Examining the Funding Deficit of Judiciary

Why in news?

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The statement by the chief justice of India a few days back about how the judiciary is not receiving enough funds once again brings to the fore the friction between the judiciary and the government.

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How much is currently being spent on the judiciary?

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- Even back in the 1980s, the 127th Law Commission had complained the poor quality of infrastructure with which the courts have to make do in their functioning. And that administration of justice is not regarded as part of developmental activity.
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- India currently spends about Rs12,000 crore a year on the judiciary. This amounts to about 0.01% of the gross domestic product (GDP).
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Whether the current spending is sufficient?

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- Being a sovereign function (that which cannot be performed by private parties), it is difficult to compare budgetary allocation to the judiciary with other sectors.
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- A committee of the Supreme Court compared it to allocations for health and education and found it to be much lower.
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- For example, 2.8% of the annual expenditure by the state of Maharashtra was on the judiciary while on health it was 14%. Gujarat’s spending was

0.6% on the judiciary and 2.92% on health.
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- The judiciary is funded mostly by the states—who historically haven't had too much to spend at their discretion given the Centrally-sponsored schemes of the Union government.
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Task Force on Judicial Impact Assessment

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- It was against this background that the "Report of the Task Force on Judicial Impact Assessment" had asked that a judicial impact office be created in Delhi and state capitals to estimate the extra case load and extra expenditure on the courts to be incurred on account of Central and state legislation, respectively.
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- Apart from some primary recommendation on data-gathering techniques being improved, none of the other recommendations has been implemented.
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- It's in this scenario that the e-courts project has been funded by the Centre for over 15 years now.
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What are the ground realities?

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- In a stark reminder of ground realities, out of the special grant of Rs 5,000 crore by the 13th Finance Commission for improving judicial infrastructure and services, almost 80% remained unspent.
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- So when a request for an around Rs9,000 crore grant was made to the 14th Finance Commission in 2014, it was no surprise that it "endorsed the proposal of the Department and urged state governments to use the additional fiscal space provided by the commission in the tax devolution to meet such requirements".
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- The responsibility is now completely on state governments to prioritize

funding to the courts.
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- The annual spending of 0.01% of GDP looks even more bare when looked at from the perspective of cross subsidies.
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- In essence, it means that the expenditure incurred for administration of justice is actually for the purpose of achieving the objectives of, and administering, the laws framed by other ministries.
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How much the judiciary is costing the country?

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- Conservative estimates by DAKSH, a civil society, are that about 0.5% of the GDP is incurred by litigants only on attending to court hearings, excluding legal fees.
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- It could be as much as 1.5% to 2%. A holistic estimation of costs of delay to society begs to be carried out.
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Budgetary Allocation

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- There is no dispute that budgetary allocation needs to be increased, and quite substantially at that.
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- As with all other problems, there is a need to move from outlay-based budgeting to outcome-based budgeting.
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- Some rough calculations indicate that the states are spending on an average Rs1,600-2,700 per case per year.
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- In spite of similar budgetary spending, we know that the time taken for disposals varies widely between states.
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Whether more budgetary allocations enable the judiciary to achieve its

purpose of administering timely justice to all?

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- In the specific case of the judiciary, this has been demonstrated in a 2004 paper by Arnab K. Hazra and Maja B. Micevska.
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- More judges, more courts, more computers alone may not do much to improve the efficiency of courts or access to justice.
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- This can only be achieved by re-engineering, re-imagining court processes, widespread use of technology and reforms in substantive law.
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- A beginning can be made by improving the budgeting process. As any efficient administrator or manager knows, a good budget starts with a plan.
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- The larger issue being played out is the lack of independence to the judiciary allowed in practice by the legislature.
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