,22,113 disposed cases across courts in the following 6 court complexes:

The insights gathered from analysing this data can help in identifying crucial stages and the manner in which cases move from one stage to another.

In this chapter we analyse:

- the life cycle of cases;
- variation in the progress of cases vis-a-vis court complex in which they are filed;
- variation in the progress of cases based on the nature of the case; and
- variation in how the judges hear cases in their docket.

The analyses⁴⁴ are divided into two segments: the first segment focusses on cases that are pending as of December 2017, and the second segment analyses cases that were disposed in the years 2015, 2016, and 2017.

Court Complex	Count of pending cases	Count of disposed cases
Anekal	22,766	15,234
Bengaluru Rural	37,327	51,392
Devanahalli	19,825	24,483
Doddaballapur	10,388	10,817
Hosakote	6,308	7,259
Nelamangala	14,667	12,928
TOTAL	111,281	1,22,113

⁴⁴ As part of the methodology, all the outliers have been removed from figures that deal with averages. Outliers are extreme values in a data set that deviate from other observations. While carrying out any analysis on a large data set, these extreme values tend to skew the overall average, providing us with a number that may not be a true representation of the data set. Hence, it is important that outliers be identified and kept out while calculating the overall average.

Pending

cases

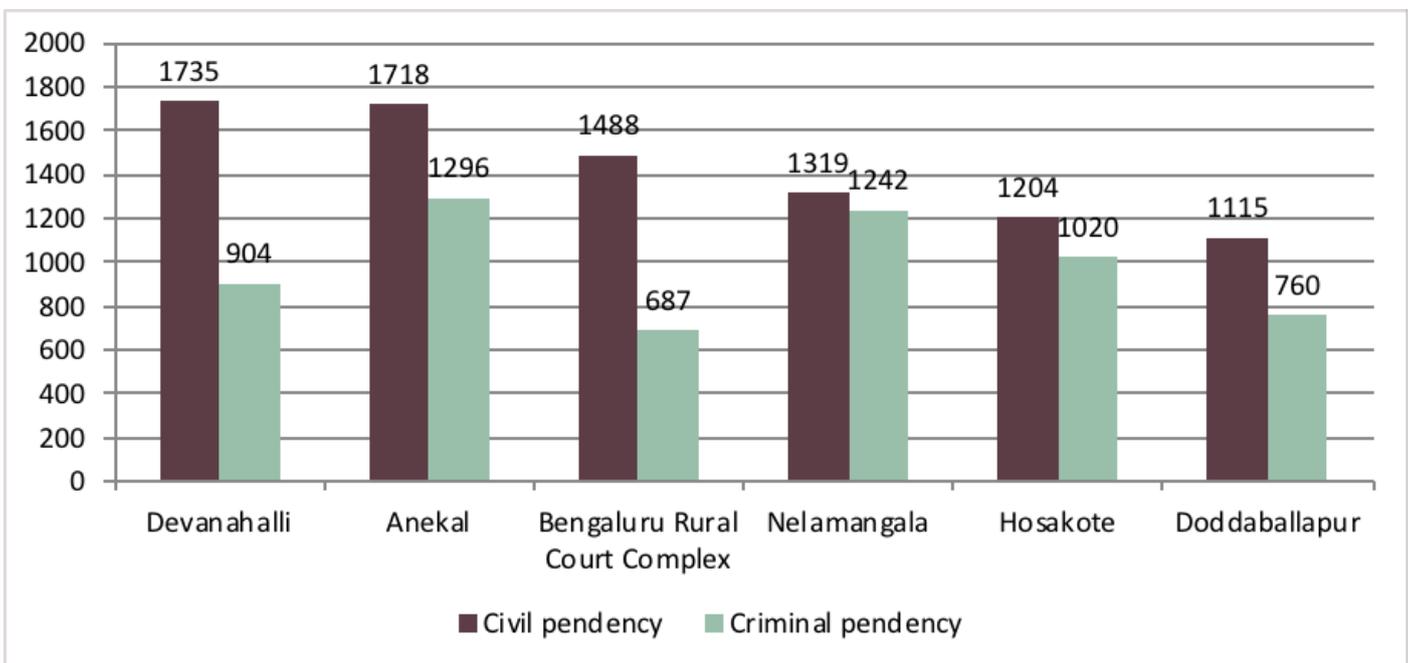
An overall look at the data set of pending cases shows that cases in the Rural Courts remain pending for 1,300 days (3.5 years) on an average. A closer look at the data, as seen in Figure 1, reveals that this average pendency varies depending on the nature of the case as well as the court complex in which it is filed.



Further, the average pendency of criminal cases in Anekal is the highest at 1,296 days (3.5 years) while Bengaluru Rural Court Complex is the lowest at 687 days (1.8 years).

Figure 1. Civil and criminal pendency (in days)⁴⁵

As seen in Figure 1, the average pendency of civil cases is much higher than the average pendency of criminal cases across all regions, except in the case of Nelamangala where they are almost the same.



Apart from the variance seen in pendency days for civil and criminal cases in different court complexes, would there be a further variance in the pendency days based on the case type within these civil or criminal cases?

⁴⁵ Pendency in days is the number of days between the date of filing of cases and 31 December 2017, for all such cases which were shown as pending on the said cut-off date.

In Figure 2, we map how the subject matter of cases may affect their average pendency. It shows us the top 7 civil case types and criminal case types with the highest average pendency:

Figure 2. Average pendency (in days) as per civil case type (left) and criminal case type (right)

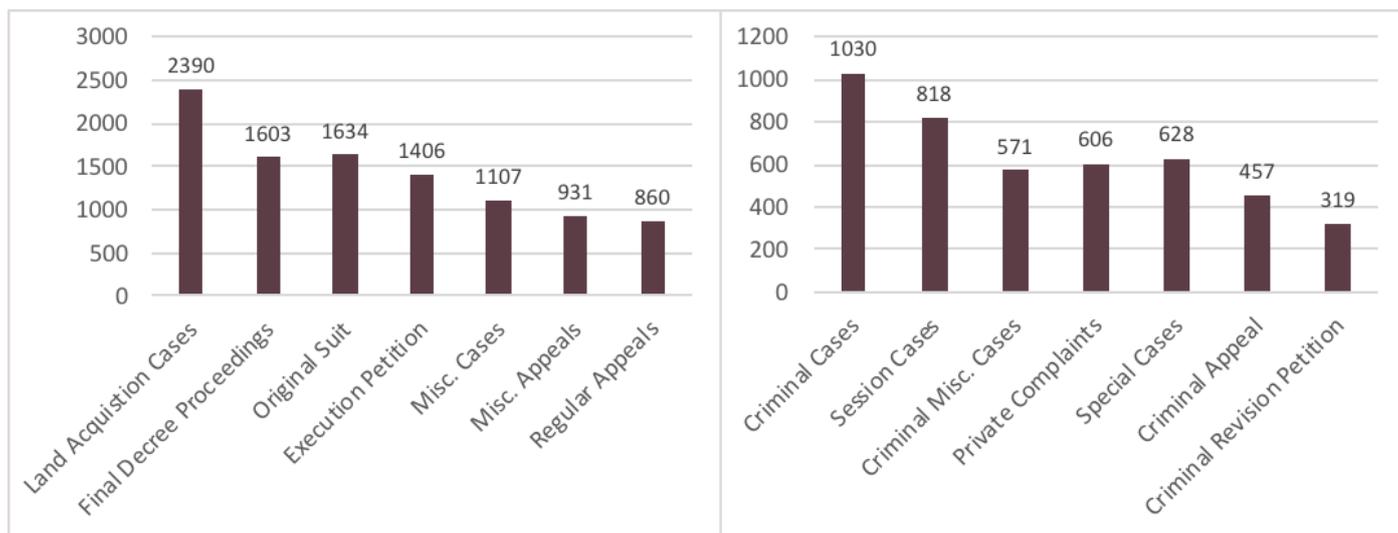
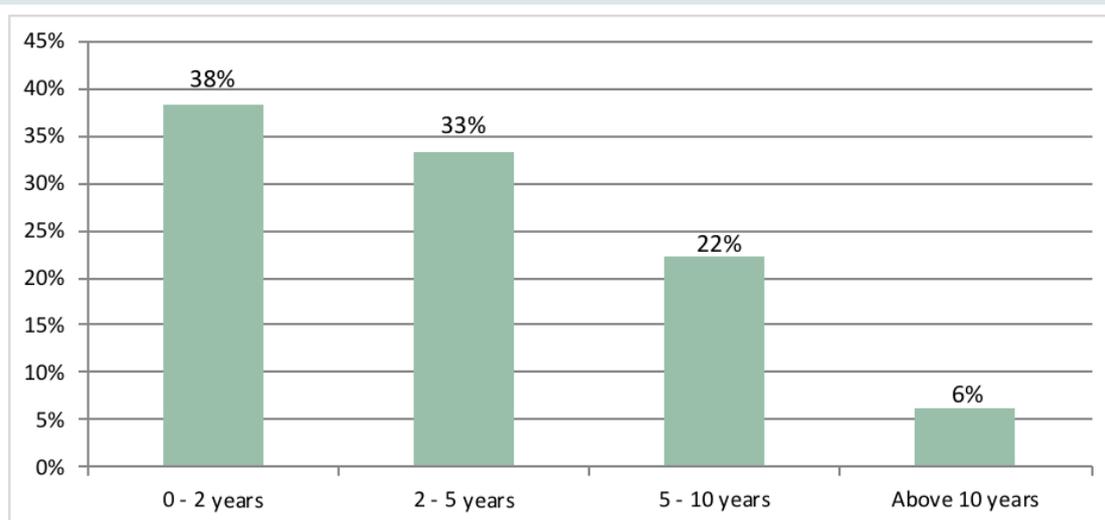


Figure 2 shows that land acquisition cases are the category of civil cases that remain pending for the longest amount of time, i.e. 2,390 days on average (6.5 years), far above the average pendency of other civil cases. A closer look at the data also revealed that most land acquisition cases were pending at courts in Nelamangala, Devanahalli, and Anekal. Amongst the criminal cases, cases under the case type “CC” remain pending for the longest, with the average pendency of these cases being 1,030 days (2.8 years).

A further dissection of pending cases in the Rural Courts as seen in Figure 3 shows that the highest proportion of pending cases, 38%, lie in the 0-2 years age bracket. However, a cumulative percentage of older cases i.e. cases pending for more than 2 years, was 61%. This indicates that the Rural Courts are bogged down more by the older cases which take up majority of the judicial time, thereby providing lesser adjudication time for younger cases, which further adds to the ‘delayed cases’ docket.⁴⁶

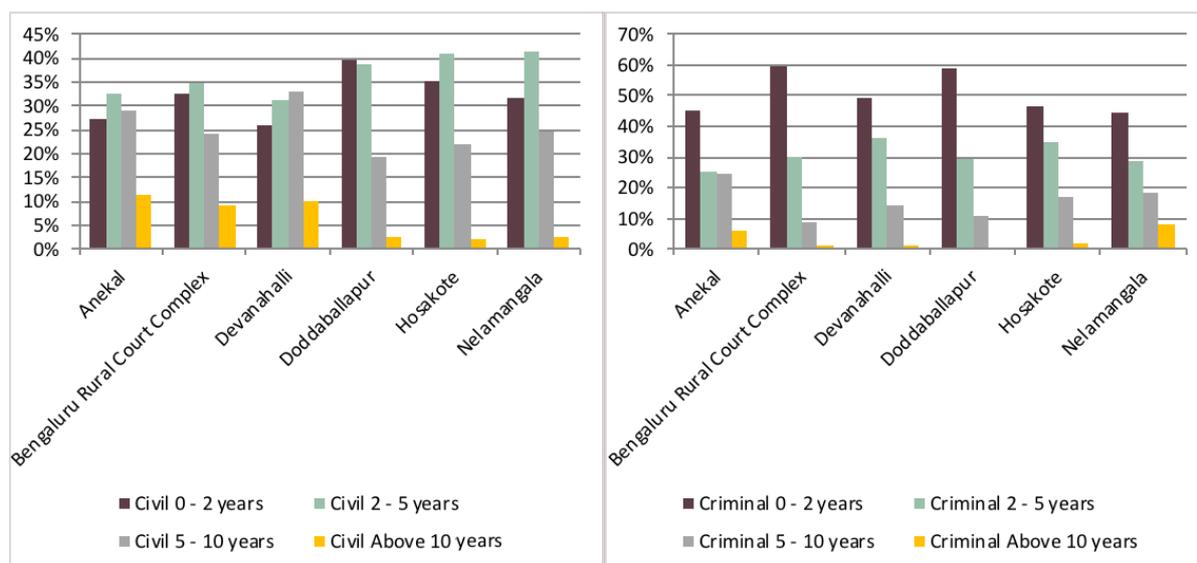
Figure 3. Age brackets – cases pending in the Bengaluru Rural district



A natural point of enquiry that emerges from Figure 3 is: Would the age and proportion of cases change if we segregate the cases based on their nature and the court complex?

⁴⁶ It is not the pendency of cases in itself, but delayed cases, which pose a problem to the judiciary. Although no mandatory timelines can be fixed for adjudication of cases, timeframes for disposal have been set as guidelines. As per the 245th Report of Law Commission of India, cases pending for more than 2 years can be considered to be ‘delayed’. See 245th Report of Law Commission of India Report, supra note 16.

Figure 4. Age brackets – Civil and criminal cases in different regions



A stark difference that can be seen in Figure 4 is the difference in the age of pending civil cases and criminal cases. Less than 40% of civil cases in all regions fall in the 0-2 year pendency bracket, while across all regions, the proportion of criminal cases pending in the 0–2 years bracket is far higher than any other age bracket. The data indicates that a significant proportion of cases pending before the subordinate judiciary are more than two years old, which shows that the Karnataka (Case Flow Management in Subordinate Courts) Rules, 2005,⁴⁷ are not adhered to by the courts.

Case Flow Management Rules (CFM Rules) were enacted by several High Courts in the country⁴⁸ based on the premise that the judiciary itself should take charge of the management of litigation, rather than the advocates or the litigants.⁴⁹ The CFM Rules for Karnataka prescribed a maximum time-limit of 24 months for the disposal of any suit/ proceeding before the civil courts and tribunals in the state. The data shows that this is breached more than followed. In fact, the staff interviews (detailed in Chapter 3) show that most people within the judiciary are not even aware of the

CFM Rules. This showcases the limitations of a top-down approach to case management wherein uniform timelines are prescribed for different case-types across various courts. Such measures are often detached from on-ground constraints (such as the number of judges in each cadre, nature of cases filed in the courts based on their jurisdiction, the staff strength, technological tools to assist judges, etc.) and therefore result in delays.

The endeavour in this Report is to bring to light facts based on a study of local data which can then be used to develop case management rules specific to each hierarchy within the court structure. For instance, data shows that with the exception of Anekal and Nelamangala that have 6% and 8% of their criminal cases pending for more than 10 years respectively, the other regions have less than 2% of their criminal cases in the same age bracket. Thus, the case management strategy for Anekal and Nelamangala Rural Courts must factor in these extremely delayed cases and ensure their expeditious disposal. From Figure 4, we can conclude that the age of civil and criminal pending cases vary across court complexes.



The next question for analysis is: whether there is a correlation between the age of pending cases with the cadre of judges before whom the cases are pending? Would cases before a civil judge remain pending for fewer or more days when compared to cases before a district judge? A look at the average civil and criminal pendency days in different courts throws light on this aspect.

⁴⁷ Karnataka (Case Flow Management in Subordinate Courts) Rules, 2005, available at <http://karnatakajudiciary.kar.nic.in/hcklibrary/PDF/Kar%20Case%20Flow%20Mant%20Rules.pdf> (last accessed on 10 March 2019).

⁴⁸ 17 states in the country have passed Case Flow Management Rules for subordinate courts based on the Model Rules that a committee appointed by the Supreme Court of India headed by Retd. Justice M Jagannadha Rao had recommended. See Case Flow Management Rules in India by DAKSH, March 2017, available at <http://www.dakshindia.org/wp-content/uploads/2015/11/Case-Flow-Management-Rules-in-India-by-DAKSH.pdf> (last accessed on 11 March 2019); Jagannadha Rao Committee Report can be accessed at http://lawcommissionofindia.nic.in/adr_conf/mayo%20rao%20case%20mngt%203.pdf (last accessed on 18 March 2019).

⁴⁹ Lord Woolf's Report on 'Case Management' cited in http://lawcommissionofindia.nic.in/adr_conf/mayo%20rao%20case%20mngt%203.pdf (last accessed on 5 February 2019).

Figure 5. Pendency days as per court establishment⁵⁰

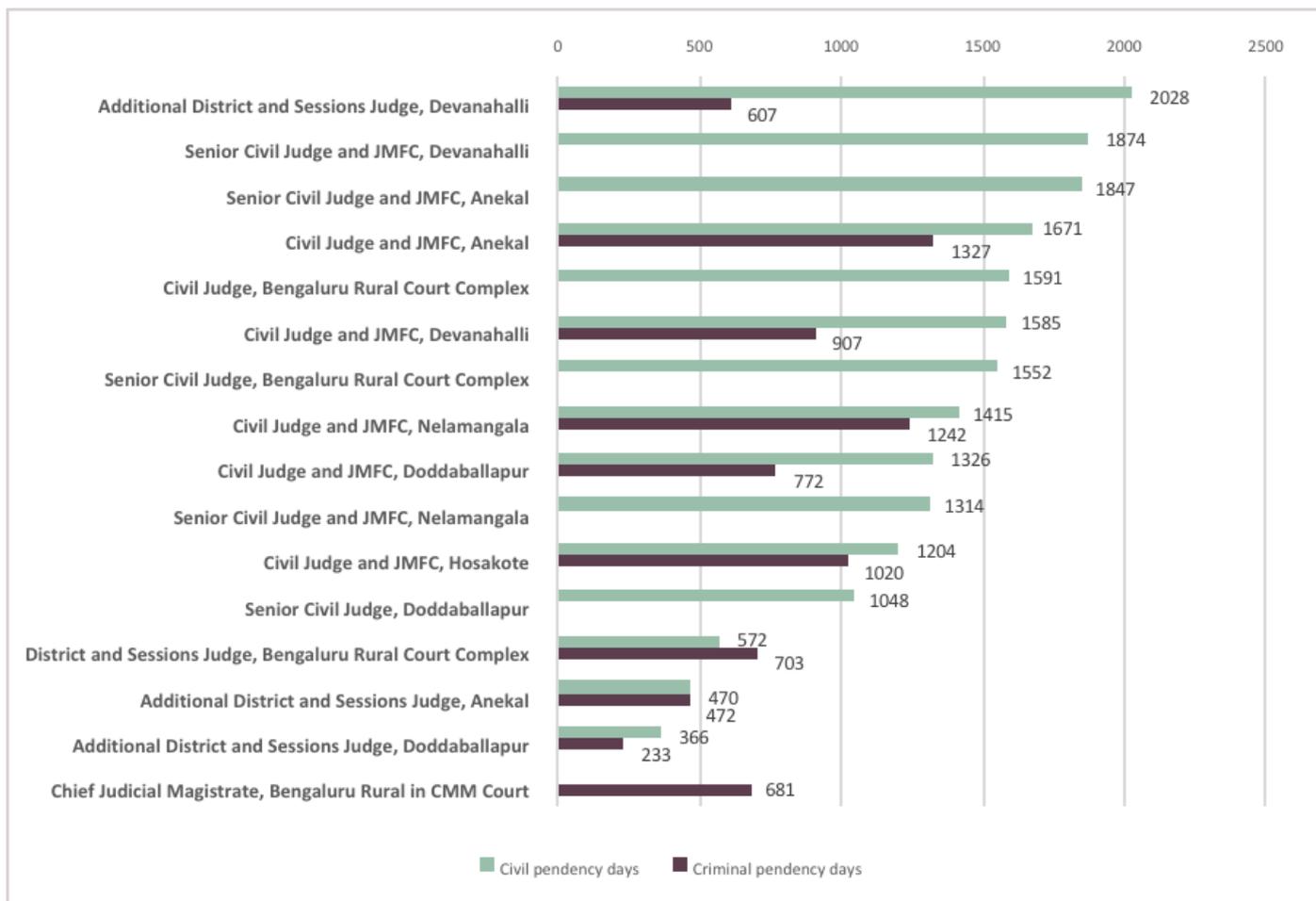


Figure 5 shows us the average pendency of cases in different court establishments. It can be seen that the court of the District and Sessions Judge in Devanahalli has civil cases pending for 2,028 days on an average (5.5 years), while other courts at the same cadre (in Anekal, Doddaballapur, and the courts in the Bengaluru Rural Court Complex) have civil cases pending for less than 572 days on an average (1.5 years). Similarly, it can be seen that the average pendency of civil cases across courts in Devanahalli are higher than the average pendency of civil cases across courts in Doddaballapur, Nelamangala, and Hosakote. Looking at the criminal cases, one can see that the average pendency for criminal cases is the highest at the cadre of the civil judge and JMFC, when compared with other cadres. It is also to be noted that even within the same cadre - JMFC - the pendency days varies from the lowest of 772 days in Doddaballapur to the highest of 1,327 days in Anekal. Therefore, litigants with the same nature of dispute may have very different experiences with the judiciary, depending on the court

establishment in which their case is filed or the judge before whom their case is listed.

The above analysis amply demonstrates that there is absolutely no uniformity in the manner in which the judiciary functions. A litigant’s experience with the court system is riddled with uncertainty and is extremely subjective - the outcome of a case might vary based on the court complex in which it is filed, and the judge before whom the matter is listed. Further, the litigant is blindsided as regards the procedural quagmire which results in her case being allocated before a certain judge while having absolutely no choice in the matter. For the very first time, these oft-cited concerns surrounding lack of transparency and consistency within the judiciary are supported by data.

The coming section looks at the extent to which different case-types remain pending at various stages in the life-cycle of cases.

⁵⁰Note 1: Court establishments include additional judges of the same cadre. For example, “Civil Judge and JMFC, Nelamangala” includes the Principal Civil Judge and JMFC, as well as the Additional Civil Judge and JMFC, in Nelamangala. Note 2: The average pendency provided in this figure has been calculated only for courts which have a sample of more than 100 civil/criminal pending cases.

Table 2: Percentage of cases pending at different stages - based on case type

A. Criminal Cases

Type: Criminal	Case Types	Stages	Percentage of cases
Criminal	Criminal Cases	Notice/Warrants/Summons	58%
Criminal	Criminal Misc. Cases	Notice/Warrants/Summons	44%
Criminal	Session Cases	Notice/Warrants/Summons	30%
Criminal	Private Complaints	Sworn Statement	31%
Criminal	Special Cases	Framing of Charges	44%
Criminal	Criminal Appeals	Arguments	66%
Criminal	Criminal Revision Petitions	Arguments	37%

B. Civil Cases

Type: Civil	Case Types	Stages	Percentage of cases
Civil	Execution Petition	Notice/Summons/LCR	57%
Civil	Land Acquisition Cases	Notice/Summons/LCR	54%
Civil	Regular Appeals	Notice/Summons/LCR	51%
Civil	Misc. Cases	Notice/Summons/LCR	47%
Civil	Final Decree Proceedings	Notice/Summons/LCR	44%
Civil	Misc. Appeals	Notice/Summons/LCR	43%
Civil	Original Suits	Notice/Summons/LCR	37%

Table 2 provides the percentage of cases pending at various stages. The seven civil case types shown in the table were all pending at the notice/summons/LCR stage, with execution petitions topping the list and having 57% of the cases pending at this stage. In criminal cases 44% of special cases were pending at the framing of charges stage, while 66% and 37% of criminal appeals and criminal revision petitions were pending at the arguments stage, respectively. The fact that majority of civil cases are pending at the stage of notice/summons/LCR, ties up with the concerns raised by process servers (persons in-charge of delivering court notices to parties to court proceedings). During the staff interviews, we were told that the process servers are paid a meagre Rs. 300 per month for travel expenses, which most definitely does not cover the expenditure involved in travelling all across the court’s jurisdiction. This coupled with the shortage in the number of process servers allocated to each court has directly resulted in several cases languishing at this preliminary stage. Appointing more process servers, increasing travel allowances, and enabling technology solutions to efficiently monitor the delivery of court summons and notices are some of the immediate measures to be taken in order to minimise the delay at this stage.

In the next figure, we explore the correlation between the police station limits within whose jurisdiction the case has been registered and the average pendency of criminal cases. This will be a starting point to explore the various factors such as the number of criminal cases, the number of police officers, the jurisdictional area of the police station, etc., which may affect the disposal time of cases.



Figure 6. Average pendency as per police station

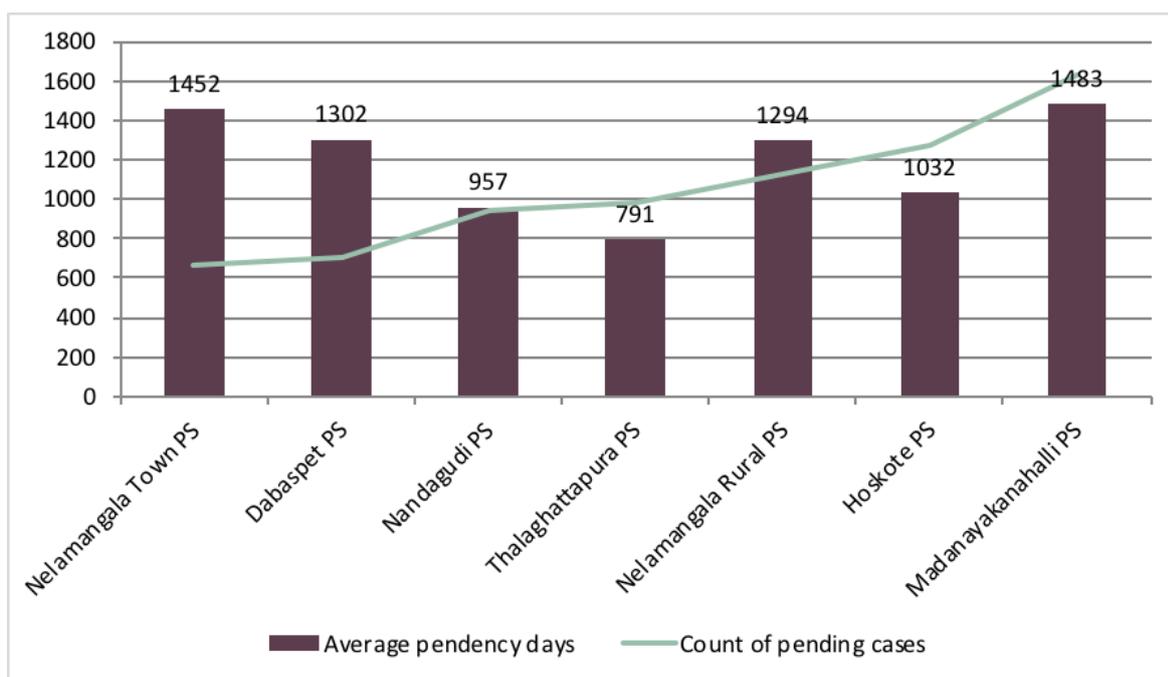
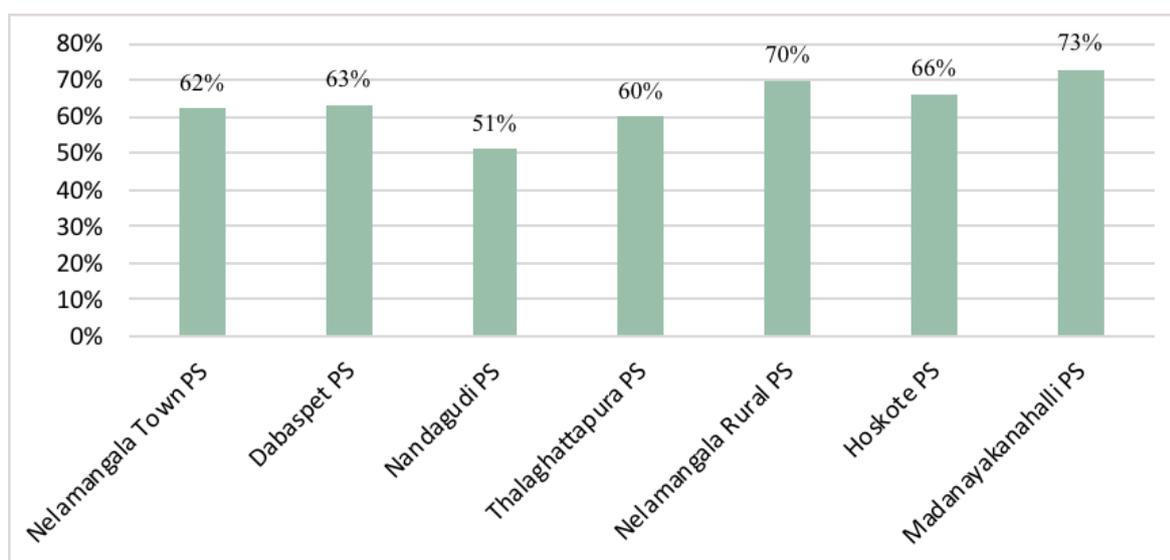


Figure 6 shows the average pendency of cases that were filed in the top 7 police stations with the highest number of pending cases in the Rural Courts.⁵¹ It is interesting to note that both the Nelamangala Rural and Nelamangala Town police stations feature in this list of police stations which have the highest number of pending criminal cases. Of these, cases pending

in the Nelamangala Town police station appear to remain pending for the longest amount of time with the average pendency being 1,452 days (3.9 years). An interesting point to note for pending cases from these police stations is that the highest proportion of these cases across all the police stations are pending at the ‘Notice/Warrants/Summons’ stage:

Figure 7. Proportion of cases pending at the ‘Notice/Summons/Warrants’ stage as per police station



We see that over 50% of pending cases from these police stations are pending at the notice/summons/warrants stage at the end of 2017, which again ties up with the issues concerning process servers and bailiffs.

⁵¹There are 127 police stations in the data set of pending cases. The Madanayakanahalli police station has the highest number of pending cases (1,633 cases), while several police stations have as low as 1 pending case.

Disposed

cases

A study of disposed cases helps in understanding the lifecycle of cases, how cases progress until their disposal, and how courts dealt with cases in their docket. Given the large number of pending cases in the subordinate judiciary, a question that must be asked is,



Are the courts able to dispose the number of cases being filed every year? Is the inflow (filing) of cases into the system every year lower than or higher than the outflow (disposal) of cases in that year?

Figures 8 and 9 show the number of civil and criminal cases filed and disposed in the years 2015, 2016, and 2017:

Figure 8: Civil cases filed and disposed in the Rural Courts (2015-2017)

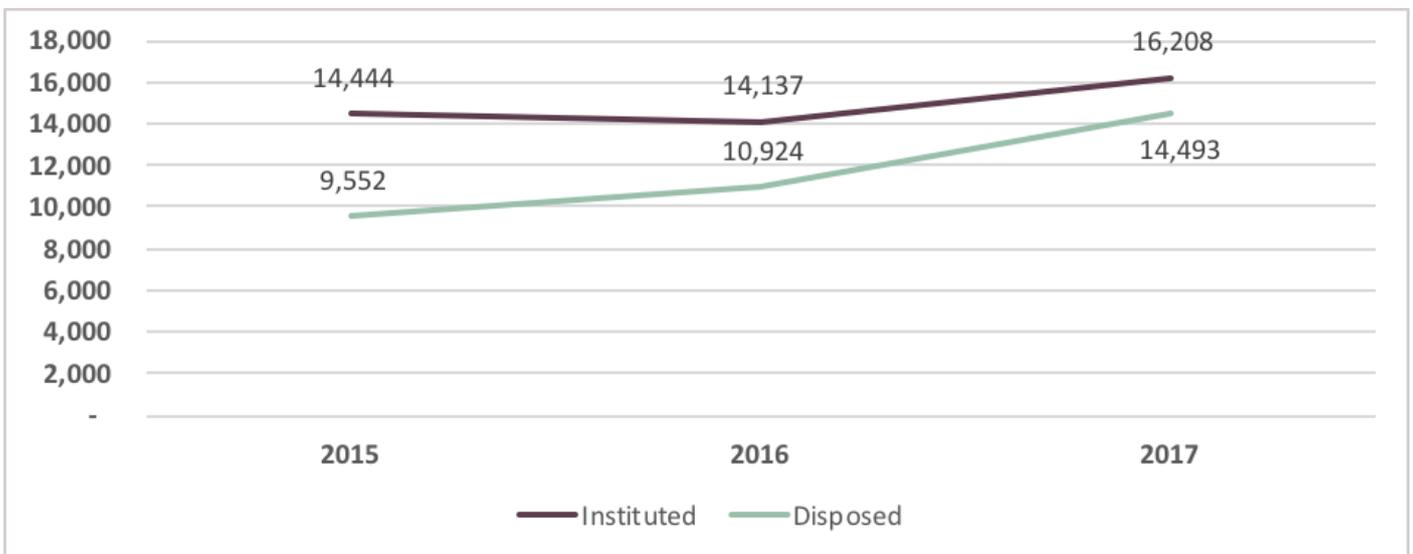


Figure 8 shows the number of civil cases filed and disposed at the end of 2015, 2016, and 2017. One can note a sharp increase in filings and disposals between 2016 and 2017. The number of cases disposed over the years has slowly increased as 14,493 civil cases were disposed in 2017, as opposed to 9,552 cases in 2015. However, in all the three years, the case clearance rate, i.e. the rate of the number of cases disposed given the number of cases filed in the year, has been less than 100%. One

of the indicators of an efficient court is to have a case clearance rate of 100% or more. A court must strive to dispose more cases than it has received in a given month or a year to ensure that cases do not get accumulated in the long run. If a court disposes more cases when compared to its filings, it would have a disposal percentage of more than 100%. However, in all three years the case clearance rate of civil cases has remained less than 100%, i.e. 66% in 2015, 77% in 2016, and 89% in 2017.

Figure 9: Criminal cases filed and disposed in Rural Courts (2015-2017)

Figure 9 shows the number of criminal cases filed and disposed at the end of 2015, 2016, and 2017. One can note that the number of criminal cases filed in the Rural Courts is much more than the number of civil cases. Similar to the trend observed for civil cases, even criminal cases have had an increase in filings and disposals in the past three years. However, the number of criminal cases disposed has been relatively low when compared to the number of criminal cases filed.

As the courts have been unable to dispose as many criminal cases as are filed in the years under consideration, the case clearance rate has been similar to civil cases and has not crossed 100%. The case clearance rate of criminal cases in 2015 was 89%, in 2016 was 84%, and in 2017 was 85%. To get a better understanding of the backlog being created over the years, Table 3 highlights the number of cases filed and disposed between 2015 and 2017 and the percentage of backlog that courts are creating.

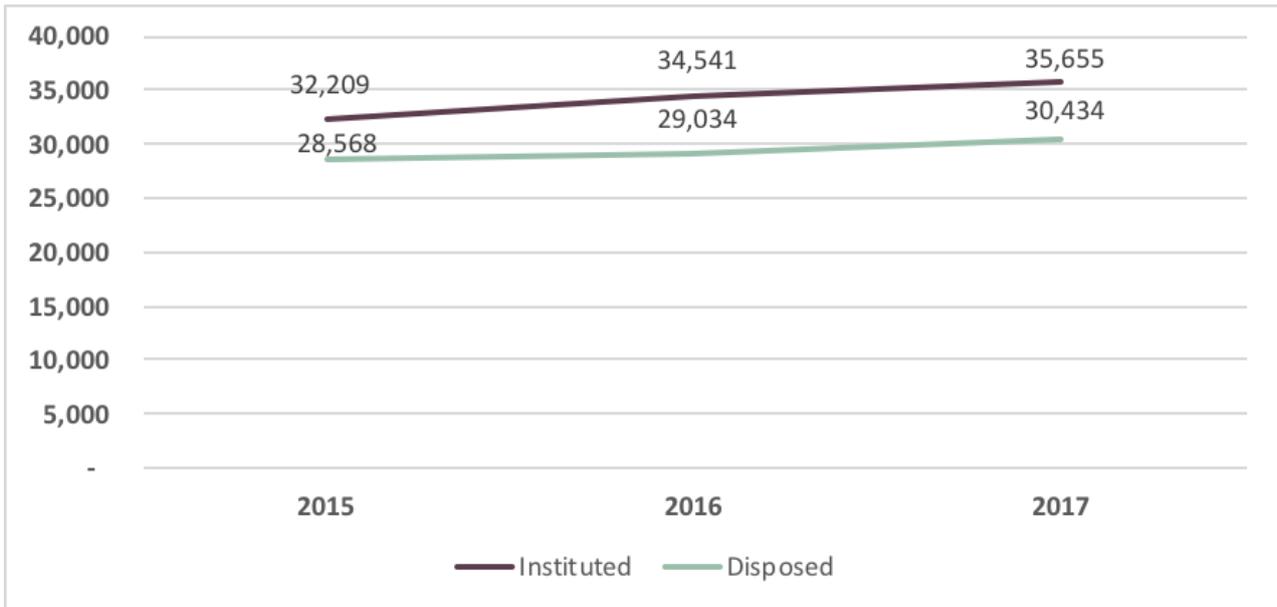


Table 3: Cases filed between 2015 and 2017

Civil Cases	Disposed in 2015	Disposed in 2016	Disposed in 2017	Pending % (as of 31 Dec. 2017)	Criminal Cases	Disposed in 2015	Disposed in 2016	Disposed in 2017	Pending % (as of 31 Dec. 2017)
Filed in 2015	15%	14%	8%	63%	Filed in 2015	69%	10%	4%	18%
Filed in 2016		11%	3%	76%	Filed in 2016		67%	9%	24%
Filed in 2017			10%	90%	Filed in 2017			67%	33%

Criminal cases perform better when compared to civil cases. As per Table 3, 15% of civil cases filed in 2015 were disposed in the same year, while 11% of civil cases filed in 2016 were disposed in the same year. One can note that the percentage over the years tends to decrease as 14% of cases filed in 2015 were disposed in 2016, and 8% of cases filed in 2015 were disposed in 2017. The trend is similar across different years. As of 31 December 2017, 63% of cases filed in 2015 remained pending while 76% of cases filed in 2016 remained pending.

Criminal cases have a much better performance as 69% of cases filed in 2015 were disposed in the same year. Even in 2016 and 2017, 67% of cases filed were disposed in the same year. As of 31 December 2017, 18% of cases filed in 2015 remained pending at the end of the year while 24% of cases filed in 2016 remained pending.

With a clearance rate less than 100% and an extremely low percentage of fresh civil cases being disposed, it can be concluded that most of the court's time and resources are being spent on handling the backlog from previous years. Courts need to avoid backlogs by adopting smart case-management techniques which apportion the court's time each day and through the year, such that there is significant reduction in delayed cases without compromising on the need for expeditious disposal of fresh filings.



Even distribution of cases or not?



Having analysed the cases filed, disposed, and pending across different years, we must explore whether there is an even distribution of cases filed and pending amongst various judges at the same cadre, so that no judge is overburdened with a large number of pending cases and fresh filings.

Figure 10: Cases allocated to different judges in Bengaluru Rural Court Complex

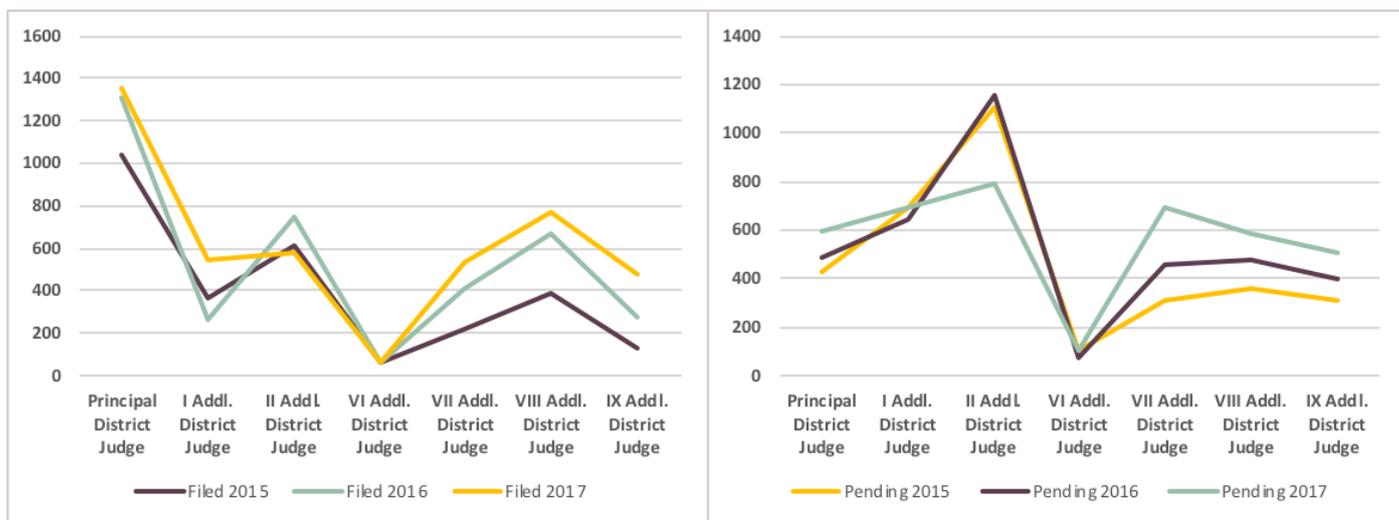


Figure 10 highlights the average number of cases filed (left) and the number of cases pending (right) with each of the District and Sessions Judges in the Bengaluru Rural Court Complex in the years 2015, 2016, and 2017. There appears to be no pattern in the distribution of cases between judges of the same cadre and the number of cases pending and filed. Courts with a high number of pending cases are getting more fresh filings. For example, the VI Additional District and Sessions Judge has the lowest number of pending cases in all the three years while also having the lowest number of fresh cases being allocated. Similarly, the II Additional District and Sessions Judge has the highest number of pending cases while continuing to have a high number of fresh cases being allocated. However, one of the reasons for the II Additional District and Sessions Judge having a high workload is the fact that it is the special court to hear all cases in the district under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and the Protection of Children from Sexual Offences Act, 2012. Figure 10 clearly shows that the current workload of the judge is not being taken into account while distributing the cases. Also, the number of fresh filings allocated to each judge seems to be far from being proportionate.



Allocation to different judges

Barring a few courts, a similar trend was observed in other cadres in the Rural Courts, wherein neither are the cases being distributed equally, nor is the existing workload of the judge being taken into account. If the workload allocation between judges is not evenly distributed, could this be a factor that affects the time take for disposal of cases? How long do cases in the Rural Courts take to be disposed?



From an analysis of the disposed cases, it was found that the average number of days to dispose cases in the district is 528 days (1.4 years). But does this vary if we look at the average days to dispose a case based on the subject matter and court complex?

Figure 11: Average days to disposal for civil and criminal cases in different regions

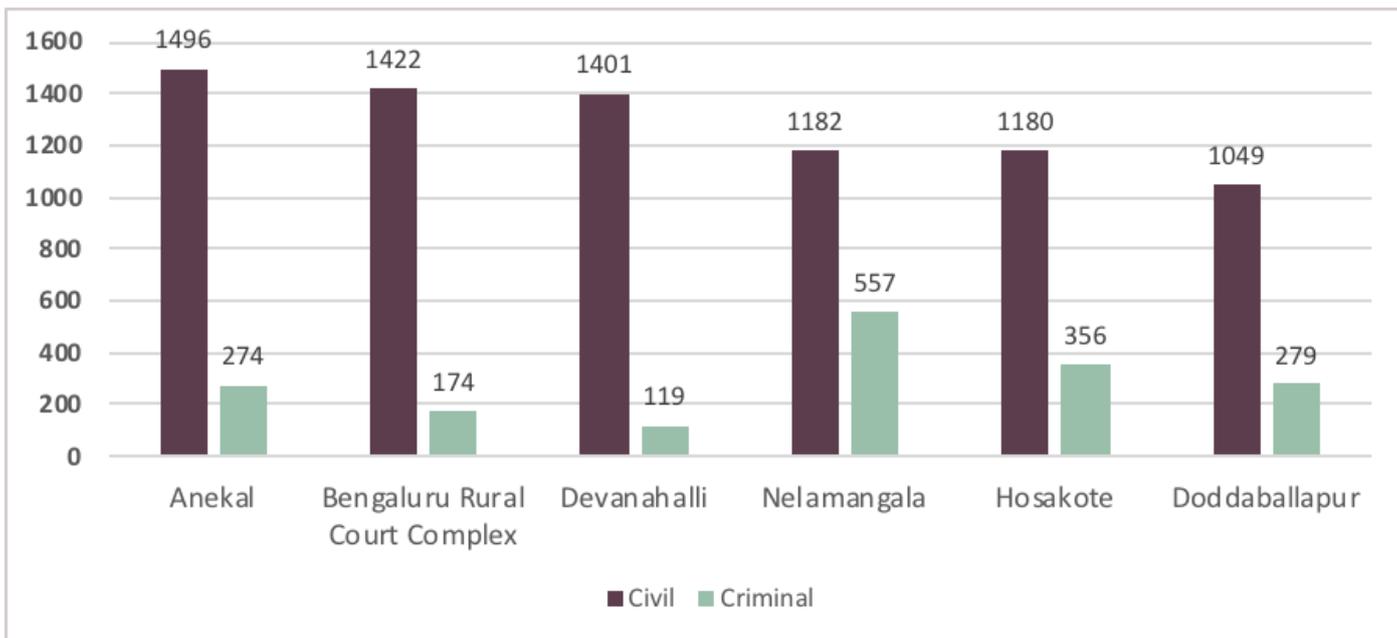


Figure 11 depicts the average number of days required to dispose civil and criminal cases in different court complexes. In civil cases, Anekal has the highest average of 1,496 days (4.1 years) and Doddaballapur has the lowest average of 1,049 days (2.9 years). One

can clearly note that across all the regions, criminal cases take fewer days to be disposed as compared to the civil cases with Nelamangala taking the highest average time of 557 days (1.5 years), while Devanahalli takes the lowest average time of 119 days.

Figure 12: Age brackets - cases disposed in Rural Courts

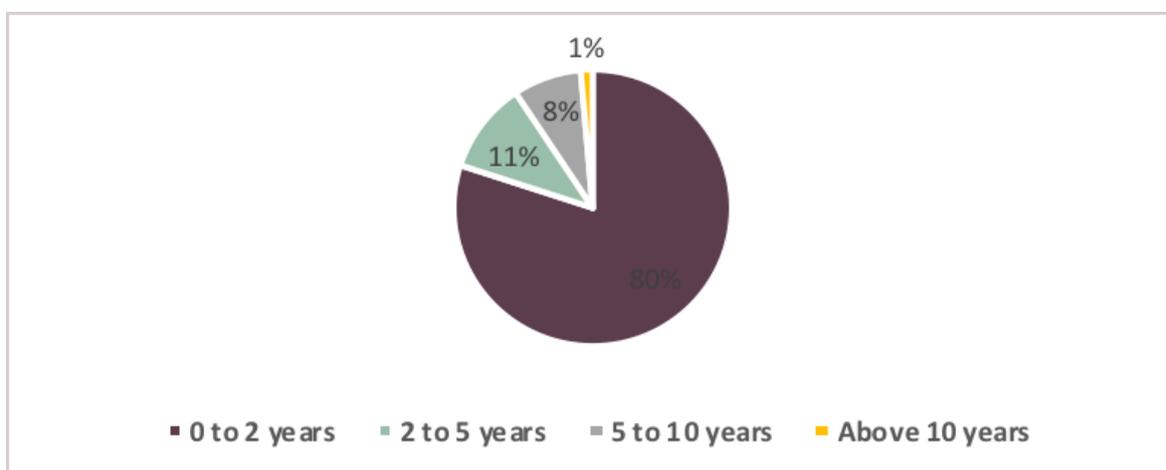


Figure 12 provides the number of cases disposed in different age brackets in the Rural Courts. One can note that 80% of cases tend to be disposed within 2 years of filing, and 11% of cases get disposed between 2 and 5

years. Hence, on an average, cases tend to be disposed within a span of 2 years, with a small percentage of cases taking a longer time to get disposed.



But does this vary if one were to look at the age of cases based on the nature of the case and the cadre of judges that handle the case?

Figure 13: Average disposal for different cadres - civil and criminal cases

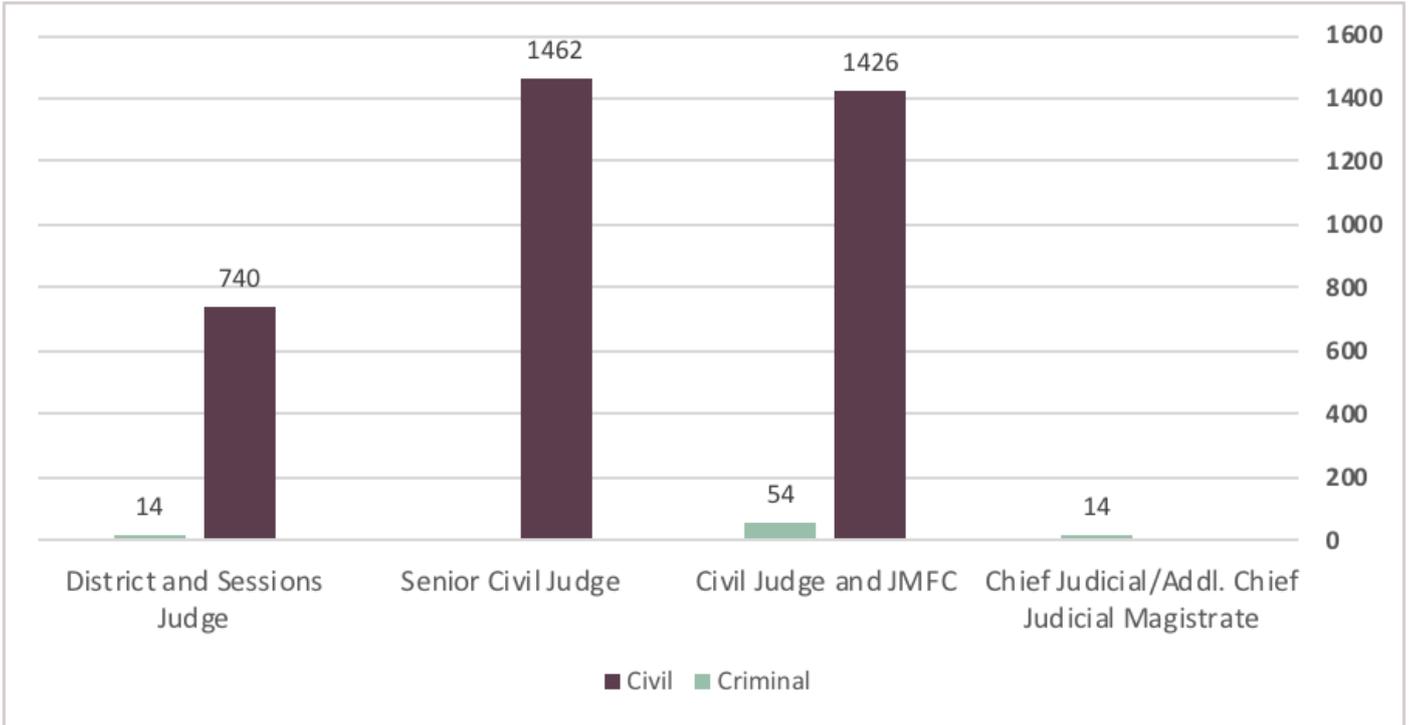


Figure 13 highlights the average disposal days amongst different cadres of judges in the Rural Courts. A cadre wise analysis helps in understanding the performance of judges at different hierarchical positions. For the purpose of this analysis, all the judges had to be bifurcated into four distinct cadres as shown in the figure. As observed in the previous trends, criminal cases have a lower average disposal days compared to civil cases. It is interesting to see that for civil cases, Senior Civil Judge and Civil Judge cum JMFC have a similar average of 1,462 days (4 years) and 1,426 days (3.9 years), respectively, while District and Sessions Judge is seen to have a much lesser disposal time of

740 days (2 years). As for criminal cases, the District and Sessions Judge and the CJM court have the same average disposal time of 14 days.

Being mindful of the difference in jurisdiction of different cadre of judges (as shown in chapter 1) and the nature of cases filed before them, it is interesting to note that there is no clear correlation between the seniority of judges and the average disposal time in their courts. However, to get a complete picture, the number of cases pending in the courts of different cadres of judges also needs to be taken into account to correctly assess a correlation, if any.



Figure 14: Average days to disposal in different court establishments ⁵²

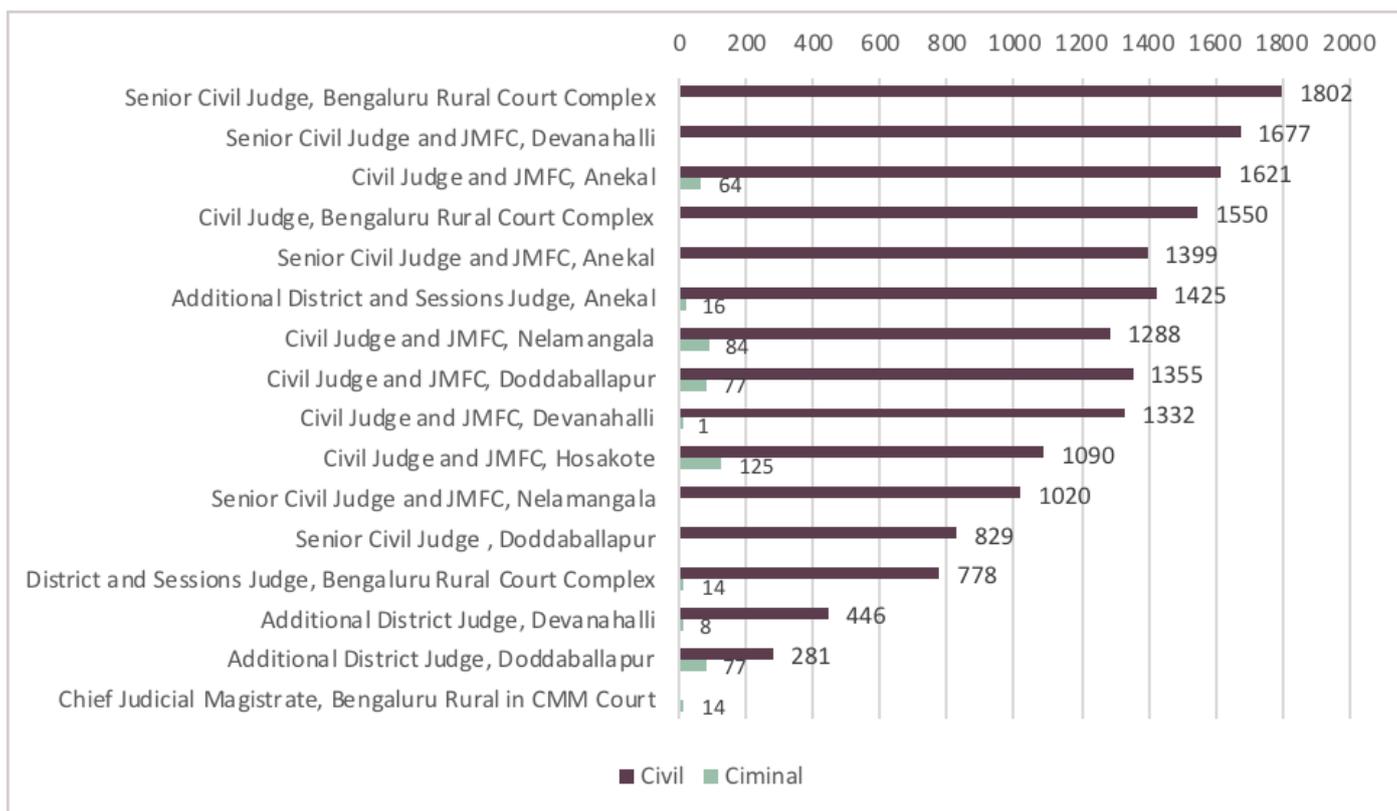


Figure 14 depicts the average disposal days for civil and criminal cases in various establishments of the Rural Courts. Senior Civil Judges located in the Bengaluru Rural Court Complex have the highest average disposal days for civil cases at 1,802 days (5 years), followed by Senior Civil Judge and JMFC in Devanahalli. For criminal cases, it can be seen that the average disposal days is low across all the cadres of judges. A deeper analysis of the data revealed that in a considerable percentage of criminal cases, the accused had pleaded guilty resulting in immediate disposal of cases. Further, cases such as drunken-driving (under the Motor Vehicles Act, 1988 read with the Indian Penal Code) and street offence and nuisance (under Section 92 of the Karnataka Police

Act, 1963) are disposed within a few days, resulting in lower average disposal days for criminal cases.

While interpreting Figure 14 one must keep in mind that lower average disposal days, does not automatically mean a well performing court. To get the complete picture, one must also look at the average pendency of cases. For instance, criminal cases in Chief Judicial Magistrates in the CMM court have an average disposal time of 14 days, however when compared with Figure 5, criminal cases in the same court have an average pendency of 681 days indicating that either the cases, such as the ones described above, tend to get disposed very quickly, or remain pending in the system for years.



As we now know the average days for disposal varies based on whether the cases are civil or criminal cases, would the number of days to dispose such cases similarly vary based on different case types?

⁵² Court establishments with more than 100 disposed cases in our dataset have been considered for this analysis.

Figure 15: Average days to disposal for different case types (Civil)

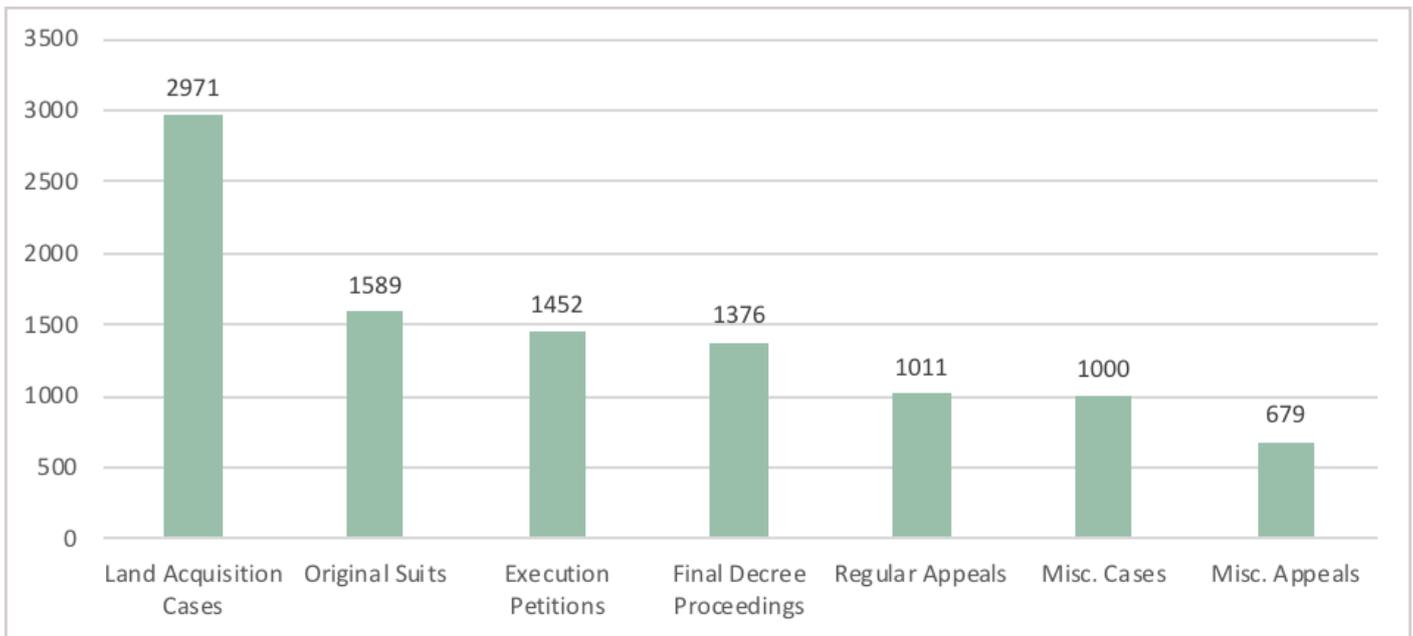


Figure 15 goes a step further in highlighting the average days to dispose cases for different case types. In Figure 15, the top 7 case types with the highest average days to disposal have been taken into consideration.⁵³ Land acquisition cases tend to take the most amount of time to get disposed with an average of 2,971 days (8.1 years), far longer than all other case types. Interestingly, Figure 2 had shown us that land acquisition cases also remain pending for the longest time when compared with other case types, thereby meaning that these cases take the longest amount of time to go through the judicial system.

Land acquisition cases are followed by original suit cases which take close to half the amount of time to be disposed, at an average of 1,589 days (4.3 years). Interestingly, execution petition cases take 1,452 days (3.9 years) to get disposed. One must note that execution cases are filed after the final judgment has already been provided by the court. To ensure that the judgment or decree of the court be duly executed, execution petitions are filed. Hence, the present figure suggests that even after battling the case for several years, parties still have to wait for roughly 4 more years to get the judgements in their favour executed.



⁵³ While taking the top 7 case types with the highest average disposal, only those case types that have more than 200 cases have been taken into consideration.

Figure 16: Average days to disposal for different case types (Criminal)

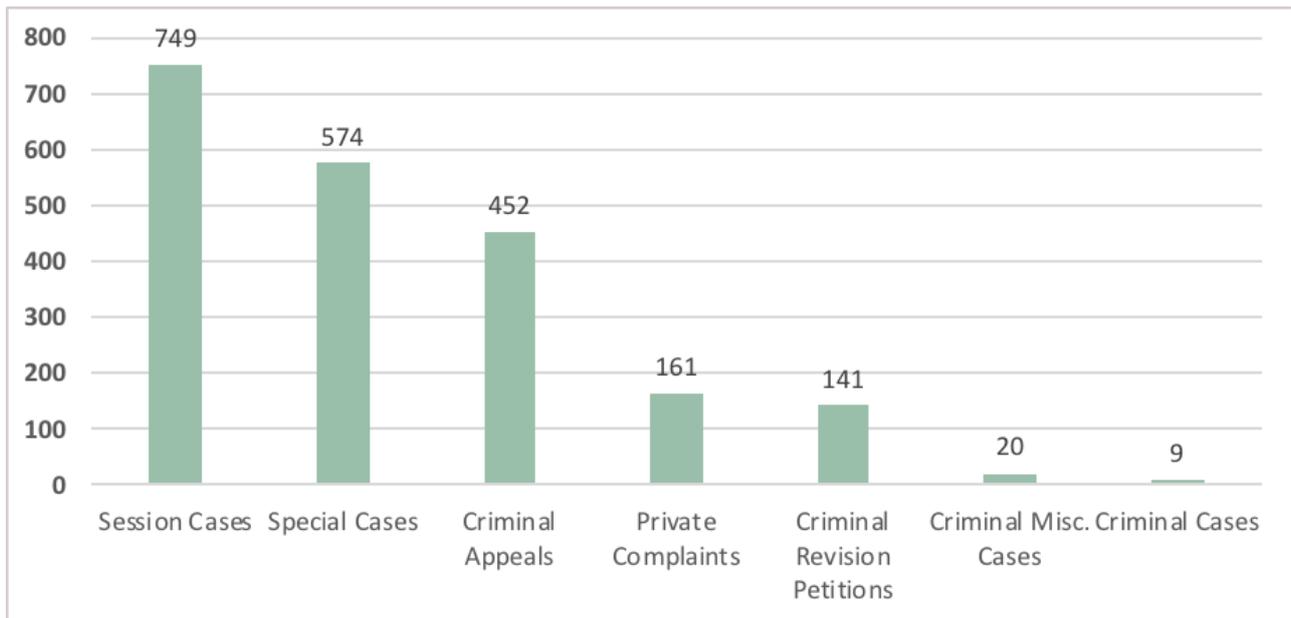


Figure 16 shows the average days to disposal for different criminal case types. Session cases tend to take the highest time to get disposed with an average of 749 days (2 years), followed by special cases and criminal appeals. Criminal miscellaneous cases that pertain to bail matters take the least time to be disposed at 20 days.

As per Figure 16, Criminal Cases take merely 9 days to be disposed, however as per Figure 2 they remain pending for the longest amount of time at 1,030 days (2.8 years). This shows that though the average disposal time is low, the average pendency of Criminal Cases is

comparatively higher. As per the data from e-courts, it was seen that the accused tends to plead guilty which results in quick disposal of cases, hence reducing the average days for disposal.

In order to get a granular understanding of how cases progress through the courts, it is imperative to analyse the hearings of cases to understand how many hearings there are in a case, how often cases are heard, and what stages the cases get stuck at. To begin with, let us turn to how many hearings there are in a case on an average.



Would the number of hearings in a case differ based on the nature of a case and the court region?



Figure 17: Average number of hearings per case (as per region)

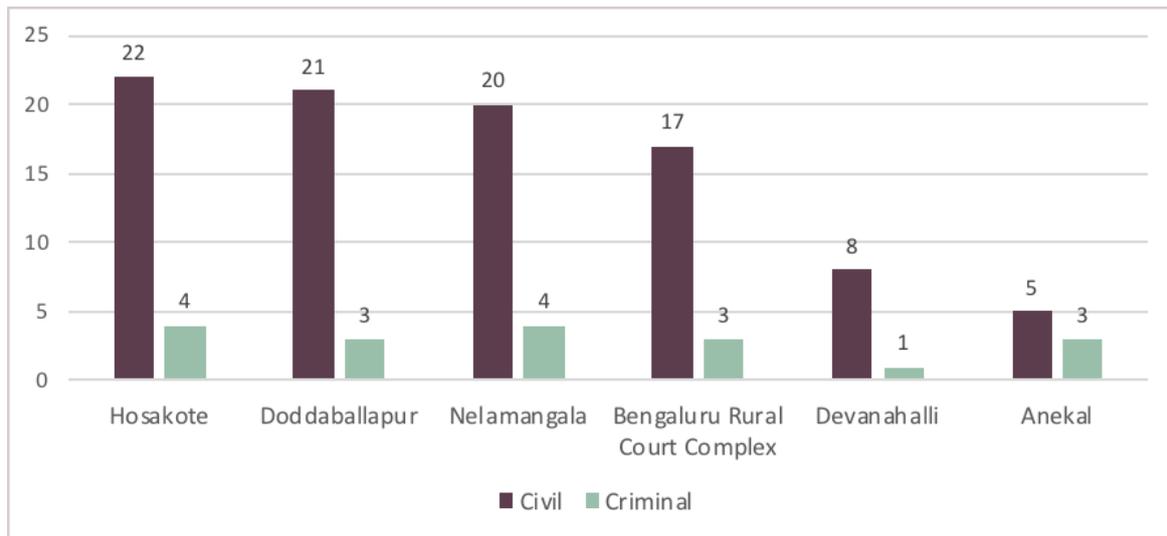


Figure 17 shows the average number of hearings for civil and criminal cases that have been disposed. It can be seen that the average number of hearings per case for civil cases varies widely from 22 in Hosakote to 5 in Anekal, depending on the court complex in which the case was disposed. Criminal cases in comparison, have a significantly lesser average number of hearings within the range of 1 to 4 hearings per case, indicating yet again that the time taken for disposal of criminal cases is considerably lesser. Anekal has the lowest average number of hearings for civil cases while Devanahalli has

the lowest average for criminal cases. In Devanahalli, the case type ‘Criminal Cases’ constitutes 75% of the total workload, with substantial percentage of them being cases of drunken-driving and street offences/nuisance, which as highlighted earlier, tend to get disposed quickly and in several instances within one hearing.

An interesting question to explore is whether fewer number of hearings per disposed case also means quicker disposal. Figure 18 shows us the average number of days between hearings:

Figure 18: Average days between hearings per case (per court complex)

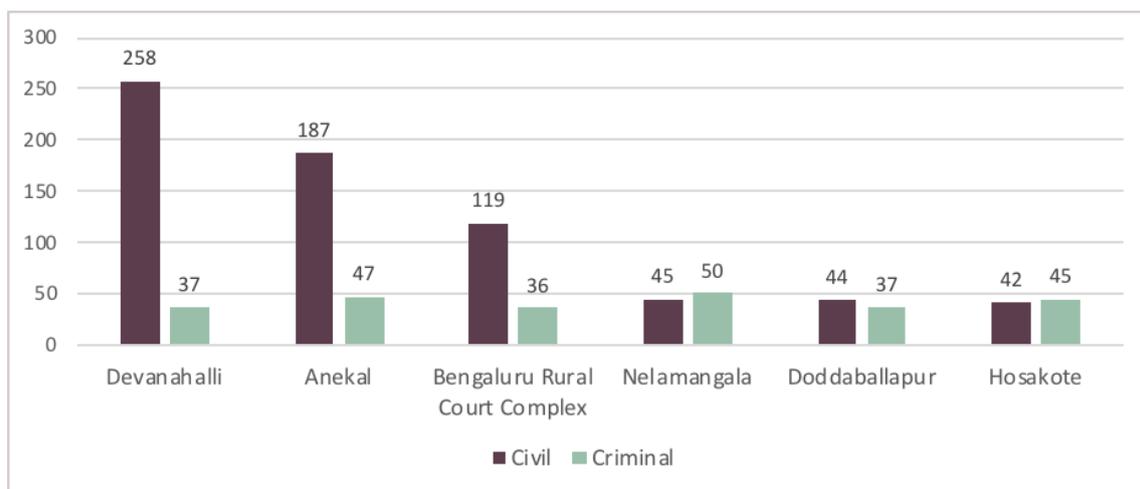


Figure 18 shows that most of the regions have a much higher average number of days between hearings for civil cases as compared to the criminal cases. Civil cases have 130 days between hearings on an average while criminal cases have 40 days. As per Figure 17, civil cases in Devanahalli have an average of 8 hearings per case, however, the days between each hearing is 258 days (8.6 months). Similarly, while civil cases in Anekal have the lowest average number of hearings per case, these cases have an average of 187 (6.2 months) days

between each hearing. Further, regions like Hosakote and Doddaballapur which have a higher number of hearings per case have fewer days between hearings and are heard more frequently. Therefore, it appears that regions which have fewer hearings per case are heard less frequently, and cases that have more hearings per case are heard more frequently. While it is hard to say which one of the two combinations is desirable, it is clear that lesser hearings per disposed case do not necessarily translate into faster disposal.

Figure 19: Top two nature of disposals for certain civil case types

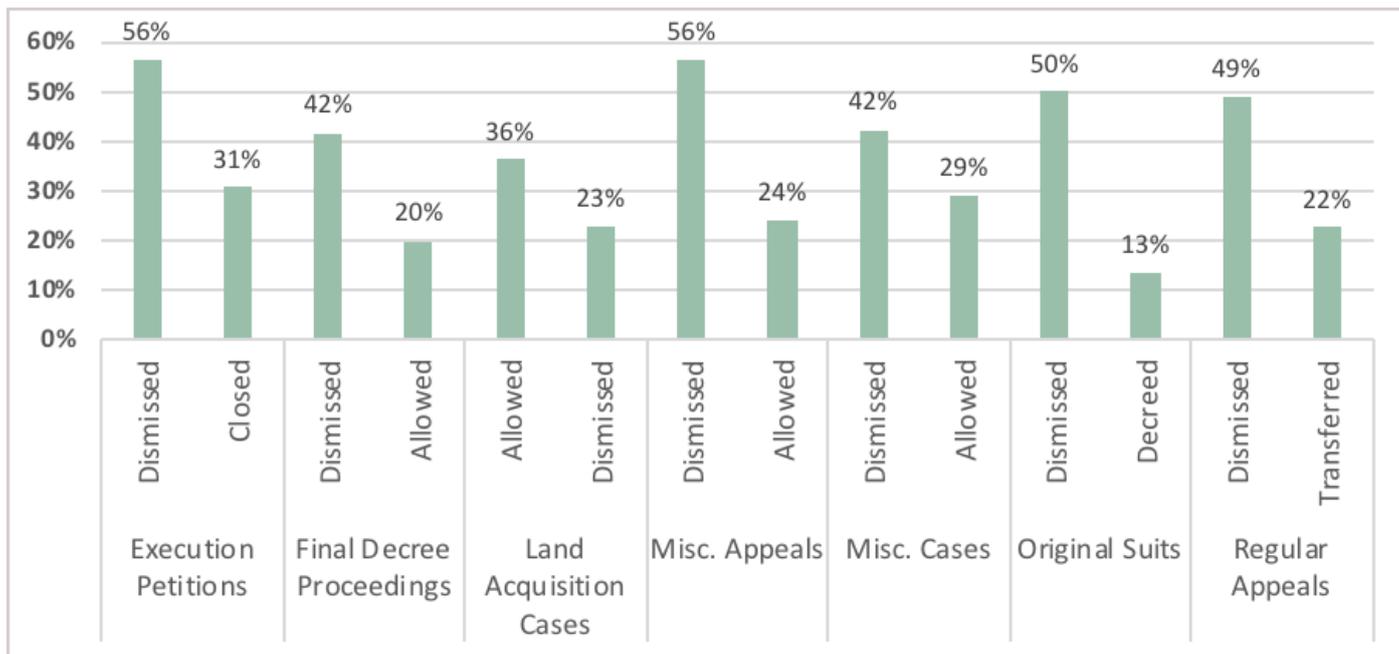


Figure 19 looks at the manner in which civil cases were disposed in the court. Top two outcomes in a case forming the majority for a particular case type have been chosen for this analysis. One of the most common nature of disposals across different civil case types is dismissal, which means that the court sees no merit in the plaintiff’s case. In execution petitions, miscellaneous appeals, and original suits, 50% or more cases tend to be

dismissed. Cases can be dismissed for several reasons, such as dismissed due to non-prosecution, dismissed in default, etc. While Figure 19 shows the percentage of cases with various nature of disposals, the next question that arises is what is the time taken to dispose these types of cases? Figure 20 looks at the average disposal days for cases with similar outcome.

Figure 20: Average days to dispose civil case types with similar nature of disposals

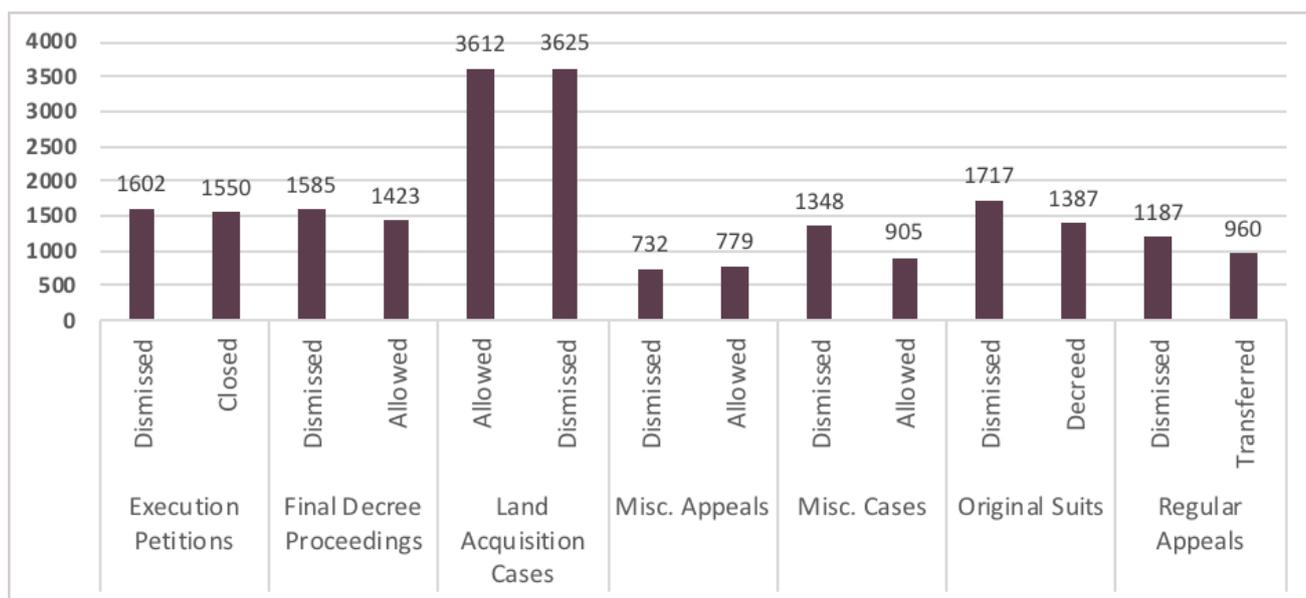


Figure 20 shows the time taken to dispose case types with similar outcomes. Land acquisition cases record the highest average time to dismiss cases with 3,625 days (approx. 10 years). Even execution petitions and original suits take a considerably long time to be dismissed at 1,602 days (4.3 years) and 1,717 days (4.7

years), respectively. This is far too much time taken to dismiss cases. Upon further analysis of overall civil cases that were dismissed, it was observed that courts took on an average 5 years to deal with cases that were dismissed for non-prosecution. The next two figures help us understand the nature of disposal in criminal cases:

Figure 21: Top two nature of disposals for certain criminal case types

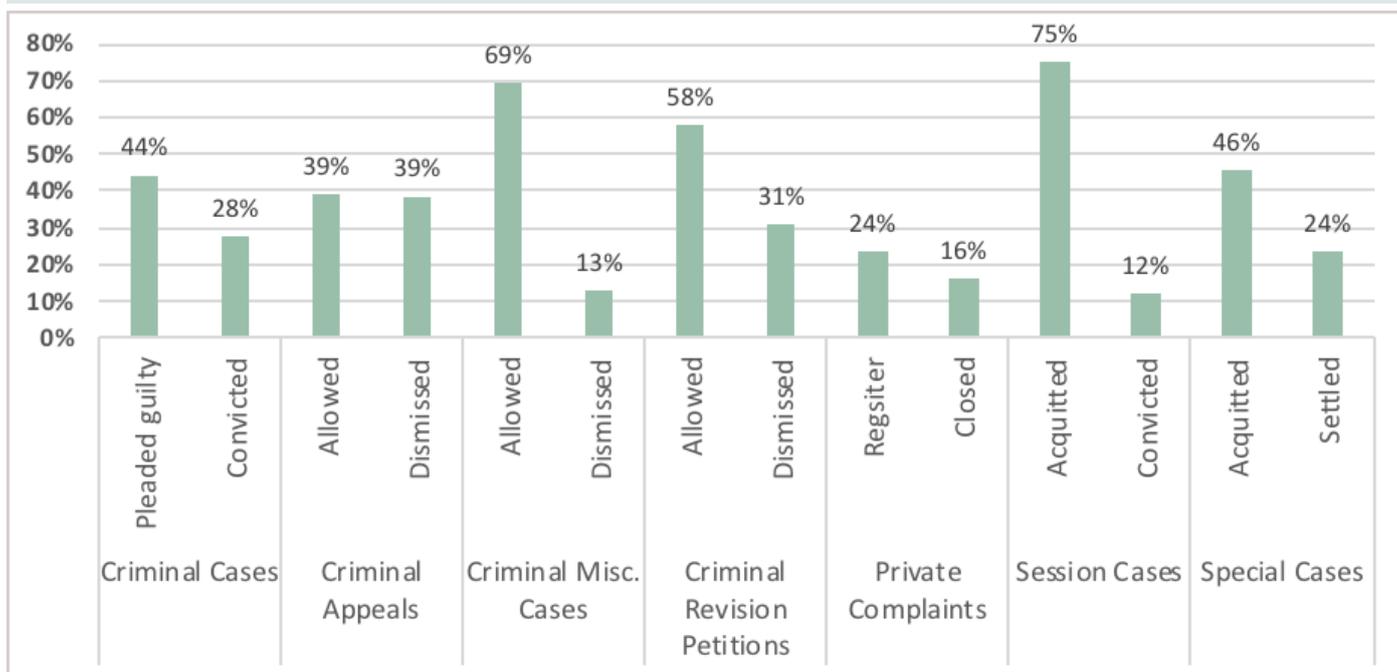


Figure 21 highlights the various nature of disposal/outcomes in criminal cases. It is interesting to note that 44% of cases in the case type ‘Criminal Cases’ tend to get disposed due to the accused pleading guilty. Also,

the percentage of acquittals in Session Cases is far more when compared to convictions. A similar pattern can be observed in Special Cases too.

Figure 22: Average days to dispose criminal case types with similar nature of disposals

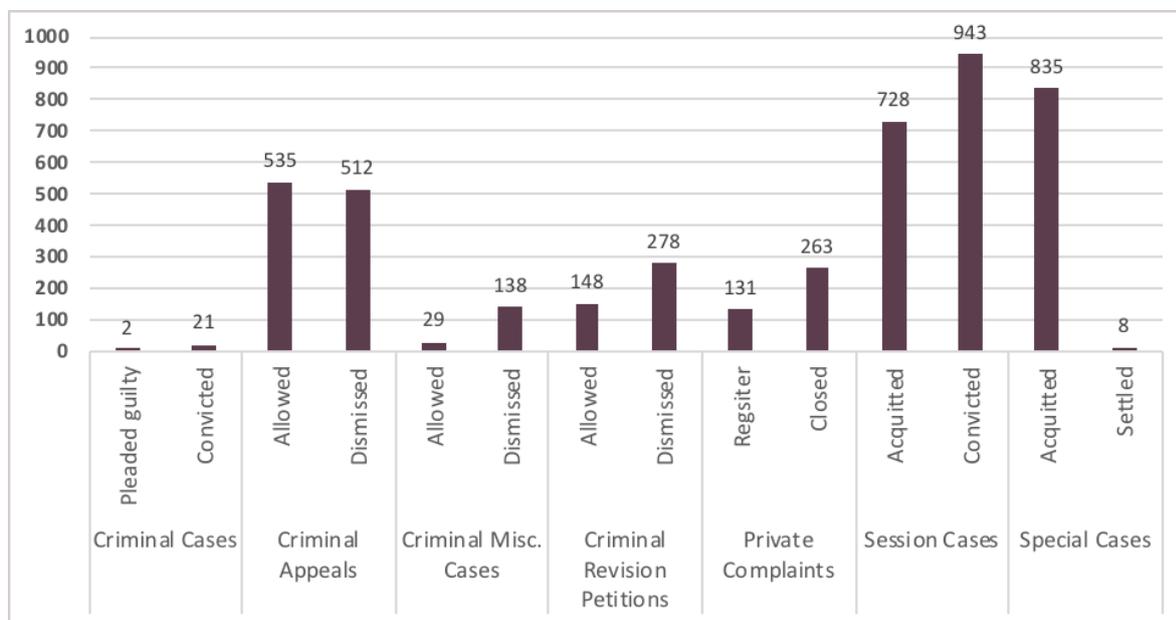
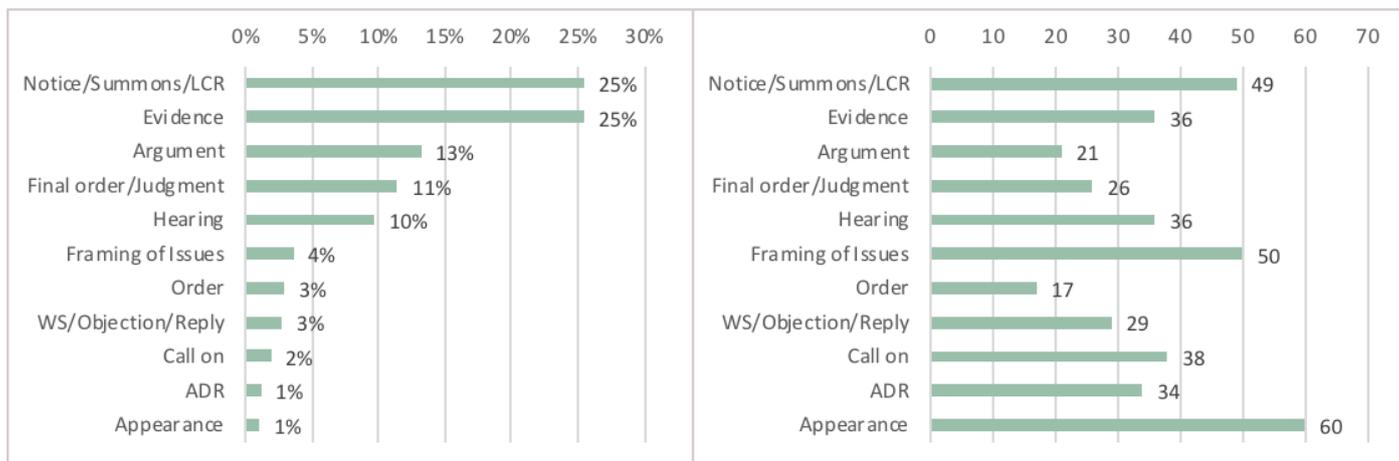


Figure 22 further shows the average days to dispose cases that resulted in similar outcomes. As one can clearly note, the average number of days taken to dispose cases under the case type ‘Criminal Cases’ in which the accused pleaded guilty is merely two days, while cases that resulted in conviction took an average of 21 days to get disposed. The low average disposal days for cases that resulted in conviction can be attributed to the type of cases that the courts were handling. A majority of these cases as mentioned earlier relate to drunk-driving under the Motor Vehicles Act, 1988 read with

Indian Penal Code, 1860 and street offences/nuisance under the Karnataka Police Act, 1963. These are petty offences, and thus get disposed within a very short span of time. Session Cases that resulted in acquittal take an average of 728 days (1.9 years) to get disposed, while cases that resulted in conviction take an average of 943 days (2.5 years).

In order to understand which stage/s in the life-cycle of a case contributes to the delay in disposal, Figure 23 gives the relevant insight:

Figure 23: Percentage of hearings in civil cases (left) and average days taken between hearings at different stages (right)

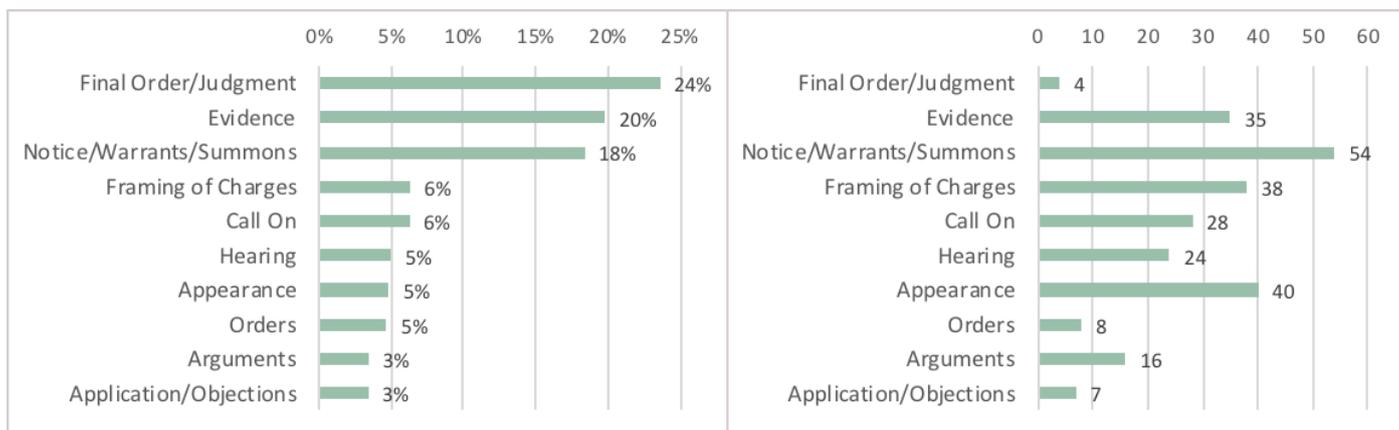


Note 1: 2% of hearings have not been considered for this analysis as the stage of the case for that hearing could not be determined.
Note 2: 'LCR' refers to lower court records, 'WS' refers to written statement, and 'ADR' refers to alternate dispute resolution.

Figure 23 depicts the percentage of hearings for different stages in civil cases (left) and the average days between hearings at a particular stage (right). Notice/summons/calling lower case records and the evidence stage has the highest percentage of hearings. If one were to look at the lifecycle of a case, these two stages occupy 50% of the hearings in a case.

The average number of days between each hearing denotes the average days it takes between two hearings at each stage. For instance, average days spent between hearings for notice/summons/LCR stage is 49 days while the evidence stage takes 36 days between each of the hearings.

Figure 24: Percentage of hearings in criminal cases (left) and average days taken between hearings at different stages (right)

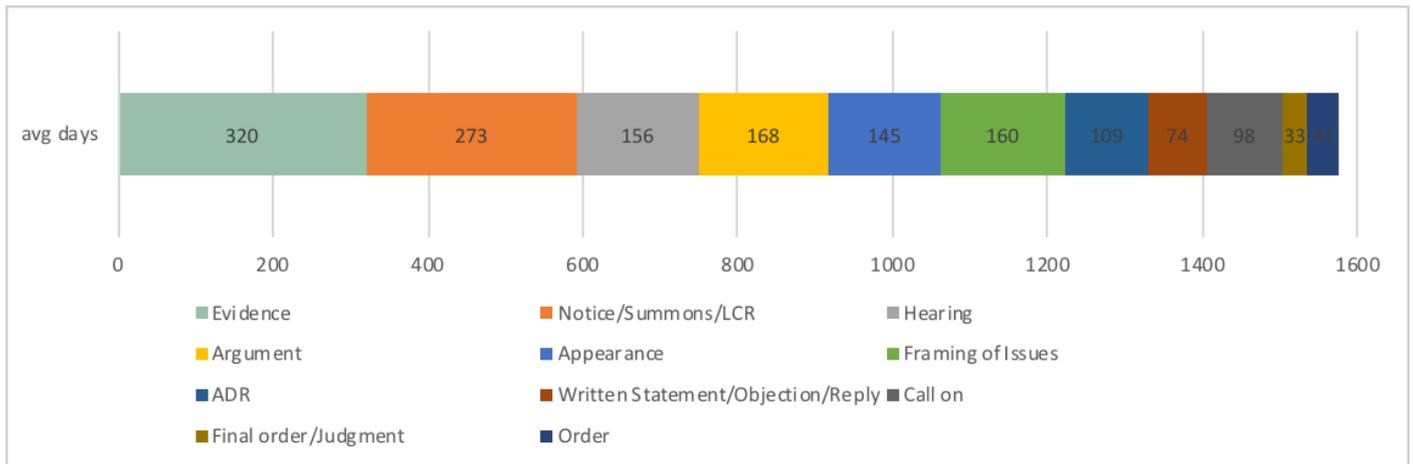


Note: 5% of hearings have not been considered for this analysis as the stage of the case for that hearing could not be determined.

Figure 24 highlights the percentage of hearings for different stages in criminal cases (left) and the average number of days taken between hearings in a particular stage (right). Unlike civil cases, the final order/judgment stage has the highest percentage of hearings in criminal

cases, followed by evidence and then notice/summons/warrants stage. However, in terms of the days between hearings, the notice/summons/warrants stage has the highest average number of days between hearings with an average span of 54 days.

Figure 25: Average days taken per stage in the lifecycle of civil cases



Note: 2% of hearings have not been considered for this analysis as the stage of the case for that hearing could not be determined.

Figure 25 depicts the average number of days spent on each stage in the lifecycle of civil cases. It is important to note that not all cases go through each of the stages. Hence, while carrying out the analysis, an average has been calculated by taking into account the cases that go through a specific stage. As per Figure 25, 320 days are spent on the evidence stage in the

lifecycle of a case. Even the notice/summons/LCR stage occupies an important position as 273 days are spent on it. Spending such a long time at this stage is of significance as it means that it takes over one year for something as simple as getting a party or witness to appear before the court, or for the court to receive records from a lower court.

Figure 26: Average days taken per stage in the lifecycle of criminal cases

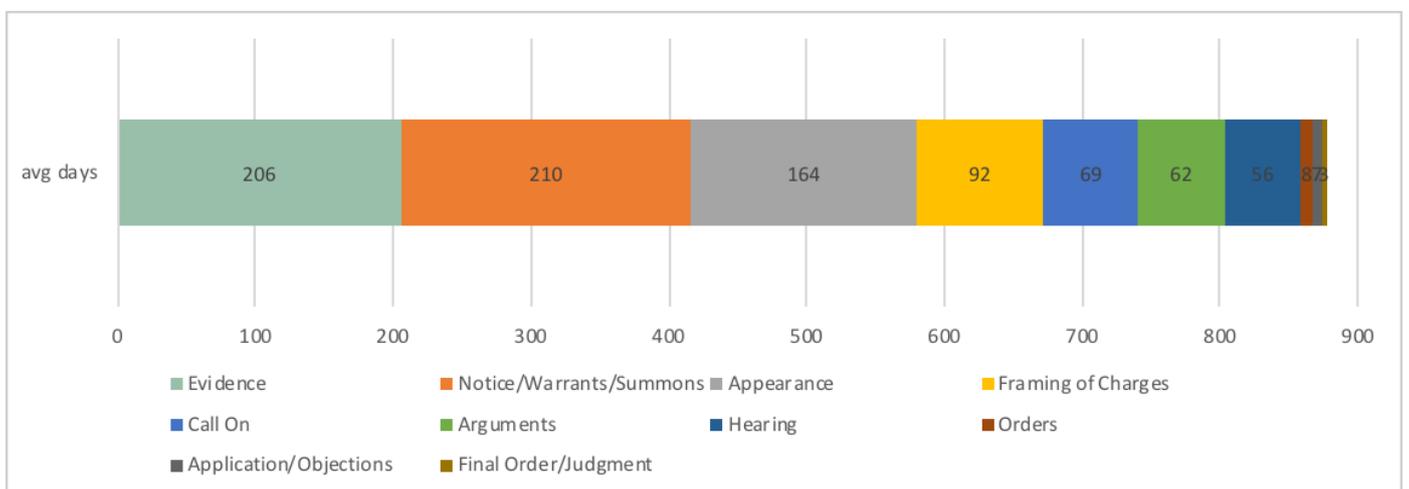


Figure 26 shows the average number of days taken for each of the stages in the lifecycle of criminal cases. The pattern between civil and criminal cases seems to be similar. The evidence stage and the notice/warrants/summons stage take the most amount of time at 206 days and 210 days respectively. Identifying crucial stages and the amount of time being spent on them is important as judges need to ensure that cases do not get stuck in the system by making conscious effort to take cases beyond such traditional pain points in the life-cycle of cases. It is important

that cases move from one stage to another within reasonable periods in order to ensure timely disposal.

The above analyses have provided us an understanding of how cases progress based on their subject matter, case type, the court complex in which they are filed etc. However, to understand how judicial time is spent in handling cases in their docket, it is imperative that we look at specific courts and analyse their day to day listing and hearing practices.



Analysis of Data

from the time and motion study

A time and motion study was conducted in five courts across four different Rural Court complexes with an objective to analyse how cases are heard in the court on a day-to-day basis. This study was carried out to gather first-hand data as to the manner in which “judicial time” is spent in court halls. To get a holistic view, it was important to select a mix of civil and criminal cases in different jurisdictions.

Hence, the five courts chosen for the study were:

- Additional District and Sessions Judge, Anekal
- Chief Judicial Magistrate, Bengaluru Rural in CMM Court
- Additional District and Sessions Judge, Bengaluru Rural Court Complex
- Additional Senior Civil Judge, Bengaluru Rural Court Complex
- Principal Civil Judge and JMFC, Nelamangala

Barring the Chief Judicial Magistrate and the Additional Senior Civil Judge in the Bengaluru Rural Court Complex, the rest of the courts dealt with both civil and criminal cases.

Methodology

The study commenced on 23 July 2018 and went on till 14 August 2018.⁵⁴ Two volunteers were assigned to each court hall to record the number of minutes spent per case, number of cases listed, stage of cases, etc. A template was prepared for the volunteers based on which the data was collected. The format of the template can

be seen in Annexure 4. To ensure the quality of data collected, a training session was conducted for all the volunteers associated with the time and motion study. To maintain quality and uniformity, data collected and entered by the volunteers was monitored by the researchers.

The data collected through the study has been used to gain insights into the following:

- The number of cases listed per day and the stages at which they were listed;
- The number of cases heard per day; and
- The number of hours spent by a judge in the court hall.

All court-halls in the Rural Courts have their time in court divided into two rounds- 1st round and 2nd round. During the 1st round, all cases listed before a court-hall are called out by the ‘bench clerk’ as per a ‘cause list’ prepared for each day. The parties or advocates who have a case listed on the said day have to mark their presence and briefly submit what their expectations from the court that day are. In the 2nd round, only such cases that are ‘passed over’ for substantive hearings, are called out again before the court. For the purposes of this study, volunteers were expected to record the time spent in both the rounds to get a measure of total time spent on a case in a day. The time spent on a particular hearing would be noted down simultaneously by two volunteers to reduce the possibility of any erroneous recordings.

At the end of the day, the data collected by the volunteers would be entered into an online template created for the study. After the completion of the study, the data entered by all the volunteers was collated and analysed.

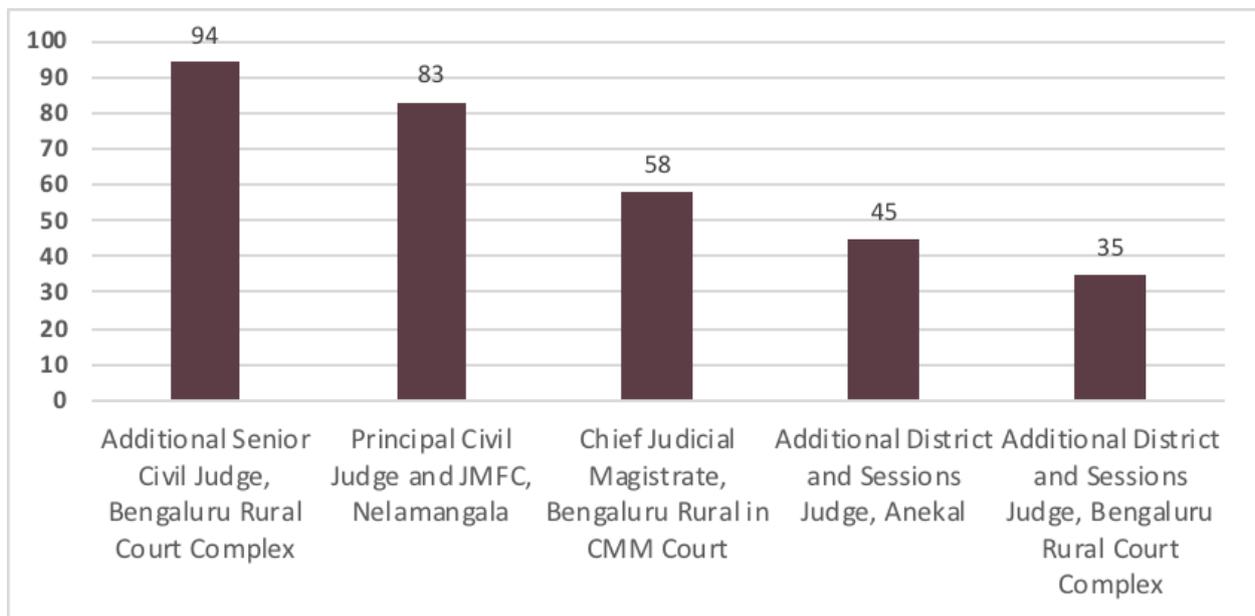
⁵⁴ The number of working days varies for different courts due to the absence of judges on some days. Nonetheless, the minimum period of data collection from all the courts was 14 working days. In certain courts, the data was collected for 16 working days.

Analysis

A thorough analysis of the data collected from the time and motion study reveals unexplored aspects of the functioning of the court and the manner in which

cases are handled. Figure 27 shows the average number of cases listed in different courts.

Figure 27: Average number of cases listed per day



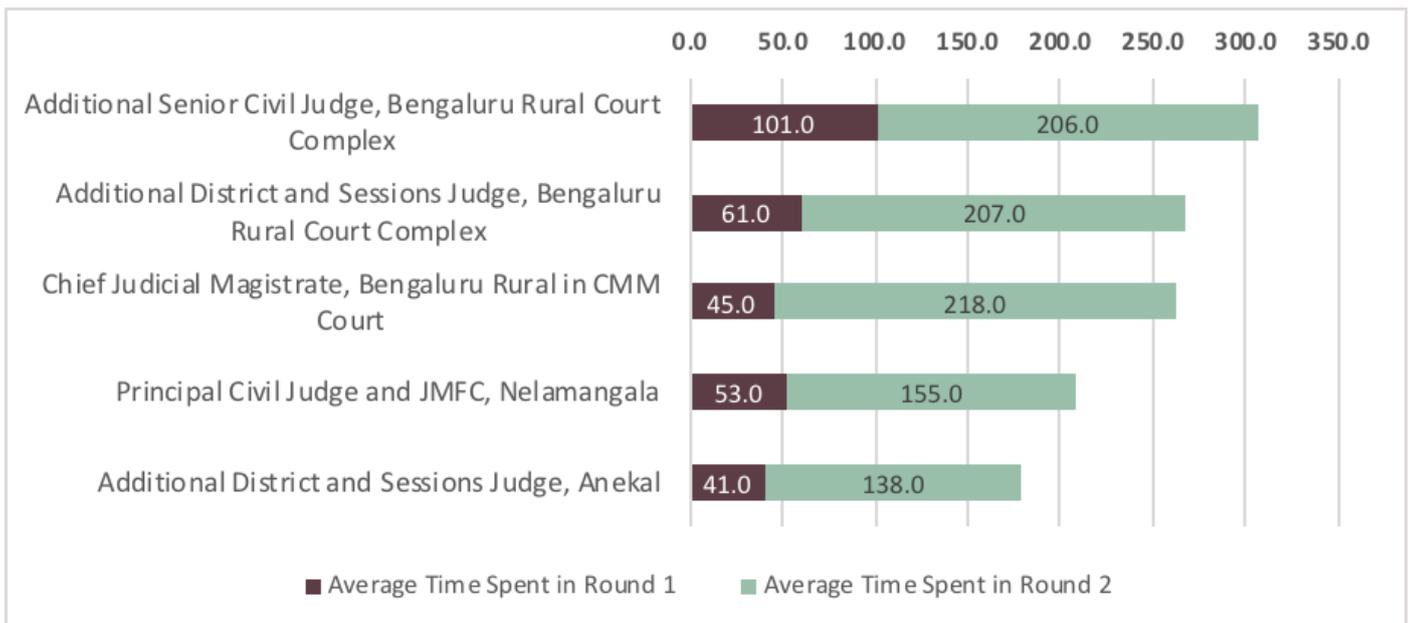
Additional Senior Civil Judge in the Bengaluru Rural Court Complex has the highest number of cases listed per day in comparison to the rest of the judges,

followed closely by Principal Civil Judge and JMFC in the Nelamangala complex. The District and Sessions judges however tend to list fewer cases.



If all courts hear cases for the same number of hours in a day but some courts list over 90 cases while some courts list about 35 cases per day, does it mean that courts which list fewer cases bear each case for a longer amount of time?

Figure 28: Total average time (in minutes) spent in round 1 and round 2



The Rural Courts begin hearing cases at 11 am and go on till 5 pm. Figure 28 highlights the average time spent by the judges in hearing cases through the day in the 1st and 2nd rounds, excluding the 60 minutes lunch break in the afternoon. The study showed that the Additional Senior Civil Judge in the Bengaluru

Rural Court Complex hears cases for the most amount of time overall as compared to the other courts, while the Chief Judicial Magistrate spends the most amount of time in the 2nd round when compared to the rest of the courts.

Figure 29: Average time (in minutes) spent on each hearing in round 1 and round 2

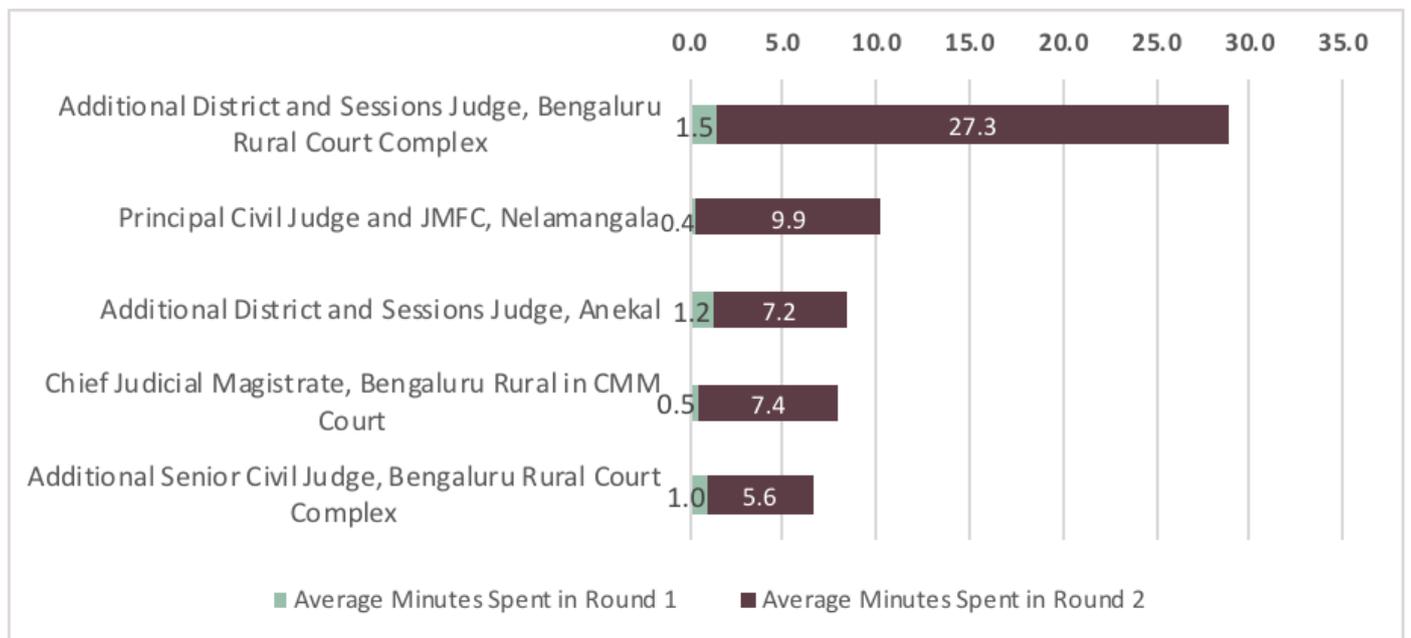


Figure 29 looks at the time spent on each of the hearings in the court. Since the 1st round is mostly for taking attendance, the average time spent on each hearing is very low in comparison to the 2nd round where the cases are substantively heard. Additional

District and Sessions Judge in the Bengaluru Rural Court Complex spends an average of 27.3 minutes per case in the 2nd round, while the Additional Senior Civil Judge in the Bengaluru Rural Court Complex spends an average of 5.6 minutes per case.

Figure 30: Comparing cases listed per day and time spent per hearing

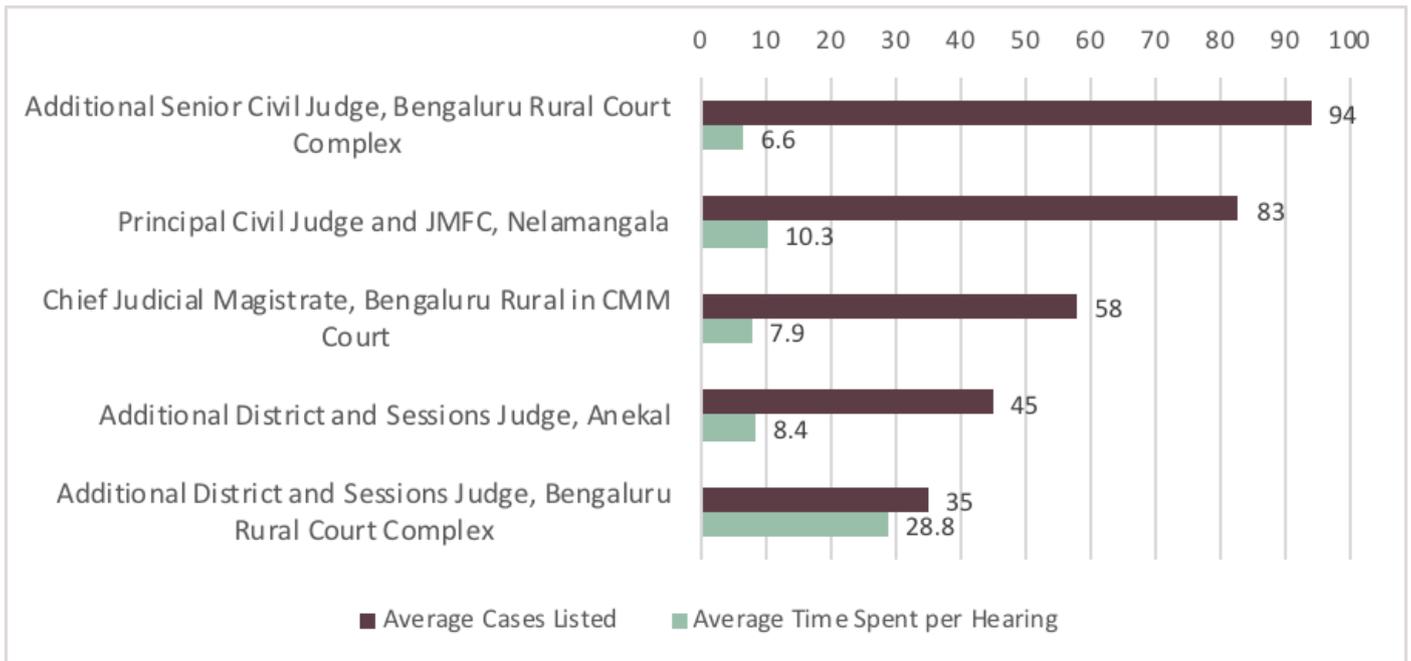
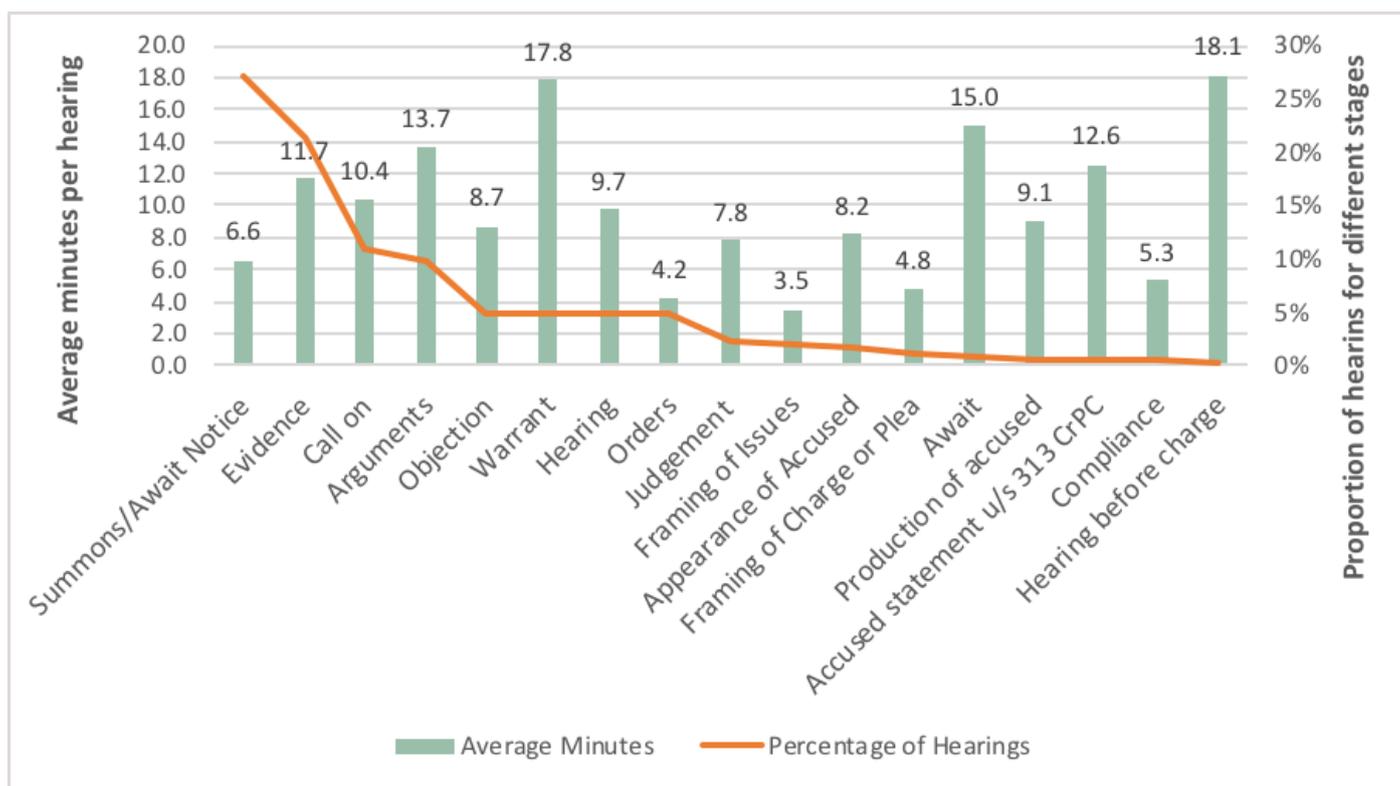


Figure 30 compares the average number of cases listed in the court with the average time (in minutes) spent per hearing in a day. The overall trend suggests that when more cases are listed per day, the time spent per case decreases. For instance, Additional Senior Civil Judge in the Bengaluru Rural Court Complex lists the most number of cases in comparison to other courts, and spends the least amount of time per case. However, the Additional District and Sessions Judge in the Bengaluru Rural Court Complex lists the least number of cases and is able to spend more time per case. Listing a high number of cases tends to become problematic

as judges are not able to spend enough time on each case. Hence, several cases tend to be adjourned which prolongs the life-cycle of a case. Listing an adequate and optimum number of cases is important as judges will be able to spend more time per hearing, resulting in lesser adjournments.

As we know from Figures 23 and 24 that cases have the most number of hearings at the stages of summons/notice and evidence, it would be interesting to note how much judicial time is spent on a case at these stages on a daily basis.

Figure 31: Average time spent (in minutes) on hearings per stage and the percentage of hearings at each stage



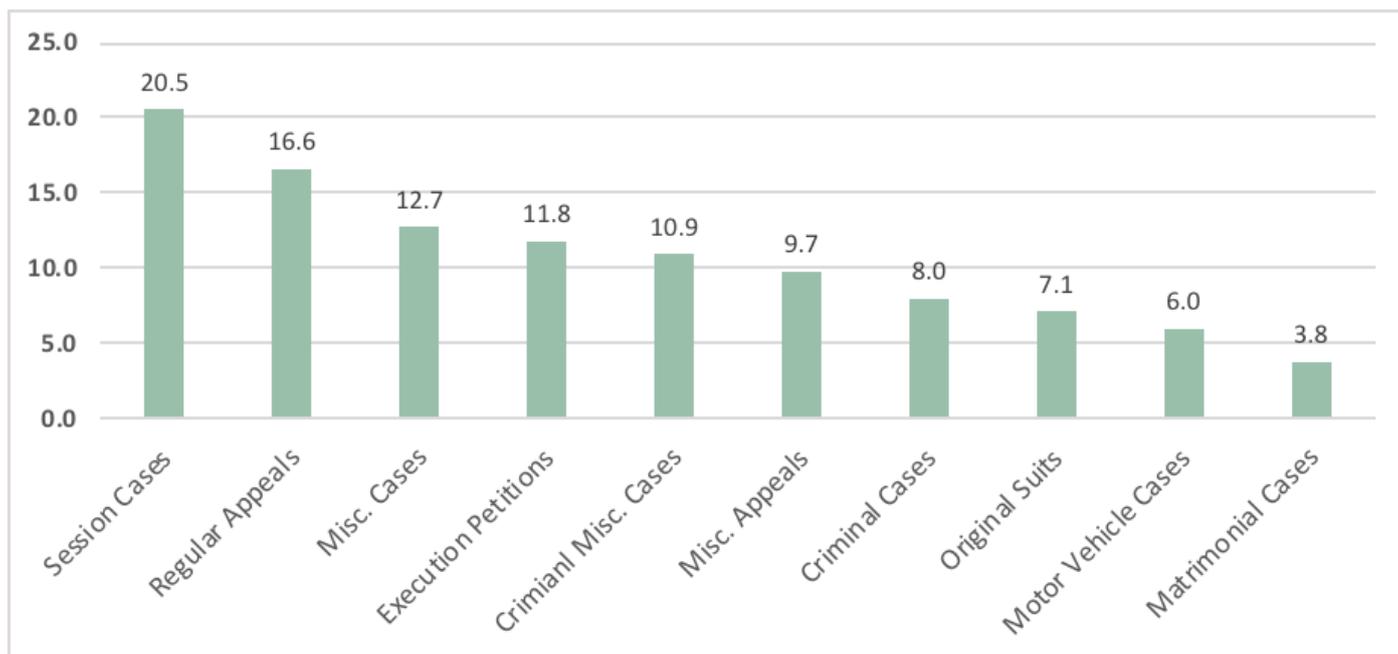
Note: For the purpose of this analysis, only those cases that went through both the rounds have been taken into consideration. The top 17 stages with most number of hearing counts in the sample have been taken into consideration. The figure includes both civil and criminal cases

Figure 31 outlines the time (in minutes) spent per stage at different hearings. The blue bar indicates the average minutes spent by courts at different stages and the orange line indicates the percentage of hearings for each stage in the time and motion study. Hence, one can note that summons/notice stage has the highest

proportion of hearings (27%), however on an average 6.6 minutes are spent on each of the hearings at this stage. Time spent on the 'hearing before charge' stage and warrant is the highest with 18.1 minutes and 17.8 minutes per hearing, respectively.



Figure 32: Average time spent per hearing for different case types



Note: For the purpose of this analysis, only those cases that went through both the rounds have been taken into consideration. The top 10 case types with most number of hearing counts in the sample have been taken into consideration.

Figure 32 depicts the average time (in minutes) spent on hearings of different case types. Session Cases tops the chart with an average of 20.5 minutes spent on each hearing of such cases by the courts. Despite having judges hearing Session Cases for a long time in each hearing, and having heard these cases more number of times than other cases, Session Cases were found to have the highest days to disposal as per Figure 16. Further, courts spend an average of 16.6 minutes on Regular Appeals and 12.7 minutes

on Miscellaneous Cases.

The time spent on different case types and stages helps in identifying the average time that judges spend on different hearings. While creating the cause list for a day, judges can consider the average time spent on certain stages and case types and accordingly list the cases to optimise judicial time and ensure that cases are heard effectively.

Chapter 03

COURT ADMINISTRATION



Court

Administration

Court staff provide administrative support for judges in carrying out the judicial and administrative functions necessary for the smooth running of the courts. While judicial functions are limited to adjudicating cases and efficient case management, administrative functions encompass a plethora of activities including but not limited to case-load management, organisation and scheduling, communication, general efficiency and delay minimisation in the back-end operations of the courts.

A recent report analysing data in 27 Brazilian State Courts for 10 years found a direct correlation between the number of court staff and court productivity, meaning that an increase in court staff led to a corresponding increase in court efficiency⁵⁵ This was attributed to the fact that an increase in the number of court staff assisting judges reduced the administrative burden on the latter, thereby improving their working conditions and allowing them to concentrate primarily on their chief duty i.e., adjudication of cases. Filling staff vacancies has hardly attracted the attention it



deserves. In Karnataka, this is particularly the case since the recruitment process itself is excessively complicated, leading to every recruitment cycle not only being long drawn but also adding to the existing systemic inefficiencies. The section below gives an overview of the issues plaguing the often ignored administrative side of judicial functioning in the state.

⁵⁵ Adalmir de Oliveira Gomes, Tomas de Aquino Guimaraes, and Luiz Akutsu, “The Relationship between Judicial Staff and Court Performance: Evidence from Brazilian State Courts”, 2016 Vol. 8(1) International Journal for Court Administration, available at <https://www.iacajournal.org/articles/abstract/10.18352/ijca.214/> (last accessed on 27 February 2019).



As is clear from Table 4, currently, the KPSC and the Principal District Judge are involved in the recruitment of court staff in Karnataka's District Courts. It is an anomalous situation that the KPSC, an executive body, has been tasked with the mandate of appointing the FDAs and SDAs for the judiciary. The only other state to have adopted this method of recruitment is Tamil Nadu. All other states have designated the District and Sessions Judge as the appointing authority for administrative staff, aided by a selection or recruitment committee comprising of other judges.⁵⁶ In the latter system, there is an organic division between the High Courts and District Courts on the different category of staff posts to be appointed.

The current recruitment method in Karnataka has several disadvantages. The uncoordinated recruitment processes are not aligned to the needs of the judiciary since the KPSC as an examination conducting authority has a combined mandate and a single process for the recruitment of staff for both the executive and the judiciary. This not only leads to delays, but also a lack of clarity for the applicants since they get staffed either in the executive or the judiciary based on their performance and vacancies. Our interviews with the

court staff revealed that even though the applicants are asked for their preference, their ultimate appointment does not reflect their choice.

Further, the KPSC, an executive body, is in-charge of appointments of FDAs and SDAs, who are critical for the smooth functioning of the judicial administration. Few are aware of this disconnect in the recruitment of court staff, resulting in the court bearing the brunt of criticism for the appointment of unsuitable candidates or for delays in filling of vacancies. This creates an unfair perception about the judiciary in the mind of the common man.

This disconnect in appointing authorities also creates a lack of cohesion among the staff and perhaps, even divided loyalties.⁵⁷ Hence, it is critical that the power of appointment of administrative staff be transferred to the judiciary itself. To this end, it is recommended that the Karnataka state government make necessary amendments to the relevant laws, and a separate body called the Recruitment Committee be created at the High Court level to be solely responsible for the recruitment of administrative staff, as well as to standardise the process and make it more transparent.

⁵⁶ For instance, see the Assam District and Sessions Judges Establishment (Ministerial) Service Rules, 1987, available at <http://barpetajudiciary.gov.in/data/Miscellaneous/DJ%20Est%20service%20rules.pdf> (last accessed on 5 February 2019); Jammu and Kashmir Ministerial Staff of the Subordinate Courts (Recruitment and Conditions of Service Rules) 2016 http://jkh-ighcourt.nic.in/cir_old/dc-servicerules.pdf (last accessed on 5 February 2019); Uttar Pradesh District Court Service Rules, 2013 http://www.allahabadhighcourt.in/rules/UPStateDCServiceRules2013_04-07-2018.pdf (last accessed on 5 February 2019); Orissa District and Subordinate Courts' Non-Judicial Staff Services (Method of Recruitment and Conditions of Service) Rules, 2008 http://lawodisha.gov.in/files/acts/act_31399416_1433843246.pdf (last accessed on 5 February 2019).

⁵⁷ Wayne Martin, "Court Administration and the Judiciary – Partners in the Delivery of Justice", International (2014) Vol. 6(2), Journal for Court Administration, available at <https://www.iacajournal.org/articles/10.18352/ijca.158/galley/151/download/> (last accessed on 27 February 2019).

Insights from staff interviews

In our quest to better understand the working conditions of the court staff, the researchers interviewed 51 court staff working across six different Rural Court complexes. The following are the findings from an aggregation of the interview responses.

Staff shortage

Of the 51 staff members who were interviewed, over 88% felt that there was an acute shortage of staff members. Due to the inadequacy of staff, more than 60.78% of the staff had no choice but to undertake more than one role with no additional remuneration being paid.

The current method for fixing the number of staff necessary for the smooth running of courts is one that has neither been codified nor made public. Therefore, it is uncertain as to what the criteria and rationale for fixing the number of court staff is, and whether it is done in a scientific manner.



Nonetheless, the following data analysis based on the sanctioned staff strength in the Rural Courts, amply illustrates the critical nature of the staff vacancy issue discussed above. Currently, the Rural Courts across all six court complexes have been allotted a total of 975 staff posts. As per data released on 5 May 2018, only 410 staff positions have been filled, meaning that these courts are functioning with a deficit of 57.94%.

Table 5: Staff vacancies

Sl. No.	Posts	Sanctioned Strength	Working Strength	Vacancy	Vacancy Percentage
1	Peons	176	32	144	82%
2	Attenders	94	25	69	73%
3	Stenographers	91	27	64	70%
4	Process Servers	116	49	67	58%
5	Typists	99	42	57	58%
6	FDA	137	71	66	48%
7	Judgment Writers	11	6	5	45%
8	Bailiffs	54	33	21	39%
9	SDA	113	75	38	34%
10	Shirestedars	49	36	13	27%
11	Typists – Copyists	30	23	7	23%

Note: During interviews with staff members, it was also found that there exists a post for a Chief Administrative Officer which at the time of interviews was vacant.

The highest number of vacancies were found for the post of peons where, out of the 176 posts sanctioned, only 32 peons have been appointed across the different court complexes. Additionally, it was found that the courts were functioning with an appalling 30% and 27% of the sanctioned strength for stenographers and attenders respectively.

Shortage in staff across all cadres significantly hampers the judiciary's overall efficiency. To give a specific instance, the case data analysis section shows that maximum number of cases are pending at Notice/Warrants/Summons stage, which is a preliminary stage in a case's life cycle which involves process servers or bailiffs delivering the relevant notice to parties in their jurisdiction. Vacancy of 58% and 39% of process servers and bailiffs positions respectively seems to directly correlate to the high pendency of cases at this preliminary stage.

Therefore, it can be concluded that the complicated recruitment process coupled with lack of clarity in deciding the staff strength has resulted in a disgruntled administration. This has adversely affected the overall efficiency within the judiciary, the brunt of which is being borne by ordinary litigants.

Job Profile

Another key finding that emerged from the interviews was the complete lack of briefing of job roles and the inadequacy of training that was being provided to the court staff. While a majority of court staff, almost 73% had received no training before joining their positions, the few who had received training found that it was most often ill-timed, irrelevant, and had very little practical application to their day to day functioning. It is telling of the state of affairs that most of the staff had not heard of or referred to the Handbook on Court



Administration (1971), which is meant to serve as a guide for different categories of staff while discharging their roles across various stages in case-load management.

Salary Satisfaction

It was found that out of the 40 court staff who answered the question, over 80% answered in the negative regarding their satisfaction with their remunerations. The 14th Report of the Law Commission of India⁵⁸ recognises that the malaise of corruption in the ministerial cadres may be attributed to three reasons-



the near starvation level emoluments, the drastically inadequate number of staff, and the lack of supervision by the presiding officers. The first cause was evident in the surveys where the researchers found that process-servers (in-charge of serving summons and notices on behalf of the court to different parties across specific jurisdiction) were given a mere Rs. 300 (Rupees Three Hundred) as travel allowance even though they would need a much higher allowance in order to competently perform their roles.

In this regard, the orders of the Supreme Court in the *All India Judges' Association v. Union of India*⁵⁹ are of importance. In this case, the Supreme Court constituted The First National Judicial Pay Commission (Shetty Pay Commission) on 21 March 1996 to look into the structure of emoluments and conditions of service for the subordinate judiciary. Further, as per an order dated 15 July 2008,⁶⁰ the Supreme Court directed all the states to implement the revised pay scales as per the Shetty Pay Commission.⁶¹ It also recommended the continuation of any other benefits being provided by the States already such as medical allowances etc.⁶²

⁵⁸ 14th Report of Law Commission of India, supra note 18 at para 126.

⁵⁹ 1992 (1) SCC 119.

⁶⁰ *All India Judges Association v. Union of India*, I.A nos. 71A, 135-136, 137-138 and 142 in W.P (C) No. 1022/1989, available at <https://www.sci.gov.in/jonew/bosir/orderpdfold/658903.pdf> (last accessed on 27 February 2019).

⁶¹ See also, Ministry of Law and Justice, Government of India, Resolution, 16 November 2017, available at <http://doj.gov.in/sites/default/files/Resolution1.pdf> (last accessed on 5 May 2019).

⁶² *All India Judges Association v. Union of India*, I.A. No. 329 of 2014 in W.P.(C) No. 1022 of 1989, available at <https://www.sci.gov.in/jonew/bosir/orderpdfold/2183887.pdf> (last accessed on 27 February 2019)



Infrastructure

In the ongoing case of All India Judges Association and others v. Union of India,⁶³ the Supreme Court of India has iterated that ‘a sound infrastructure is the linchpin of a strong, stable judicial system’ and rightly so. Yet, the appalling conditions of our courts, especially of the lower courts have become a self-evident truth, as was reconfirmed by the Researchers during their visits to the Rural Courts.⁶⁴

As per the Supreme Court order cited above, adequate seating space, lighting, waiting areas, clean drinking water, and hygienic washrooms constitute the bare minimum infrastructure necessary for the efficient functioning of a court complex. The Apex Court termed the lack of these basic amenities in court complexes an appalling situation and one that required immediate rectification. In addition, a Resolution acknowledging the lack of infrastructure in India’s district courts and the need to address the same immediately has been adopted in the Chief Justices’ Conference, 2016.⁶⁵ Among other solutions, the Resolution includes mandates to develop suitable five year and annual plans, the constitution of a committee comprising of High Court Judges and Secretaries of the Departments of Finance, Public Works and Law to closely monitor and ensure the timely completion of infrastructure projects.

In the court complex survey carried out by the researchers across the Rural Courts, it was found that



lacked most if not all of the above-mentioned bare amenities.⁶⁶ A gist of the same is presented below: courts are functioning with a deficit of 57.94%.

⁶³ Supra note 60.

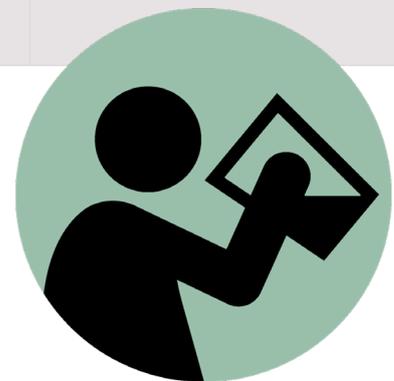
⁶⁴ Amrita Pillai and Raunaq Chandrashekar, “Status of Physical Infrastructure in Lower Judiciary”, Vidhi Centre for Legal Policy, 2018, available at <https://static1.squarespace.com/static/551ea026e4b0adba21a8f9df/t/5ad835ac8a922d956d94a6f6/1524119030760/20180419.Infra.Final.pdf> (last accessed on 27 February 2019).

⁶⁵ Resolutions Adopted in the Chief Justices’ Conference, 23 April 2016, available at https://www.sci.gov.in/pdf/cir/2016-05-06_1462510021.pdf (last accessed on 27 February 2019).

⁶⁶ During the course of the preparation of this Report, the authors have seen substantial progress being made in upgrading the infrastructure in Bengaluru Rural Court Complex with modern file storage system (compressors), computer desks for staff, air-conditioned workspace albeit in the basement, toilets etc. The researchers visited this complex last on 15 May, 2019 and the staff was yet to shift to this renovated workspace.⁶⁶ See also, Ministry of Law and Justice, Government of India, Resolution, 16 November 2017, available at <http://doj.gov.in/sites/default/files/Resolution1.pdf> (last accessed on 5 May 2019).

Table 6: Infrastructure of Rural Courts

Sl. No.	Infrastructure	Percentage of interviewees dissatisfied	Specific Concerns	Impact
1.	Toilets	80.39	<ol style="list-style-type: none"> 1. Lack of separate toilets for male and female court staff 2. Complete lack of toilets in Devanahalli and Hosakote District Rural Courts 3. Main concern- Lack of cleanliness 	<p>General dissatisfaction especially among female staff.</p> <p>Time lost due to travel to use toilets.</p>
2.	Drinking water facility	80.39	<ol style="list-style-type: none"> 1. Inadequate number of water dispensers 2. Dodballapur, Hoskote and Nelamangala Rural Courts have no drinking water facilities 	General dissatisfaction among staff- being forced to pool in resources for water canisters.
3.	Record Rooms and Staff rooms	100%	<ol style="list-style-type: none"> 1. Very cramped quarters in all Rural Courts. Especially in Bangalore Rural District Magistrate's Courts 2. Lack of natural air and sunlight 3. Very small record rooms located on multiple floors 	<p>Very cramped quarters were making even movement difficult for the staff.</p> <p>Time and productivity were impacted by the condition of the record rooms in terms of organisation and cleanliness of the filed.</p>
4.	Electronic Infrastructure – Computers Printers Generators Internet	82.75	<ol style="list-style-type: none"> 1. Lack of generators 2. Poor IT Support 3. Lack of adequate number of computers in Nelamangala Rural Court 4. Frequently failing aged dot printers 	Time and productivity negatively impacted due to long power cuts, sharing of computers and slow IT support





Court Manager

It was in the 13th Finance Commission (2010-2015) (“FC”) that funds to the tune of Rs. 300 crores were allocated for the creation of posts of court managers across all districts, to assist Principal District and Sessions Judges.⁶⁷ The guidelines issued by the FC in this regard laid down detailed requirements as to the expectations and qualifications of a court manager - all geared towards assisting the subordinate judiciary in improving its court management systems and bring down case pendency.⁶⁸ A review of the nature of work and working conditions of court managers shows that this experiment has met with limited success so far.⁶⁹ At the same, the Supreme Court has recently once again reiterated the need for appointing court managers for a proper administrative set up in courts.⁷⁰ Therefore, it is essential that going forward, the drawbacks in the current way of appointment and functioning of court managers are addressed, in order to enable them to meaningfully contribute to the judiciary.

Some of the limitations which currently affect this position from contributing to its full potential and the ways of addressing them have been presented.

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Cadre of court managers



At present, court managers are appointed laterally into the judicial administration, without identifying their position within the otherwise strict administrative hierarchy. This has not only led to resentment, but also in treating the personnel as outsiders, thereby creating an unwelcoming work atmosphere. To address this concern, it is essential that the position of a court manager be made permanent by amending the applicable recruitment rules. Through this, the court manager can be placed under the supervision and control of the Principal District and Sessions Judge.

⁶⁷ Ministry of Finance, Government of India, Guidelines for release and utilisation of Grant-in-aid for improvement in justice delivery as recommended by the 13th Finance Commission, 2010, page 6, available at http://doj.gov.in/sites/default/files/Annexure_A-Part-I.pdf (last accessed on 27 April 2019). The present court manager working in the Bengaluru Rural Court was appointed in 2014, see Transfer and appointment of Court Managers to the subordinate courts in the state, available at <http://karnatakajudiciary.kar.nic.in/recruitmentNotifications/cm-appointment-12062014.pdf> (last accessed on 14 April 2019).

⁶⁸ Id. at 11.

⁶⁹ Geeta Oberoi, “The Curious Case of Court Manager in India: From its Creation to its Desertion”, *International Journal of Court Administration*, Volume 9, Issue 1, December 2017, available at <https://www.iacajournal.org/articles/abstract/10.18352/ijca.245/> (last accessed on 20 February 2019). Also see “A Study on Court Management Techniques for Improving the Efficiency of Subordinate Courts”, submitted by NALSAR University of Law to Ministry of Law and Justice, at pages 120-129, available at http://doj.gov.in/sites/default/files/Final%20DOJ%20Report_Revised%20%281%29.pdf (last accessed on 21 February 2019).

⁷⁰ All India Judges Association v. Union of India, Interlocutory Application No. 279 of 2010, page 14.

Permanent tenure for court managers



While the FC allocated funds for the creation of posts for court managers, it did not provide for the continuation of such posts. In fact, a 2013 guideline issued by the Ministry of Finance specifically cautions the state governments that if they continued the positions of court managers beyond the tenure of 13th FC (2010-2015), it shall be the states' liability and they must be paid for from their own resources.⁷¹ This has resulted in almost all court managers across India, including the one appointed for the Rural Courts, being appointed on a yearly contractual basis. The lack of job security has resulted in the personnel being less invested in the betterment of the judiciary and further amplified the 'outsider' tag attached to this position.⁷² Therefore, the amendment to recruitment rules must also provide for the creation of a permanent cadre of court managers across all district courts in Karnataka.

Functions and responsibilities



The 'Handbook on Administration and Inspection' issued by the High Court of Mysore in 1971 (the "Handbook"), currently guides (on paper atleast) division of roles and responsibilities amongst the administrative staff. The role of a court manager, as envisaged under the FC Report and in the Supreme Court judgment, has several overlaps with the duties currently entrusted with the Principal District and Sessions Judge. Although the Handbook has a mere guidance value and is not binding, in the interest of avoiding friction, it is essential that the amendments are made to relevant recruitment and service conditions rules, to ensure that court management responsibilities clearly vest in the court manager and not with a judicial officer or other administrative officers.

It is now being increasingly recognised that the combined administrative and judicial functions vested in judicial officers, who are not trained or experienced in management principles, is the root cause for inefficiencies in court administration.⁷³ The solution proposed in appointment of court managers, if implemented in the right spirit, will go a long way in increasing judicial efficiency and improving overall court administration.

⁷¹ Ministry of Finance, Government of India, Utilisation of Grants-in-aid, 10 July 2013, available at http://doj.gov.in/sites/default/files/tfcsupport_4.pdf (last accessed on 3 April 2019).

⁷² Deepika Kinhal and Arunav Kaul, "Revisit Policy on Court Managers", Deccan Herald, 24 August 2018, available at <https://www.deccanherald.com/opinion/perspective/revisit-policy-court-managers-689069.html> (last accessed on 20 April 2019).

⁷³ J. Wayne Martin AC, Chief Justice of Western Australia, "Court Administrators and the Judiciary – Partners in the Delivery of Justice", International Journal of Court Administration, Volume 6, Issue 2, December 2014.

Chapter 04

CONCLUSIONS AND RECOMMENDATIONS



Conclusions and Recommendations

The report looks at the overall landscape of litigation in the Bengaluru Rural Courts and provides a comprehensive analysis of the persisting issues in the system. Case analysis through data, interviews of staff and judges, and an examination of current rules and practices have brought to the fore certain issues that need to be addressed. Identifying the right solutions for the existing problems is a crucial task for carrying out necessary reforms. To this extent, policy changes need to be specific and implementable at the ground level. Further, identifying the right authority that can

bring about the change is also important as different stakeholders command different levels of authority in the system. This may be due to the existing rules and practices or by way of convention. Therefore, the recommendations provided below have been bifurcated broadly under two headings- one, Human Resource Management and two, Case Management. The recommendations are further segregated based on the authority empowered to implement them viz. the Government of Karnataka, the High Court, and the Principal District Judge.





High Court of Karnataka

1. Case Flow Management (CFM) Rules

a) Bifurcate substantive and procedural functions

The Karnataka Case Flow Management Rules, 2005 that applies to civil courts in Karnataka states that the cause list needs to be divided into two lists, i.e. list 1 and list 2. Procedural stages such as summons/notice, filing of written statement or objections, et al that do not need judicial attention should be assigned to list 2, while substantive stages such as the evidence stage, final arguments stage, et al. that need judicial discretion should be put in list 1. The CFM rules mandate that list 2, which contain cases at the procedural stages, should be dealt with by the court registrar and thereby help increase the judicial time of a judge.

Some Rural Courts were implementing these rules in the past whereby cases were being divided into two lists, and the Shirastedar used to deal with cases in list 2. Interviews with judges and staff revealed that these practices have been done away with in most of the courts. We were informed that this was due to the shortage in the number of Shirastedars available per

court, coupled with concerns regarding a Shirastedar's ability to be impartial and justice oriented. However, as the data shows that notice and summons stage occupies a large percentage of hearings and days in the lifecycle of a case, shifting all these cases to a Shirastedar or registrar would prove to be beneficial for the judge and the number of cases listed before a judge would substantially reduce.

b) Timelines must be made based on ground realities

The timelines provided in the CFM Rules should be realistic keeping in view the manner in which cases are being dealt in subordinate courts. Further study is required to come up with ideal time-lines for disposal of cases.

c) Categorize cases based on categories created in the CFM Rules

The CFM Rules divide cases into different tracks based on the subject matter of the disputes and provide upper time limits for cases in each of the tracks. In order to electronically automate the tracking of cases based on timelines provided in the CFM Rules, the High Court

should direct that all courts begin categorizing cases at the time of their filing and electronically maintaining data regarding these categories. For example, the CFM Rules categorize cases as being related to ‘child custody’, ‘appointment of guardian’, ‘visiting rights’, et al. However, such classifications are not found in the existing data available on e-Courts. In order to monitor the implementation of the CFM Rules it is imperative that such classifications be captured in e-Courts.

d) Systematic listing of cases

The CFM Rules should be updated to mandate listing of cases based on the stage of cases in different tracks, the amount of time they have been pending, and the amount of time within which they need to be disposed.

e) Ensure implementation of the CFM Rules

While most of the states have passed the rules, they have not been implemented at the ground level. It is important that the High Court of Karnataka educate judicial officers and administrative staff about these Rules, provide tools, dashboards, and staff to enable their implementation, as also sensitise the bar on this initiative.

2. Carry out pilot studies

The Delhi High Court recently released a report on the ‘Zero Pendency Courts Project’⁷⁴ which looked into courts with no backlog on a pilot basis for two years. The objective of the study was to assess the functioning of the zero pendency courts and come up with ideal timelines for disposal of different types of cases. These types of studies have a lot of scope as they can help in coming up with benchmarks for disposal of cases, identifying optimal judicial strength, reimagining the units system, etc. Hence, such pilot projects should also be conducted by the High Court of Karnataka to relook at the functioning of courts and identify ways to improve efficiency.

Principal District Judge (PDJ)

3. Proper case allocation

Based on our interactions with judges and analysis of court data, we understand that the backlog or number of cases pending with a judge are not taken into consideration while assigning cases, and cases are allocated consecutively to different judges. Hence,

certain judges have a higher number of cases in their docket than their counterparts. Therefore, it is important that the PDJ of each district instructs all principal judges of each cadre, who are responsible for the allocation of cases between judges, to take into account the existing number of pending cases with each judge in that cadre before allocating cases.

4. Identify problematic case types

With the help of e-courts several case related analyses can be carried out to identify the problematic cases and stages. The PDJ should encourage judges to take the help of the court manager in identifying problematic case types so that cases can be prioritized and disposed in a timely manner. Data can play an important role in assessing the existing issue and therefore, should be used to its optimal level.

High Court of Karnataka and Government of Karnataka

5. Focus on land acquisition cases

Cases relating to land acquisition remain pending in courts for the most amount of time when compared to other types of cases, and they also take the most amount of time to be disposed. The High Court of Karnataka and the Government of Karnataka should set up a focus team consisting of members of the subordinate judiciary and government lawyers to closely monitor the progress of these cases and help in ensuring speedy disposal.

6. Monitor cases related to specific police stations

Cases under the jurisdiction of different police stations take different amounts of time to progress through the courts. Further, it was found that most cases were pending at the ‘Notice/Summons/Warrants’ stage. It is therefore recommended that the High Court issue a circular to all subordinate courts to track cases related to various police stations, and proactively call upon the relevant police authorities to ensure speedy action is taken where necessary. Further, the Government of Karnataka must ensure that police officers maintain records regarding cases pending at court and ensure that no delays occur in the progress of cases due to delay in service of summons or delays in providing evidence.

⁷⁴ Zero Pendency Project Report by the Delhi High Court, 3 May 2019, available at http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_3MRRIN3QTHN.PDF (last accessed on 13 May 2019).

Human Resource Management

Government of Karnataka

1. Amend the Karnataka Judicial Service (Recruitment) Rules, 2004

The Karnataka Judicial Service (Recruitment) Rules, 2004 currently do not cover the recruitment and promotion of criminal judges, and only speak of civil judges. The rules should be amended so as to apply to the recruitment and promotion of criminal judges as well.

2. Amend rules governing the recruitment of administrative staff

The Government of Karnataka must amend the rules governing the recruitment of administrative staff such as the Karnataka State Civil Services (General Recruitment) Rules, 1977, Karnataka Subordinate Courts (Ministerial and Other Posts) Rules, 1982 et al. (detailed in page no. 70) to ensure seamless recruitment and appointment of staff by the Recruitment Committee as described below.

The High Court of Karnataka

3. Training and monitoring staff to enable them to handle procedural tasks

The High Court should ensure that all staff who are made responsible for handling cases to be called in List 2 (cases pending at procedural stages), are trained on how cases should be called and action be taken. Further, the High Court should also devise a method to monitor the work carried out by such staff in handling cases in List 2. To this end, it can be made mandatory for the concerned staff to maintain a list of all cases called on a particular day, which party/lawyer appeared, what action was taken, and reasons for adjournments granted (if any). Such monitoring will ensure that there is a check on the staff responsible for this function and can ensure they remain impartial.

4. Delineate roles and responsibilities of court managers

There is a need to ensure that the post of court managers

be permanently absorbed in the system. Rules outlining various roles and responsibilities of court managers need to be passed in order to avoid any overlap with the existing posts. Further, the Rules should also consider the Court Manager's remuneration and look into their career progression that will encourage and incentivize them. Court managers should also be given the task of collating and analysing statistics that can help judges in managing their workload. With their prior experience and skill sets they can play a pivotal role in the judiciary. It is important that their expertise be fully utilized to bring about positive changes in the system.

5. Improve conditions for process servers and bailiffs

a) Increase travel allowance

Travelling around the city and delivering notices/summons is a challenging task. The report points out that process servers and bailiffs get only a meagre amount for travelling and delivering notices/summons. The amount is insufficient to even cover the bus expenses. Hence, it is required that the travel expenses be adequately increased. As an immediate measure, process servers and bailiffs can perhaps be provided monthly bus passes, given the amount of travel that is involved throughout the day.

b) Technology to help monitor the delivery of notices and summons

Further, technology can play an important role in expediting the delivery of summons. To this end, the NIC developed a tool called NSTEP ('National Service and Tracking of Electronic Processes') which should be implemented immediately.

6. Recruitment Committee of the High Court

To ensure an optimal number of administrative staff at all times, it is recommended that a separate body consisting of judges of the High Court, called the 'Recruitment Committee of the High Court', be constituted. The Recruitment Committee will consist of High Court judges and will be solely responsible

for the appointment of all administrative staff. The Recruitment Committee will be assisted by a Recruitment Registrar to be appointed by the High Court, and must ideally be a person having required managerial skills. Every Principal and District Judge in the state of Karnataka must report to the Recruitment Registrar on a quarterly basis through appropriate technological tools to indicate the number of administrative staff required in the district. The Recruitment Registrar will be also be assisted by administrative officers in carrying out his functions. Such a Recruitment Committee can also be considered for the recruitment of judges to the subordinate courts. The estimated cost for the functioning of such a Recruitment Committee is about Rs. 11.27 crores for the state of Karnataka over five years.⁷⁵

a) Calculate required number of staff

Based on current needs, the Recruitment Committee must calculate the number of administrative staff members (in various roles) that are required by subordinate courts across Karnataka. The call for applications and selection of candidates for such posts must be made keeping in mind such number of vacancies and technological skills required in the judicial system.

b) Anticipate vacancies

Based on the date of retirement of existing administrative staff, the Recruitment Committee must

keep track of the number of vacancies likely to come up in the future and accordingly prepare to hire new staff.

c) Conducting a qualifying examination

The Recruitment Committee can either conduct the examination themselves or outsource it to a third-party agency who will conduct the examination under the guidance of the Recruitment Committee.

d) Counselling for applicants

Once applications have been called for and selections have been made, applicants for the staff posts must go through a round of counselling so as to ensure that they are posted to a court of their choice, as much as possible. To this end, based on the ranks obtained by applicants in the qualifying examination, allotments can be made by first allotting courts based on the choice of the applicant, second allotting a court in a nearby locality, and third allotment of all remaining courts to selected candidates.

e) Training

The Recruitment Committee must organize traini sessions to ensure that the newly hired staff are acquainted with the functioning of courts, and are trained to carry out their roles.

Infrastructure

Principal District Judge

Inspect infrastructure and communicate to the High Court

Interviews with court staff and our visits to various court establishments revealed that infrastructure is a critical problem. Sanitation and water facilities are inadequate in certain court establishments. In several places there are not even proper space for storing case records. Hence, periodical inspection should be carried out by the PDJ and the High Court should be routinely updated about the state of infrastructure in the district.



⁷⁵ CBGA and DAKSH. 2018. 'Memorandum to the Fifteenth Finance Commission on Budgeting for the Judiciary in India' available at <http://dakshindia.org/wp-content/uploads/2019/06/Memorandum-on-Budgeting-for-Judiciary-in-India-from-CBGA-Website.pdf> (last accessed on 13 June 2019).



Recommendations

The recommendations suggested above have been tabulated stakeholder-wise and categorised into short-term (red highlights), medium-term (blue highlights) and long-term actionable tasks (green highlights). Short-term tasks are those that can be undertaken within 6 months, medium-term tasks can be undertaken within 18 months, and long-term tasks within 3 years.

Sl. No.	Actionable	Government of Karnataka	High Court of Karnataka	Principal District and Sessions Judge
CASE MANAGEMENT				
1	Case Flow Management (CFM) Rules			
	a. Bifurcate substantive and procedural functions		✓	
	b. Timelines must be made based on ground realities		✓	
	c. Categorize cases based on categories created in the CFM Rules		✓	
	d. Scientific listing of cases		✓	
	e. Ensure implementation of the CFM Rules		✓	
2	Carry out pilot studies		✓	
3	Proper case allocation			✓
4	Identify problematic case types			✓
5	Focus on land acquisition cases	✓	✓	
6	Monitor cases related to specific police stations	✓		
HUMAN RESOURCE MANAGEMENT				
1	Amend Karnataka Judicial Service (Recruitment) Rules, 2004	✓		
2	Amend rules governing the recruitment of administrative staff	✓		
3	Training and monitoring staff to enable them to handle procedural tasks		✓	
4	Delineate roles and responsibilities of court managers		✓	

Sl. No.	Actionable	Government of Karnataka	High Court of Karnataka	Principal District and Sessions Judge
5	Improve conditions for process servers and bailiffs:			
	a. Increase travel allowance		✓	
	b. Technology to help monitor the delivery of notices and summons		✓	
6	Recruitment Committee of the High Court:			
	a. Calculate required number of staff		✓	
	b. Anticipate vacancies		✓	
	c. Conducting a qualifying examination		✓	
	d. Counselling for applicants		✓	
	e. Training		✓	
INFRASTRUCTURE				
1	Inspect infrastructure and communicate to the High Court			✓

Annexure 1

Recruitment Methods of Civil Subordinate Judges in Karnataka

Sl. No.	Judge Type	Appointing Authority	Recruitment Method	Qualifications, age limit, etc
1	District Judge	Governor in consultation with the High Court ¹	<p>1. Promotion: 65% From Cadre: Senior Civil Judge cadre Basis: Seniority cum Merit Merit Basis: High Court to evolve a test to ascertain and examine legal knowledge and continued efficiency with adequate knowledge of case law²</p> <p>2. Promotion: 10% From Cadre: Senior Civil Judge Age: within the ages of 35 and 45 Basis: Merit and not less than 5 years of service Through: Limited departmental competitive exam in accordance with guidelines framed by the High Court³</p> <p>3. Direct Recruitment: 25% Basis: Aggregate Marks obtained in competitive (written and viva voce) conducted by the High Court⁴</p>	<p>For Direct recruitment</p> <p>1. Degree of law granted by a university in India⁵</p> <p>2. A. Practicing as an advocate in the High Court or subordinate courts⁶, or B. Public Prosecutor / Assistant public prosecutor/ Government council, in full time employment of the state, with not less than 7 years of continuous practice⁷</p> <p>3. Age⁸: SC/ST: Less than 48 years Others: less than 45 years</p> <p>4. One person Reservation for Orthopedic Disabled Candidates.⁹</p>
2	Senior Civil Judge	High Court of Karnataka ¹⁰	<p>By Promotion: 100% From Cadre: Civil Judge Selecting Authority: High Court Criteria: Merit cum Seniority¹¹</p>	Not less than 5 years as a Civil Judge ¹²

3	Civil Judge	Governor in consultation with the High Court ¹³	<p>Direct Recruitment: 100%</p> <p>Basis: Aggregate Marks obtained in a competitive exam (written and viva voce)¹⁴</p> <p>Conducted by: High Court¹⁵</p>	<p>A. Direct Recruitment¹⁶</p> <p>a. Degree in law granted by a university in India¹⁷</p> <p>b. Must be enrolled as an Advocate¹⁸</p> <p>c. Age: SC/ST must be below 38 years</p> <p>Others must be below 35 years¹⁹</p> <p>B. Recruitment of In-Service Candidates²⁰:</p> <p>a. Degree in law granted by a university in India²¹</p> <p>b. Age: SC/ST: Below 43 years</p> <p>Others: Below 40 years²²</p> <p>(For Ex-Servicemen: Maximum age is relaxed by 3 years)</p> <p>c. Must have been working at the High Court or subordinate courts on the date of application²³ as Assistant public Prosecutor/ Assistant Government Pleader in the Department of Prosecutions and Government Litigation²⁴</p> <p>d. Civil Judges – one person Reservation for Orthopaedic Disabled Candidates.²⁵</p>
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¹ Karnataka Judicial Service (Recruitment) Rules 2004, Rule 3

<https://drive.google.com/drive/u/0/folders/1mnT31dxk4W7uDyj-OOH3oBLsZmUITkJJ>

² Ibid, Rule 4 (1)(3)(1).

³ Ibid, Rule 4 (1)(3)(2).

⁴ Ibid, Rule 4 (1)(3)(3).

⁵ Ibid, Rule 4 (1)(4)(1).

⁶ Ibid, Rule 4 (1)(4)(2).

⁷ Ibid, Rule 4 (1)(4)(3).

⁸ Ibid, Rule 4 (1)(4)(4).

⁹ Ibid, Rule 4 Note 2.

¹⁰ Karnataka Judicial Service (Recruitment) Rules 2004, Rule 3. Available at, <<https://drive.google.com/drive/u/0/folders/1mnT31dxk4W7uDyj-OOH3oBLsZmUITkJJ>> (last accessed on 22nd May, 2019).

¹¹ Ibid, Rule 4 (2)(3).

¹² Ibid, Rule 4 (2)(4).

¹³ Ibid, Rule 3.

¹⁴ Ibid, Rule 4 (3)(3).

¹⁵ Ibid, Rule 4 (3)(3).

¹⁶ Ibid, Rule 4 (3)(A).

¹⁷ Ibid, Rule 4 (3)(A)(1).

¹⁸ Ibid, Rule 4 (3)(A)(1).

¹⁹ Ibid, Rule 4 (3)(A)(2).

²⁰ Ibid, Rule 4 (3)(B).

²¹ Ibid, Rule 4 (3)(B)(1).

²² Ibid, Rule 4 (3)(B)(2).

²³ Karnataka Judicial Service (Recruitment) Rules 2004, Rule 4 (3)(B)(3)(a). Available at, <<https://drive.google.com/drive/u/0/folders/1mnT31dxk4W7uDyj-OOH3oBLsZmUITkJJ>> (last accessed on 22nd May, 2019).

²⁴ Ibid, Rule 4 (3)(B)(3)(b).

²⁵ Ibid, Rule 4, Note 2.

Annexure 2

Rule 5 (I) of the Karnataka Judicial Service (Recruitment) Rules, 2004 lays down the criteria for the competitive examination for the recruitment of District Judges. The details are as follows:

Criteria			
Type of Exam	Preliminary Exam ¹	Main Exam ²	Viva Voce
Components	Part A – Civil Law Part B- Criminal Law Part C- General Knowledge	Civil law Criminal law	1. General knowledge 2. Principles of law 3. Suitability for appointment ³
Number of Papers	One	Two	Nil
Method	Objective Type	Written Exam	Viva Voce
Duration	90 Minutes	3 hours each	Nil
Total Marks	100 Marks	150 marks/paper	50 Marks ⁴
Passing Mark	SC/ST ⁵ – 50 Others – 60	SC/ST – 50 Each To pass: aggregate Others: 120/300 Others: 60 each To pass: Aggregate 150/300	SC/ST: 40% Others: 50% ⁶

¹ Karnataka Judicial Service (Recruitment) Rules 2004, Rule 5(II)(1)(a). Available at, <<https://drive.google.com/drive/u/0/folders/1mnT31dxk4W7uDyj-OOH3oBLsZmUITkJJ>> (last accessed on 22nd May, 2019).

² Ibid, Rule 5(b).

³ Ibid, Rule 5(2)(1)(c).

⁴ Ibid, Rule 5(II)(1)(e)(i).

⁵ Ibid, Rule 5(1).

⁶ Ibid, Rule 5(4).

Annexure 3

Rule 5 (II) of the Karnataka Judicial Service (Recruitment) Rules, 2004 lays down the criteria for the competitive examination for the recruitment of Civil Judges. The details are as follows:

Criteria				
Type of Exam	Preliminary Exam ¹	Main Exam ²	Viva Voce	Computer Test
Components	Part A – Code of Civil Procedure, 1908; Negotiable Instruments Act, 1981; Transfer of Property Act, 1882; Indian Contract Act, 1872; Special Relief Act, 1963; Indian Constitution; and Karnataka Rent Act, 1999 Part B- Code of Criminal Procedure, 1973, Indian Penal Code, 1860; Indian Evidence Act, 1872; Part C: General Knowledge			Computer knowledge
Number of Papers	One	Two	Nil	
Method	Objective Type	Written Exam	Viva Voce	
Duration	90 Minutes	Nil	Nil	
Total Marks	100 Marks		100 Marks ³	
Passing Mark	SC/ST ⁴ – 50 Others – 60	SC/ST – 40 Each Others: 50 each ⁵	SC/ST: 40% Others: 50% ⁶	

¹ Karnataka Judicial Service (Recruitment) Rules 2004, Rule 5(II)(1)(a). Available at, <<https://drive.google.com/drive/u/0/folders/1mnT31dxk4W7uDyj-OOH3oBLSZmUITkJJ>> (last accessed on 22nd May, 2019).

² Ibid, Rule 5(b).

³ Ibid, Rule 5(2)(1)(c).

⁴ Karnataka Judicial Service (Recruitment) Rules 2004, Rule 5(II)(1)(e)(i). Available at, <<https://drive.google.com/drive/u/0/folders/1mnT31dxk4W7uDyj-OOH3oBLSZmUITkJJ>> (last accessed on 22nd May, 2019).

⁵ Ibid, Rule 5(II)(1)(e)(ii).

⁶ Ibid, Rule 5(II)(1)(e)(iii).

Annexure 4

Place	Court Hall	Judge Name	Date	Stage	Case Type	Case Number	Round One for case (Minutes)

Round One for case (Seconds)	Round Two for case (Minutes)	Round Two for case (Seconds)	Round Two Proceedings	Overall Round One Start Time	Overall Round One End Time	Overall Round Two Start Time	Overall Round Two End Time

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