Addressing NLP

What is the issue?

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- Government litigation reportedly constitutes nearly half of all litigation in the Indian judiciary.
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- A National Litigation Policy put in place to fix this needs some modifications.
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What are the reasons for clogging cases?

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- Usually government agencies expect the judgment will be awarded in their favour irrespective of the cases which are before the Indian courts.
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- If the government loses a case in a court, the default response will be simply appeal in a higher court.
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- In cases of Multinational companies if they take the cases to international arbitrations and won, even after that government agencies again appeal such cases in local courts.
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- In some challenging cases the decision on litigation goes to an individual officer or an expert, who is humanly impossible to award a right justice.
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What is national litigation policy?

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- National Litigation Policy is formulated by the Ministry of Law and Justice of the Government of Indi.
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- It aims to bring down the litigation from government agencies by making them more responsible in filing cases.
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- It is based on the recognition that government and its various agencies are the predominant litigants in courts and tribunals in the country.
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- The policy idealistically states that there should be greater accountability regarding governmental litigation, and mandates “suitable action” against officials violating this policy.
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- It created “Empowered Committees” at the national and regional levels, apparently to regulate the implementation of the policy.
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What are the issues with NLP?

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- Instead of being an analytical policy to address the causes of excessive government litigation, it appears to have been drafted on anecdotal notions of the problem, with no measurable outcomes or implementation mechanism.
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- The text of the policy doesn’t defined the “suitable action”, or prescribe any method to conduct any disciplinary proceedings.
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- There are ambiguity about the role and powers of empowered committees, resulting in lack of transparency in their functioning.
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- It also lacks any form of impact assessment to evaluate actual impact on reducing government litigation.
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What are the areas need to be fixed?

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- NLP revision needs to ensure certain critical features like enumerating the role of different functionaries and minimum standards for pursuing litigation must be listed out.

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- Modifications needs to be made to the national litigation policy and officers need to be penalised for needlessly litigating a case so, if the government loses a case in court.
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- Various government departments will have to come up with rules, and instances, of what litigation is to be allowed and what is not.
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- Thus the litigation policy must have a profound effect on how the government thinks about itself as a litigant, and can help curb the problem.
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Source: Financial express, The Hindu

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