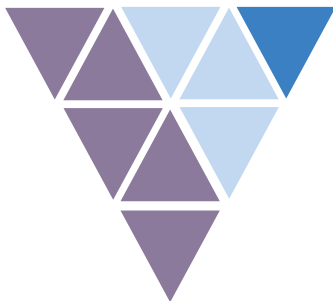


# RANKING LOWER COURT APPOINTMENTS

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Diksha Sanyal  
Nitika Khaitan  
Shalini Seetharam  
Shriyam Gupta



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# Introduction

The ever-increasing number of vacancies in the Indian judiciary is often cited to demonstrate failings in judicial governance, and reform efforts have primarily focussed on filling vacancies in a timely manner.<sup>1</sup> Despite this, nearly 23 percent of posts in the lower judiciary, the first point of contact for the vast majority of litigants, remain unoccupied, while a staggering 2.54 crore cases lie pending.<sup>2</sup>

Systemic defects in the appointment process most certainly contribute to vacancies in the lower judiciary. Exams are not conducted frequently enough to fill vacancies as they arise and even when they are, High Courts are often unable to find enough meritorious candidates to fill the vacancies advertised.<sup>3</sup> Unclear recruitment procedures, and difficulties in coordination between the High Court and State Public Service Commission, also frequently give rise to disputes and litigation surrounding recruitment, further stalling the process.<sup>4</sup> Little quantitative and qualitative data on the appointment process exists, and thus no impactful reform has emerged in the area.

The problematic nature of subordinate judiciary appointments and consequent vacancies has most recently come to the forefront of public discourse with the Supreme Court ('SC') initiating a suo motu Public Interest Litigation,<sup>5</sup> based on a letter issued by the Law Ministry to the SC Secretary General in May this year. The letter proposed creating a Central Selection Mechanism for the appointment of subordinate judges across the country. This was touted as a reform that would ensure speedy justice.<sup>6</sup> But, in the absence of any study that identifies the

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1 For instance, see *All India Judges' Association vs. Union of India & Ors* (2002) 4 SCC 247 where the Supreme Court directed the number of judges to be increased by first filling up the existing vacancies followed by increasing the judge strength in a timely manner. In *Malik Mazhar Sultan vs. State of Uttar Pradesh & Ors* (Civil Appeal No 1867 of 2006) order dated 04-01-2007, the Supreme Court laid out a time schedule to be followed by the High Courts and State Governments for the filling up of judicial vacancies. Further, the Law Commission in its 245th report titled "Arrears and Backlog: Creating Additional Judicial (Wo)manpower" contained suggestions on determining the appropriate judicial strength in the district and other subordinate courts.

2 Vacancy figures are sourced from the latest edition of the Supreme Court publication, *Court News*, published for July to September 2016. Pendency figures are sourced from the National Judicial Data Grid, last accessed on September 1, 2017 at [http://njdg.ecourts.gov.in/njdg\\_public/main.php](http://njdg.ecourts.gov.in/njdg_public/main.php).

3 For details see Annexure B that lists out the state-wise information of those recruitment cycles between 2007-2017 where no candidates qualified.

4 "Despite HPSC's Objections, Haryana asks 6-Member Panel to Pick Judges", *The Indian Express*, 24 June, 2017 available at <http://indianexpress.com/article/india/despite-hpsc-objections-haryana-asks-6-member-panel-to-pick-judges-4719415/>, last accessed on 31.08.2017.

5 In *Re Central Selection Mechanism for Subordinate Judiciary* (W.P. © No 1/2017).

6 Senior Counsel Arvind Datar was appointed *Amicus Curiae* in this matter and he submitted a Concept Note elucidating the need for the creation of a Central Selection Mechanism and a proposed structure for the same. Though the idea was discussed in the course of the hearings, it was strongly opposed by some states such as West Bengal, Assam and Chhatisgarh. See- Apoorva Mandhani, "Amicus Arvind Datar Submits Concept Note in Favor of All India District Judges Recruitment Examination" *Live Law*, 6 August, 2017, available at <http://www.livelaw.in/amicus-arvind-datar-submits-concept-note-favor-all-india-district-judges-recruitment-exam/> last accessed on 31.08.2017 and "Sharp Cleavage of View Marks SC Hearing on Centralised Selection Mechanism For Lower Judiciary". *Live Law*, 21 August, 2017 available at <http://www.livelaw.in/sharp-cleavage-views-marks-sc-hearing-centralised-selection-mechanism-lower-judiciary/> last accessed on 31.08.2017.

exact nature of blockades experienced in the current appointment process, any policy reform will not reflect realities on ground.

In this Vidhi Briefing, we attempted to study how the process of appointment of judges plays out in practice, by collecting state-wise data on the appointment of District Judges, via direct recruitment from the bar (referred to as 'District Judges (Direct Recruitment)') and Civil Judges (Junior Division), (referred to as 'Civil Judges (Jr.(Direct Recruitment))'). Based on the information gathered, we ranked the performance of states in appointing judges to their subordinate judiciary.

This report adds to the void in quantitative data on the appointment process in the lower judiciary. It can be used as a tool by state judicial academies, policy makers and other relevant stakeholders to identify and analyse gaps pertaining to appointments in courts and suggest recommendations for the same.

## Objective of the Present Ranking

Ranking lower judicial appointment processes amongst states has multiple objectives. First, it provides a comparative basis to understand the performance of different states at a glance. Second, rankings can help policy-makers and other stakeholders distinguish between states with noticeably poor performances and those with a good track record. In doing so, it can also help us understand causes for delay in appointments.

Like most judicial reform efforts, measures to reduce vacancy are designed in the absence of any rigorous analysis on fault lines in the appointments processes. Much of the existing data on these processes is scattered, and not made publicly accessible in a systematic manner. A third objective of this ranking process, therefore, is to reveal lacunae in the data available online.

# Structure of the Lower Judiciary

The lower judiciary broadly comprises three cadres of judges. These include District Judge,<sup>7</sup> Senior Civil Judge and Civil Judge (Junior Division). These posts jointly include judges having civil as well as criminal jurisdiction even though they are termed Civil Judge (Senior Division)' and 'Civil Judges (Junior Division)'. The exact designation of posts under each of these cadres differs from state to state in their hierarchy and nomenclature.<sup>8</sup>

At the district level, the District Court lies at the apex and is the appellate court for all civil and criminal matters. It also plays a supervisory role over other courts, such as those headed by Civil Judges (Senior Division) and Civil Judges (Junior Division). Under the Constitution, District Judges can either be appointed by promoting lower-ranking judges or by recruiting advocates or pleaders with a minimum of seven years of practice.<sup>9</sup> In its judgment in the All India Judges Association case (2010),<sup>10</sup> the SC in interpreting the provisions of Article 233 outlined three ways of appointing District Judges:

- The first was via promotion based on merit-cum-seniority from Civil Judges (Senior Division), who occupy the intermediate level between entering judicial officers and District Judges. 65 percent of the total strength of District Judges must be recruited in this manner.
- The second method is via promotion based strictly on merit, through competitive exams held among Civil Judges (Senior Division) with a minimum of five years of service. This accounts for 10 percent of the sanctioned strength for District Judges.
- The final method of selection entails direct recruitment from advocates at the bar with a minimum of seven years' practice. The quota for this is 25 percent.

For Senior Civil Judges and Civil Judges (Junior Division) there are no minimum specified requirements in the Constitution. This gives states considerable leeway to decide on their own. Generally, recruitment to the cadre of Senior Civil Judges occurs through promotion from the Civil Judges (Junior Division) cadre on the basis of merit-cum-seniority, whereas recruitment to the post of Civil Judges (Junior Division) happens via direct recruitment through a competitive examination. There is however wide divergence in practice, and in procedures for appointment across states, especially when it comes to the role of State Public Service Commissions vis-a-vis the High Courts as the conducting authority.

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7 In the Constitution, 'District Judge' denotes a broader category than it does in common parlance. It comprises the entire higher section of the lower judiciary, since the Constitution explains the phrase to include joint, additional and assistant district judges; sessions judges, additional sessions judges and assistant sessions judges; judges of city civil courts, chief judges of small cause courts; and chief and additional chief presidency magistrates.

8 There is a wide divergence in meaning under various state rules. This divergence mainly stems from the inclusion of various categories of judges heading state specific special courts, tribunals and other officers. For instance while the Rajasthan Judicial Services Rules, 2010 includes even the Member Secretary of the Rajasthan Legal Services Authority, the Andhra Pradesh Judicial Service Rules, 2007 do not include this post in its definition of District Judges. The 118th Law Commission Report had in fact recommended that Parliament enact a law to provide for uniform designations to various cadres of posts below the District and Sessions Judge. This suggestion has not been implemented yet. The report is available at <<http://lawcommissionofindia.nic.in/101-169/Report118.pdf>>, last accessed on 06.09.2017.

9 Article 233, Constitution of India, 1950.

10 All India Judges Association vs. Union of India & Ors (2010) 15 SCC 170.



We have ranked the performance of states in appointing District Judges (Direct Recruitment) and Civil Judges (Jr.(Direct Recruitment)) only. This is because these two appointment processes constitute the first points of induction into the higher and lower judicial service, respectively. While the Civil Judges (Jr.(Direct Recruitment)) examination enables entry into the junior-most rung of the lower judiciary, the District Judges (Direct Recruitment) enables the entry of practicing advocates into the higher rung of the lower judiciary. It was important to study the recruitment process of both independently, because the volume of appointments, process of examination and conducting authority for both these posts are different. While the Civil Judges (Jr.(Direct Recruitment)) examination mostly has three phases (prelims, mains, and interview), the District Judge appointment process for many states entails only a written exam and an interview. Finally, while District Judge examinations are conducted unilaterally by the state High Courts, Civil Judge appointments are conducted jointly by the state High Court and Public Service Commission in most cases.

# Ranking Methodology

We relied on data from recruitment-related notifications available on the website of each state High Court and Public Service Commission. Data was collated for a ten-year period, ranging from 2007 to 2017. We chose these notifications since they comprise the only consistent data set available to us to understand the recruitment processes of subordinate judges in the country. We compiled:

- Notifications announcing vacancies
- Advertisements calling for applicants to the relevant posts
- Notifications announcing the dates of preliminary (wherever applicable) and mains examinations
- Notifications announcing the dates of interviews (including notifications which announced the list of candidates who qualify for interviews)
- Notifications announcing the final select list/merit list of candidates.

Based on the gathered information, we calculated two metrics for our ranking:

1. Average time taken to complete one recruitment cycle; and
2. Percentage of vacancies potentially filled.

To calculate the first metric, 'average time taken to complete one recruitment cycle,' we took the start date as the date of the advertisement calling for applicants and the end date as the date when the final select list of candidates was announced. This metric measures the 'timeliness' of the selection process.

To calculate the second metric, 'percentage of vacancies potentially<sup>11</sup> filled,' we used the number of vacancies mentioned in the advertisement notification and the number of candidates who qualified in the final select list/merit list. This metric measures the success rate of these exams in filling the advertised vacancies through the appointment process.

For each metric, we ranked the performance of the states and gave them scores corresponding to their ranks. We combined the two individual scores for timeliness and success in filling vacancies, for both Civil Judges (Jr.(Direct Recruitment)) and District Judges (Direct Recruitment) appointments, to give a cumulative rank to each state based on this combined score. A more detailed methodology is provided in Annexure A.

It must be noted that our ranking is not necessarily indicative of poor performance in absolute terms. First, this is because some of the factors influencing recruitment are beyond the state's control. For instance, seats may remain vacant simply due to a lack of meritorious candidates. In our ranking system, these states will be scored lower than states that have managed to fill advertised vacancies, even though their inability to fill seats may not reflect on their performance.

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<sup>11</sup> We can only estimate the vacancies potentially filled because we did not have access to the relevant final appointment notifications for most states. Therefore, we had to rely on the number of candidates in the select list.

Conversely, where states have selected more candidates than the number of advertised posts, they are automatically scored higher than states that have filled 100% of their advertised vacancy. Our ranking system scores states with a greater average percentage in filling vacancies higher, even though selecting candidates in far greater numbers than the number of vacancies may not reflect better performance.<sup>12</sup>

Second, our ranking is limited by the availability of data. For some states we have not been able to obtain information for more than one recruitment cycle. Our ranking thus uses information from only one cycle even though this will rarely be indicative of the general performance of the state.

Given these two limitations, we cannot conclude that lower-ranking states are necessarily poor performing. The ranking is an attempt to make sense of publicly available data for a relative comparison amongst states. It is, at best, a comparative indicator of the recruitment processes are being undertaken in different states.

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12 Malik Mazhar Sultan vs. State of Uttar Pradesh & Ors (Civil Appeal No 1867 of 2006) order dated 04-01-2007, laid down that the select list should be published in order of merit and should contain double the number of vacancies notified.

# Findings

## Civil Judges [Jr.(Direct Recruitment)] Appointments

### Ranking

Out of the 20 states for which data was available for Civil Judges (Jr.(Direct Recruitment)) appointments, the top-ranked states are Arunachal Pradesh, Odisha, Nagaland and Punjab. The lowest-ranked states include Jammu & Kashmir and Delhi. (See Table 1).

**Table 1: Ranking for Civil Judges (Jr.(Direct Recruitment)) Appointment<sup>13</sup>**

STATE	RANKING
Arunachal Pradesh	1
Odisha	2
Punjab	3
Nagaland	4
Rajasthan	4
Chhattisgarh	5
Madhya Pradesh	6
Tripura	6
Maharashtra	7
Kerala	7
Himachal Pradesh	8
Andhra Pradesh	8
Puducherry	9
Uttarakhand	9
Gujarat	10
Karnataka	11
Assam	12
Jammu & Kashmir	13
Manipur	14
Delhi	15

<sup>13</sup> The states left out of the ranking system due to lack of availability of data are Jharkhand, Uttar Pradesh, West Bengal, Meghalaya, Bihar, Haryana, Sikkim, Mizoram, Goa, Tamil Nadu and Telangana.

## Timeliness

As per the SC order in Malik Mazhar Sultan (2007)<sup>14</sup>, a two-tier process should take 153 days whereas a three-tier examination procedure should take around 273 days (a two-tier process consists of a written exam and an interview, whereas a three-tier system comprises of a preliminary exam followed by a written test and an interview). Our findings reveal that this norm does not apply to most states.

- On an average, over the last 10 years, one recruitment cycle for Civil Judges (Jr.(Direct Recruitment)) posts in India takes 326.27 days (amongst states that follow a three-tier recruitment cycle, n=18).<sup>15</sup>
- Puducherry and Jammu and Kashmir follow a two tier system of recruitment and have taken, on average, 99 and 742 days respectively to complete one recruitment cycle.
- Out of the 20 states for which we have information, 11 states took more than requisite 273 days on an average to complete their recruitment cycle. These are Rajasthan, Chhattisgarh, Madhya Pradesh, Punjab, Tripura, Maharashtra, Assam, Uttarakhand, Kerala, Manipur, and Delhi. Whereas, Jammu and Kashmir took 742 days as compared to the benchmark 153 days needed to complete its two tier recruitment cycle.
- Nagaland, Arunachal Pradesh, and Puducherry are the only states that complete the recruitment cycle under 100 days whereas states like Jammu & Kashmir, and Delhi have taken up to 742 and 798 days respectively. Statewise breakdown of details is given in Graph 1.

The delay in cases of Jammu & Kashmir (J&K) and Delhi can be explained due to litigations challenging their recruitment process. In the 2013 Jammu and Kashmir recruitment cycle, an ad-hoc preliminary round was included, which was challenged as violating state rules.<sup>16</sup> Eventually, the preliminary round was cancelled by the J&K High Court. However, this delayed the entire recruitment cycle, such that it took 1,315 days in total, thus affecting the state's performance in our ranking.

Similarly, the 2014 Delhi Judicial Services (Mains) Exam was challenged before the Supreme Court.<sup>17</sup> Although the examination process was not stayed, the publication of the final select list was made contingent on the orders passed by the SC. This caused the final, revised select list to be published only on 26.04.2016, thus delaying the entire recruitment cycle.

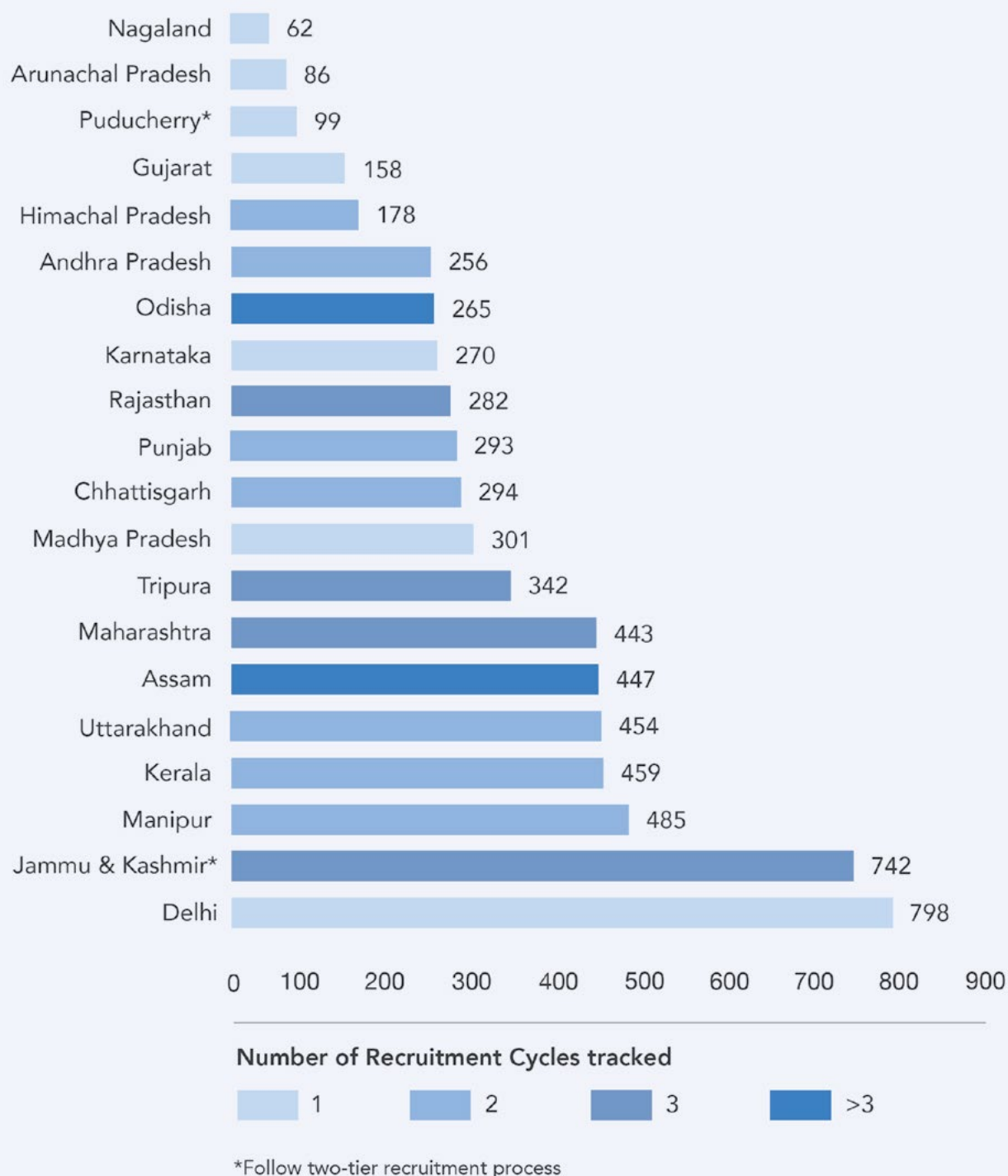
14 Malik Mazhar Sultan & Anr. v. U.P. Public Service Commission & Ors. (2007) 2 SCALE 159.

15 'n' denotes number of states.

16 Kursheed Ahmad Dar v. Jammu and Kashmir Public Service Commission & Ors, SWP No. 2172/2015, order dated 25.05.2016.

17 Centre for Public Interest Litigation vs. Registrar General of the High Court of Delhi 2016(7) SCALE 496

**Graph 1: Average Number of Days for Appointment of Civil Judges [Jr.(Direct Recruitment)]<sup>18</sup>**



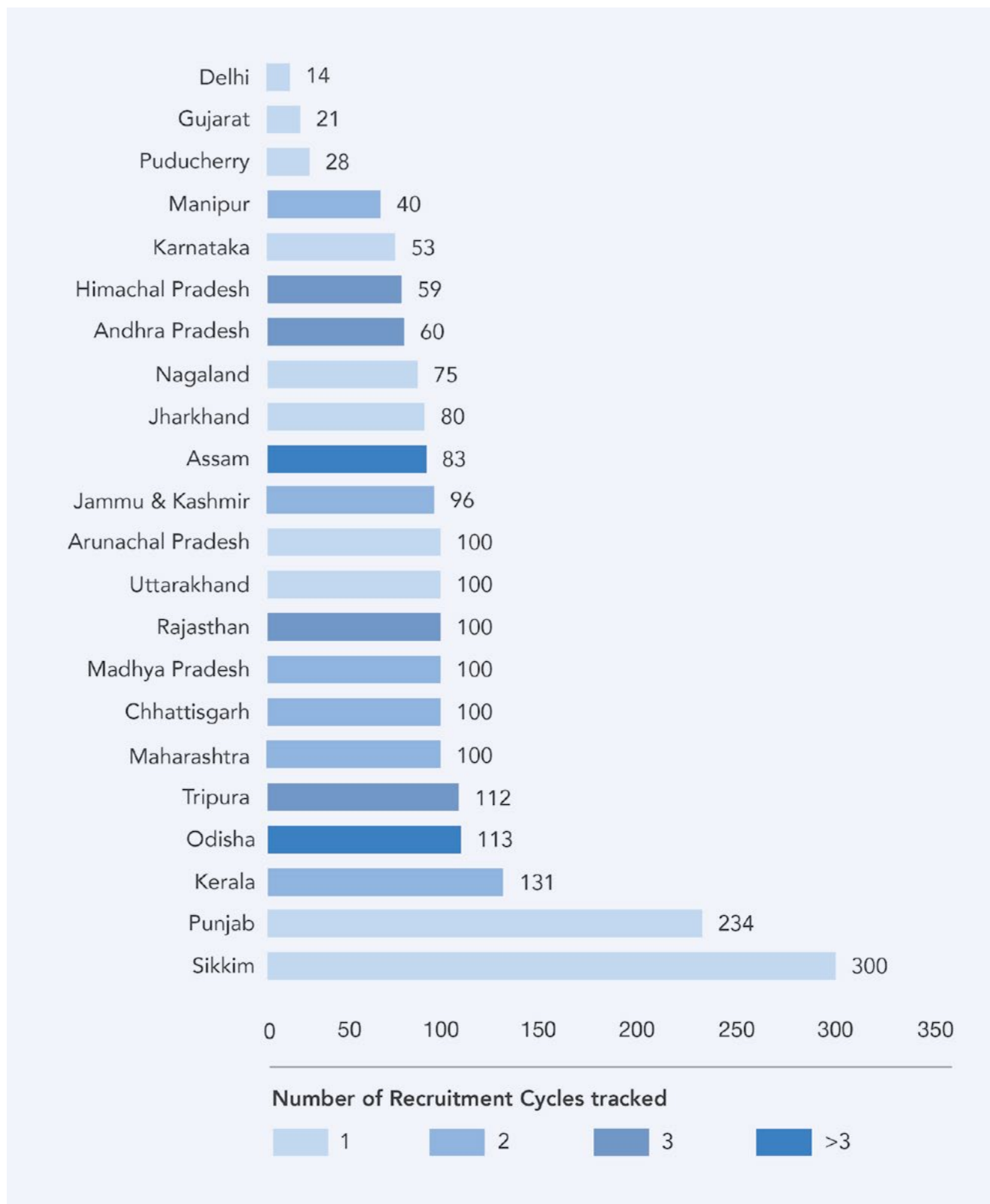
### Success in filling vacancies

Data from 20 states shows that there is great variance in the percentage of vacancies filled after a recruitment cycle ends. In 11 states, the total vacancies advertised were not filled. In

<sup>18</sup> The states which are not represented in this graph are the states for which we have no information. These include Uttar Pradesh, West Bengal, Jharkhand, Meghalaya, Bihar, Haryana, Sikkim, Mizoram, Goa, Tamil Nadu and Telangana.

some cases, such as Punjab and Sikkim, the candidates selected were more than twice the number of vacancies advertised. Graph 2 represents statewise details. For some states and union territories like Delhi, we were able to obtain data for only one recruitment cycle.

**Graph 2: Percentage of Vacancies Potentially Filled For Civil Judges [Jr.(Direct Recruitment)] Appointments<sup>19</sup>**



<sup>19</sup> The states which are not represented in this graph are the ones for which we have no information. These include Uttar Pradesh, West Bengal, Meghalaya, Bihar, Haryana, Mizoram, Goa, Tamil Nadu and Telangana.

Thus, this will not be an accurate representation of Delhi's general or historic performance in filling vacancies, especially given litigation surrounding its recruitment cycles. As mentioned earlier, failure to fill vacancies could be for numerous reasons, some of which lie outside the control of the High Courts/ Public Service Commissions conducting the examination. Similarly, though Sikkim has filled 300% of its vacancies, it does not necessarily reflect better performance than Kerala or Punjab which have managed to fill 131% and 234% of their vacancies respectively.

In absolute terms, there are 856 Civil Judges (Jr.(Direct Recruitment)) vacancies across 16 states and union territories in the country in 2017. Amongst these, states such as Karnataka, Gujarat, Odisha and Haryana have over a hundred vacant posts, with vacancies at 167, 129, 110 and 109 respectively. Sikkim, Nagaland and Arunachal Pradesh have the least vacancies. Statewise details are available in Table 2.

**Table 2: Statewise Vacancies for the Post of Civil Judges [Jr.(Direct Recruitment)] in 2017<sup>20</sup>**

STATE	VACANCIES FOR CIVIL JUDGES [JR.(DIRECT RECRUITMENT)] IN 2017
Sikkim	3
Nagaland	6
Arunachal Pradesh	7
Goa	10
Jammu & Kashmir	11
Mizoram	16
Punjab	19
Assam	31
West Bengal	34
Chhattisgarh	35
Maharashtra	75
Madhya Pradesh	94
Haryana	109
Odisha	110
Gujarat	129
Karnataka	167

<sup>20</sup> Data unavailable for Uttar Pradesh, Delhi, Himachal Pradesh, Andhra Pradesh, Jharkhand, Kerala, Rajasthan, Tripura, Uttarakhand, Tamil Nadu, Manipur, Meghalaya, Bihar, Puducherry and Telangana.



## District Judges (Direct Recruitment) Appointments

The performance of states in Civil Judge (Jr. (Direct Recruitment)) appointments does not necessarily match their performance in District Judge (Direct Recruitment) appointments.

### Ranking

- Out of the available data for 15 states, for District Judges (Direct Recruitment) appointments, the top- ranked states are Tamil Nadu, West Bengal, Uttarakhand and Tripura whereas lower-ranked states include Assam and Bihar. (See Table 3)

**Table 3: Ranking for District Judges (Direct Recruitment) Appointment<sup>21</sup>**

STATE	RANKING
Tamil Nadu	1
West Bengal	2
Uttarakhand	3
Tripura	3
Kerala	4
Punjab	4
Mizoram	4
Arunachal Pradesh	4
Odisha	4
Delhi	5
Nagaland	6
Himachal Pradesh	7
Karnataka	8
Assam	9
Bihar	10

### Timeliness

States hire District Judges (Direct Recruitment) based on either a two-tier process (written exam and interview) or a three-tier system (preliminary exam, written test and interview). Out of the available data for 17 states, seven states follow the former while the remaining ten states follow the latter.

<sup>21</sup> The states left out of the ranking system due to lack of available data are Haryana, Uttar Pradesh, Maharashtra, Puducherry, Goa, Telangana, Chhatisgarh, Manipur, Meghalaya, Rajasthan, Sikkim, Gujarat, Andhra Pradesh, Madhya Pradesh, Jammu and Kashmir, and Jharkhand.

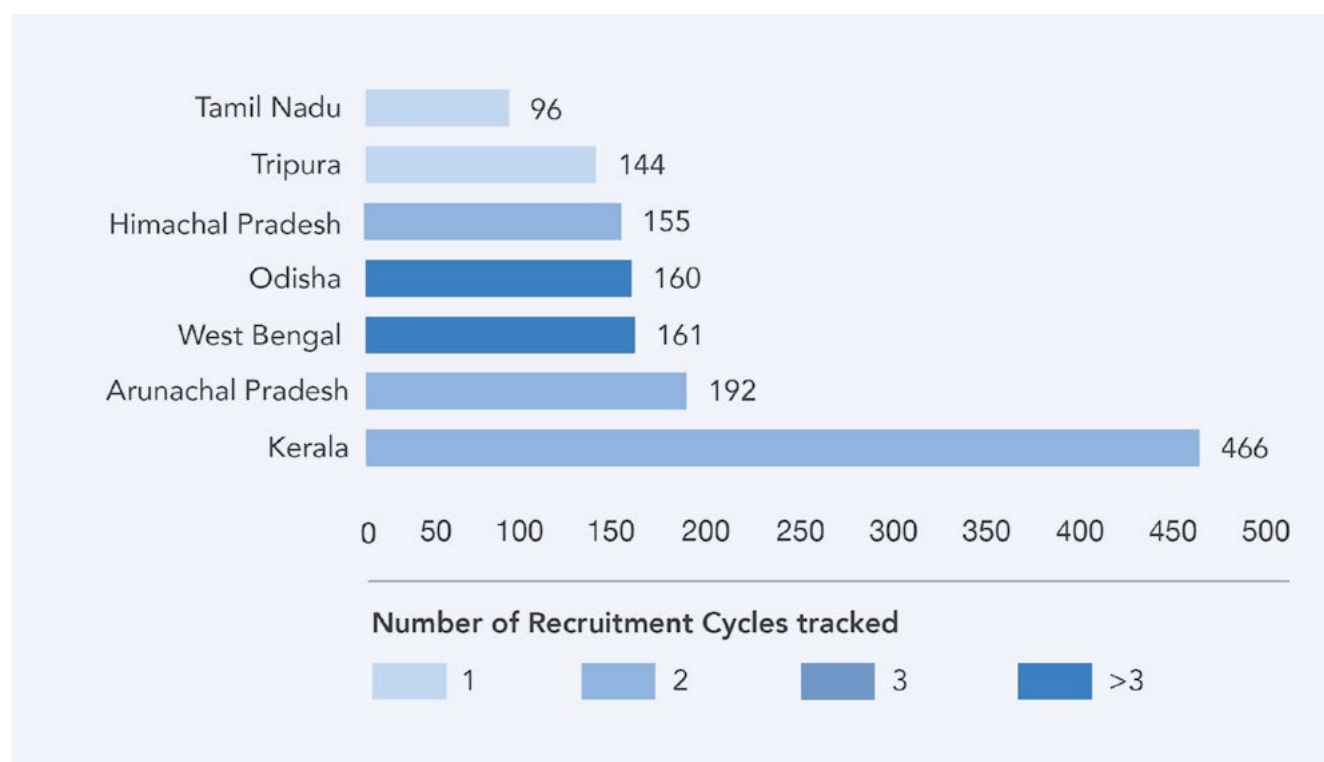
As per the SC order in *Malik Mazhar Sultan (2007)*<sup>22</sup>, a two-tier recruitment procedure for District Judges should take around 153 days. Our findings suggest that several states are unable to follow this norm.

- Amongst the states that follow the two-tier system of recruitment, the average number of days to complete the cycle is 196.28 days (n=7).<sup>23</sup> Wide variance, however, underlies this average figure. (Statewise details are available in Graph 3a.)
- Tamil Nadu and Tripura manage to complete their recruitment cycle under 153 days, with Tamil Nadu running a complete cycle in just 96 days. Himachal Pradesh, Odisha, and West Bengal, however, take a little more than 153 days to complete their cycles. Arunachal Pradesh and Kerala emerge as the outliers in this case since they take 192 and 466 days respectively to complete their recruitment cycle for District Judges (Direct Recruitment) appointments.

As per the SC order in *Malik Mazhar Sultan (2007)*,<sup>24</sup> a three-tier examination procedure should take around 273 days.

- But according to our data, amongst the states that follow a three-tier system of recruitment, average number of days to complete the cycle is 335.9 days (n=10).<sup>25</sup>
- There is again variance underlying this average. Uttarakhand, Haryana, Karnataka and Nagaland completed their cycle under 273 days. Mizoram, Punjab, Uttar Pradesh, Assam, Delhi and Bihar, however, took more than 273 days to complete their cycle. Bihar emerges as the worst-performing state in this regard, since it took nearly 604 days to conclude the examination process. Statewise details are available in Graph 3b.

**Graph 3a: Average Number of Days for Appointment of District Judges (Direct Recruitment) in States with a Two-Tier Examination Process.**



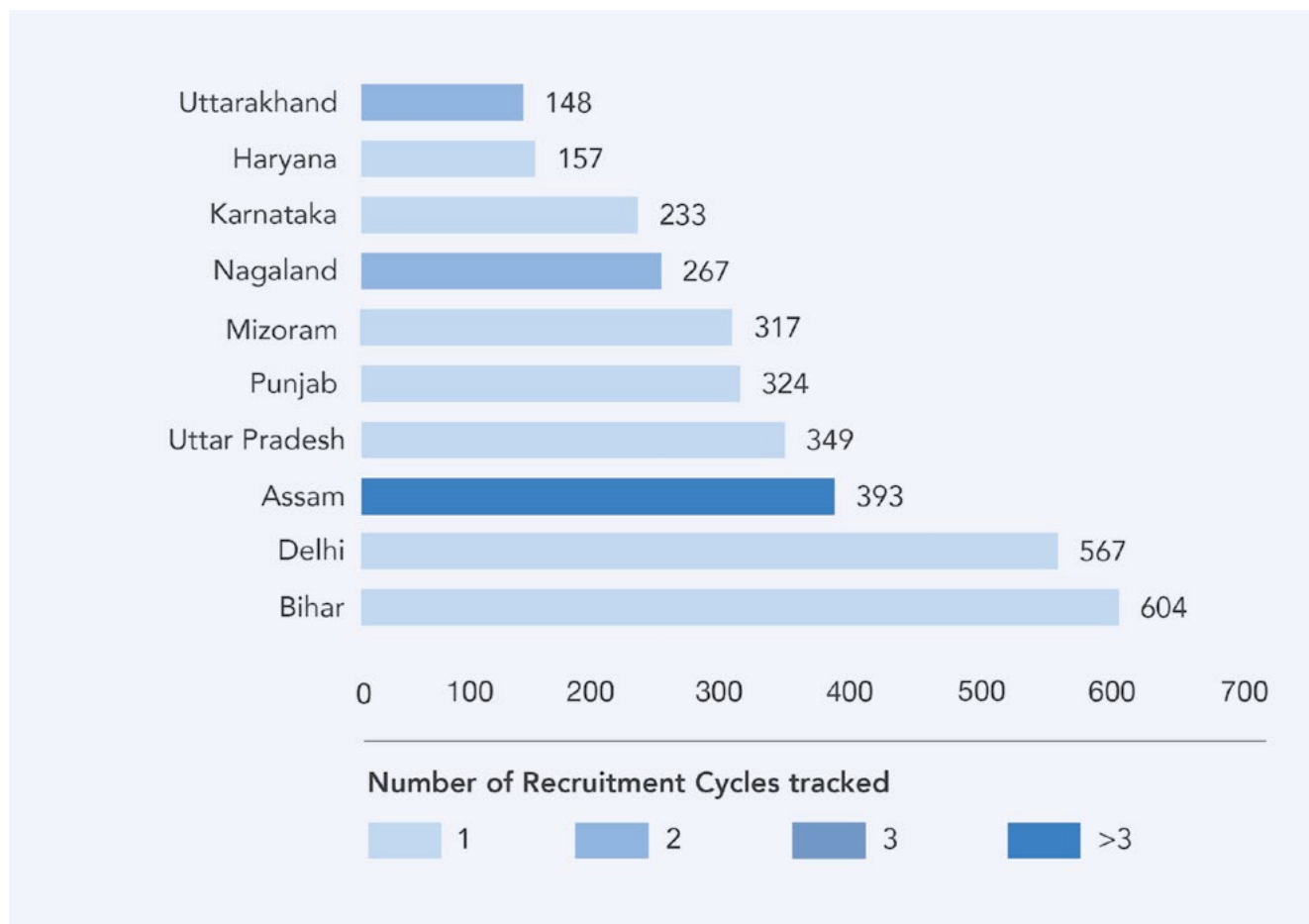
22 *Malik Mazhar Sultan & Anr. v. U.P. Public Service Commission & Ors. (2007) 2 SCALE 159.*

23 'n' denotes number of states.

24 *Malik Mazhar Sultan & Anr. v. U.P. Public Service Commission & Ors. (2007) 2 SCALE 159.*

25 'n' denotes number of states.

**Graph 3b: Average Number of Days for Appointment of District Judges (Direct Recruitment) in States with a Three-Tier Examination Process<sup>26</sup>**

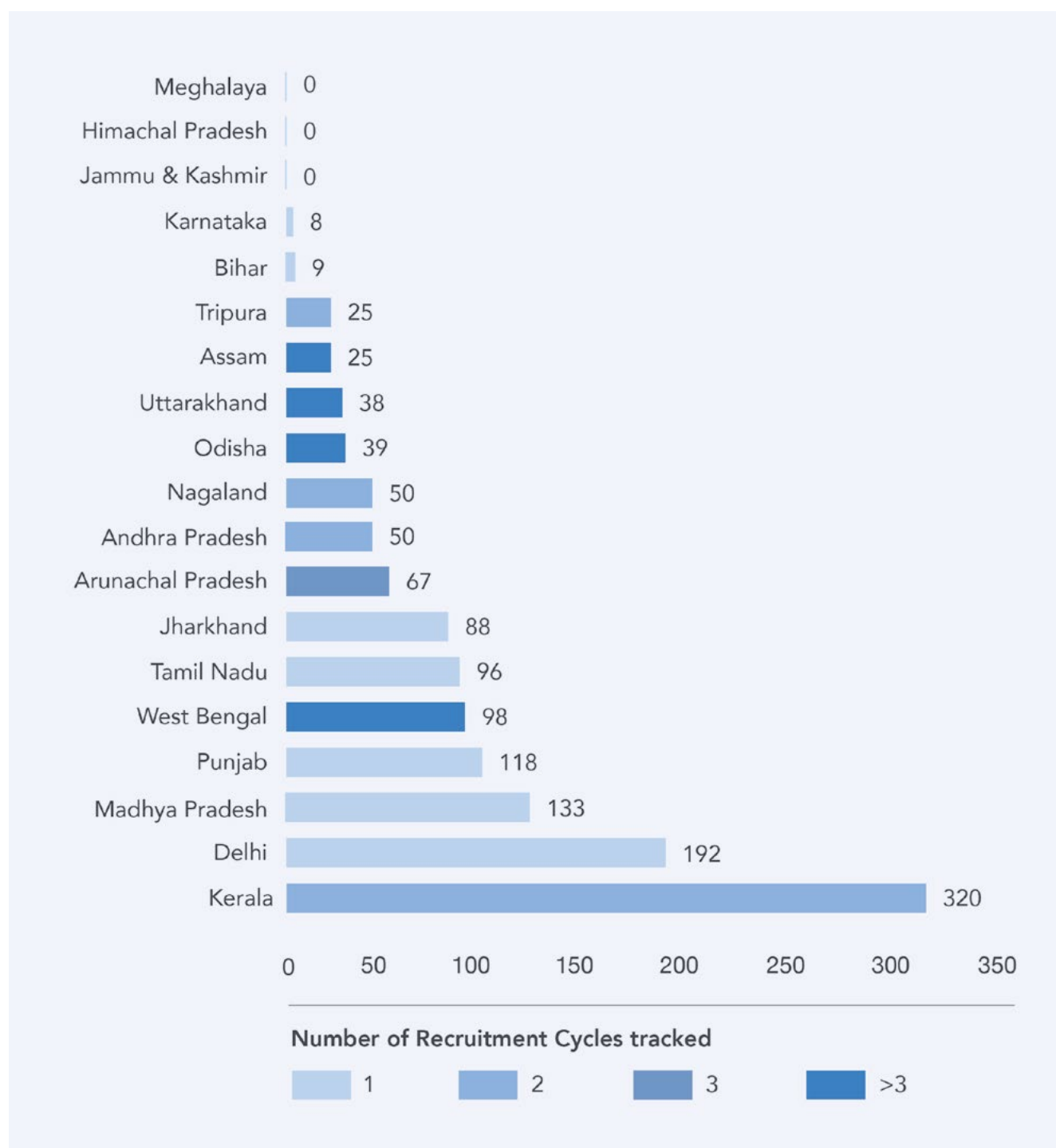


### Success in filling vacancies

Data from 19 states show that there is great variance in the percentage of vacancies filled after a recruitment cycle ends. In 15 states, the total vacancies advertised were not filled. In Kerala, the judges selected were more than thrice the number of vacancies advertised. As noted above, the capacity to not fill vacancies does not reflect a state's poor performance, nor does selecting more than a certain number of candidates far greater than the actual number of posts necessarily signify better performance. Graph 4 represents statewise details.

<sup>26</sup> The states which are not represented in graphs 3a and 3b are the ones for which we have no information. These include, Maharashtra, Chhattisgarh, Gujarat, Andhra Pradesh, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Manipur, Meghalaya, Rajasthan, Sikkim, Puducherry, Goa and Telangana.

**Graph 4: Percentage of Vacancies Potentially Filled for District Judges (Direct Recruitment) Appointments<sup>27</sup>**



In absolute terms, there are 239 District Judge vacancies across 15 states and Union Territories in the country in 2017. Amongst these, Karnataka has the highest number of vacant positions, with 60 posts advertised as vacant. Arunachal Pradesh is the only state where there are no District Judge vacancies in 2017. Statewise details are available in Table 4.

<sup>27</sup> The states which are not represented in this graph are the ones for which we have no information. These include Uttar Pradesh, Maharashtra, Chhattisgarh, Gujarat, Manipur, Haryana, Sikkim, Rajasthan, Mizoram, Puducherry, Goa and Telangana.

Table 4: Statewise Vacancies for the Post of District Judges in 2017<sup>28</sup>

STATE	VACANCIES FOR DISTRICT JUDGE (DIRECT RECRUITMENT) IN 2017
Arunachal Pradesh	0
West Bengal	3
Himachal Pradesh	3
Manipur	3
Sikkim	3
Odisha	7
Uttarakhand	7
Punjab	7
Chhattisgarh	8
Jharkhand	10
Assam	13
Rajasthan	31
Gujarat	42
Madhya Pradesh	42
Karnataka	60

28 Uttar Pradesh, Maharashtra, Delhi, Andhra Pradesh, Jammu and Kashmir, Kerala, Tamil Nadu, Meghalaya, Bihar, Haryana, Tripura, Nagaland, Mizoram, Puducherry, Goa and Telangana are states for which we do not have the requisite information.

## Concluding Remarks

Publicly available data for each stage of the selection process is sparse, and severely inhibits research on the issue. Better documentation of data at each stage of appointment by High Courts will necessarily be the first step in understanding problems in the process, and evolving transformative reforms. A preliminary reading of the available evidence, however, suggests that the recruitment process is not taking place in a regular and timely manner in a number of states. Even if states complete a recruitment cycle, many are unable to fill the total number of advertised vacancies.

As mentioned above, while our findings may signal inefficiencies in appointments processes, they are limited in two main ways. First, for many states, we have been able to secure information for only one recruitment cycle which makes it difficult to draw conclusion on the overall performance of the state. Second, systemic reasons for delay such as pending litigation often lie beyond the control of the state but have the effect of delaying the entire process. Additional factors such as poor quality of legal education<sup>29</sup> and poor incentive structures<sup>30</sup> contribute to the lack of an adequate pool of meritorious candidates for such examinations.

Hence, this ranking merely reflects a relative performance of states with regard to the recruitment process on the basis of publicly available information. It does not reflect an absolute picture of a state's performance. Further, this information does not shed light on the quality of judges recruited through the current appointments process. Even if all vacancies were to be filled overnight, access to quality justice for all can only be secured by ensuring the appointment of meritorious candidates. To understand whether the selection process is designed to recruit such candidates, a forthcoming report of Vidhi Centre for Legal Policy will examine appointment processes of different states qualitatively, assessing the examination papers, syllabus, interview procedures, etc.

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29 Alok Prasanna Kumar, *No Case for an All India Judicial Service*, The Hindu, August 16th, 2017, available at <<http://www.thehindu.com/opinion/op-ed/no-case-for-an-all-india-judicial-service/article19498261.ece>>, last accessed on 13.09.2017

30 *Id.*

# Annexure A

Based on the metrics explained above, the following methodology was employed to arrive at a ranking system for the appointment process of both the District Judge (Direct Recruitment) and Civil Judges [Jr.(Direct Recruitment)].

## (i) Recruitment Cycle

For the purpose of this study, we confined ourselves only to online resources. We looked at notifications associated with the recruitment of the Civil and District Judges (Direct Recruitment) that were available on the state High Court website under the 'Recruitment'/ 'Notifications'/ 'Advertisement' tabs and also searched for these under the 'Results' and 'Interview Schedule' tabs. Starting from the year 2007 till 2017, we searched for notifications pertaining to each recruitment cycle for direct recruitment of Civil and District Judges. We extracted notifications pertaining to vacancy, advertisement, preliminary examination (wherever applicable), mains examination, interview and the final select list. Using these notifications, we mapped the recruitment cycle of a particular year. We have followed this process for each recruitment cycle from 2007 to 2017.

We mapped the total time taken to complete one recruitment cycle, starting from the date of advertisement to the date when the final select list of successful candidates was published. If the states ran multiple recruitment cycles between 2010 to 2017, we averaged the total time taken across the different cycles. For states with one recruitment cycle, we recorded the time taken for that cycle.

It is pertinent to note that while the examination process for Civil Judges (Jr.(Direct Recruitment)) is mostly uniform across all states comprising of a preliminary, mains and interview round, the examination process for recruiting a District Judge is not uniform across all states. For some states, there is a two tier process of a written examination followed by an interview. For others, an additional preliminary examination/screening/qualifying exam is also conducted. This affects the total time taken in completing one recruitment cycle. It was implausible to rank states, isolating instances of a two tier versus a three tier examination because there was no uniformity even across multiple recruitment cycles of the same state. Additionally, we worked with the assumption that irrespective of how many stages, selection for the same grade/post should take about the same time.

In some recruitment cycles, no one qualifies after the mains exam/written examination for the interview round. We treat these cases as an incomplete recruitment cycle and do not calculate the total time taken for these cases.

For the purpose of the report we have studied a total of 41 recruitment cycles across 20 states for Civil Judges (Jr.(Direct Recruitment)) and 37 recruitment cycle for District Judges (Direct Recruitment) across 19 states. Statewise details are available in Table 5.

**Table 5: Number of Recruitment Cycles studied to Map 'Timeliness'**

STATE	NO. OF COMPLETE RECRUITMENT CYCLES MAPPED (CJ) FOR TIMELINESS	NO. OF COMPLETE RECRUITMENT CYCLES MAPPED (DJ) FOR TIMELINESS
Andhra Pradesh	2	0
Arunachal Pradesh	1	2
Assam	4	4
Bihar	0	1
Chhattisgarh	2	0
Delhi	1	1
Goa	0	0
Gujarat	1	0
Haryana	0	1
Himachal Pradesh	2	2
Jammu & Kashmir	3	1
Jharkhand	0	0
Karnataka	1	1
Kerala	2	2
Madhya Pradesh	1	0
Maharashtra	3	0
Manipur	2	0
Meghalaya	0	1
Mizoram	0	1
Nagaland	1	2
Odisha	4	6
Pondicherry	1	0
Punjab	2	1
Rajasthan	3	0
Sikkim	0	0
Tamil Nadu	0	1
Telangana	0	0
Tripura	3	1
Uttar Pradesh	0	1
Uttarakhand	2	2
West Bengal	0	6



### (ii) Percentage of Vacancies Filled

To calculate 'percentage of vacancies filled', we have, wherever information was available, obtained the number of vacancies specific for Civil and District Judges (Direct Recruitment) and the number of candidates who have qualified in the final select list of that recruitment cycle. Since we have not been able to obtain the actual appointment letter for these recruitment cycles we cannot conclusively say how many vacancies have been filled at the end of the recruitment cycle. Rather, we rely on the number of candidates who have qualified in the select list. We did not use 'date of appointment letter' because these letters are issued by the state executive can be delayed due to several exigencies. Our objectives was to measure the efficacy of the conducting authority in completing the examination process and thus the data was out of our study purview.

Where there was no date available on the notification, we have taken the date of uploading on the website as the 'deemed' date for that particular notification.

While calculating the number of advertised vacancies vis-a-vis the selected candidates, we have taken into account both the anticipated vacancies and regular vacancies in a given year. Anticipated vacancies are those that the examination conducting authority expects will emerge due to promotion or retirement of other judges in the cadre.

For the purpose of the report we have have studied a total of 43 recruitment cycles for Civil Judges (Jr.(Direct Recruitment)) across 22 states and 45 recruitment cycle for District Judges (Direct Recruitment) across 20 states. Statewise details are available in Table 6.

**Table 6: Number of Recruitment Cycles studied to Map 'Vacancy'**

STATE	NO. OF RECRUITMENT CYCLES WE HAVE INFORMATION FOR (VACANCY) CJ)	NO. OF RECRUITMENT CYCLES WE HAVE INFORMATION FOR (VACANCY) DJ)
Andhra Pradesh	3	2
Arunachal Pradesh	1	3
Assam	4	4
Bihar	0	1
Chhattisgarh	2	0
Delhi	1	1
Goa	0	0
Gujarat	1	0
Haryana	0	0
Himachal Pradesh	3	1
Jammu & Kashmir	2	1
Jharkhand	1	1
Karnataka	1	1
Kerala	2	2
Madhya Pradesh	2	1
Maharashtra	3	0
Manipur	2	0
Meghalaya	0	1
Mizoram	0	1
Nagaland	1	2
Odisha	4	7
Puducherry	1	0
Punjab	1	1
Rajasthan	3	0
Sikkim	1	0
Tamil Nadu	0	1
Telangana	0	0
Tripura	3	2
Uttar Pradesh	0	0
Uttarakhand	1	5
West Bengal	0	7

### (iii) Ranking system

We have ranked states on their performance on District Judge and Civil Judge Appointment (both have different rankings). The performance assessed as a function of two metrics: 'average number of days in a recruitment cycle' and 'percentage of vacancies filled'.

We ranked states on 'average number of days in a recruitment cycle' in ascending order. States with lower number of days in recruitment cycles were given a better rank than those with more number of days. For each rank, a corresponding score was allocated to the states. For 'percentage of vacancies filled' we ranked states in descending order and gave them a corresponding score. States with higher percentage of vacancies filled were given a better rank than those with lower percentage of vacancies filled, along with a corresponding score. A dense ranking method was followed, where states with equal scores were given equal rank, and the state with the next lowest score was given the next lowest rank.

Scores from both of these metrics were combined to arrive at a cumulative score for each state. Higher scoring states were given a better rank than those with lower scores. States with similar scores were given the same rank. Wherever data from either of the metric was unavailable, we left out such states from the ranking process.

## Annexure B

**Table 7: Years and State-Wise Information When No Candidate Qualified**

STATE	POST	YEAR	VACANCY
Arunachal Pradesh	District Judge	2013	1
Nagaland	District Judge	2013	1
Uttarakhand	District Judge	2013	1
Uttarakhand	District Judge	2015	2
Tripura	District Judge	2011	Vacancy not available
Odisha	District Judge	2012	13
Meghalaya	District Judge	2011	Vacancy not available
Jammu & Kashmir	District Judge	2015	4
Andhra Pradesh	Civil Judge	2015	34
Andhra Pradesh	District Judge	2015	29
Assam	District Judge	2013	13
Himachal Pradesh	District Judge	2015	Vacancy not available



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