

INDEPENDENT JUDICIARY AND RENT SEEKING  
IN INDIA

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Just as self-interest motivates an individual's private choices, it also motivates social and political decisions.

Resources are scarce. And political rules determine how these competing demands, which far exceed the government's ability to provide them, will be arbitrated. In this political decision-making, the state has the power to artificially create rents.

# RENT SEEKING

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Rent seeking is the expenditure of scarce resources to capture an artificially created rents and transfers. It is the process by which interested individuals or groups try to obtain benefits for themselves through the political process.

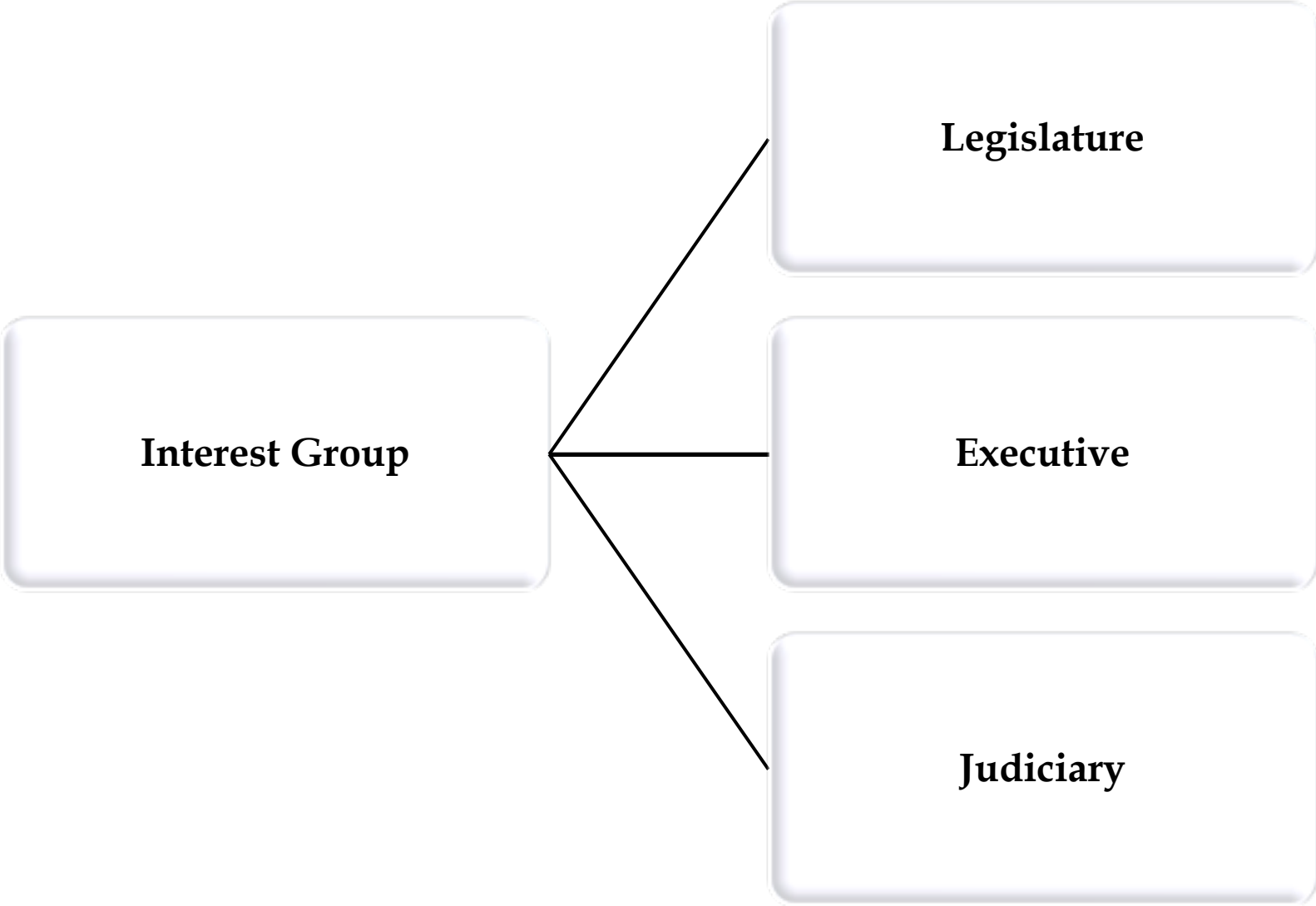
# INTEREST GROUPS

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An interest group is an organization of people who share a common interest and work together to protect and promote that interest by influencing the government.

# INTEREST GROUPS AND FORUM SHOPPING

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# EXECUTIVE OR LEGISLATURE?

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"It is the endeavour of the central government to make reforms in labour laws and to proceed from minimum wage to universal wage. Because the Opposition is not cooperating in Parliament, we will do it through an executive order."

- Bandaru Dattatreya

Minister of Labour and Employment

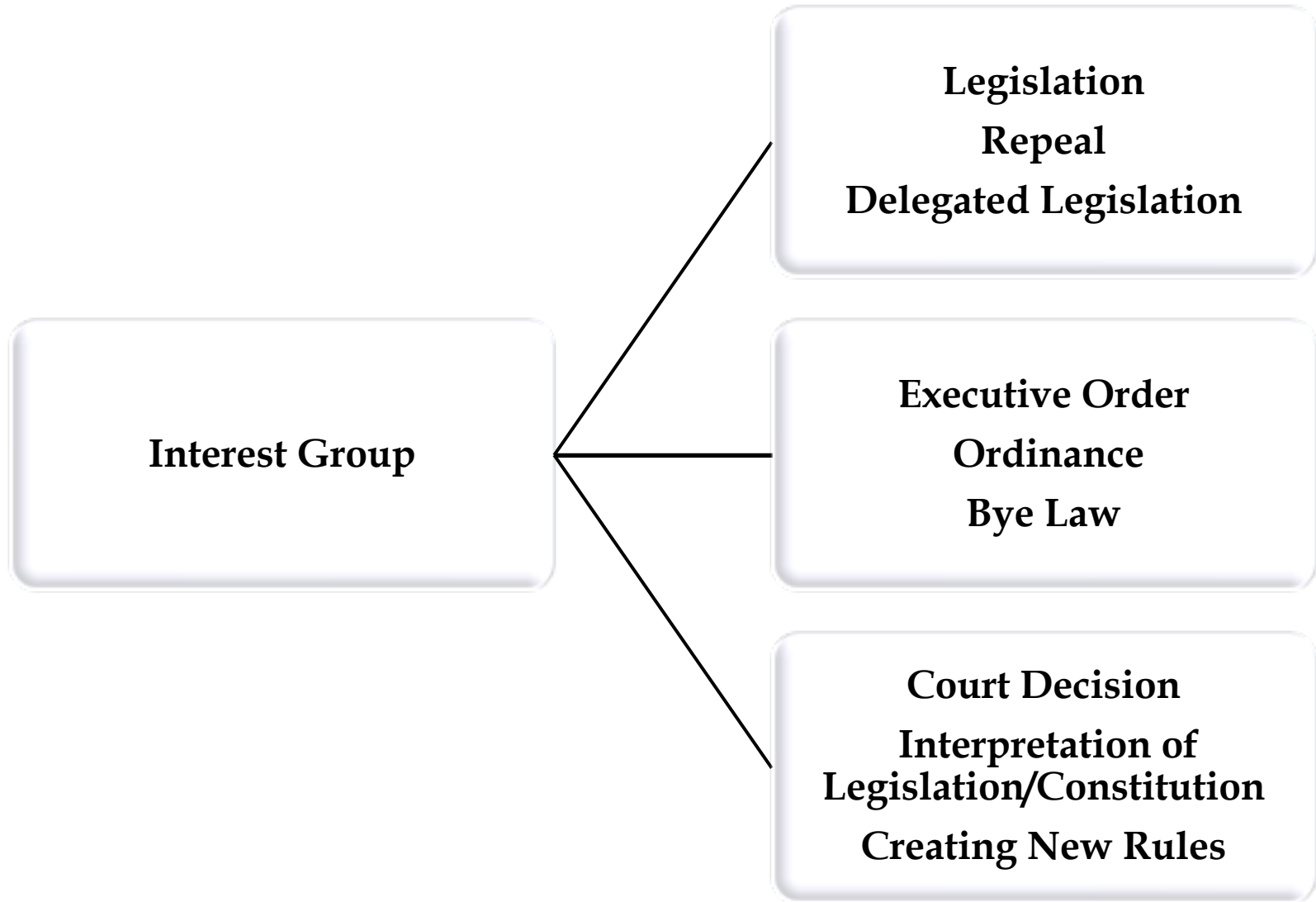
**BENEFIT:** The change in rules.

**COSTS:** The rules and norms that must be followed in order to get the rule change.



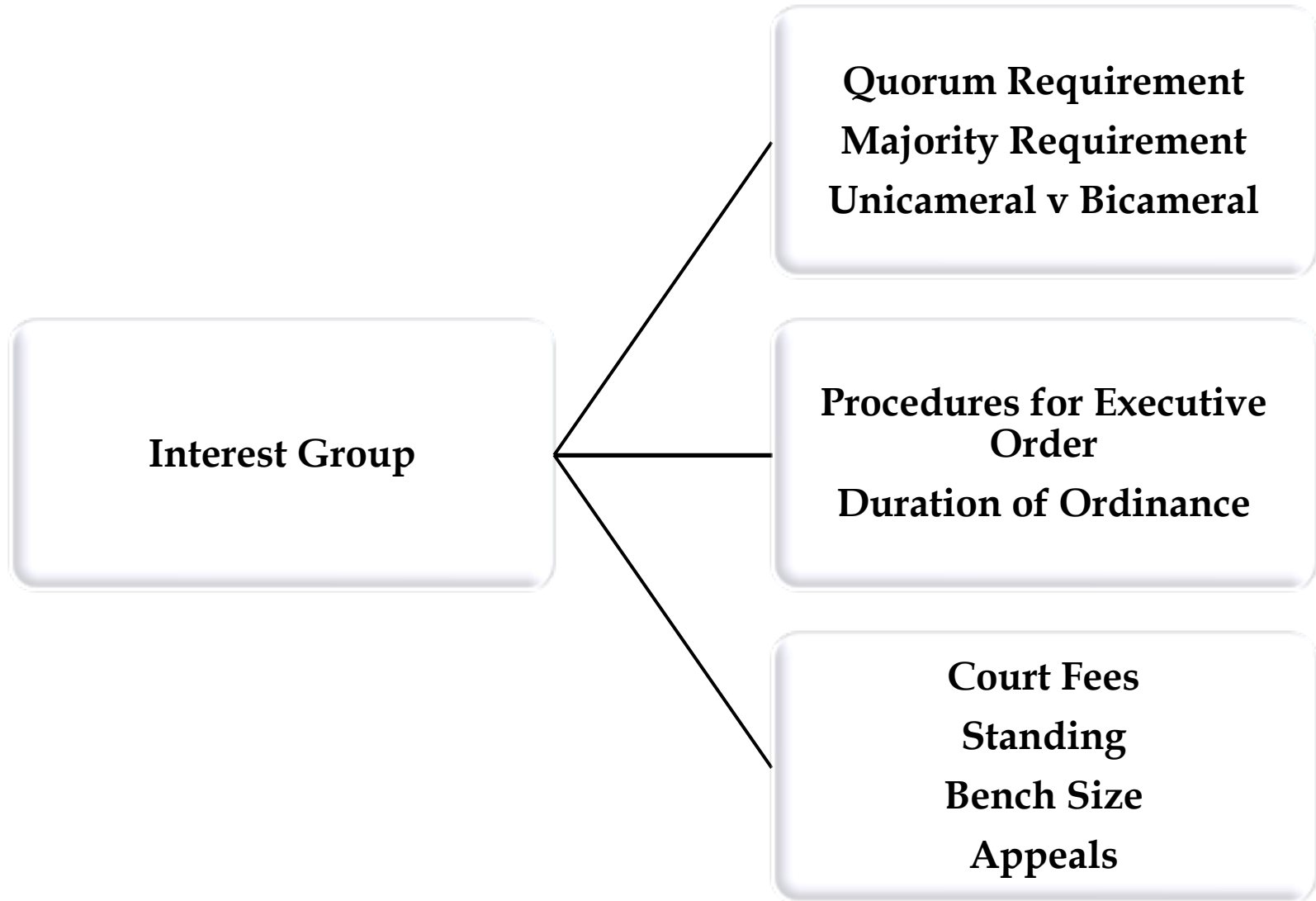
# BENEFIT

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# COSTS

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The higher the standard for proving standing in the court, the greater the cost of *approaching* the judiciary.

# BENCH SIZE

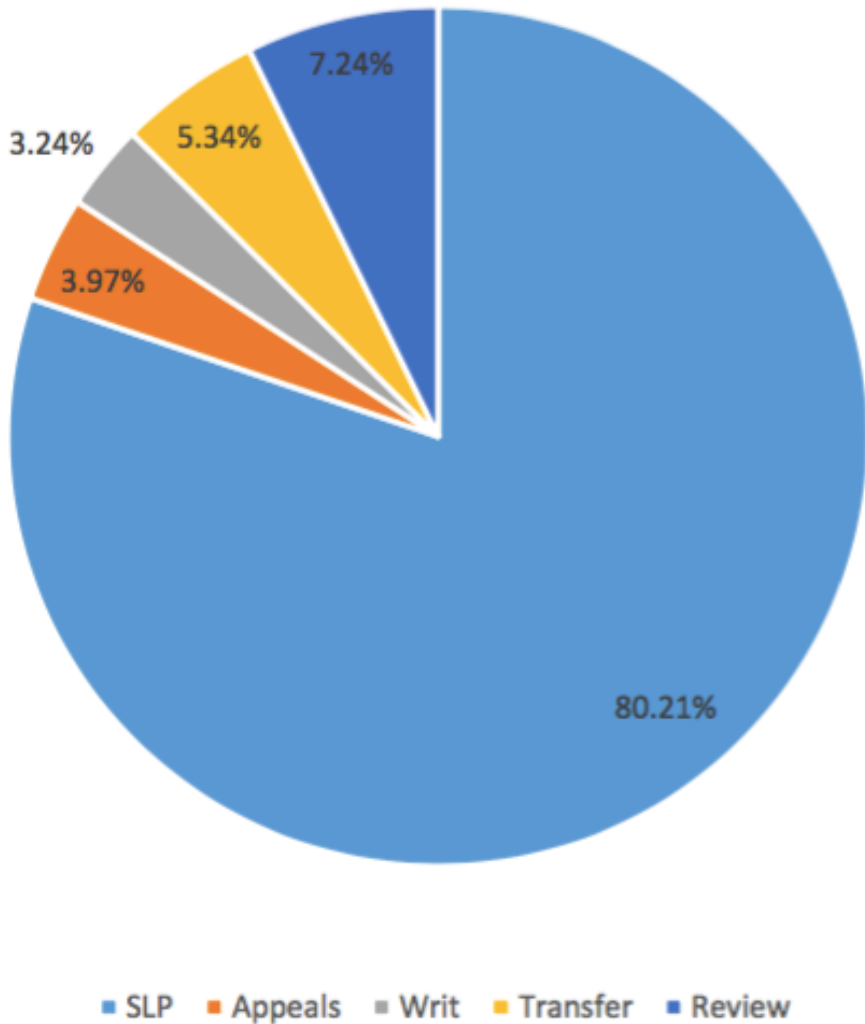
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Larger bench sizes increase the cost of *securing* a verdict.

Supreme Court is a court of appeal for many tribunals, enabling interest groups to bypass the levels of appeals available to citizens.

# CASE LOAD

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Source Vidhi Center for Legal Policy February 2016

*Vishaka v State of Rajasthan*  
AIR 1997 SC 3011

*Save the Life Foundation v Union of India*  
Writ Petition (C) No.235/2012



# REPEAL OF SECTION 377, IPC

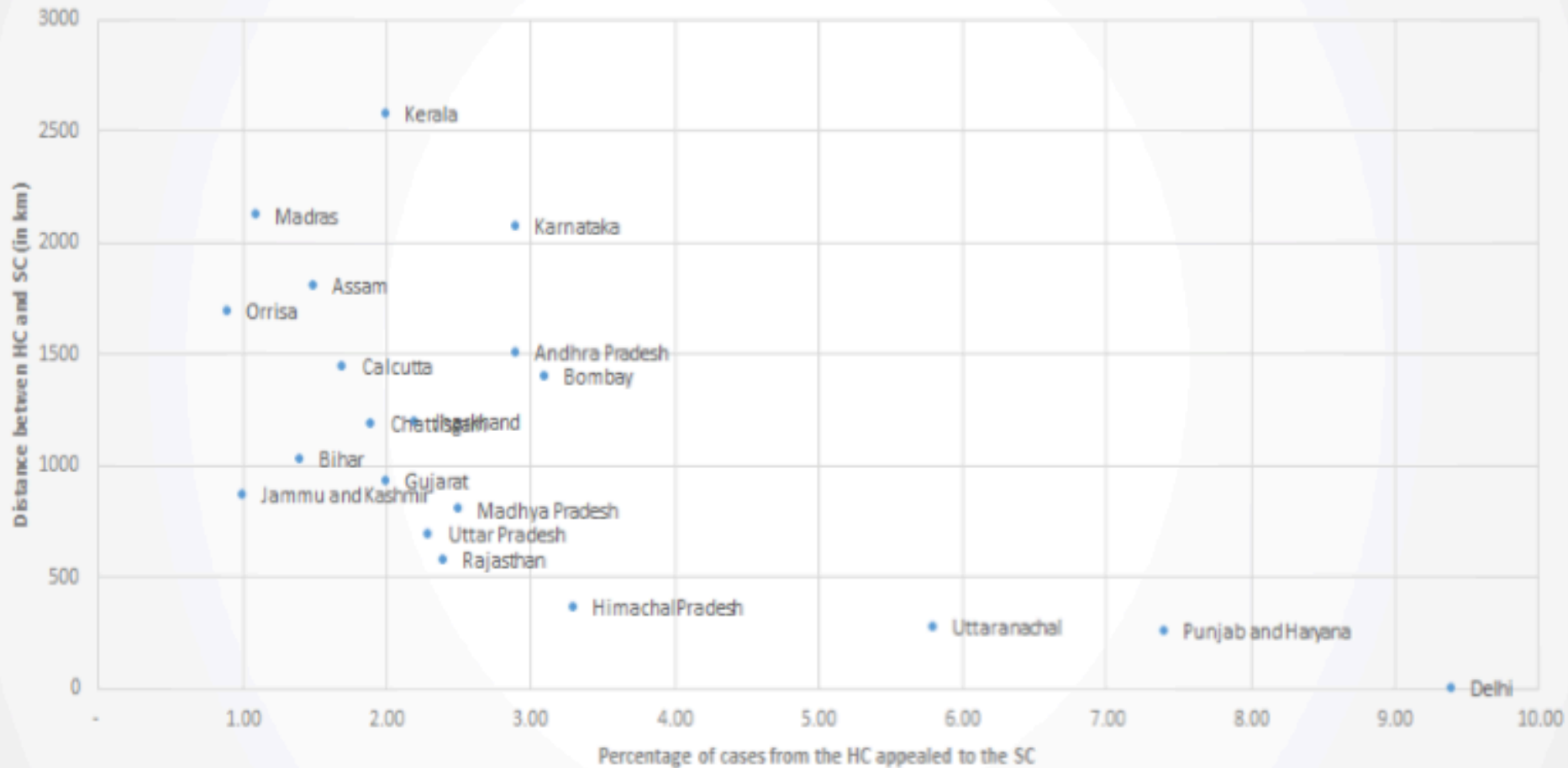
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Naz Foundation v Govt. of NCT of Delhi (2009)

Suresh Kumar Koushal v Naz Foundation (2013)

# RENT SEEKING: DISTANCE AND ACCESS

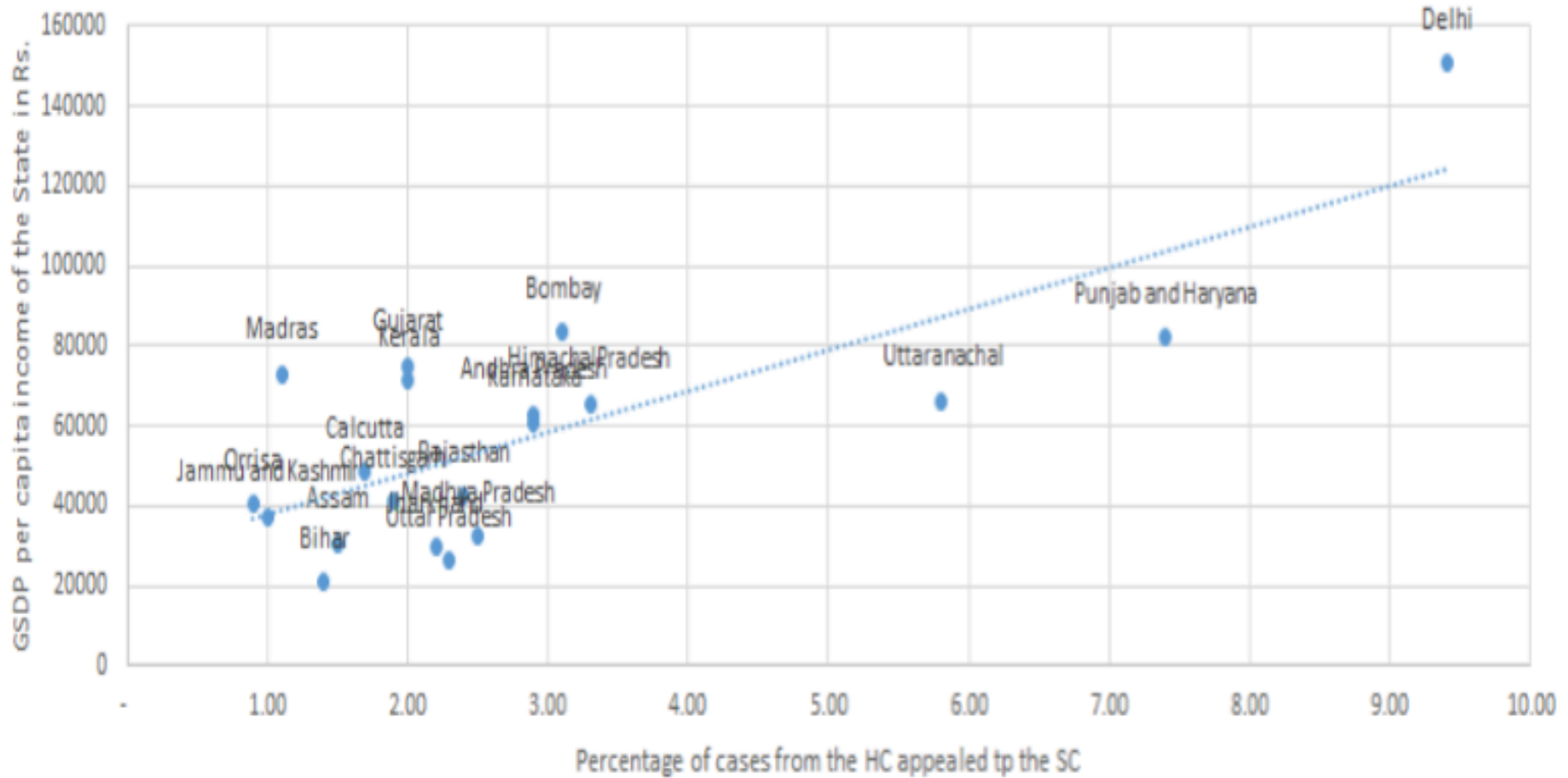
Correlation between number of cases from a High Court to the SC and distance



Source Vidhi Center for Legal Policy October 2015

# RENT SEEKING: GSDP PER CAPITA AND ACCESS

Correlation between percentage of cases filed in appeal from a HC to the SC and GSDP per capita income for that state in 2011 prices.



Source Vidhi Center for Legal Policy October 2015

# RENT SEEKING AND ADVOCATES

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	<b>Notice issued</b>	<b>Dismissed</b>	<b>Success rate</b>
Senior advocate appeared	67	45	59.82%
No senior advocate appeared	60	118	33.71%
Total	127	163	43.79%

Source Vidhi Center for Legal Policy February 2016

# CONCLUSION

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The indian judiciary is as vulnerable to interest group activity, if not more, than the other branches of government.