



Politics. Perceptions. Participation.

ACCESS TO JUSTICE SURVEY

2015-16



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Survey Design

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Survey Conducted by

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Infographics and Report Design

How India Lives, a search engine for public data on India
Website: www.howindialives.com

Introduction

The Access to Justice Survey is designed to understand the functioning of the judiciary and profile of litigants. The survey interviews current litigants to see if they are able to use the judicial system effectively to resolve their problems. It evaluates how social profile determines ease of access.

Litigants in several district courts were interviewed regarding the transactional and relational aspects of accessing the court system.

A. Methodology

The survey includes questions pertinent to civil and criminal legal procedures. The survey was conducted manually between November 2015 and February 2016.

The sampling objective of our survey was to ensure nationwide representation. Separate questionnaires were designed for civil and criminal cases.

Surveyors physically visited 305 locations in 24 states in India.

The survey form was made available on an Android-based app. Our survey has collected data on the following variables:

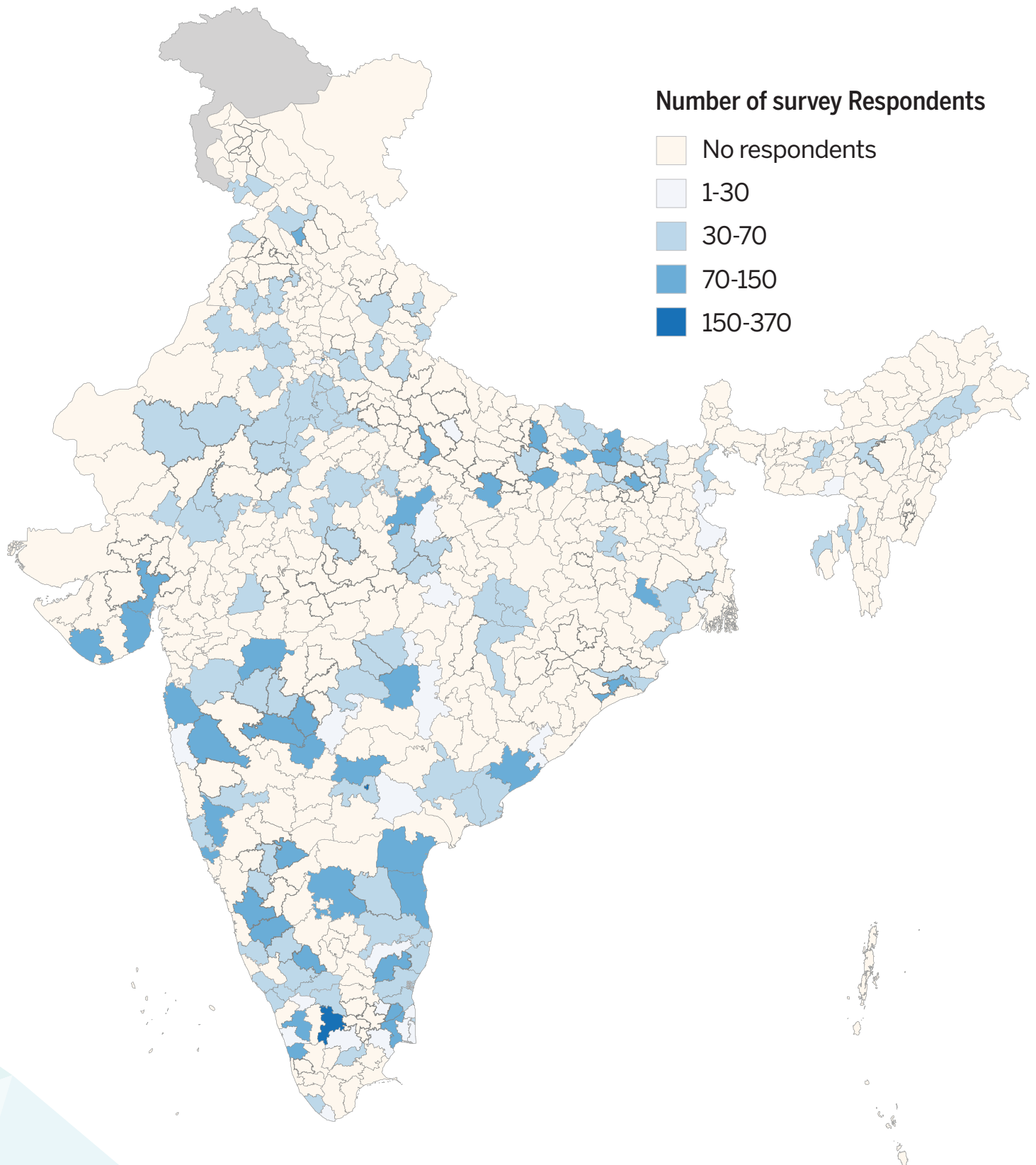
I. Socio-demographic indicators

- Age
- Education
- Occupation
- Annual family income
- Nature of accommodation
- Types of assets owned
- Caste
- Religion

II. Cost structures

- Types and costs of travel
- Expenditure on the court case
- Costs of time lost in attending hearings
- Social support systems such as family or friends accompanying litigant to court
- Expectations of outcome vis a vis time and delay
- Alternate methods of dispute resolution used
- Details on access to lawyers

Our survey was conducted across 305 locations in 24 states and interviewed 9329 litigants. Below is a heat map of the 170 districts in which the survey was carried out.

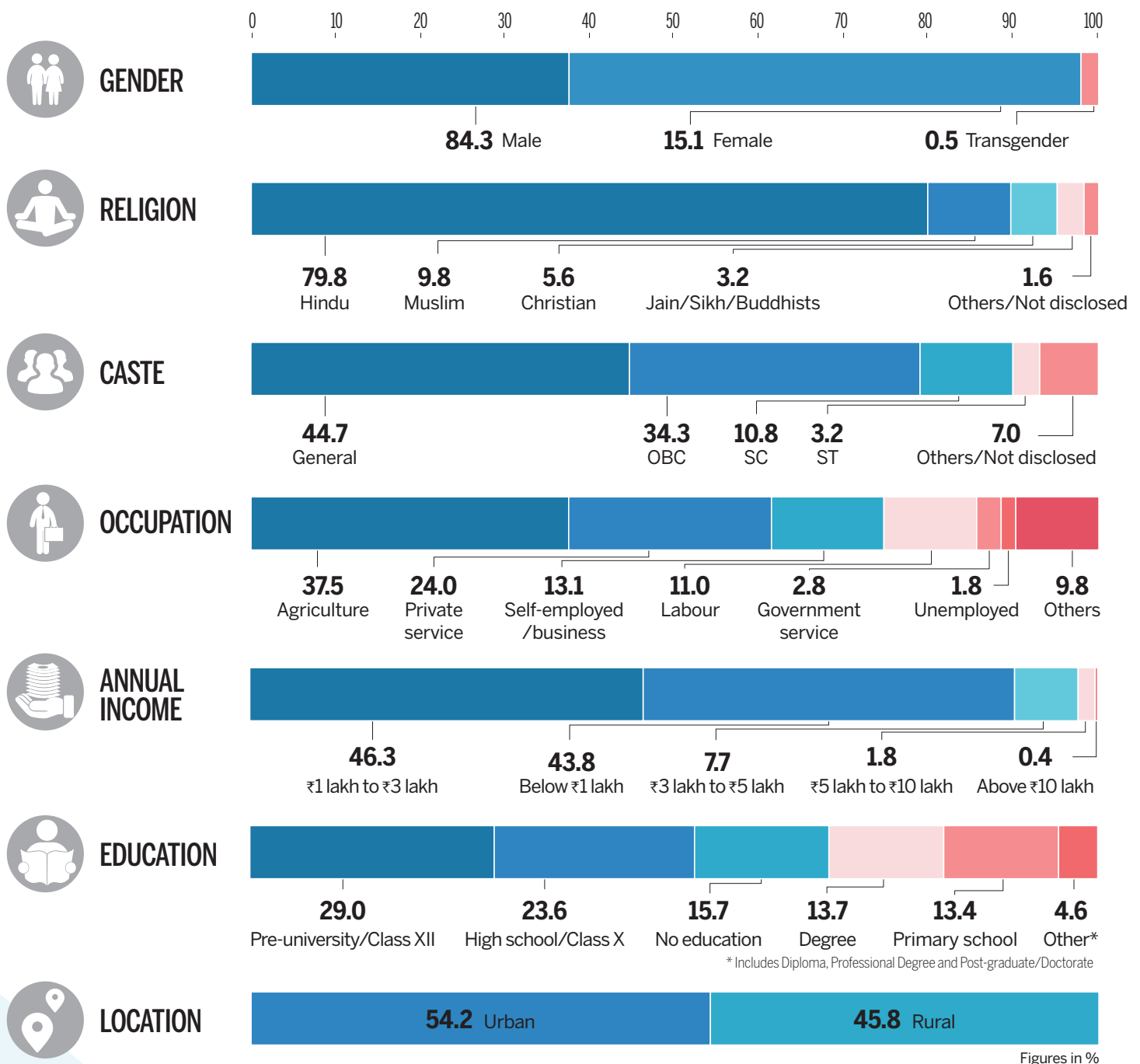


B. Who is Accessing the Judicial System?

This section contains a summary of the socio-economic profile of the litigant body across civil and criminal questionnaires as per social, economic and institutional parameters. Our survey data is representative of the social profile of the Indian demographic as per

Census 2011. Women account for 15% of the survey respondents. This is in keeping with the National Judicial Data Grid data that states that only 14% of litigants in India are female. Survey respondents are primarily composed of individuals fighting against other individuals.

Figure 1: Socio-economic profile of survey respondents



Figures in %

C. What are Litigants Using the Judicial System for?

Figure 2 : Subject matter of civil cases as per survey respondents

Land and property matters dominate civil litigation across the country. This is followed by litigation on family matters.

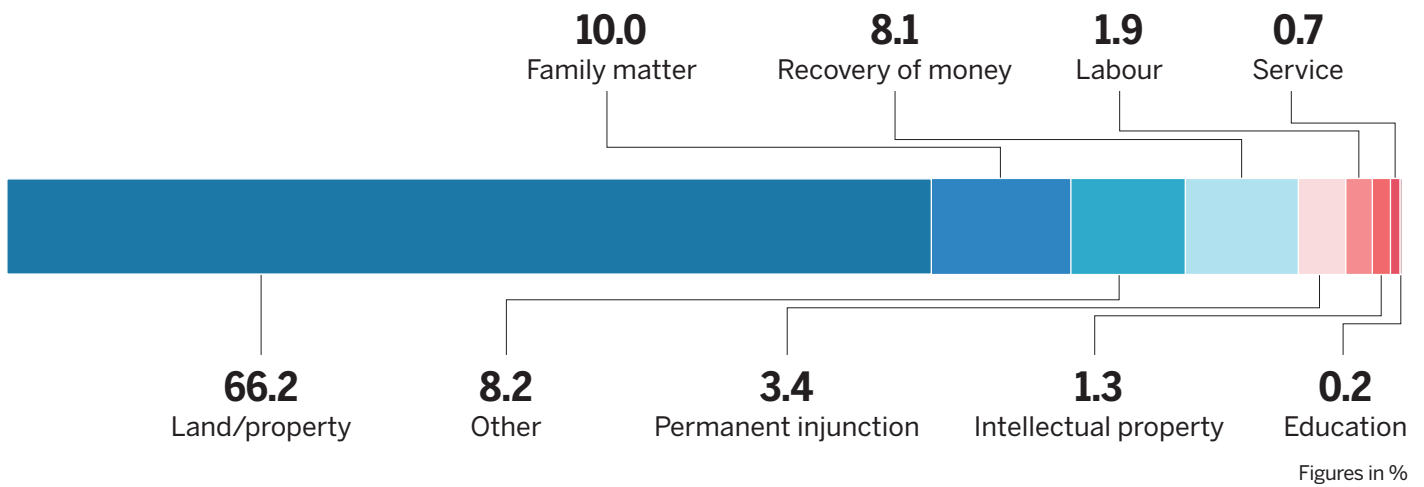


Figure 3: Share of land/property cases in total civil cases by income group

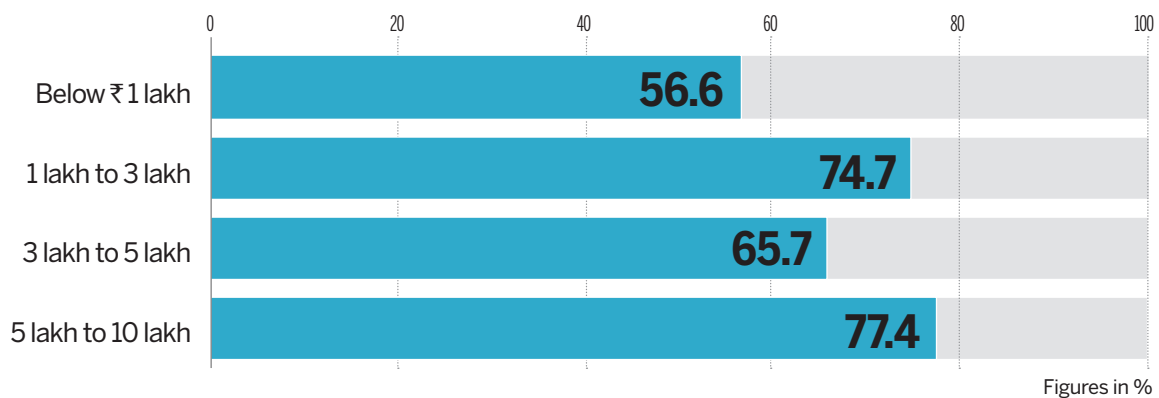
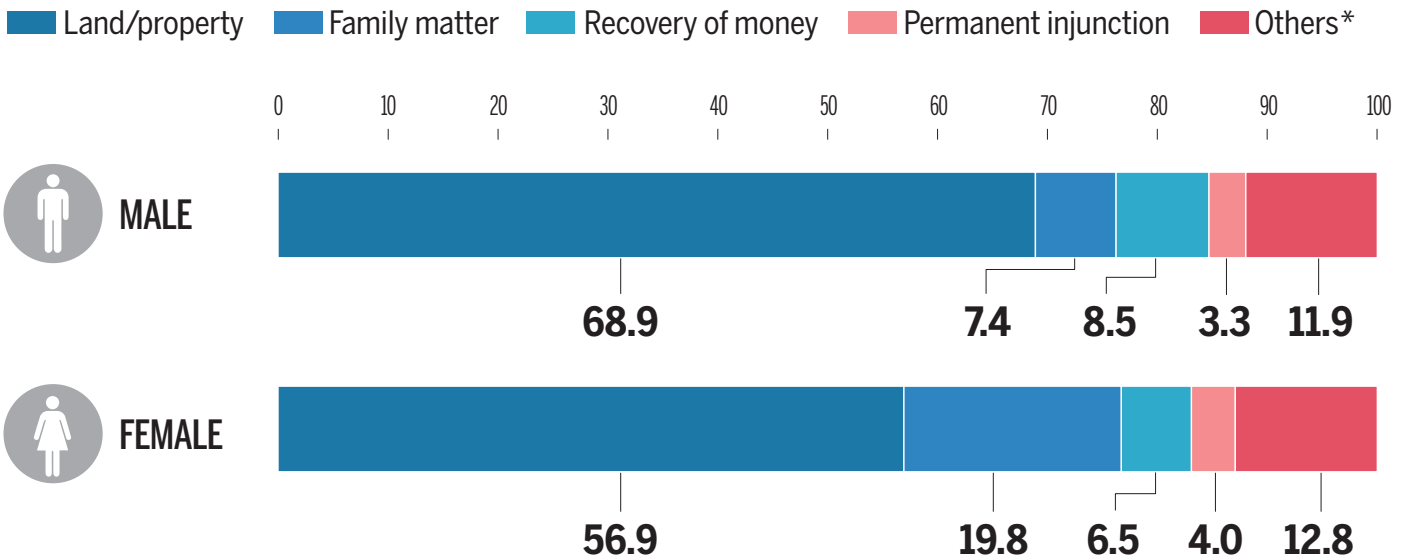


Figure 4: Gender-wise break-up of civil cases (plaintiffs and respondents)



Figures in % * Includes labour, service, intellectual property and education.

Figure 5: Religion matrix of civil cases

| | | Religion of Opponent | | | | | |
|-------------------------------|--------------------|----------------------|--------|-----------|--------------------|---------------|-------|
| | | Hindu | Muslim | Christian | Jain/Sikh/Buddhist | Not mentioned | Other |
| Religion of survey respondent | Hindu | 73.8 | 1.5 | 7.5 | 0.6 | 15.4 | 1.1 |
| | Muslim | 23.8 | 42.6 | 15.6 | 0.3 | 15.9 | 1.9 |
| | Christian | 20.0 | 1.7 | 74.9 | 0.0 | 2.7 | 0.7 |
| | Jain/Sikh/Buddhist | 15.0 | 1.8 | 9.0 | 41.3 | 32.9 | 0.0 |
| | Not mentioned | 26.1 | 0.0 | 21.7 | 0.0 | 39.1 | 13.0 |
| | Other | 25.8 | 3.2 | 9.7 | 0.0 | 6.5 | 54.8 |

This graph maps civil cases by religion of contesting parties. So, for example, 73.8% of cases by Hindu survey respondents are against other Hindus and 1.5% against Muslims and 7.5% against Christians. The colour spectrum ranges from red (high percentage of cases) to blue (low percentage of cases).

Figure 6: Caste matrix of civil cases

| | | Caste of opponent | | | | | |
|----------------------------|---------------|-------------------|------|------|------|---------------|-------|
| | | General | OBC | SC | ST | Not mentioned | Other |
| Caste of survey respondent | General | 68.8 | 7.4 | 1.7 | 0.6 | 19.6 | 1.9 |
| | OBC | 10.9 | 62.9 | 4.2 | 0.9 | 19.0 | 2.1 |
| | SC | 15.6 | 15.8 | 58.7 | 1.2 | 6.4 | 2.4 |
| | ST | 16.9 | 10.6 | 7.0 | 51.4 | 7.7 | 6.3 |
| | Not mentioned | 24.4 | 7.3 | 3.7 | 0.0 | 54.9 | 9.8 |
| | Other | 38.0 | 12.4 | 3.6 | 1.2 | 8.0 | 36.8 |

Figures in %

This graph maps civil cases by caste of contesting parties. So, for example, 68.8% of cases by survey respondents of the General category are against others of the same category, and 7.4% against OBCs and 1.7% against SCs. The colour spectrum ranges from red (high percentage of cases) to blue (low percentage of cases).

Figure 7: Socio-economic profile of survey respondents who were accused in criminal cases

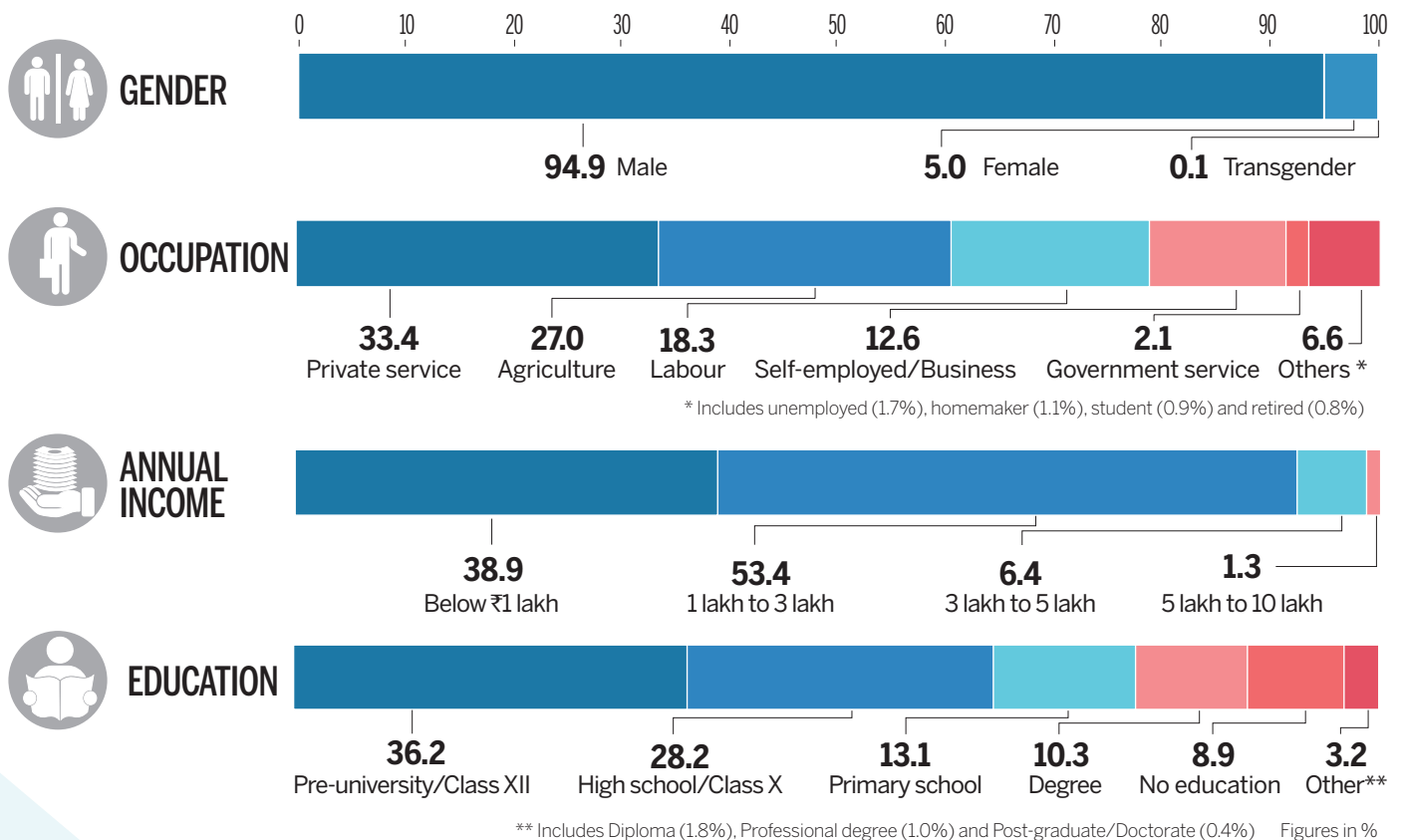


Figure 8: Profile matrix of criminal cases

Across the board, individuals were seen to be litigating against other individuals, or the government. When the government was the complainant, the opposing party primarily consisted of individuals.

| | | Accused | | | | |
|-------------|-------------------|------------|------------|-------------------|------------------|--------|
| | | Individual | Government | Governmental body | Corporate entity | Others |
| Complainant | Individual | 84.4 | 10.4 | 0.4 | 1.5 | 3.3 |
| | Government | 93.1 | 3.5 | 0.5 | 2.1 | 0.7 |
| | Governmental body | 74.3 | 5.7 | 17.1 | 0.0 | 2.9 |
| | Corporate entity | 83.1 | 0.0 | 0.0 | 12.3 | 4.6 |
| | Other | 26.8 | 2.0 | 2.4 | 1.6 | 67.1 |

Figures in %

This graph maps civil cases by profiles of contesting parties. So, for example, 84.4% of cases by complainants who are individuals are against other individuals, and 10.4% against the government. The colour spectrum ranges from red (high percentage of cases) to blue (low percentage of cases).

Figure 9: Previous criminal record of accused

Amongst the accused surveyed, only 5% had been previously accused in other cases and of these individuals, only 46% were convicted on those charges.

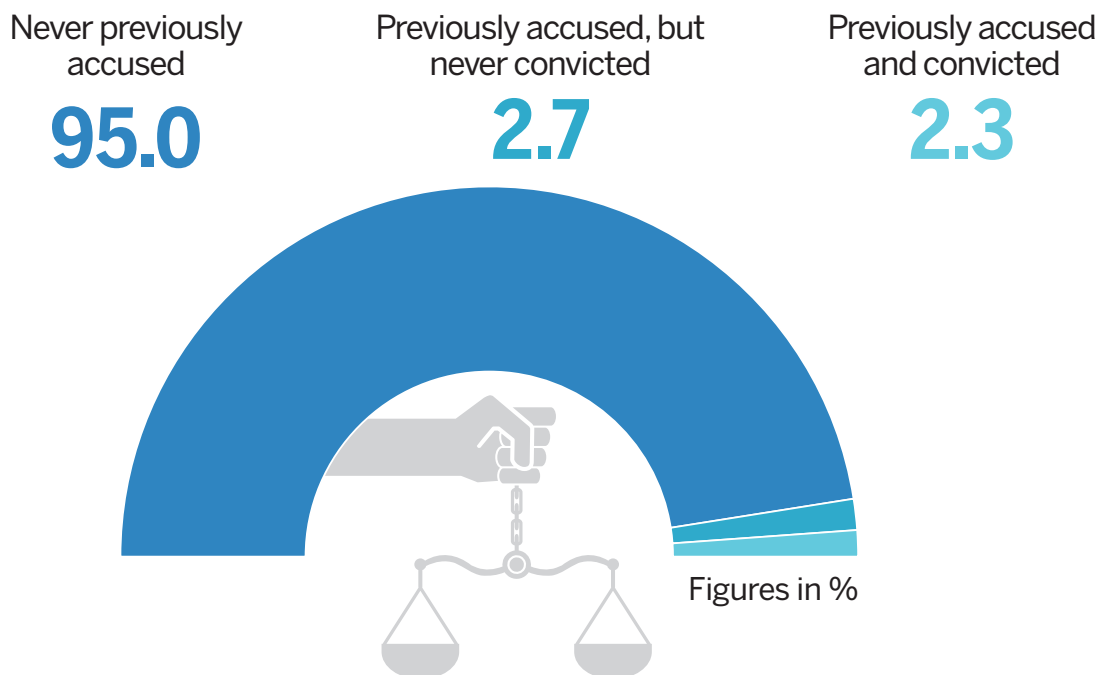
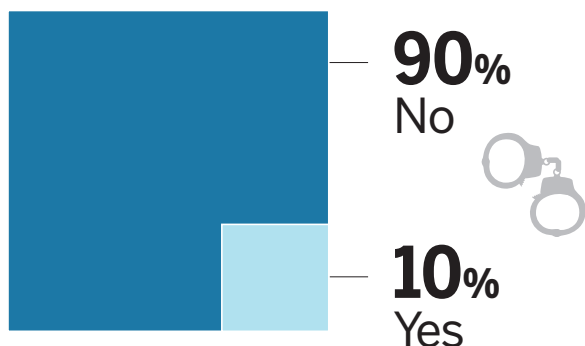


Figure 10: Handcuffing of accused during proceedings



10% of accused were handcuffed within the court premises. Supreme Court guidelines guarantee a minimum freedom of movement which even an undertrial prisoner is entitled to under Article 19 of the Constitution, that cannot be cut down by application of handcuffs or other hoops. [Sunil Batra v. Delhi Administration -AIR 1978 SC 1675].

Figure 12: Reason for not availing bail where due

The main reason individuals could not meet the conditions for bail was due to a lack of sufficient funds.

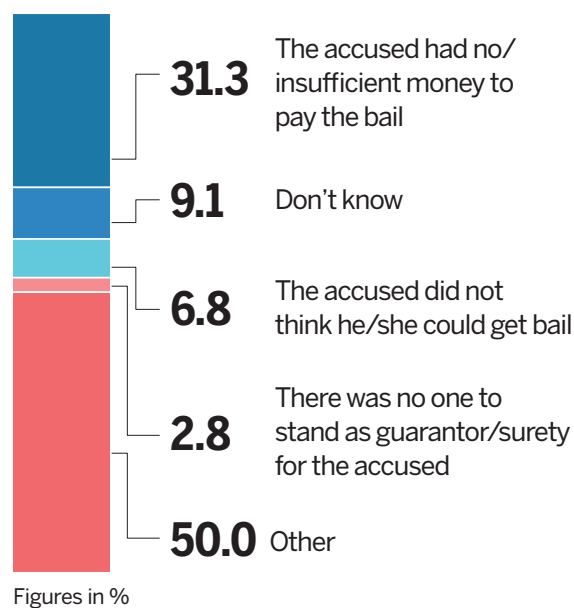


Figure 11: Provider of surety for bail

92% of respondents accused of bailable offences are granted bail

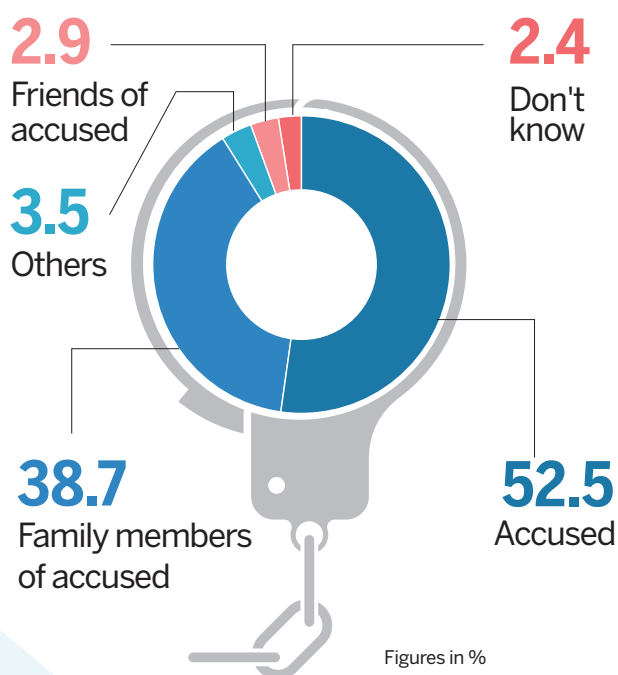
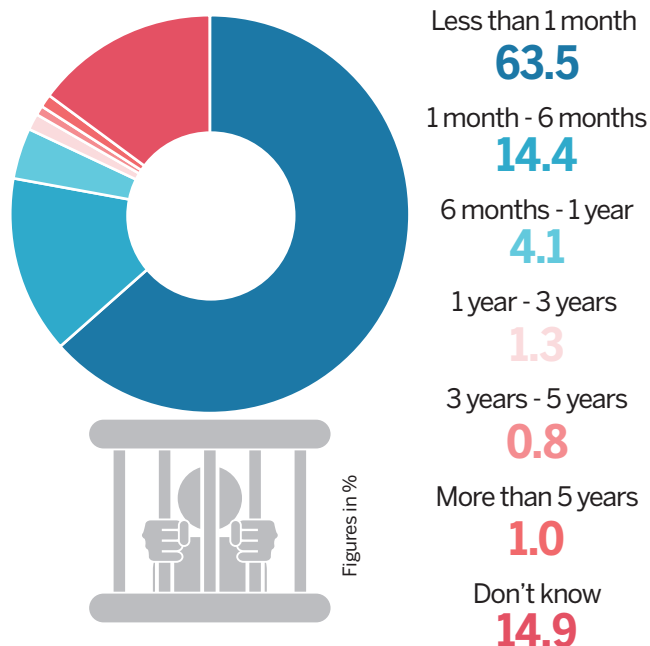


Figure 13: Time spent in jail by those who were granted bail

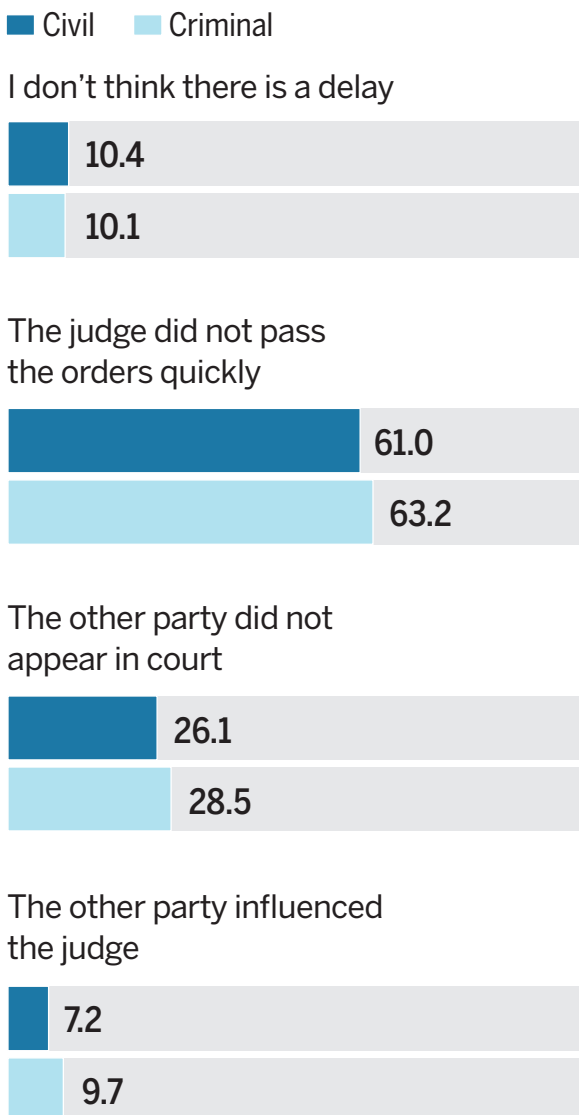
63.5% of accused who were granted bail were in jail for less than one month.



D. 'Litigants' Perception of Delay in Courts

Figure 14: Reasons for delay (in survey respondents' case)

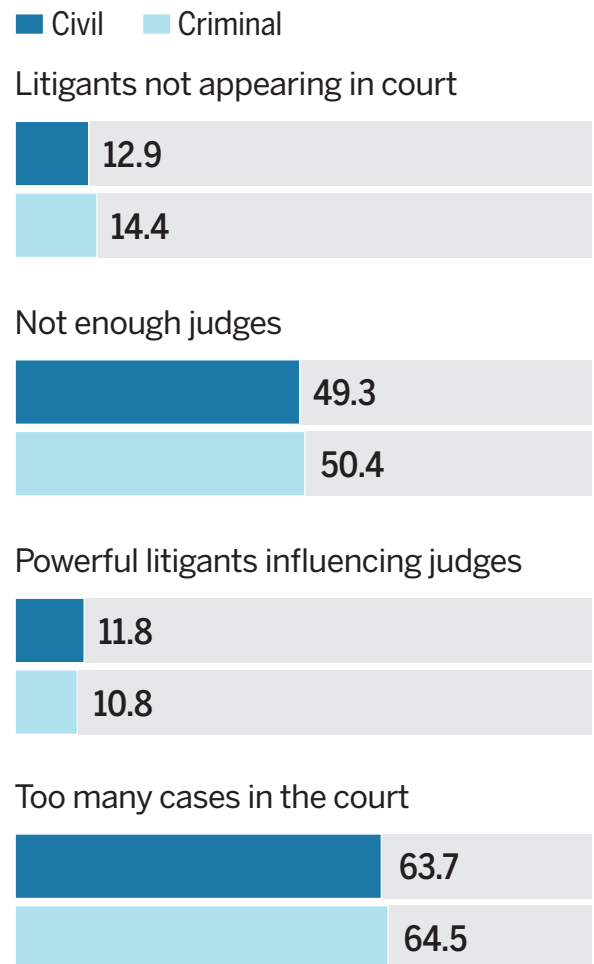
A clear majority of litigants strongly felt that delay in their cases is caused because judges do not pass orders quickly. They also felt that their cases are getting delayed due to non-appearance of opposite parties on the dates fixed for trial.



Figures in %

Figure 15: Survey respondents' perception for reasons for delay in general

Litigants responded that the lack of judges in subordinate courts is the primary reason for delay in general in the courts.



Figures in %

Figure 16: Estimated disposal time at the time of filing case

On asking litigants how much time they expected it would take for their cases to be disposed, we found that 55% of civil litigants and 67% of criminal litigants expected their cases to be resolved within a year when they first filed their cases.

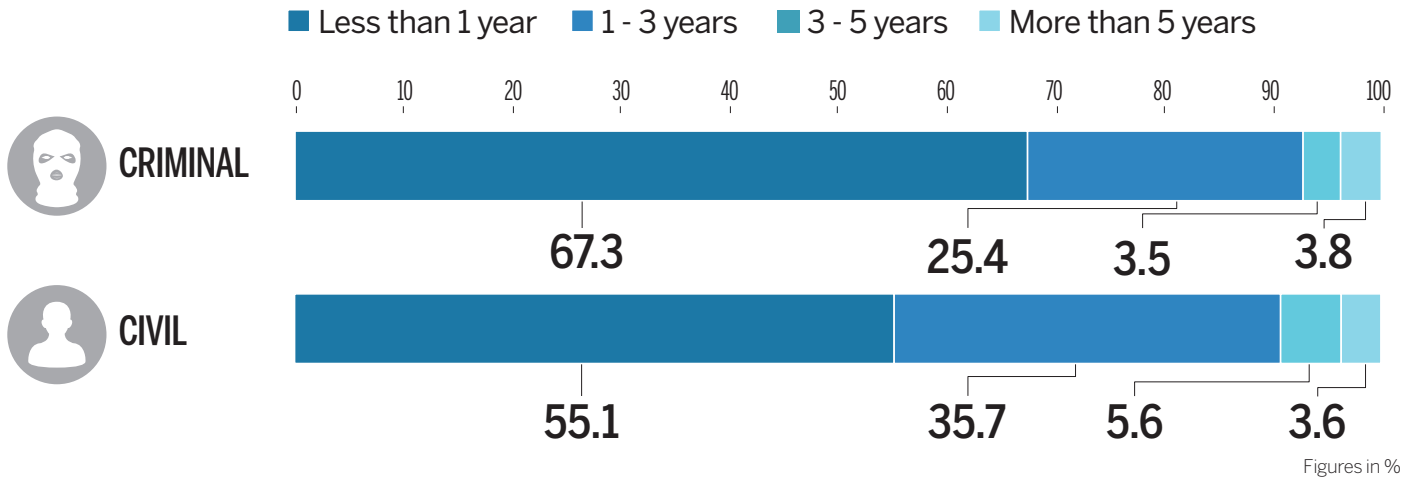


Figure 17: Prior experience with courts in civil matters

Did your previous experience encourage you to go to court this time?

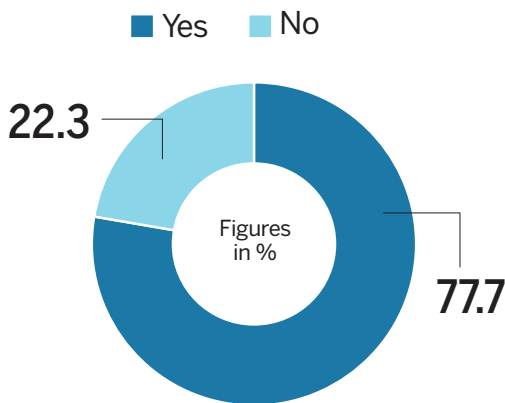
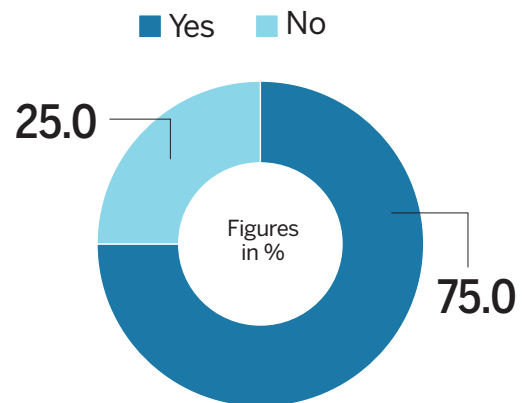


Figure 18: Prior experience with courts in criminal matters

Did your previous experience encourage you to go to court this time?



E. The Costs of Accessing Justice

We sought to understand the following cost structures:

- Expenditure involved in attending court hearings
- Legal fees
- Opportunity cost of attending hearings (wages and work time lost)

Figure 19: Cost incurred and earnings lost for court hearing

Civil litigants spend ₹497 per day on average for court hearings. They incur a loss of ₹844 per day due to loss of pay. Criminal litigants spend ₹542 per day for court hearings on average and incurred a cost of ₹902 per day due to loss of pay.

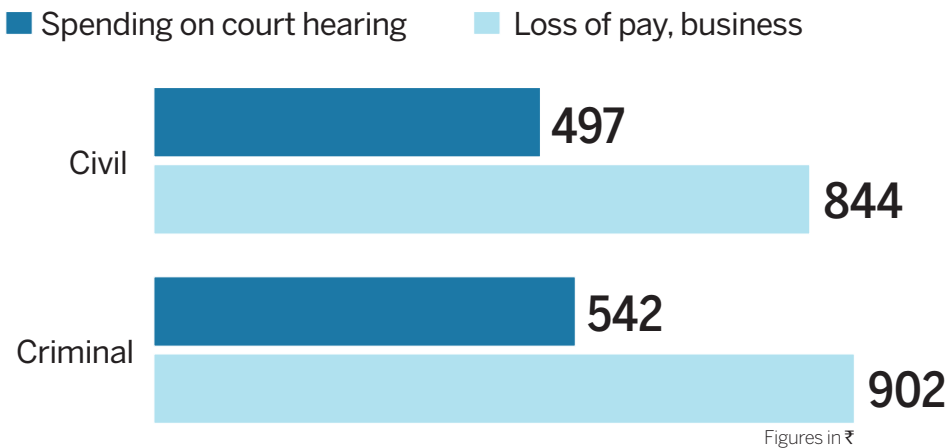


Figure 20: Cost incurred for court hearing by type of case

Litigants in family matters and service cases spend more on each hearing than other litigants.

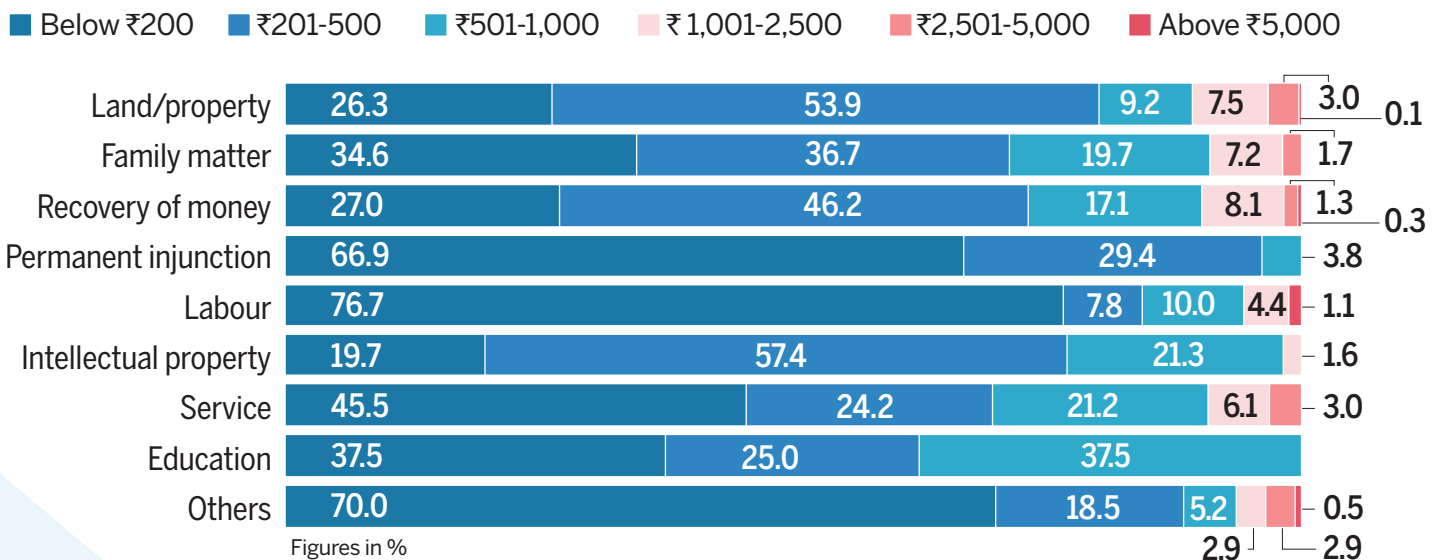
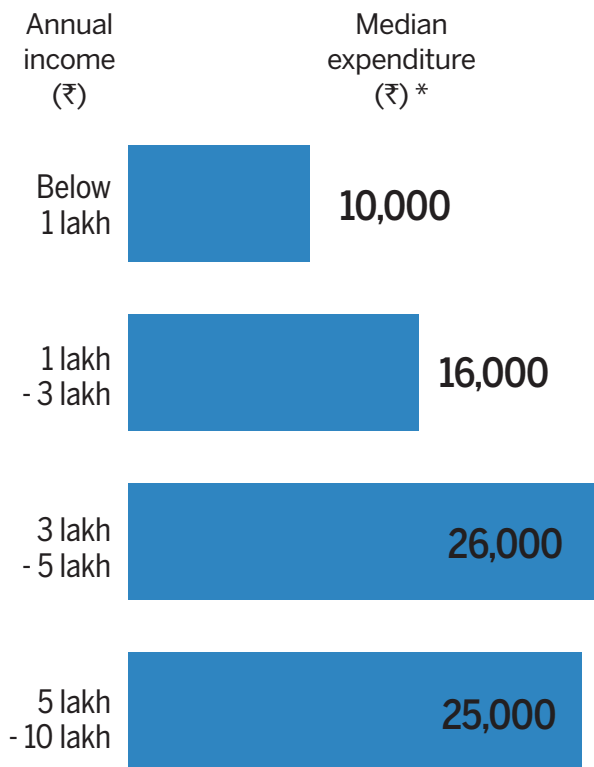


Figure 21: Costs civil litigants expect to incur till the case is decided: Income level-wise

Litigants in the lowest income bracket incur a greater cost over litigation than others.



* Median is the middle point, where the number of respondents above equals those below

Figure 22: Average cost per day

The average daily expenses of plaintiffs is 21% less than that of defendants.

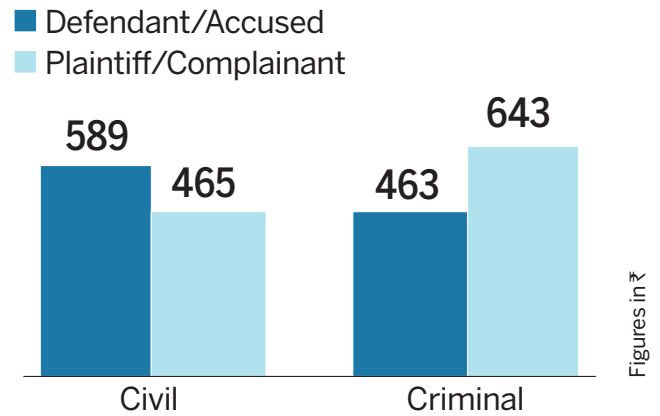
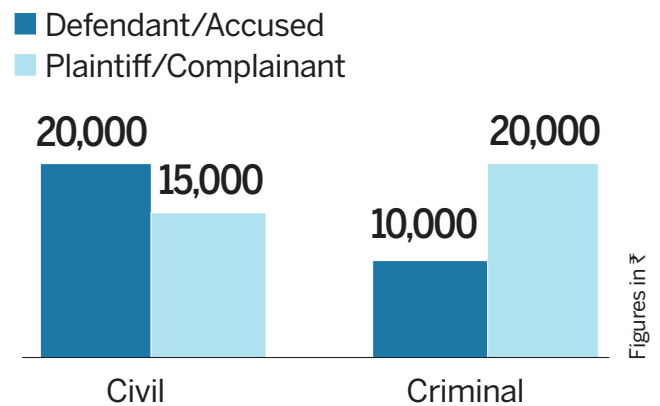


Figure 23: Expenses that litigants expect to spend till the case is decided: civil vs criminal

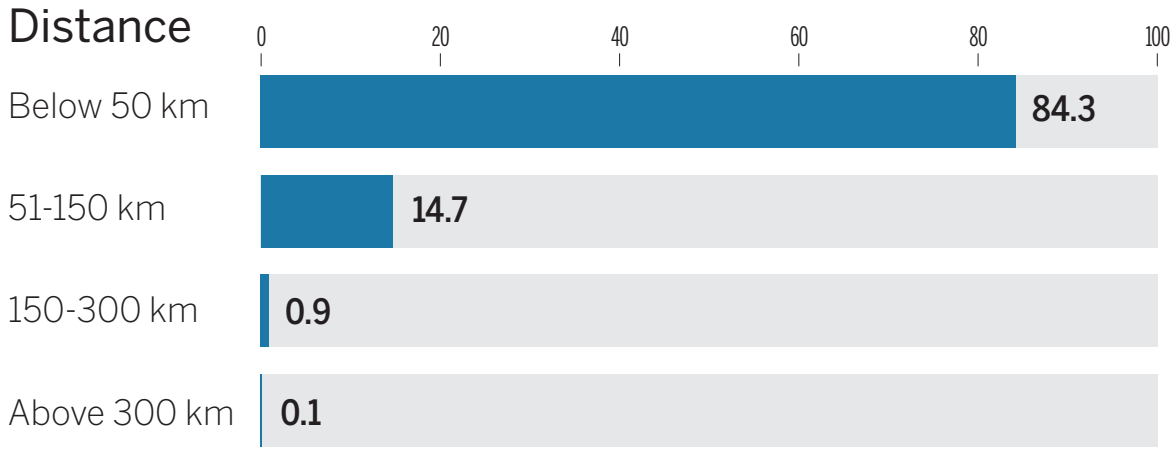


Expectation and ability to appeal

The lowest income group (with an annual income of less than ₹1 lakh) is seen to be most optimistic about their cases being resolved within 1 year. 44% of litigants cited expense as a major deterrent for filing appeals in the High Court if their cases were not resolved in their favour.

Figure 24: Distance travelled to court for hearings

15.6% of all litigants travel between 50 km and 300 km to reach the courts for hearings.



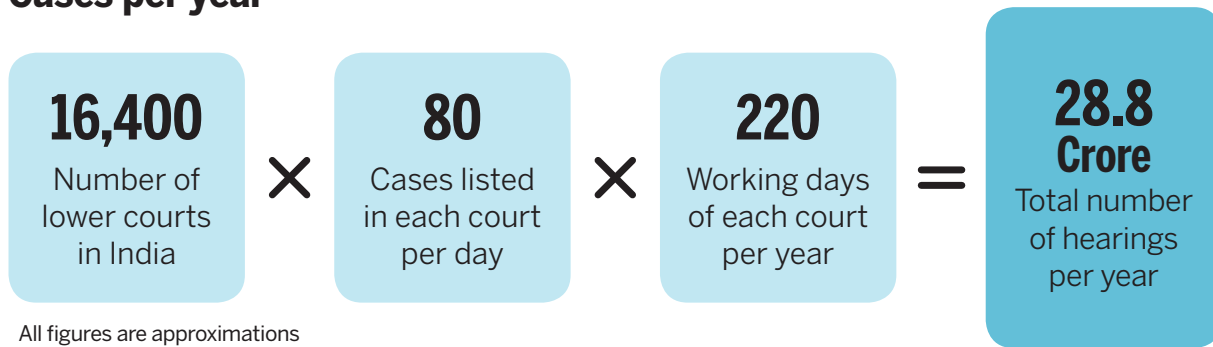
Figures in %



Figure 25: Cost of litigation

The loss of productivity due to attending court hearings because of wages and business lost comes to 0.48% of the Indian GDP*.

Cases per year



Cost of litigation per year to the litigants

● All cases per year



* GDP as per Economic Survey 2016: ₹ 1,04,27,701 crore

F. Expectations Of Litigants

Estimate of duration of case: Civil cases

56% of litigants expected their cases to be resolved within a year when they first filed their cases. However, on the date of the survey, only 32% litigants had the same expectation.

Estimate of duration of case: Criminal cases

When cases were originally filed, 67% respondents expected their case to be disposed of within one year. However, on the date of the survey, only 42% litigants had the same expectation.

G. Access To Lawyers

CIVIL CASES

A majority of criminal respondents found their lawyers by way of reference from colleagues and acquaintances, or family members.

Only a meagre 90 respondents were allotted lawyers appointed by the court through legal services authorities (without any fees).

CRIMINAL CASES

A majority of criminal respondents found their lawyers by way of reference from colleagues and acquaintances, or family members.

Only 132 survey respondents were allotted lawyers appointed by the court through legal services authorities (without any fees).

Figure 26: Finding a lawyer

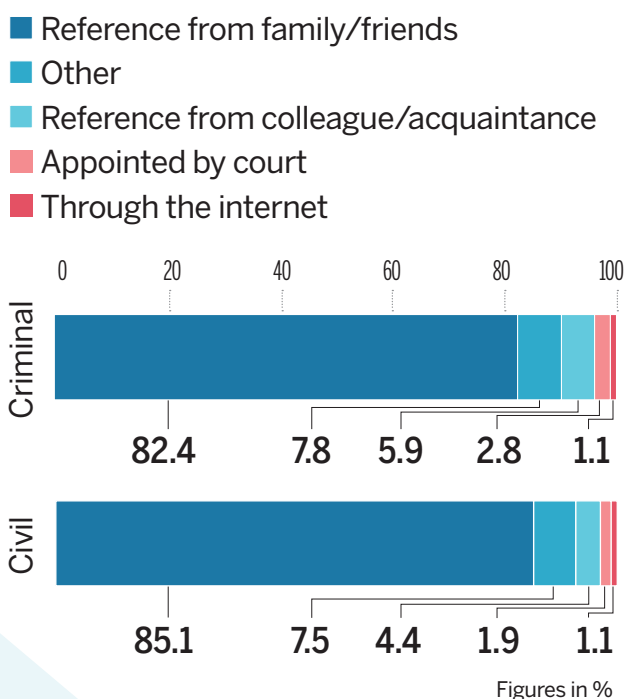


Figure 27: Use of alternate dispute resolution methods in civil cases

USE OF ALTERNATE DISPUTE RESOLUTION (ADR) METHODS IN CIVIL CASES

We find that 33% of survey respondents had used ADR methods to settle their cases before approaching the courts.

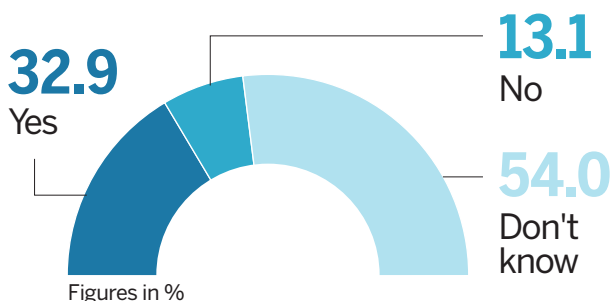
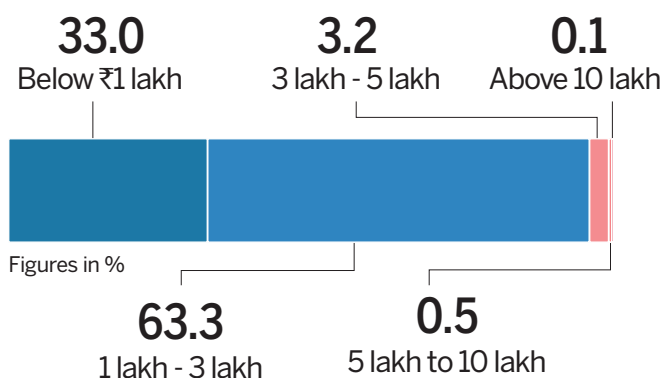


Figure 28: Annual income of those who used alternate dispute resolution methods in civil cases

Out of the litigants who opted for ADR methods, 96.3% litigants belong to the lower income groups with annual income below ₹3,00,000.





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