

LOCAL COURT GOVERNANCE

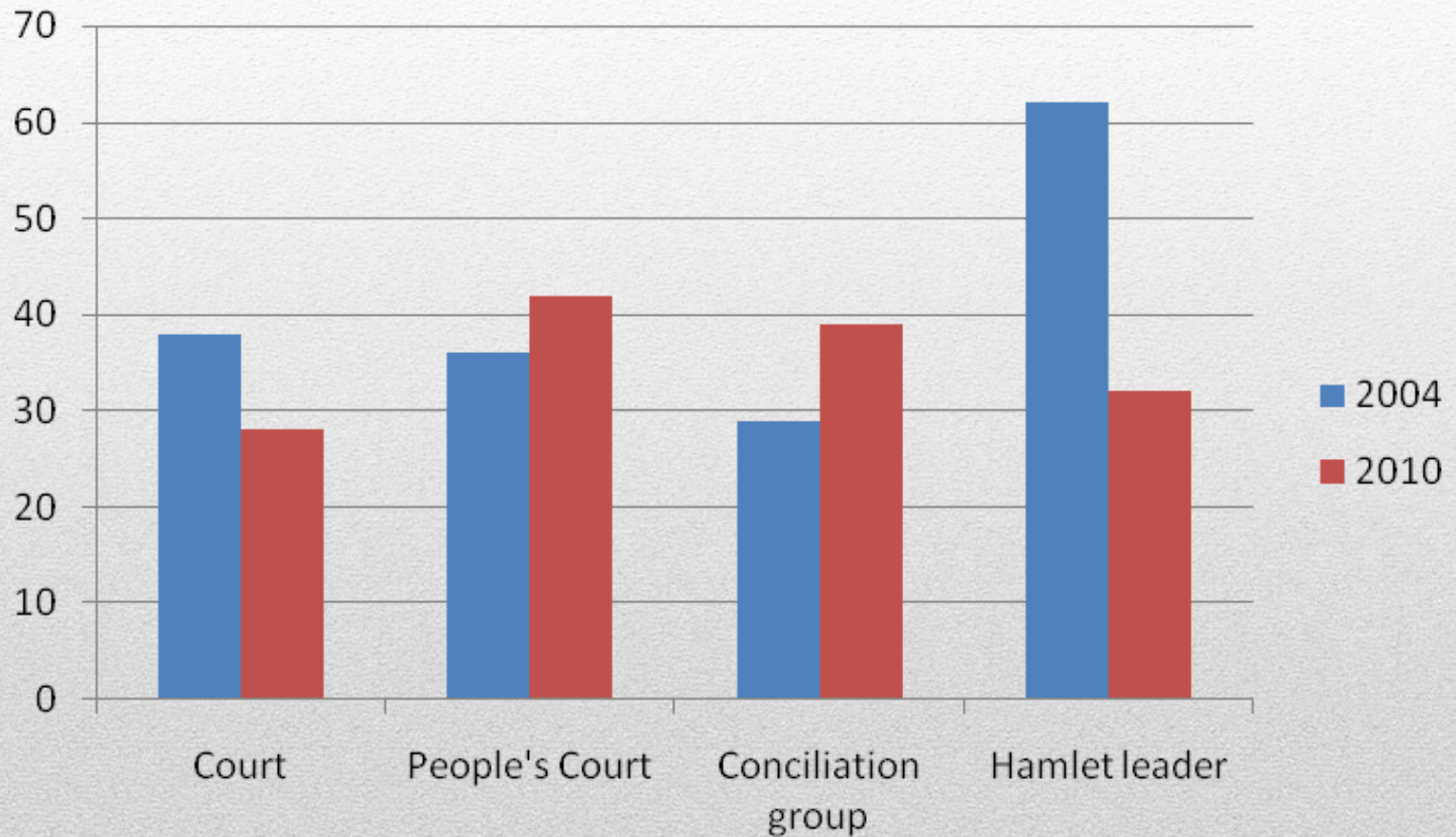
in Vietnam

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- The court system has made much effort to improve adjudication quality, reduce number of cases annulled and corrected due to subjective reasons in 2010-2012 (*Report of the SPC Chief Justice at the 4th session of XIIIth NA*).
- A high rate of appellate, cassational review, and revised cases is found due to several reasons. Some surveys show low trust by people in the court system for settling disputes, compared to some other state apparatus.
- Difficulty is found in official organization, the shortage of judges and court staff is popular; especially, in some localities, judges suffer from pressure due to huge work load

People's trust in legal institutions

(Access to Justice from people's perspective)



- The Judicial Reform Strategy to 2020 has determined that *“the tribunal sector is placed at the centre and adjudication plays the key role”* and set forth several objectives for reform, which requires to study:
 - The reality of current court governance, such as relationship between district courts and provincial court, relationship between chief justice and judges, etc. to ensure judges’ “independence” while still guaranteeing adjudication quality;
 - The role of other state agencies to court activities, such as the role of the NA, People’s Council, People’s Committee in ensuring courts’ activities but ‘serving the local stability, security, order, and politics

Recitals

- Practical issues in court governance impact judges' adjudication, influencing the possibility to access to justice of people.
- Legal issues (including Constitution and legal regulations) relating to court governance which impacts judges' independence and some operation principles of courts such as *the principle of "collective adjudication, the public trial principle, "the principle of people's representation in adjudication activities, the principle of the two-level trial...*



SURVEY STUDY OF

**COURT GOVERNANCE IN
VIETNAM**



- The Research on “Survey on local court governance in Vietnam” is within practical studies on court governance nationwide with nationwide and reference of relevant international experience of the Secretariat – Steering Committee of Judicial Reform to assess correctly the reality of court governance in Vietnam.
- **5336** questionnaires were sent directly from the Secretariat of the Central Steering Committee for Judicial Reform to all judges working at 63 provincial people’s courts and 697 district ones; **2516** filled questionnaires were returned (approximately **47%**).
- 6 provinces selected for in-person interviews representing such factors as geographical areas, the number of cases, residential areas, social-economic conditions,... with **126** interviews with court leaders, judges and clerks, provincial party committee, provincial people’s council, provincial PC, and provincial procuracy.

4 contents:

- Judicial administrative management at courts
- Court governance
- Reciprocal impacts between court administration and court governance
- Some issues of judicial reform in local court management.



MANAGEMENT OF JUDICIAL ADMINISTRATION



Pre-proceedings Judicial administrative management

Resolution 49/NQ-TW

- Renovating administrative procedures in judicial agencies in order to facilitate people's access to justice: people only need to submit their petitions at courts, the courts are responsible for receiving and handling the petitions.
- Implementing Judicial Reform Strategy to 2020 in conformity with the process of renovating legislative task and administrative reform program.
- Clearly distinguishing administrative management competence from judicial responsibility and power in judicial proceedings.

The survey studied Judges' opinions about

- The receipt of petitions and complaints at courts
- Forms, public guidance of litigation procedures at court house
- Procedures and criteria for case assignment.



The receipt of petitions

Judicial administrative work

Model 1: Judges are assigned to directly receive petition weekly (specialized court). Judges study petitions themselves and decides to accept the case.

Leaders will only monitor the process after the case is accepted.

Model 2: A court clerk of specialized court receives petitions, judges are assigned weekly. The clerk sends the petitions to Judges for studying and and deciding to accept the case.

Leaders will only monitor the process after the case is accepted.

Model 3: The Court has a unit specialising in receiving petitions (judicial administrative division). This division receives petitions, guides people about case documents, contents of petitions, litigation procedures, etc...

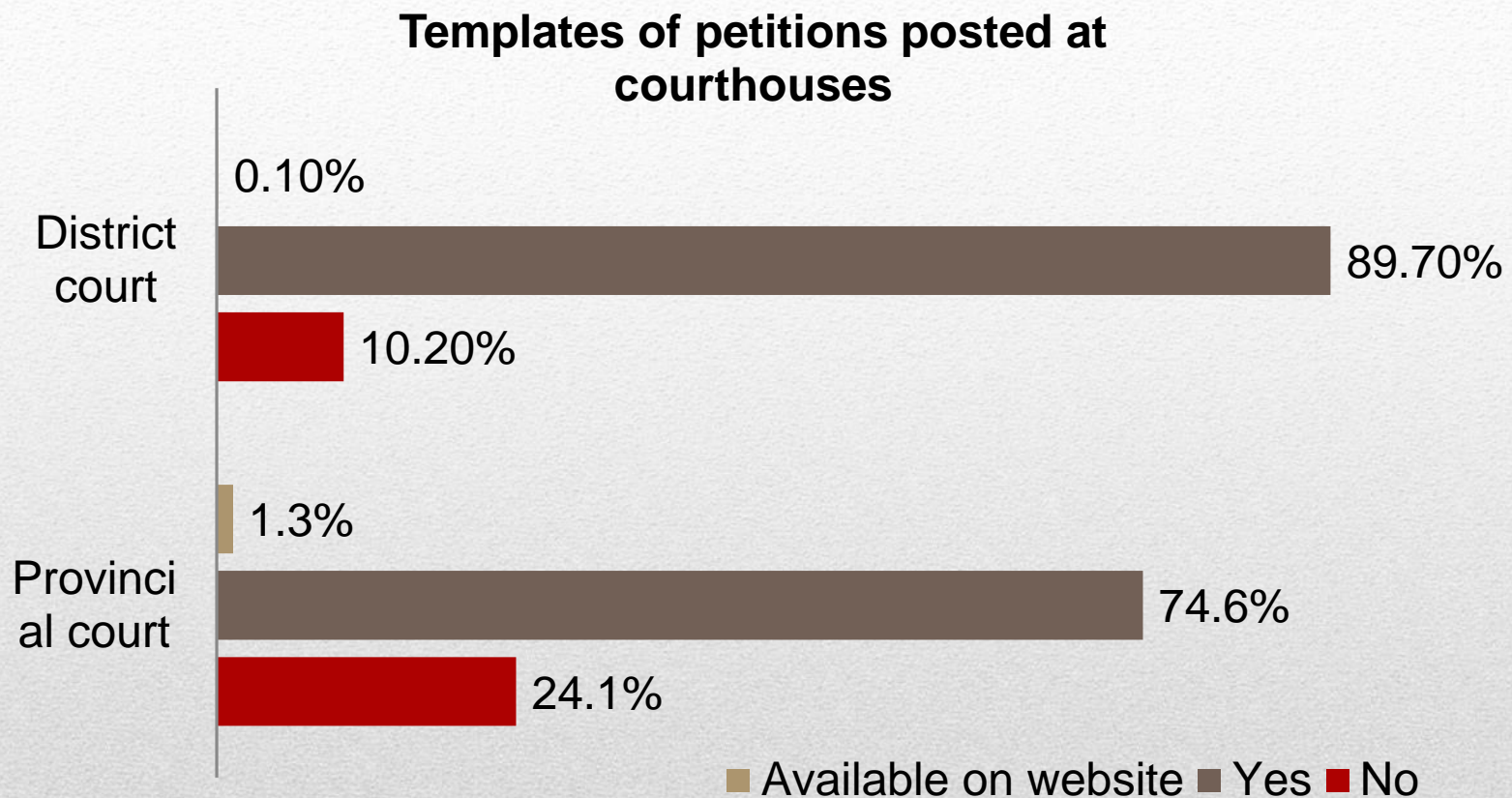
Leaders will monitor the process from the beginning

GIÁ TRỊ TÀI SẢN CÓ TRANH CHẤP		MỨC ÁN PHÍ
a) Từ 4.000.000 đồng trở xuống		200.000 đồng
b) Từ trên 4.000.000 đồng đến 400.000.000 đồng		5% giá trị tài sản tranh chấp
c) Từ trên 400.000.000 đồng đến 800.000.000 đồng		20.000.000 đồng + 4% của phần giá trị tài sản có tranh chấp vượt quá 400.000.000 đồng

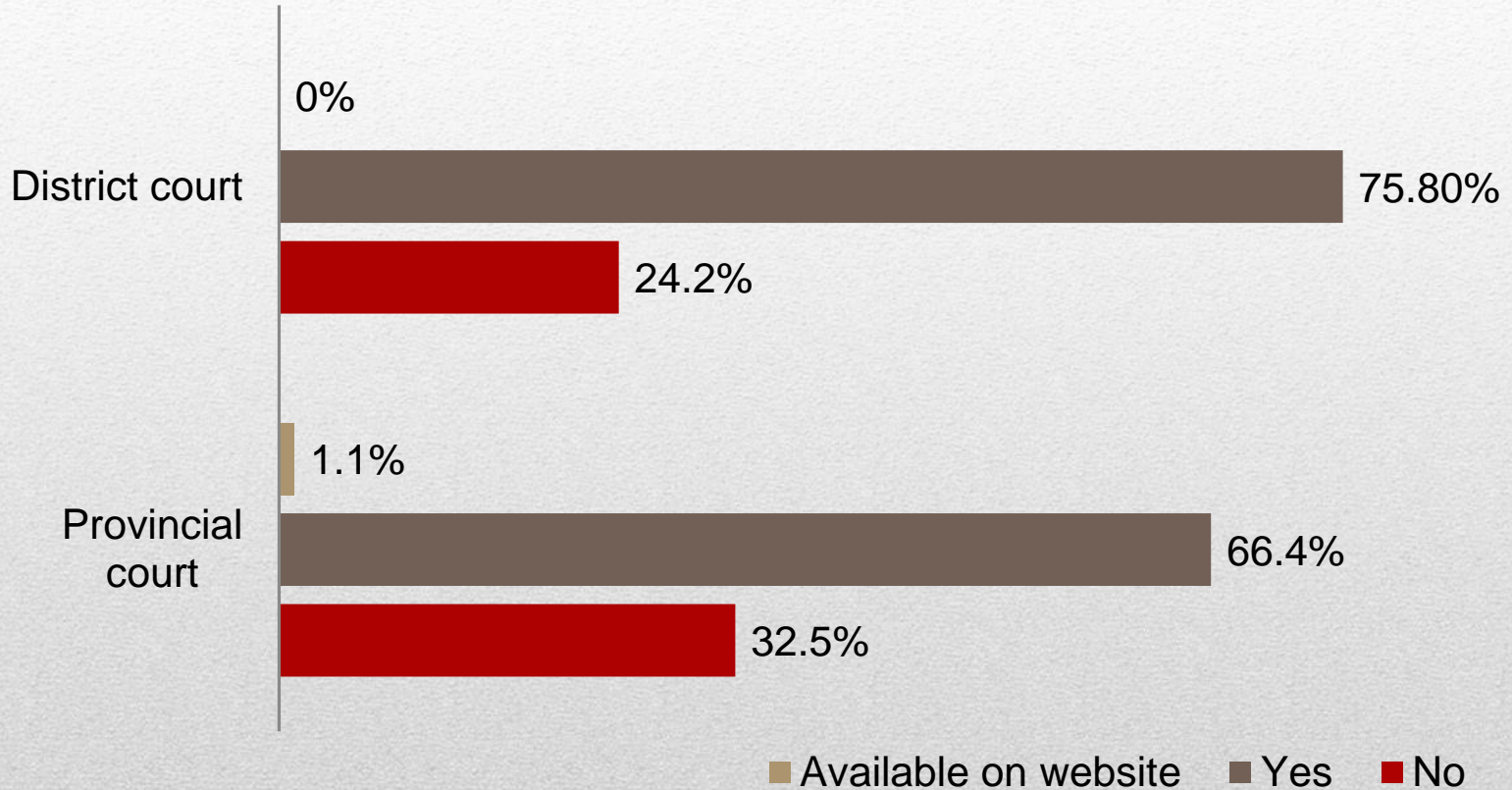
d) Từ trên 800.000.000 đồng đến 2.000.000.000 đồng	400.000.000 đồng	36.000.000 đồng + 3% của phần giá trị tranh chấp vượt quá 800.000.000 đồng
đ) Từ trên 2.000.000.000 đồng đến 4.000.000.000 đồng		72.000.000 đồng + 2% của phần giá trị tranh chấp vượt quá 4.000.000.000 đồng
e) Từ trên 4.000.000.000 đồng		112.000.000 đồng + 0,1% của phần giá trị tranh chấp vượt quá 4.000.000.000 đồng

HƯỚNG DẪN CÁC LOẠI ĐƠN

Publishing petition templates,
information about litigation
procedures

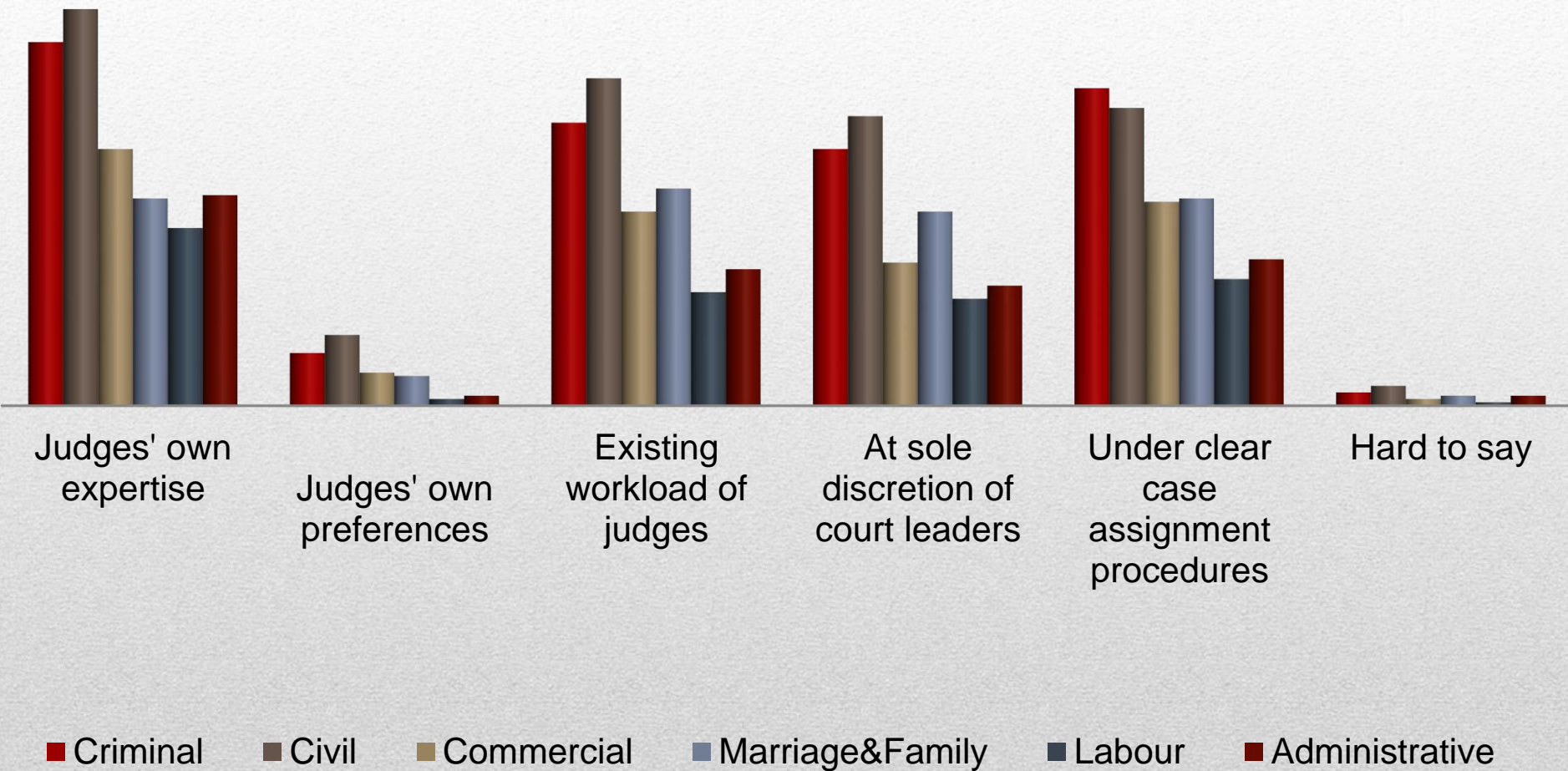


Guidelines for court procedures on billboards available at courthouses



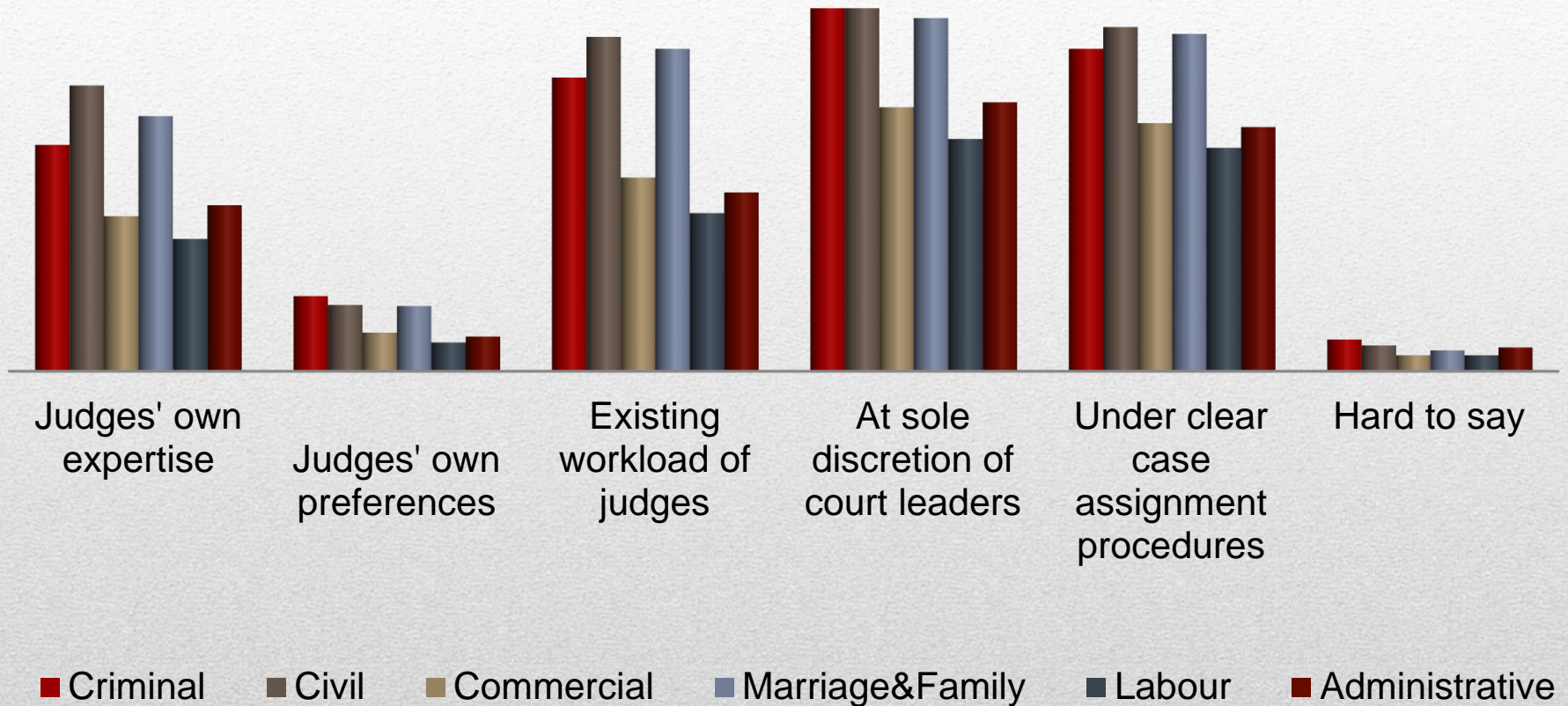
Case assignment

Practice of case assignment at Provincial People's Courts



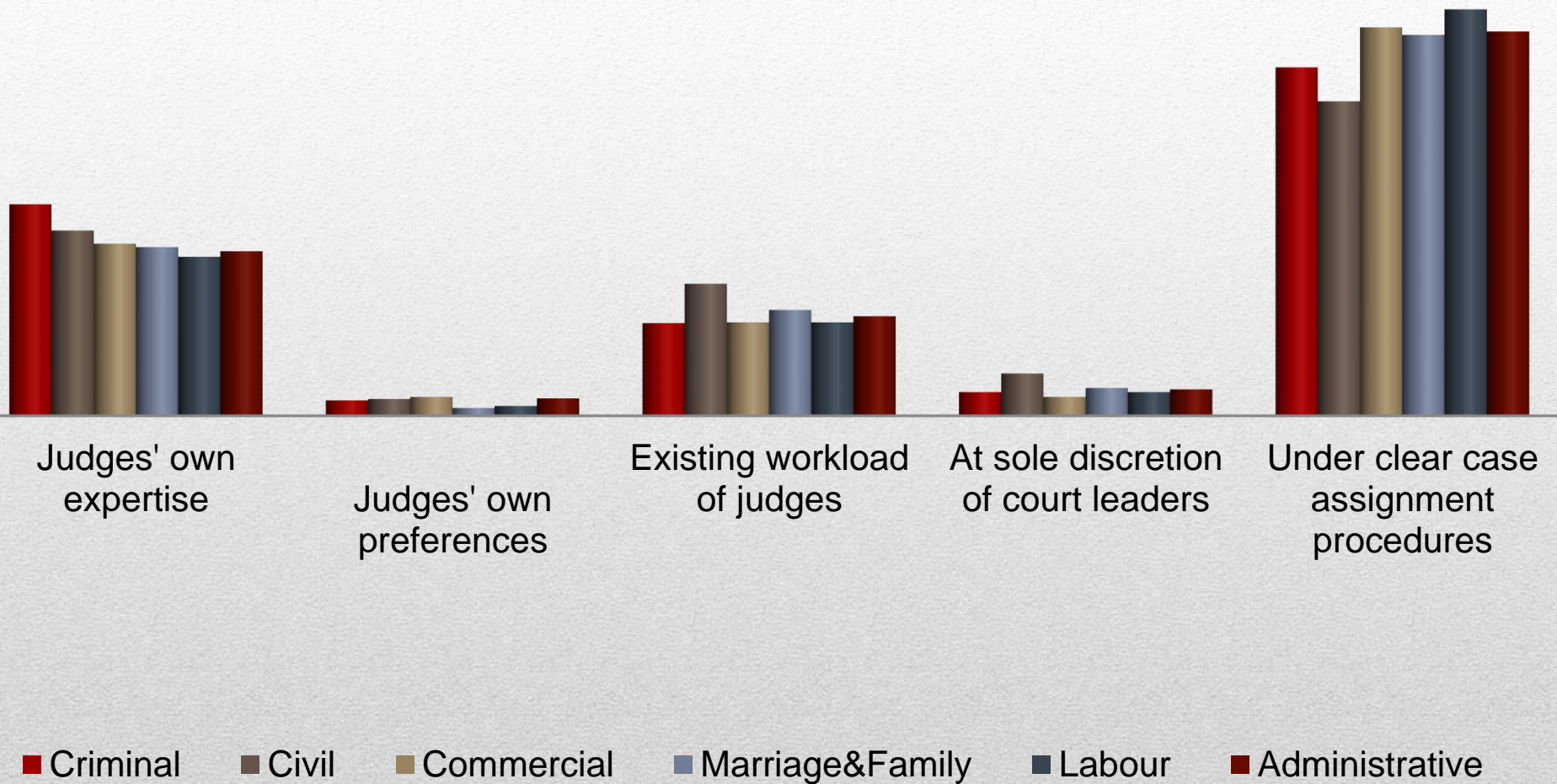
Judicial administrative management in proceedings

Practice of case assignment at District People's Courts

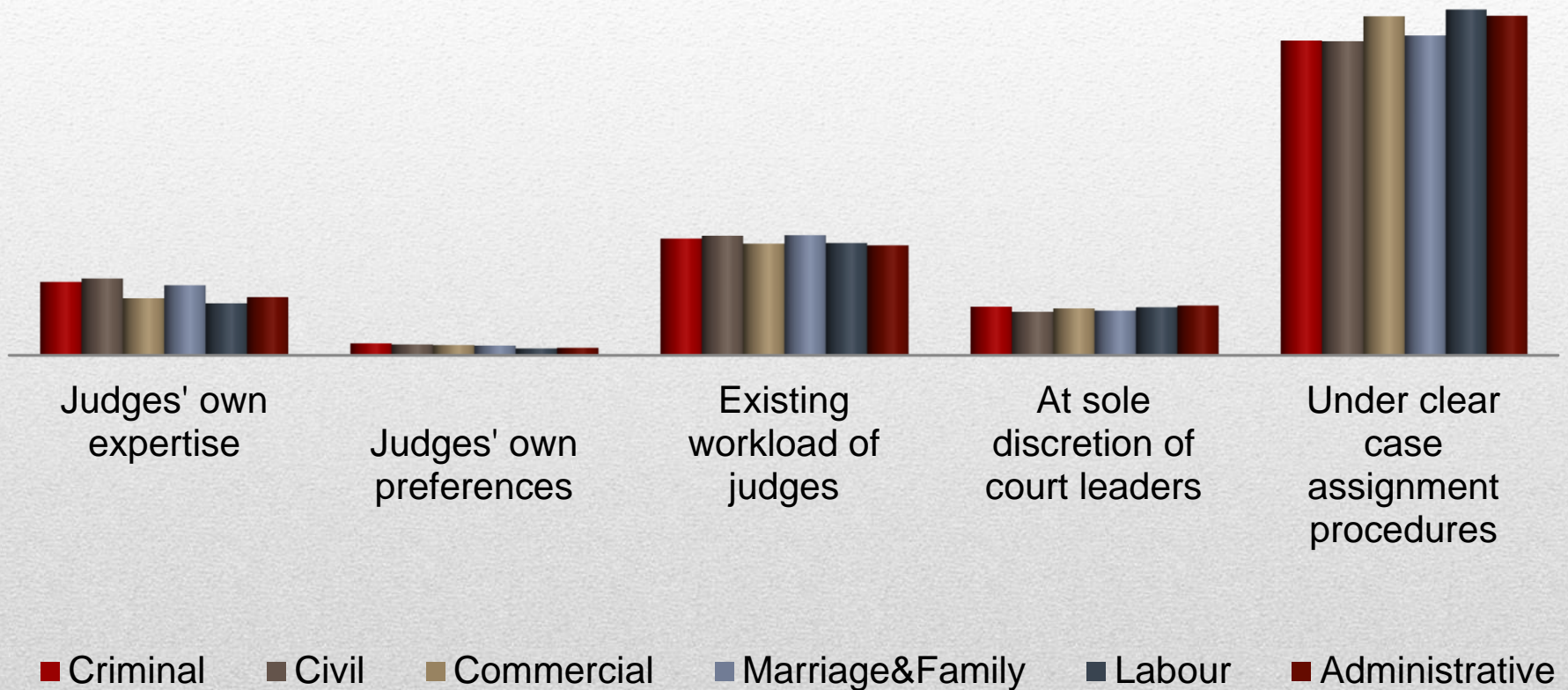


Judicial administrative management in proceedings

Criteria for case assignment desired by Judges of provincial people's courts




Criteria for case assignment desired by Judges of provincial people's courts



Some comments:

- It requires a consistent model for receiving petitions of non-criminal cases at courts nationwide. The “one-stop-shop” model of administrative agencies being piloted in some courts is promoting well and can be applied nationwide.
- The application of receipt/appointment slip should be comprehensively applied to litigants. Such papers should be used in any administrative model for receiving petition files.
- The mechanism that the Chief Justice assigns cases to Judges seems to ensure limitation of factors impacting the independence of Judges and Adjudication panel. But this mechanism should be perfected to avoid arbitrariness and abusing.
- Information technology should be applied (via case management software) to support more transparent assignment of cases.



Judicial administrative
management in
proceedings at courts

Resolution 49/NQ-TW

- Clearly distinguishing administrative management competence from judicial responsibility and power in judicial proceedings.
- Improving independence and accountability before laws for their litigation acts and decisions
- Increasing adversary quality.
- Enhancing and strengthening effectiveness of people's supervision role.

The survey studied Judges' opinions about

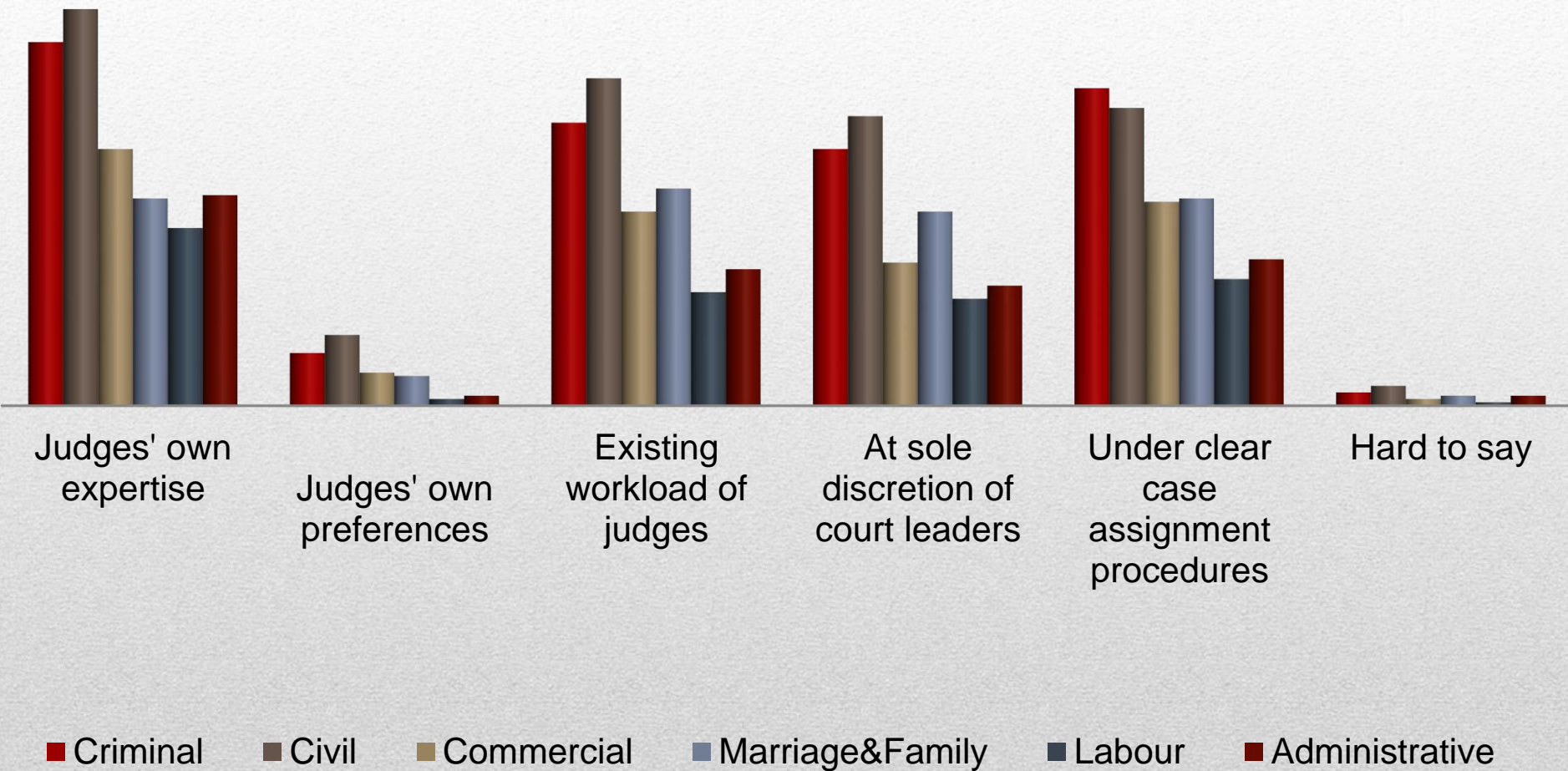
- The role of court leaders in monitoring and ensuring procedural time-limit
- Setting up and ensuring operations of the Adjudication panel.
- Influences by state agencies on Judges' adjudication
- Judges' independence in adjudication
- Publicising adjudication activities

Judicial administrative management in proceedings



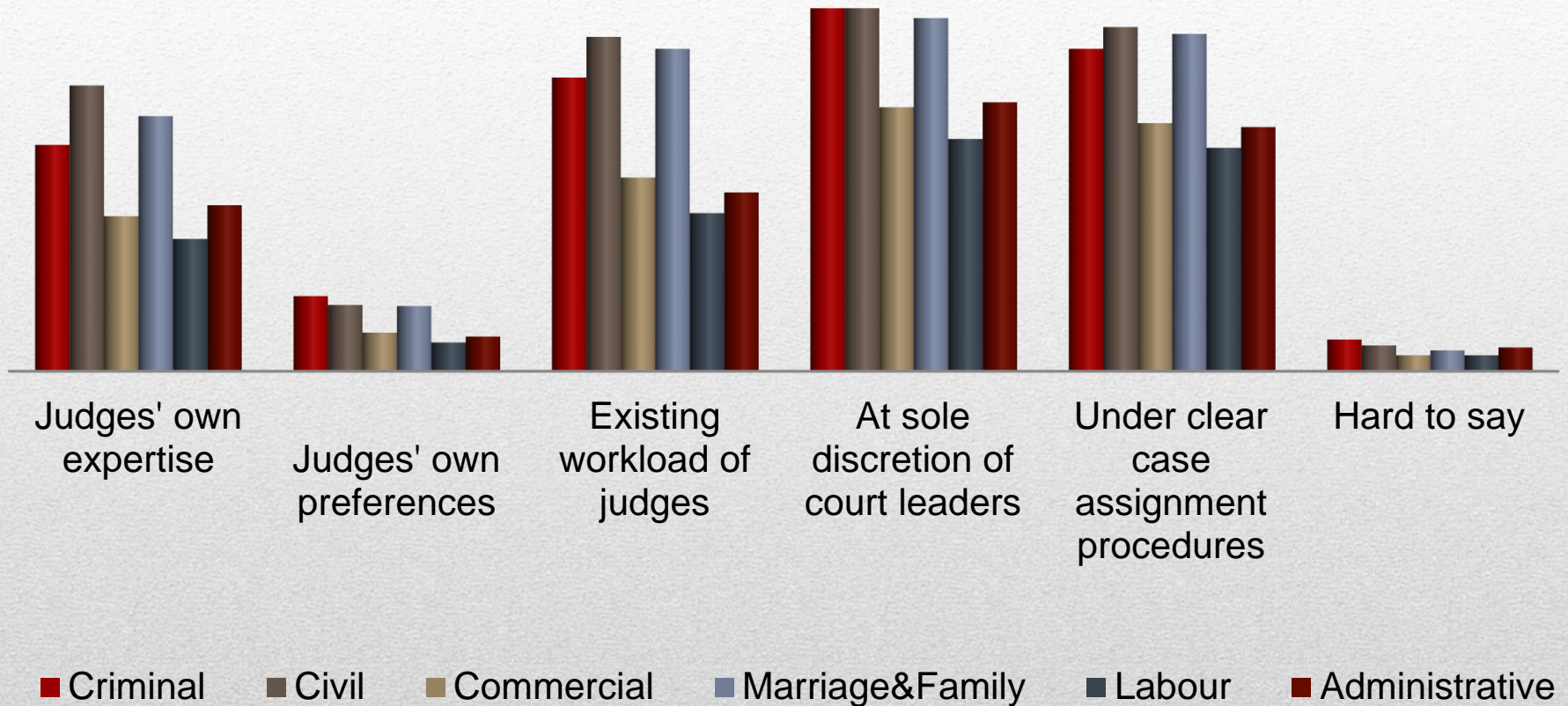
Leaders' role in ensuring
procedural time-limits

Practice of case assignment at Provincial People's Courts



Judicial administrative management in proceedings

Practice of case assignment at District People's Courts



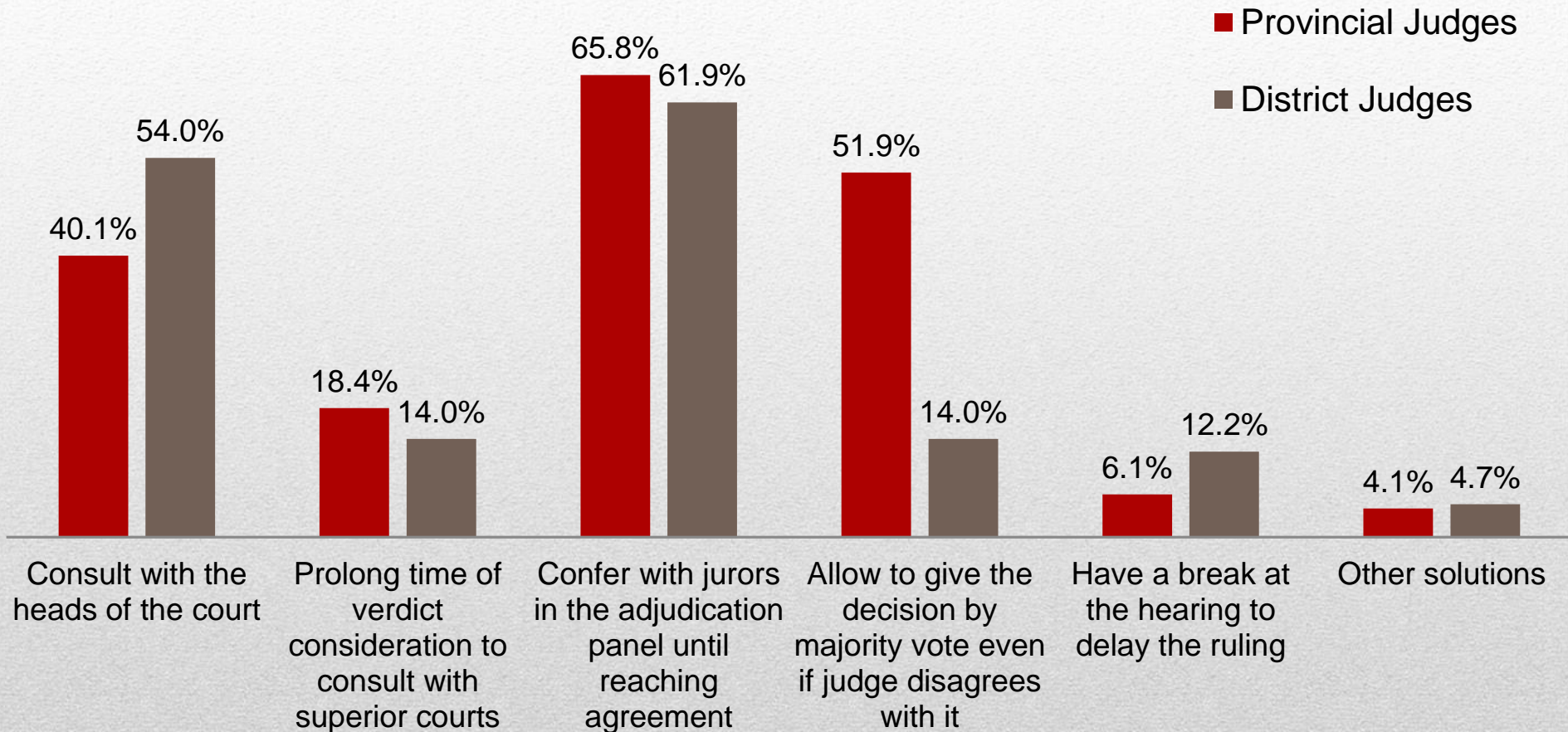
Judicial administrative management in proceedings

Ensuring activities of Adjudication Panel

Table 1: Time for case file study before hearings of other members in the Adjudication Board (%)

	judge of provincial court						judge of district court					
	Criminal	Civil	Commerce	Marriage & Family	Labour	Administrative	Criminal	Civil	Commerce	Marriage & Family	Labour	Administrative
About less than 1 hour on the date of hearing	15.1%	21.0%	15.1%	23.5%	20.3%	14.4%	12.1%	14.6%	15.5%	18.0%	14.7%	13.1%
Several hours on the date of hearing	10.5%	18.5%	14.3%	19.6%	13.0%	14.4%	17.3%	19.3%	17.0%	18.0%	16.4%	16.5%
More than one day	44.3%	35.0%	42.1%	35.9%	33.3%	37.1%	56.0%	51.4%	51.6%	50.6%	52.7%	52.9%
More than one week	30.1%	25.5%	28.6%	20.9%	33.3%	34.0%	14.5%	14.8%	15.9%	13.4%	16.2%	17.5%

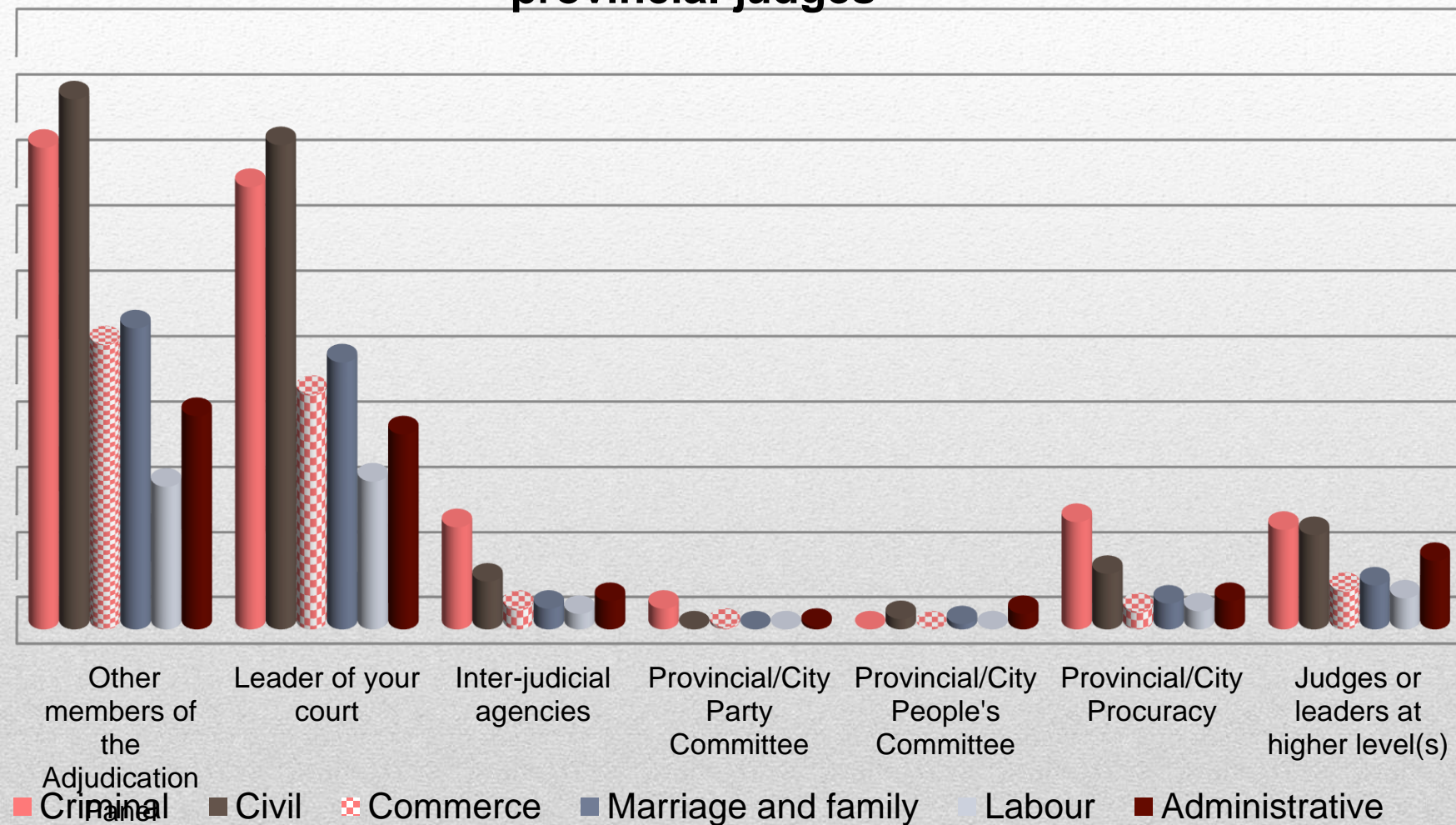
Solutions in case members of Adjudication Panel have different opinions



Judicial administrative management in proceedings

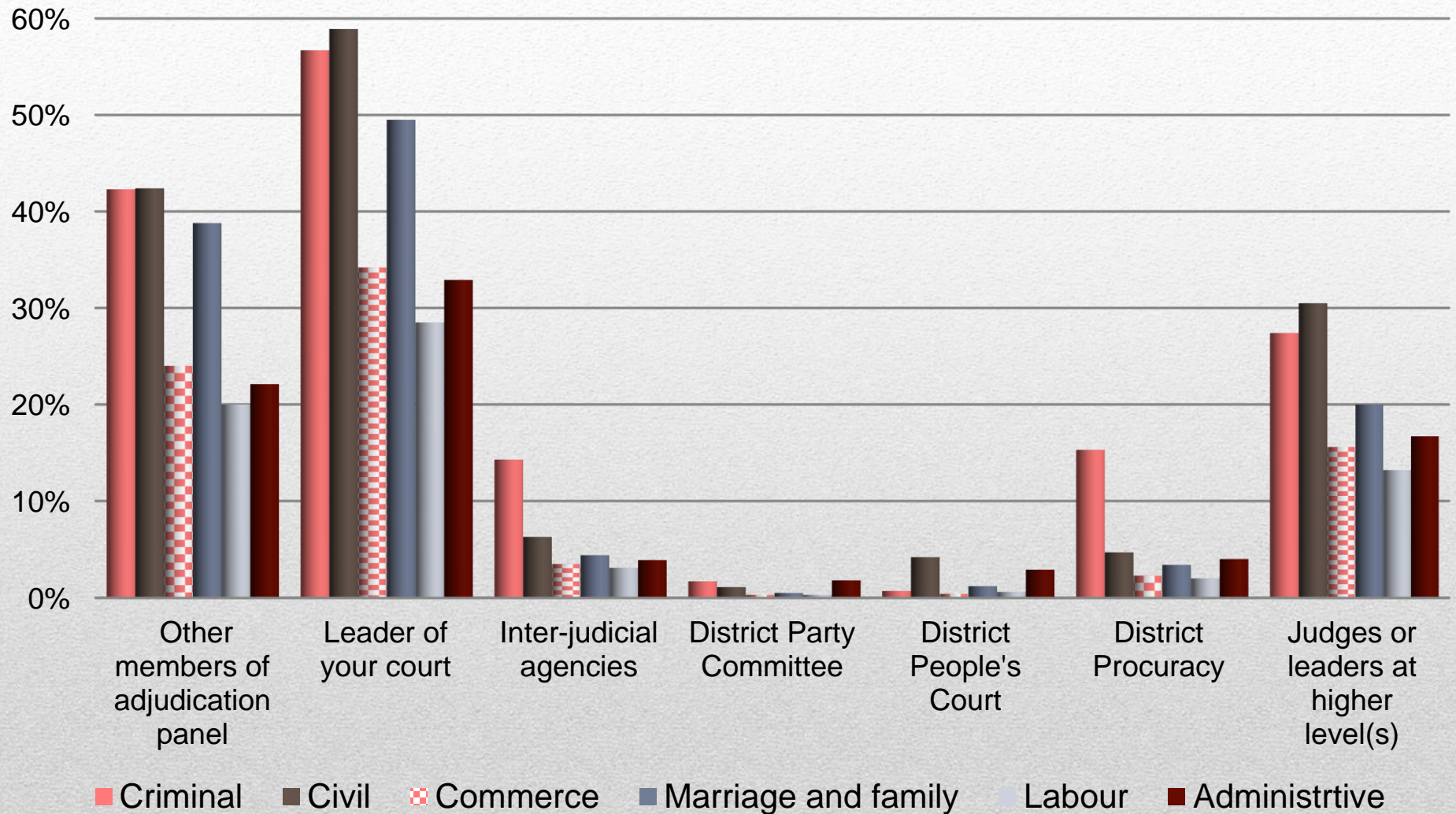
State agencies' influence on adjudication activities

Exchange of case settlement options by case type of provincial judges



Judicial administrative management in proceedings

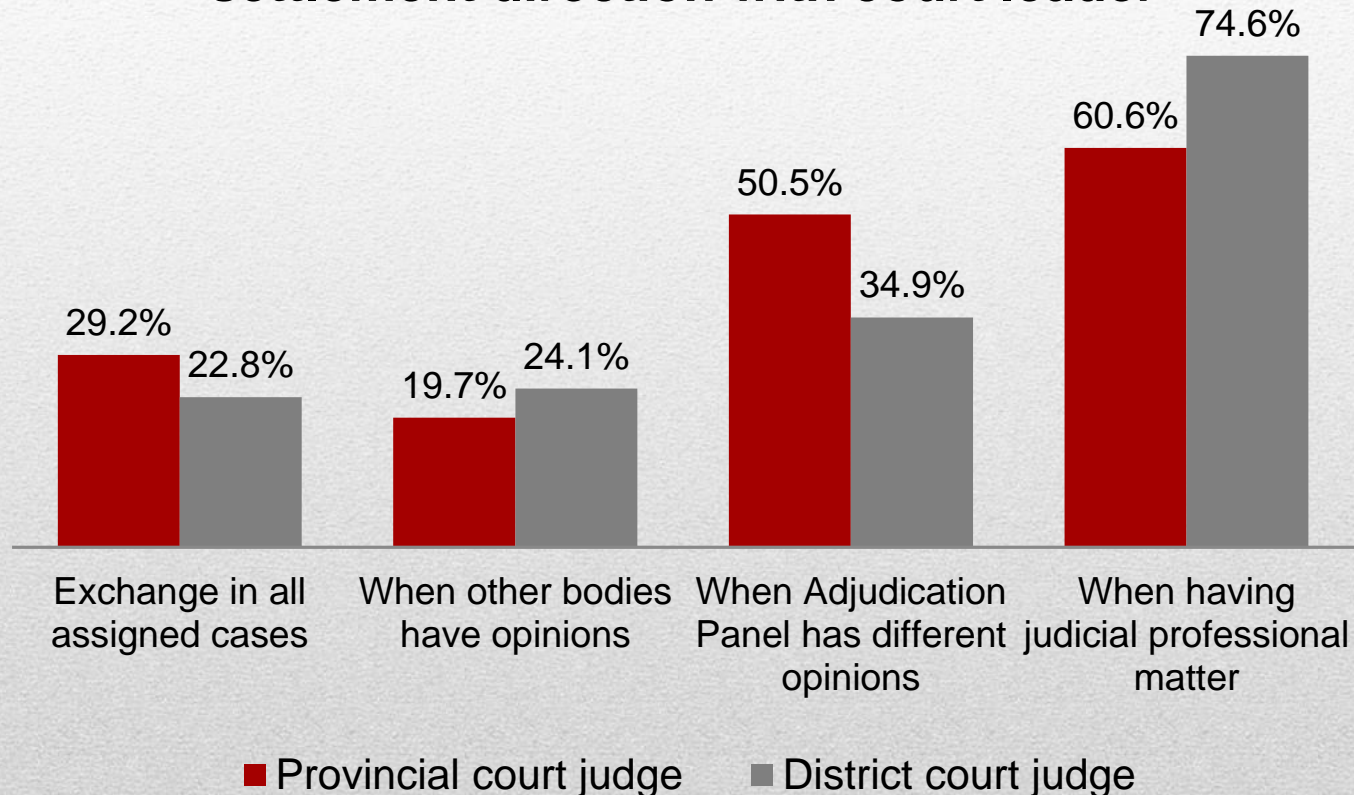
Case consideration and settlement by district judges



Judicial administrative management in proceedings

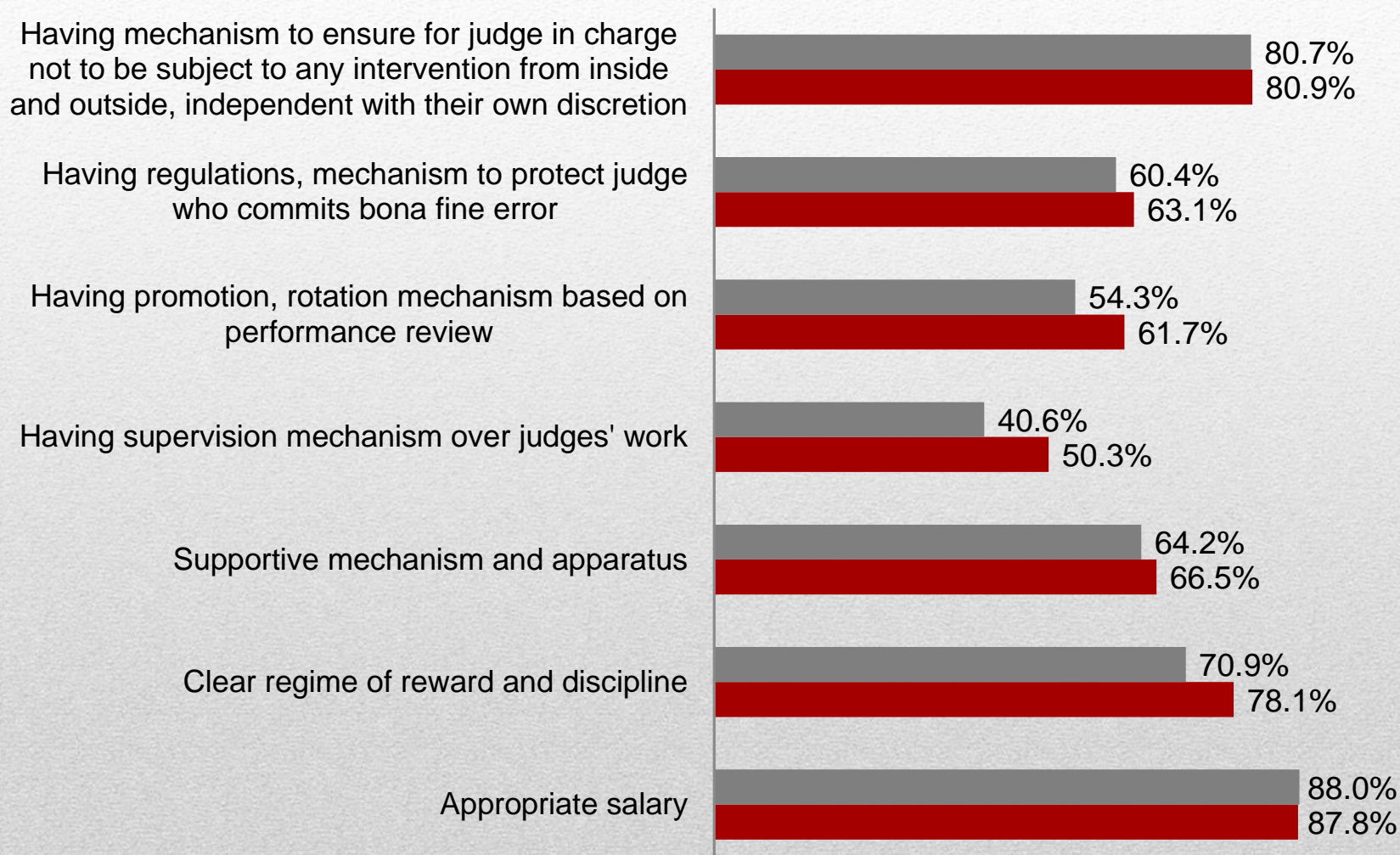
Independence of Judges

Reasons for Judge's exchange about case settlement direction with court leader



Factors to be ensured for judges to fulfil their duties and guarantee their independence in adjudication

■ District court ■ Provincial court

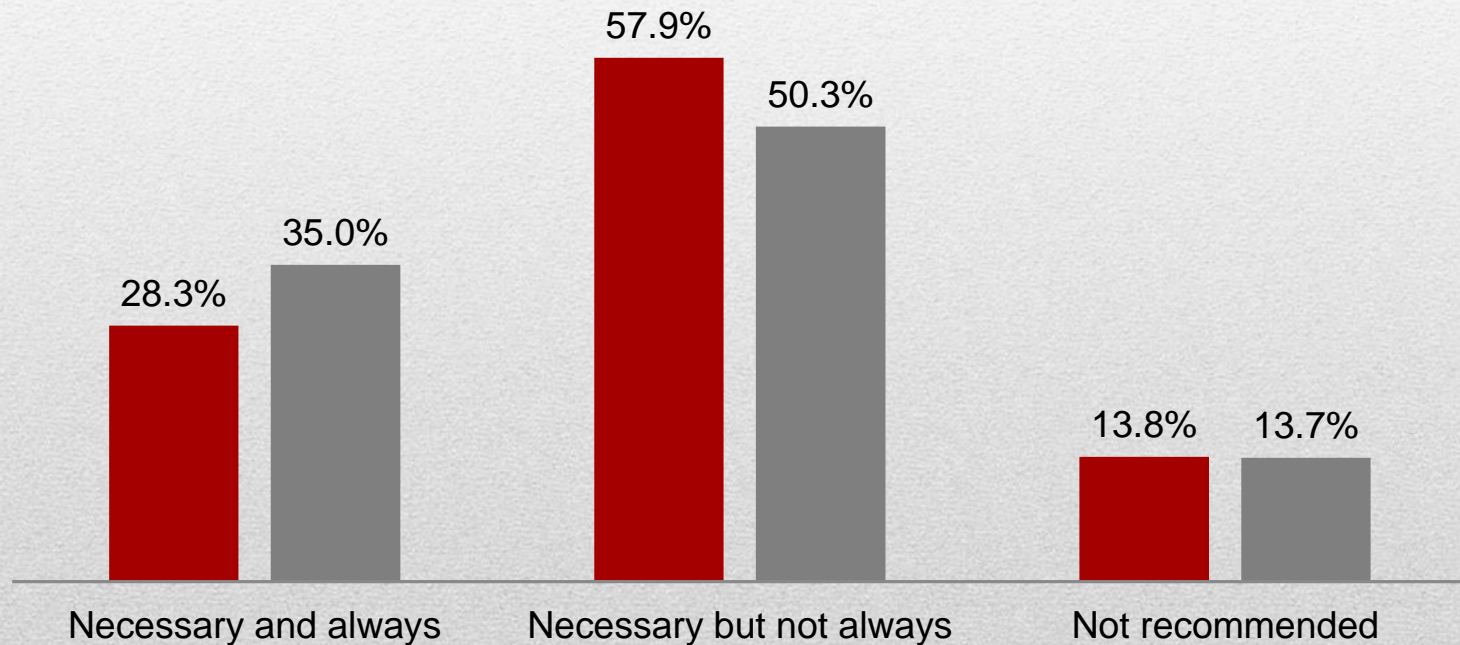


Budget and working conditions

Publicising adjudication activities

Publicising proceedings activities through video and tape recording in hearings

■ Provincial judges ■ District judges





COURT GOVERNANCE

Resolution 49/NQ-TW

- Extend judge candidate sources
- Increase tenure of judicial titles or apply permanent tenure regime.
- Apply the remuneration and reward regime and policy appropriate with the efforts of judicial staff.
- Reform and improve the budget allocation mechanism

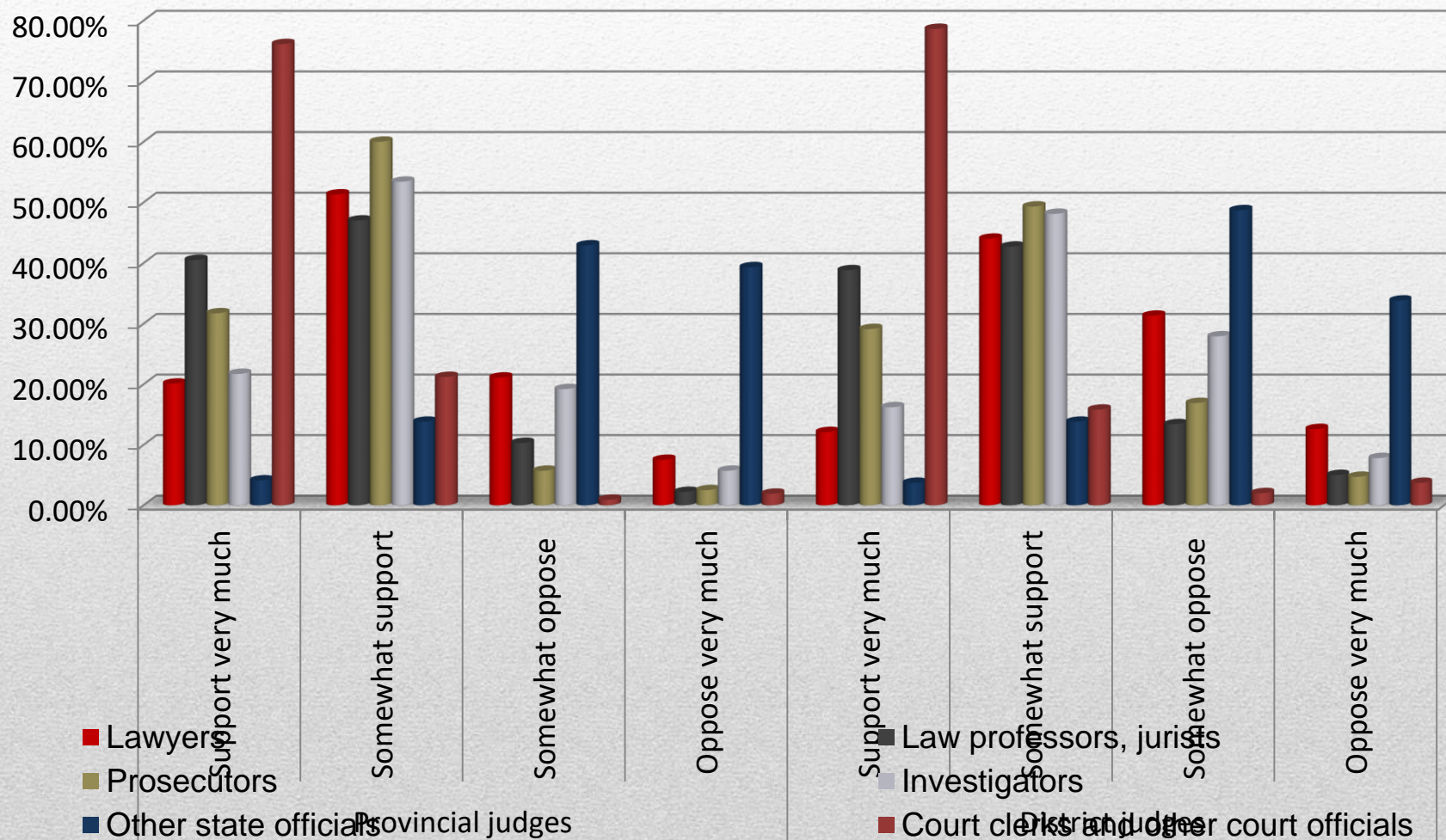
Issues surveyed

- Judge candidate sources.
- Judge tenure
- Rotation mechanism in tribunal sector
- Reality of budget allocation for court operation presently
- Demand on budget for court operation
- Factors to guarantee the independence of judges
- Judge's demand on equipment for work.

Court governance

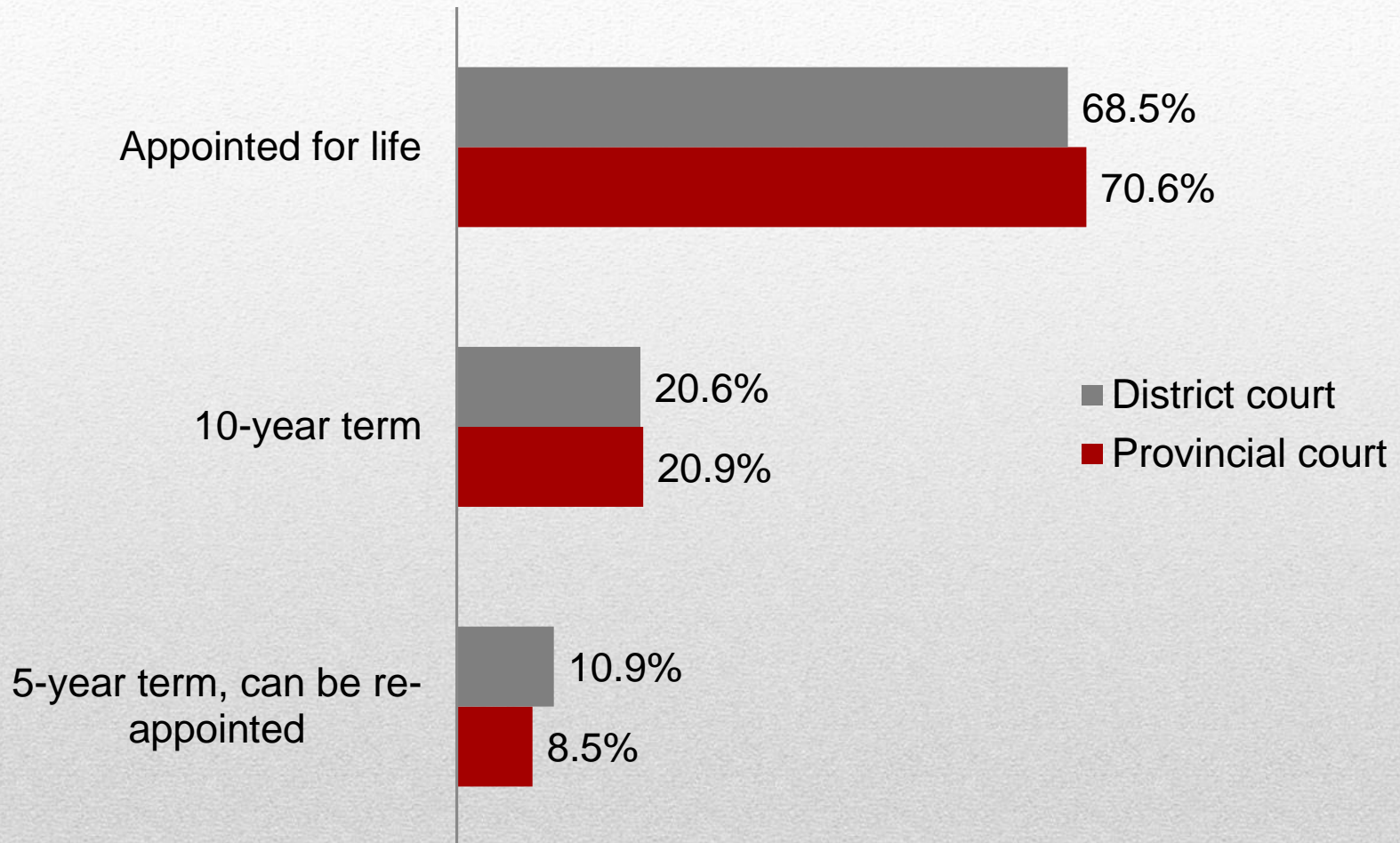
Personnel management

Extending sources for judge's appointment

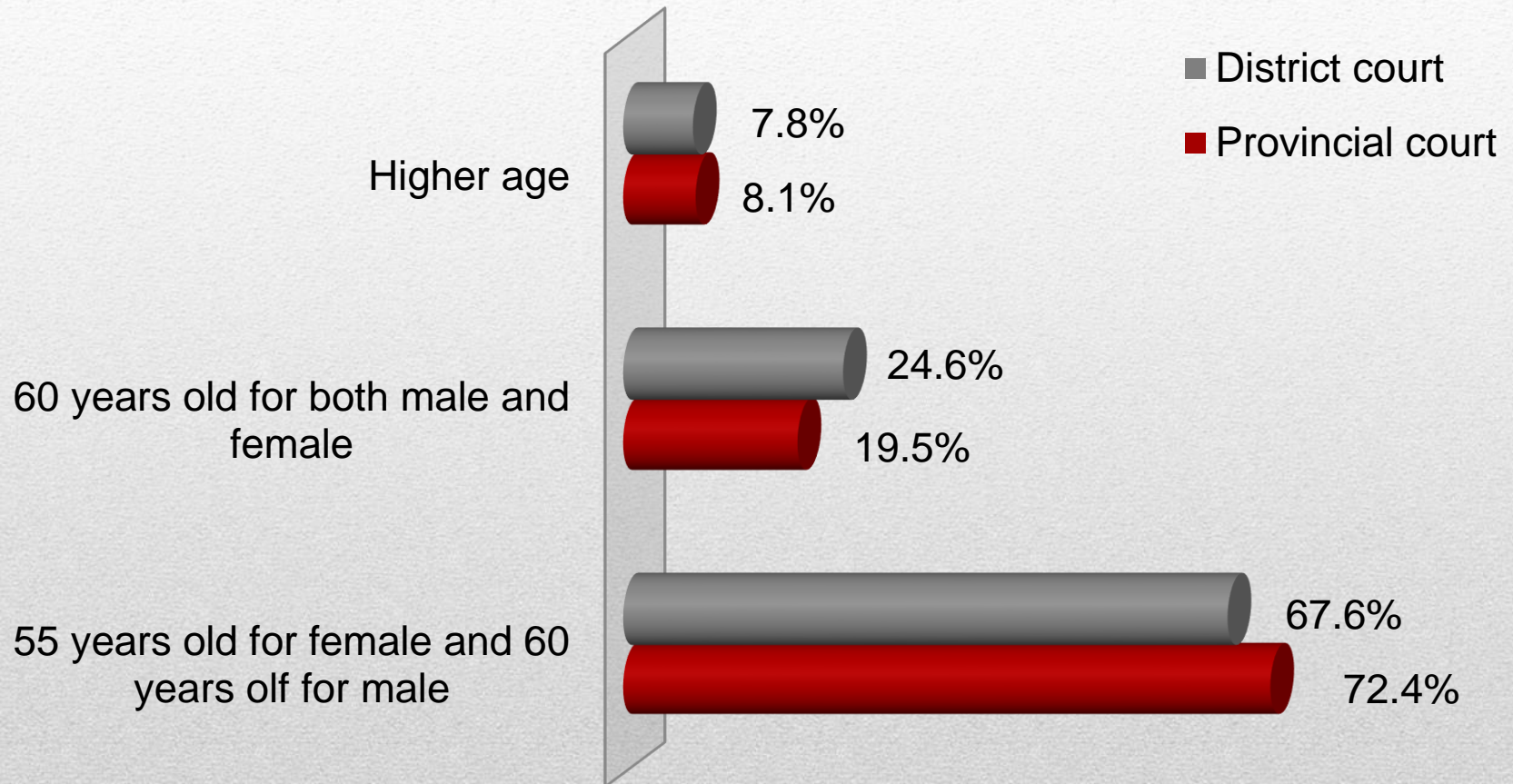


Court governance

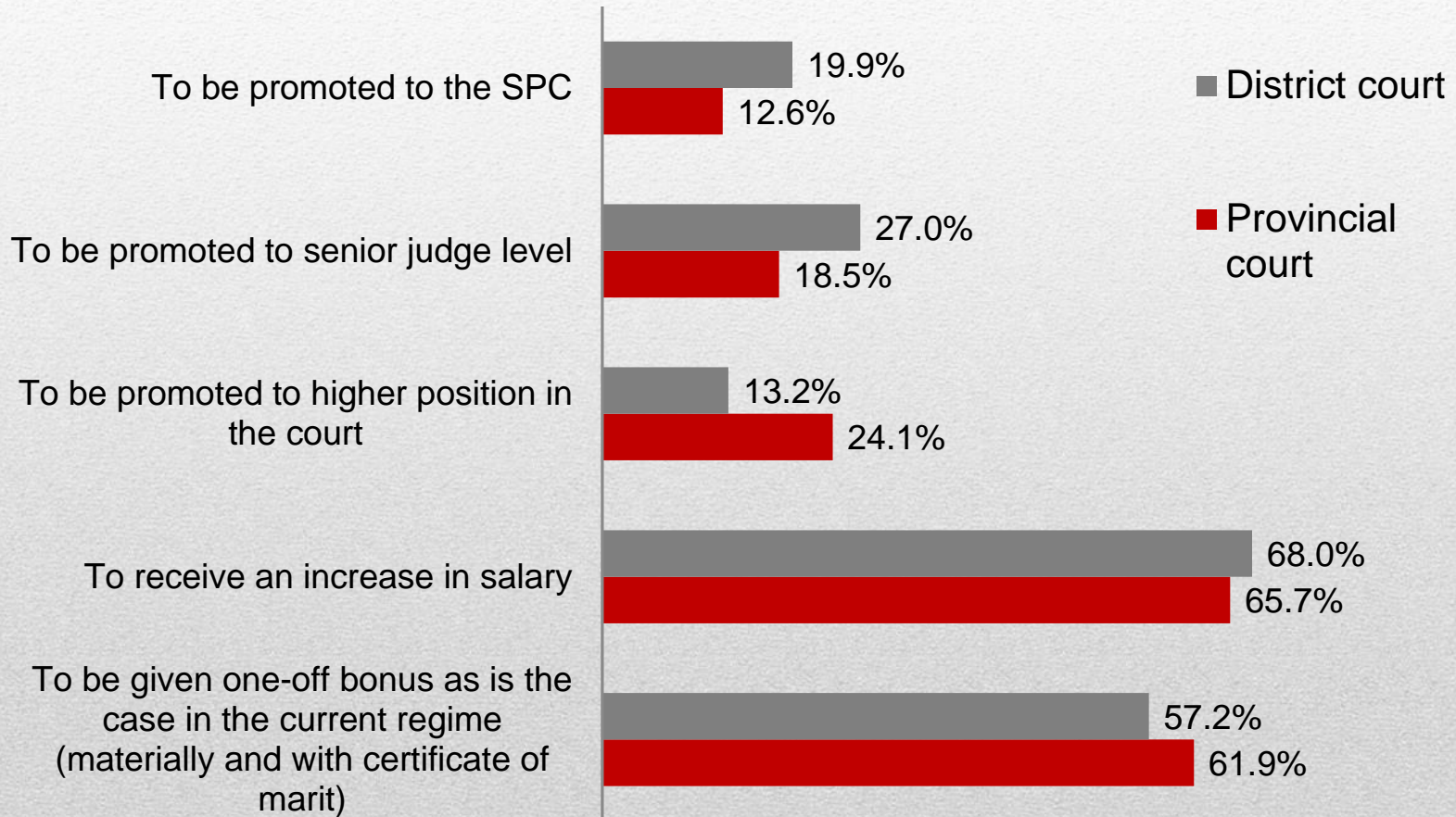
Judges' viewpoints on judge's term of office



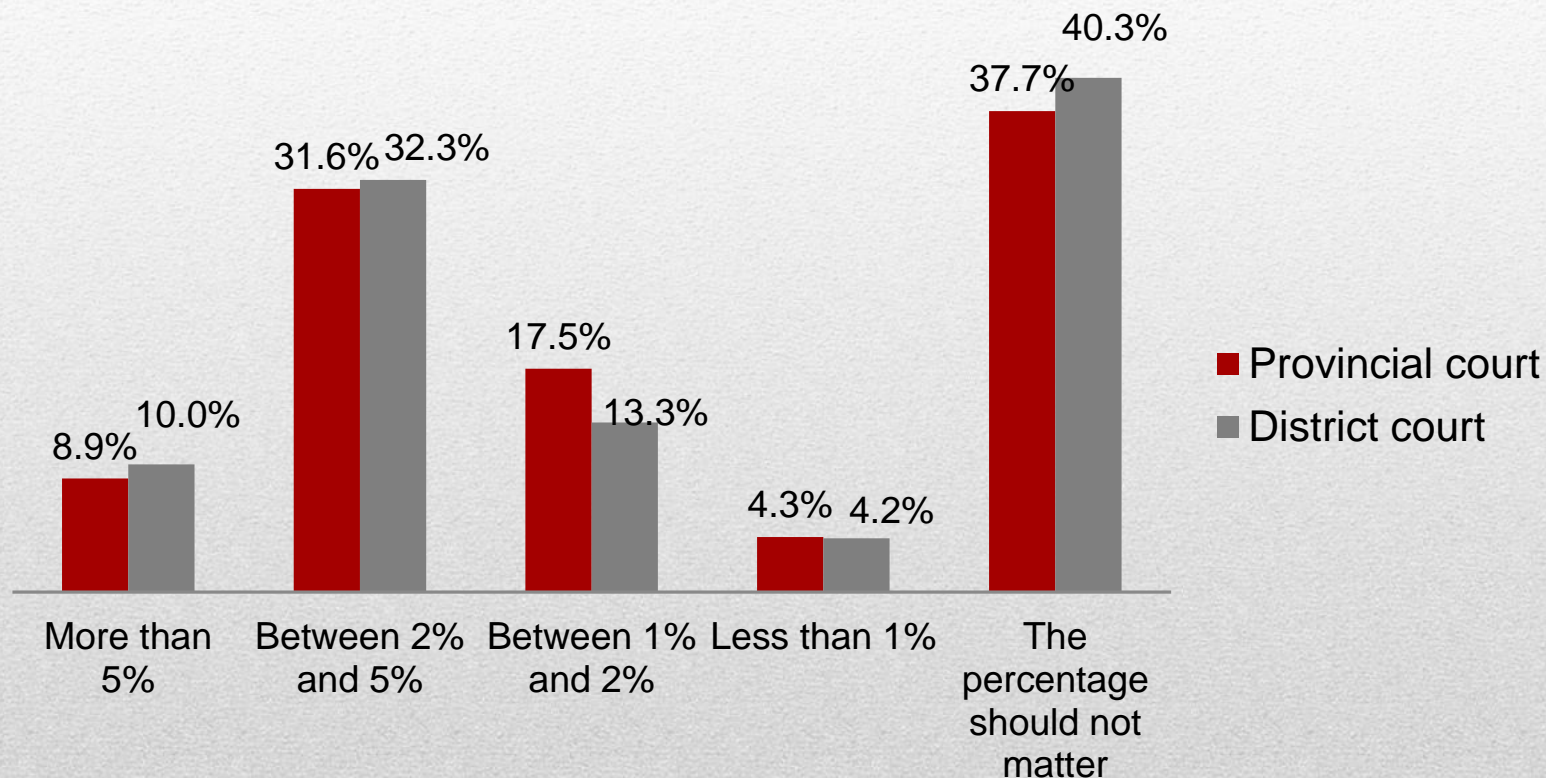
Judges' viewpoints about retirement age of Judge



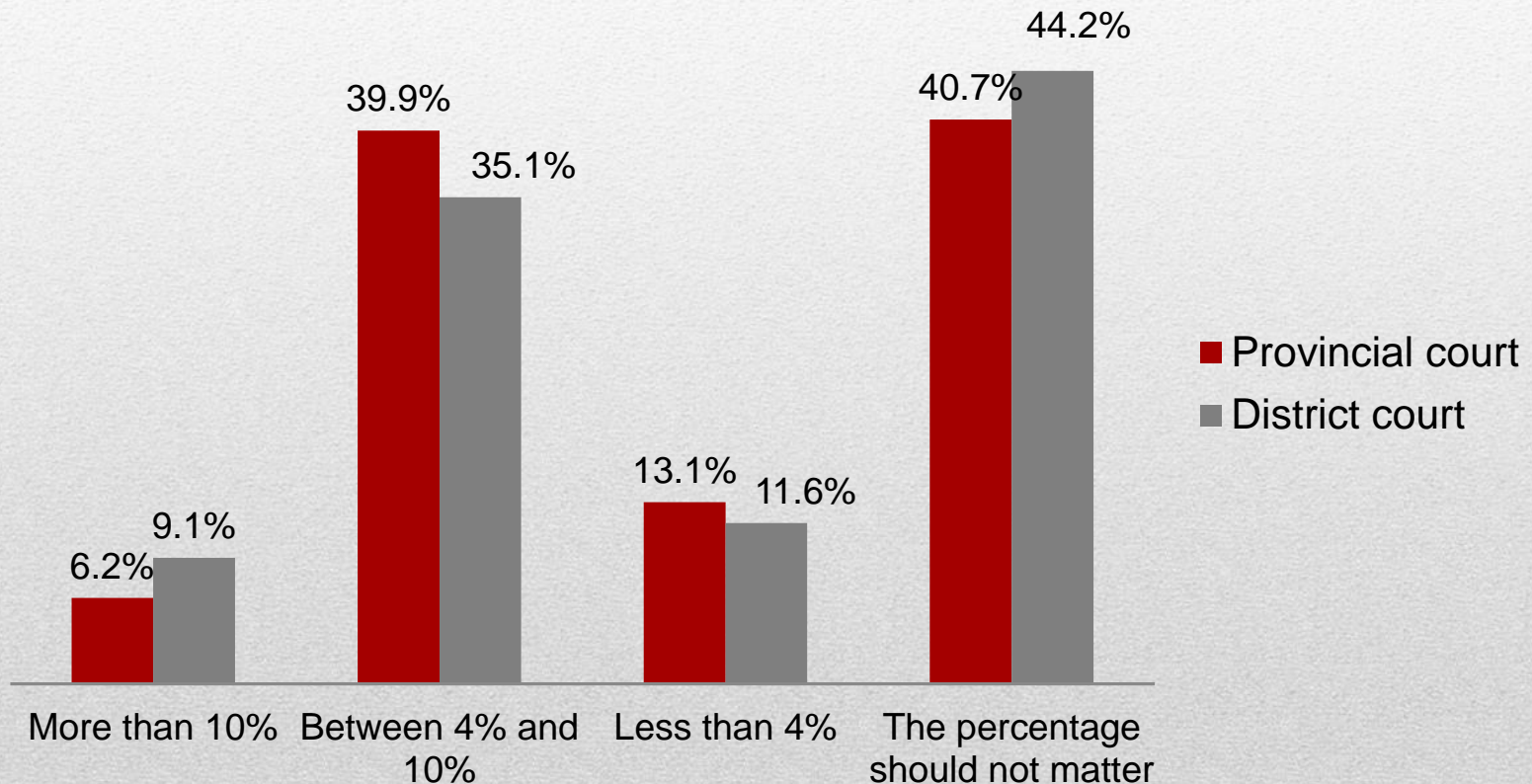
Judges' viewpoints on preferred forms of incentive



Judges' views on the rate of allowed overturned cases for reappointment

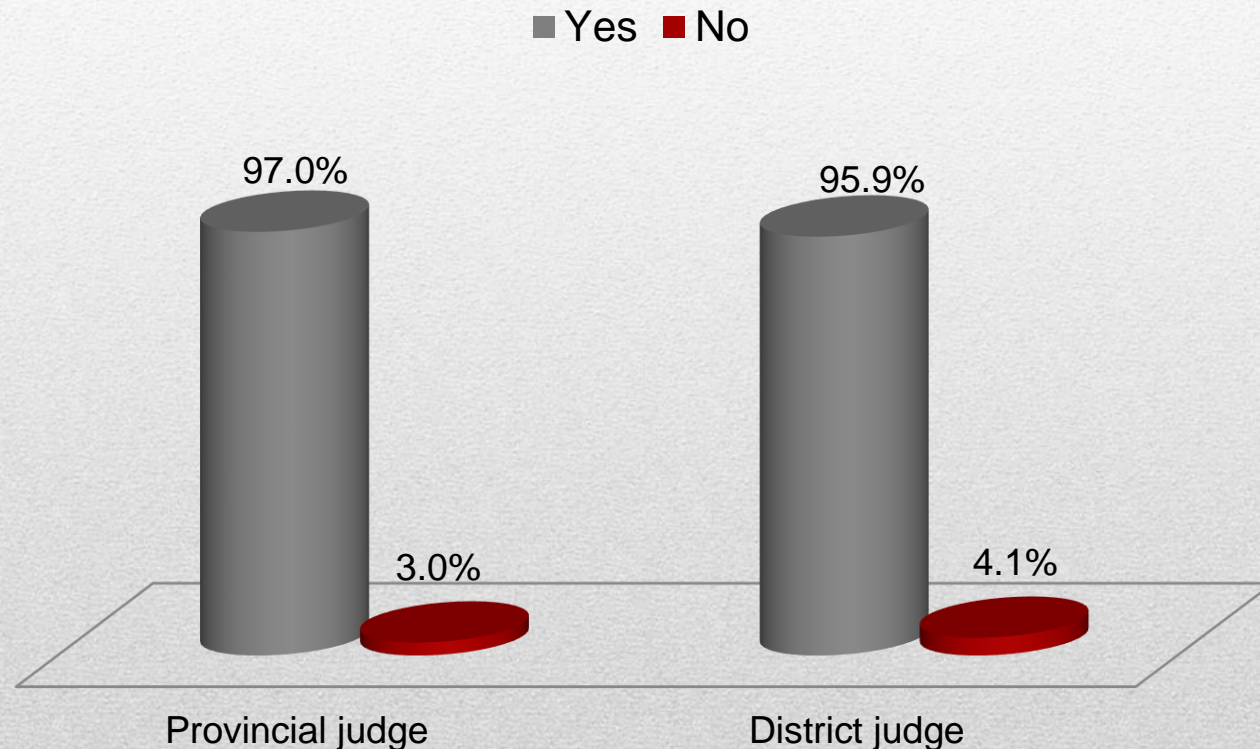


Judges' views on the rate of amended cases for reappointed



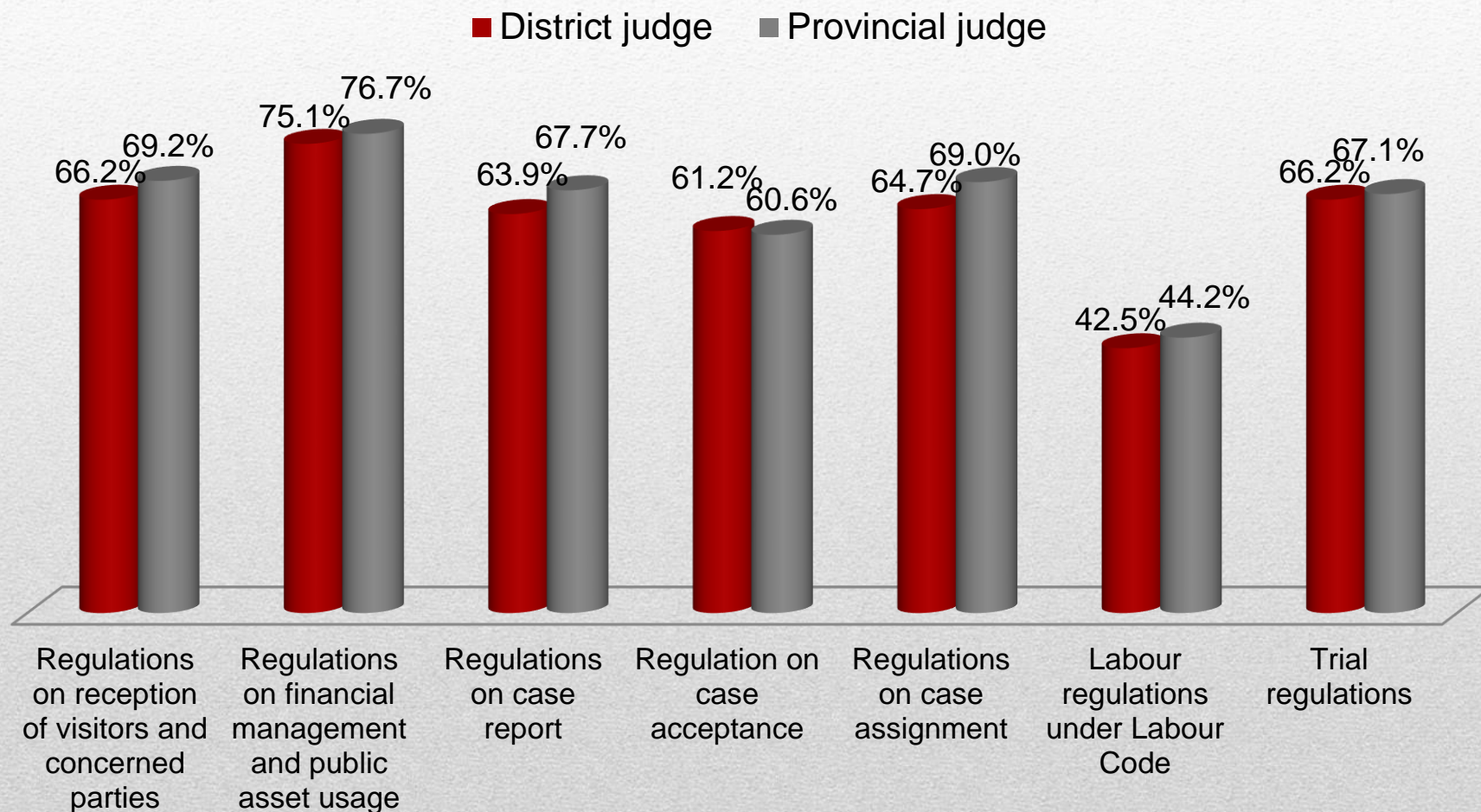
Management method

Internal regulations in courts at all levels




Management of adjudication work

Contents of internal regulations of courts under judge's viewpoints

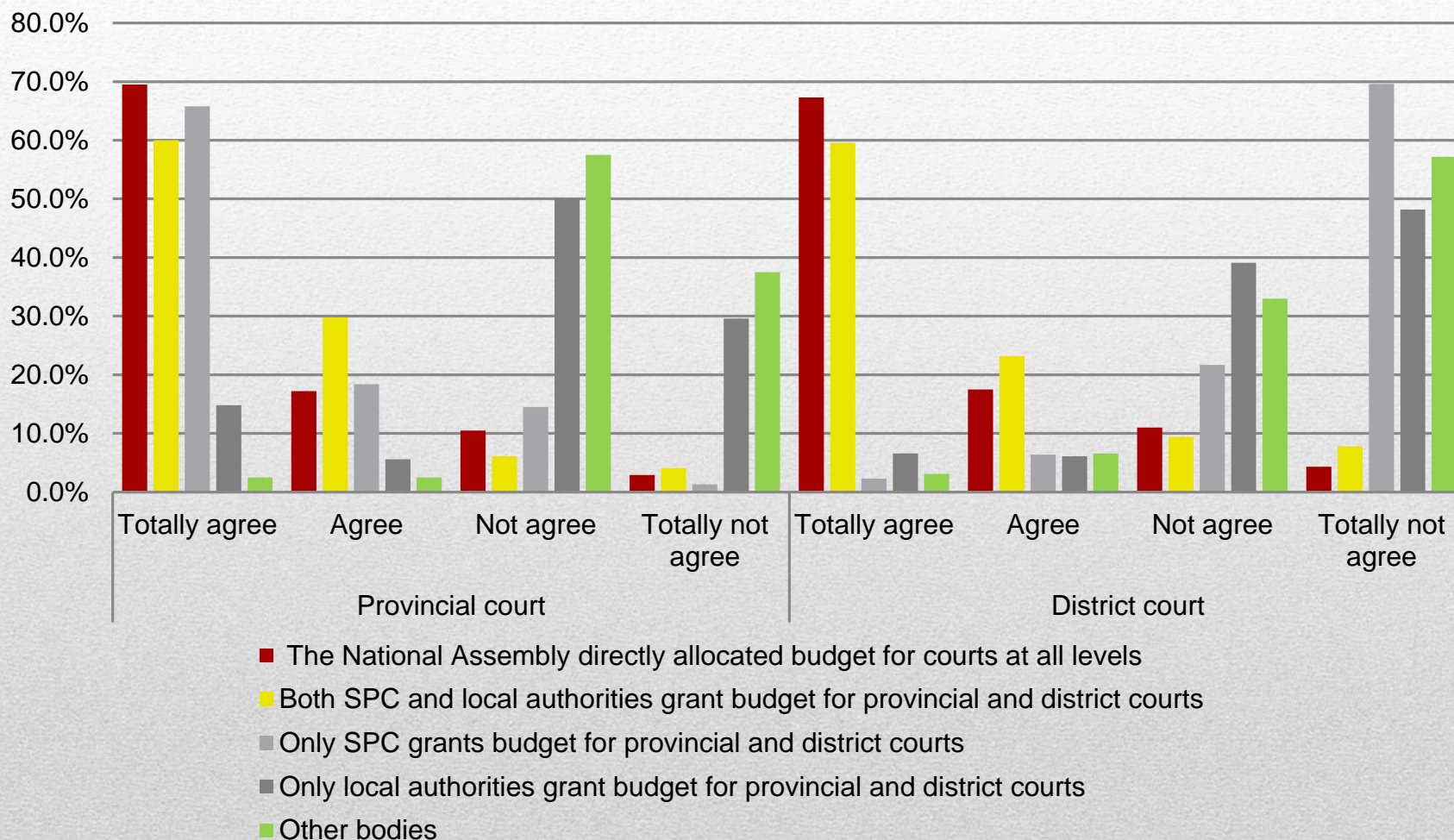


Management of adjudication work



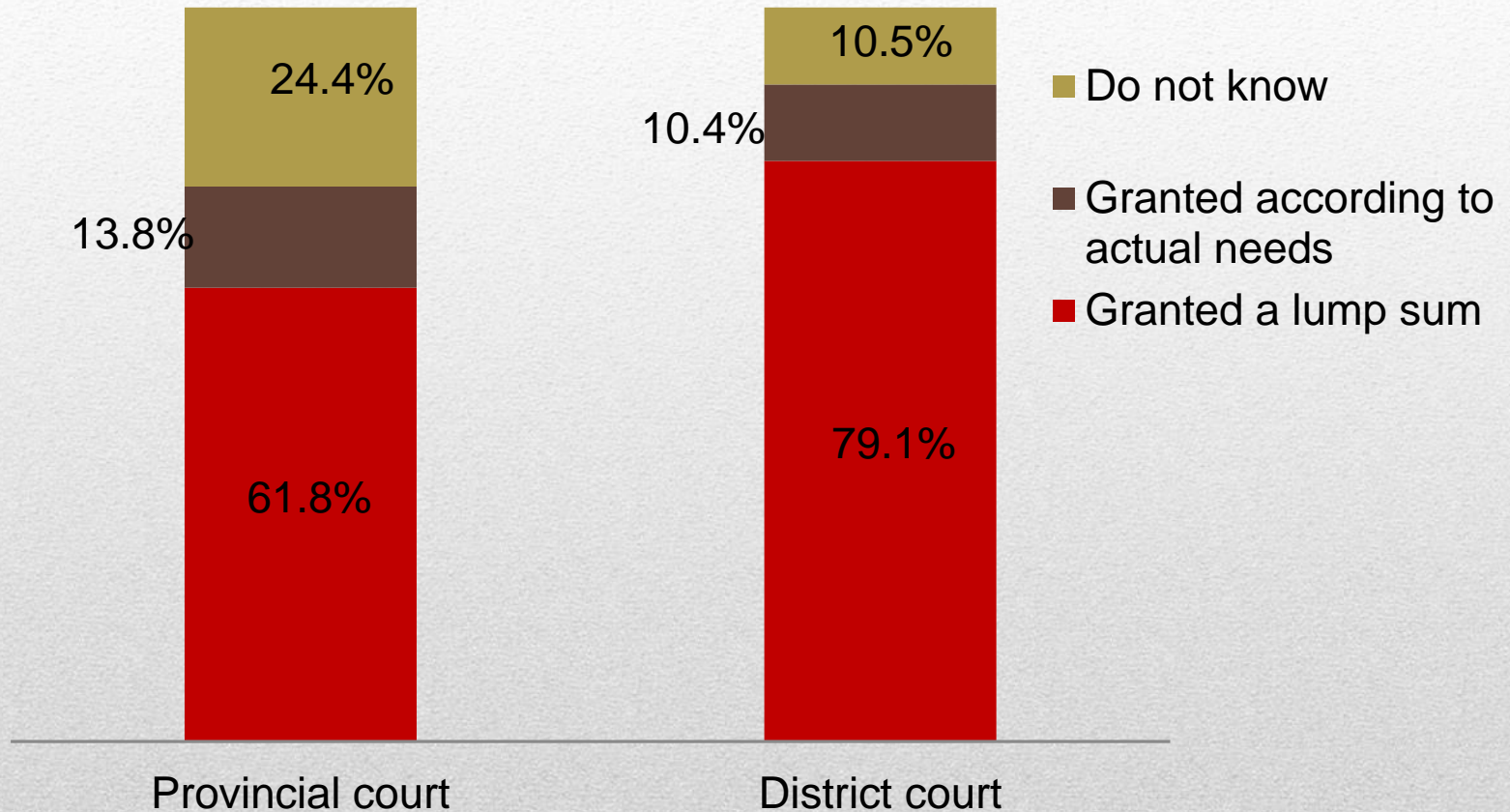
Guarantee of budget and
working conditions for Judges

Provincial court judges' viewpoints on court budget allocation



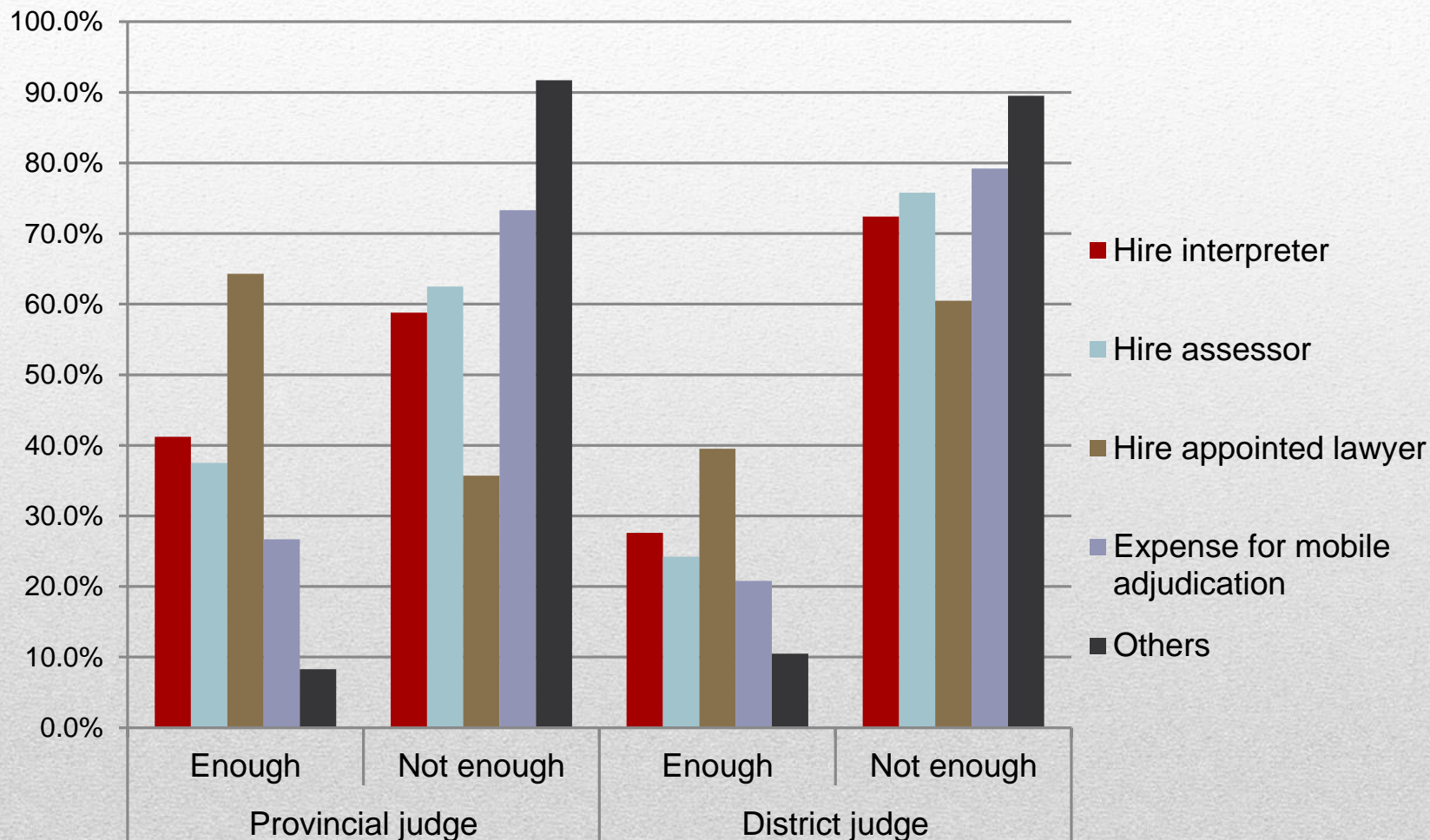
Budget and working conditions

Mode of budget grant of Courts



Budget and working conditions

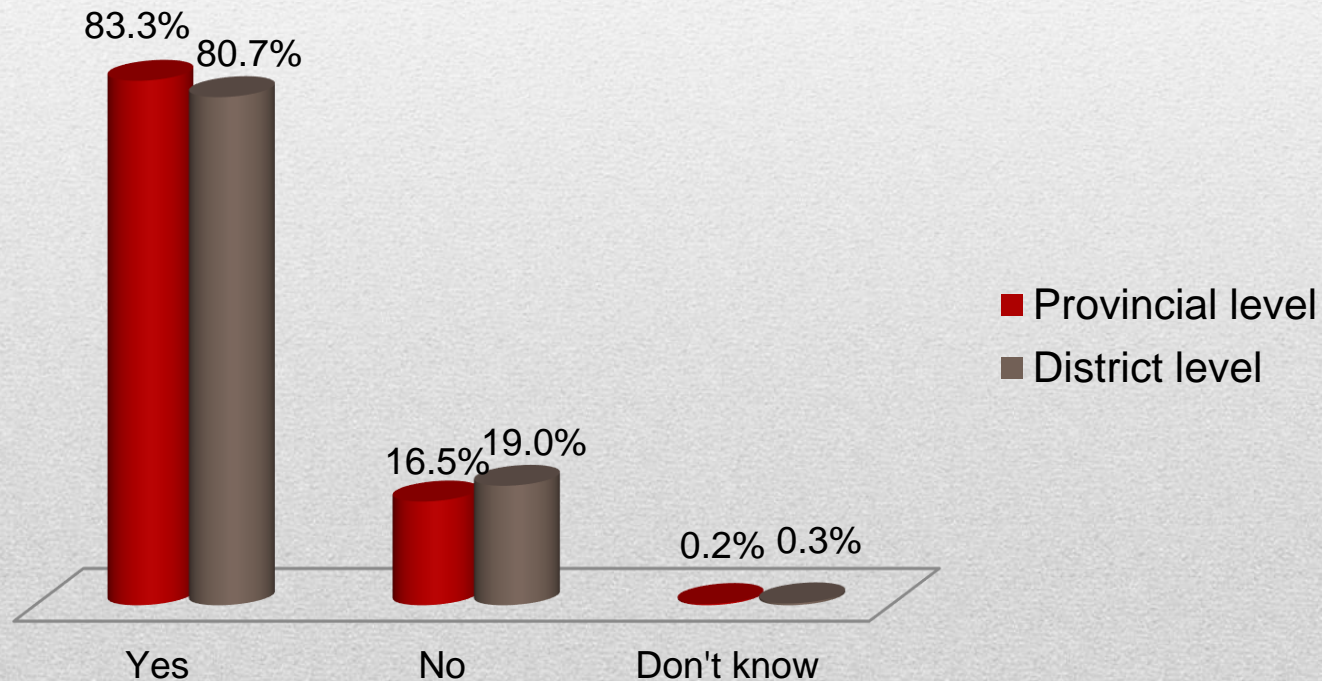
Practice and Demand for budget of courts



Budget and working conditions

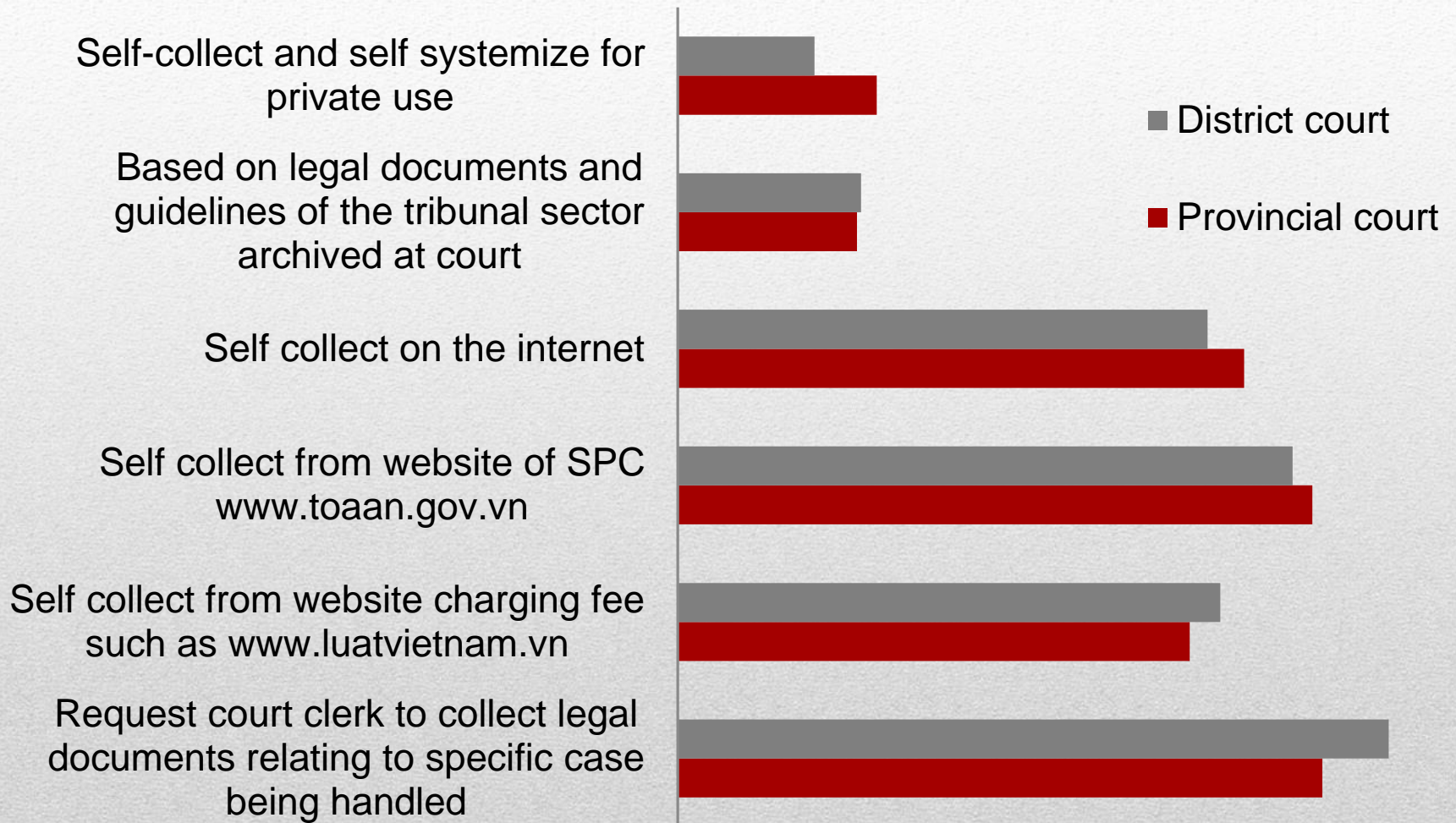
- **73.1%** of provincial judges and **59.2%** of district judges have their own computer. **60.3%** of provincial judges and **49.6%** of district judges has LAN.

Computer connected to the Internet



Budget and working conditions

Judges' sources for updated legal documents



Budget and working conditions



RECIPROCAL IMPACTS BETWEEN COURT ADMINISTRATION AND COURT GOVERNANCE

- Impacts on adjudication principles
 - Principle of collective adjudication;
 - Principle of independence in adjudication;
 - Principle of people's representation in adjudication;
 - Principle of public trial
- Impacts on people's accessibility to justice

Reciprocal impact



SOME NOTABLE ISSUES ON JUDICIAL REFORM

Resolution 49/NQ-TW

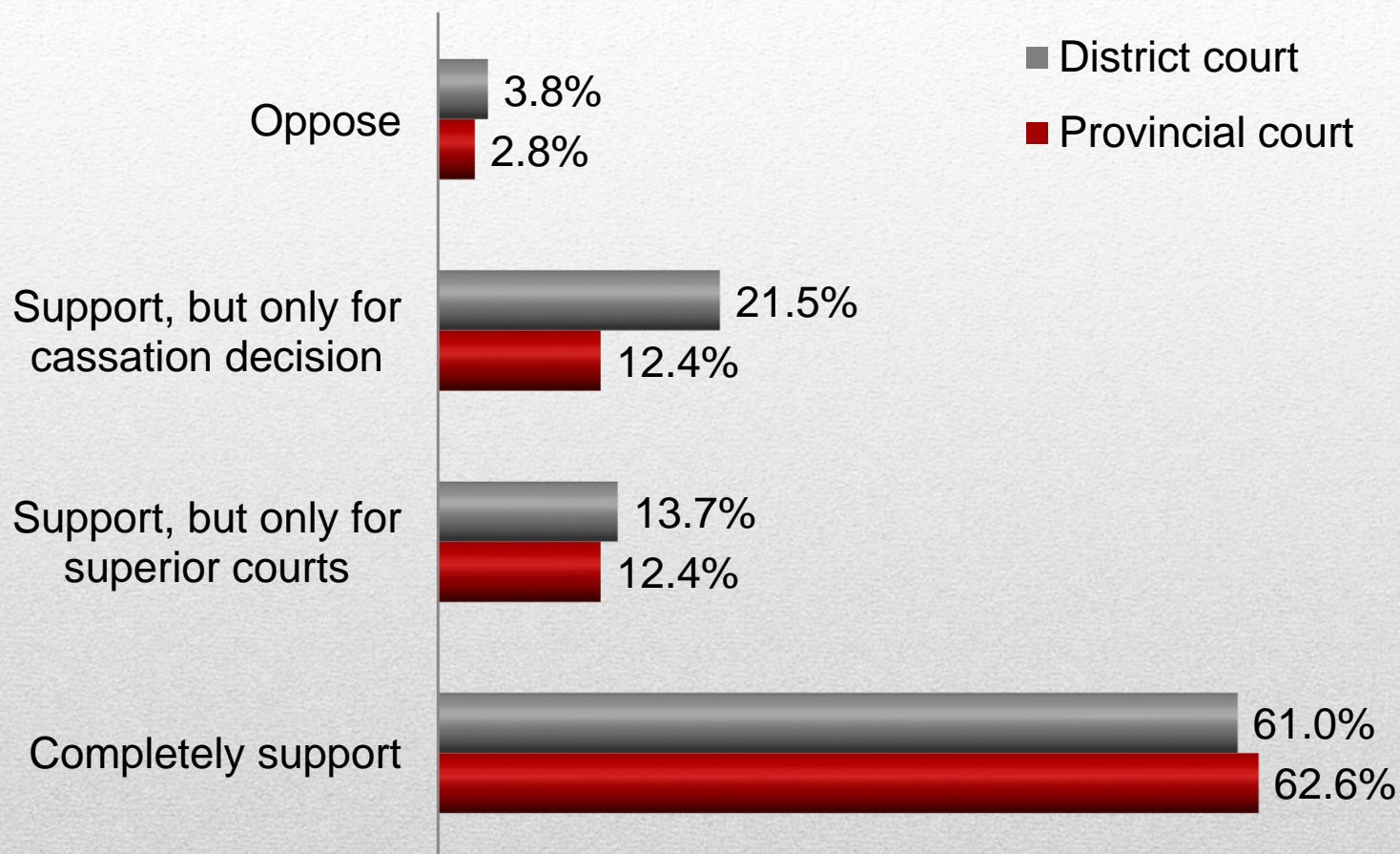
- Focus on construction, improvement of organisation and operation of people's courts
- Make public of proceedings activities and court judgments
- The SPC is assigned the task of summarising adjudication experience, guide the consistent application of law, develop case law.
- Organise the court system by jurisdiction

Issues surveyed

- Video or tape-recording in hearings
- Publication of court judgments
- Reference of judgments
- Law interpretation assigned to judges
- Law interpretation assigned to the SPC
- Regional court model

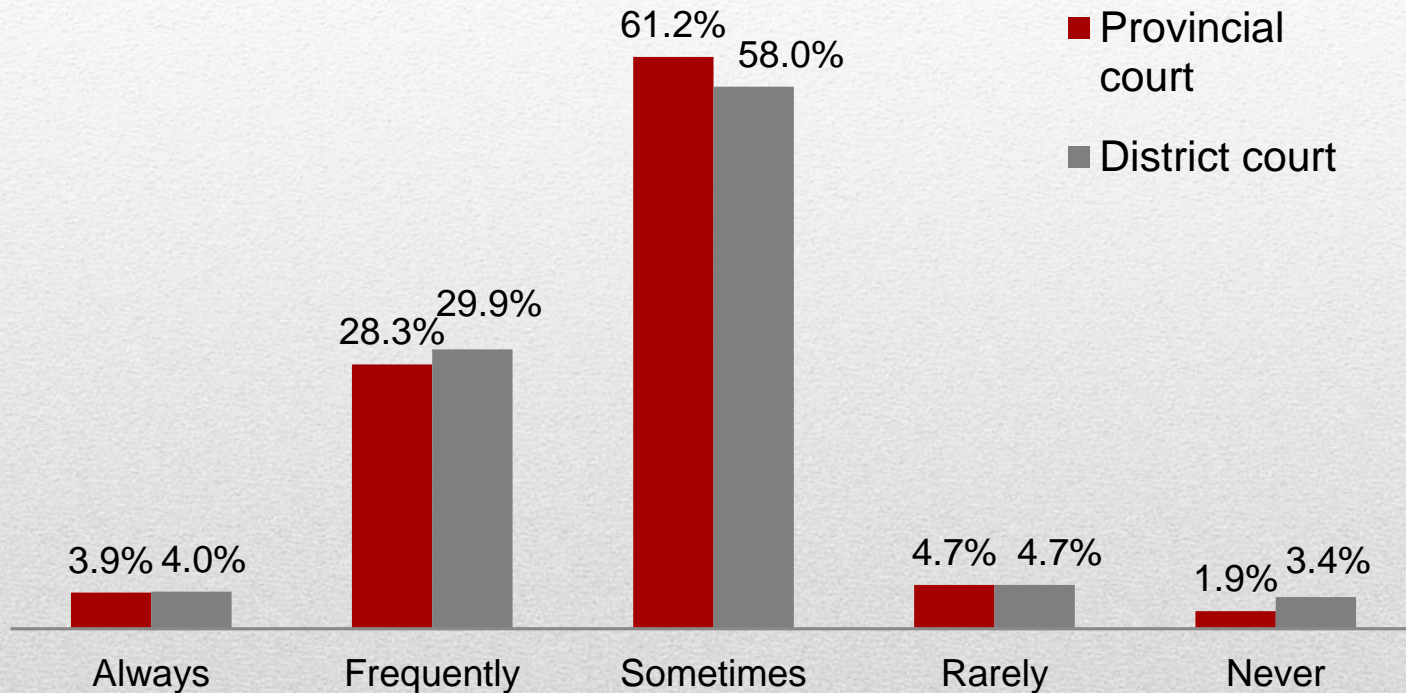
Judicial reform

Judge's views on publicising court' judgments



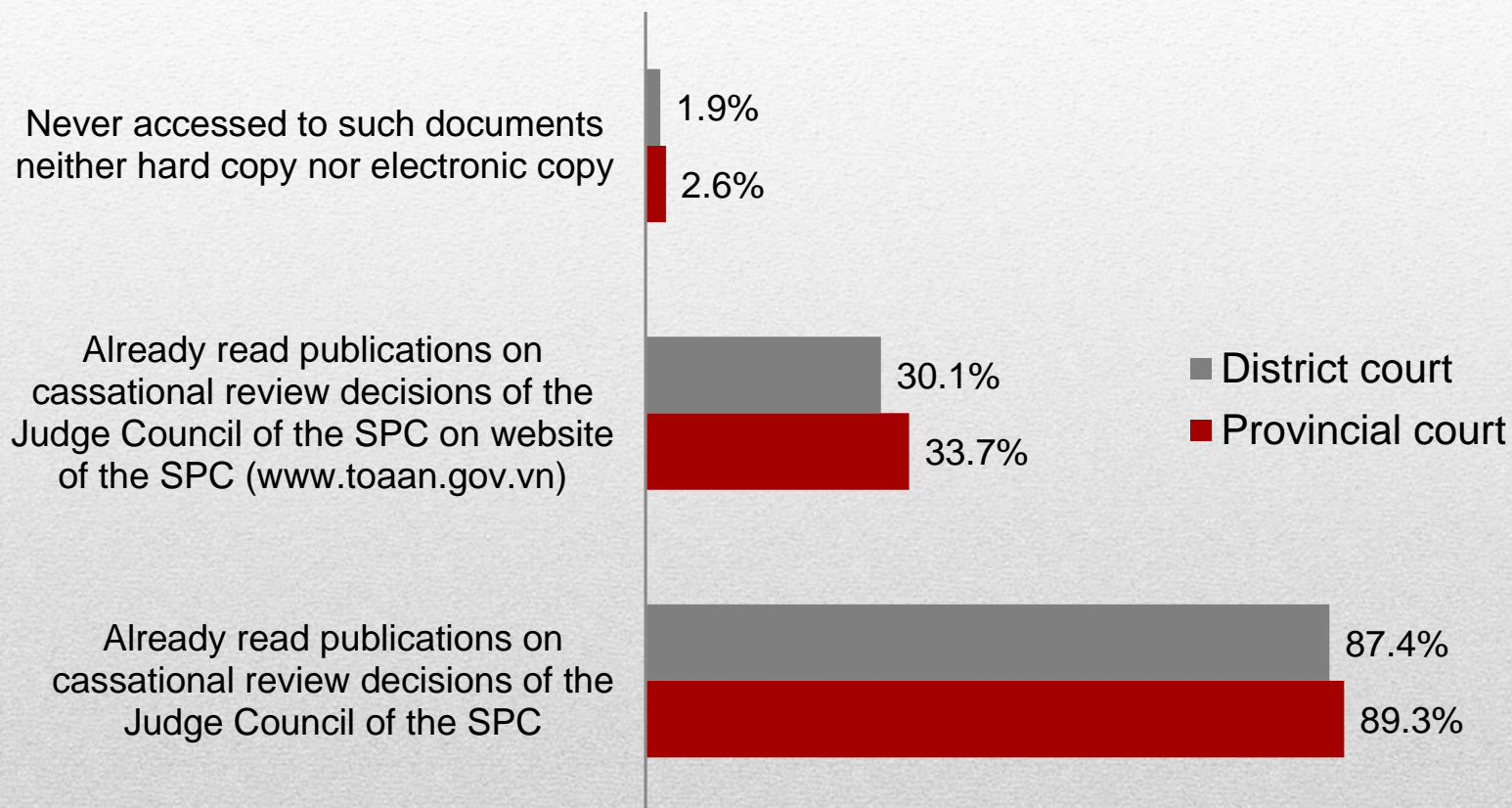
Judicial reform

Judges' reference to judgments, decisions of courts

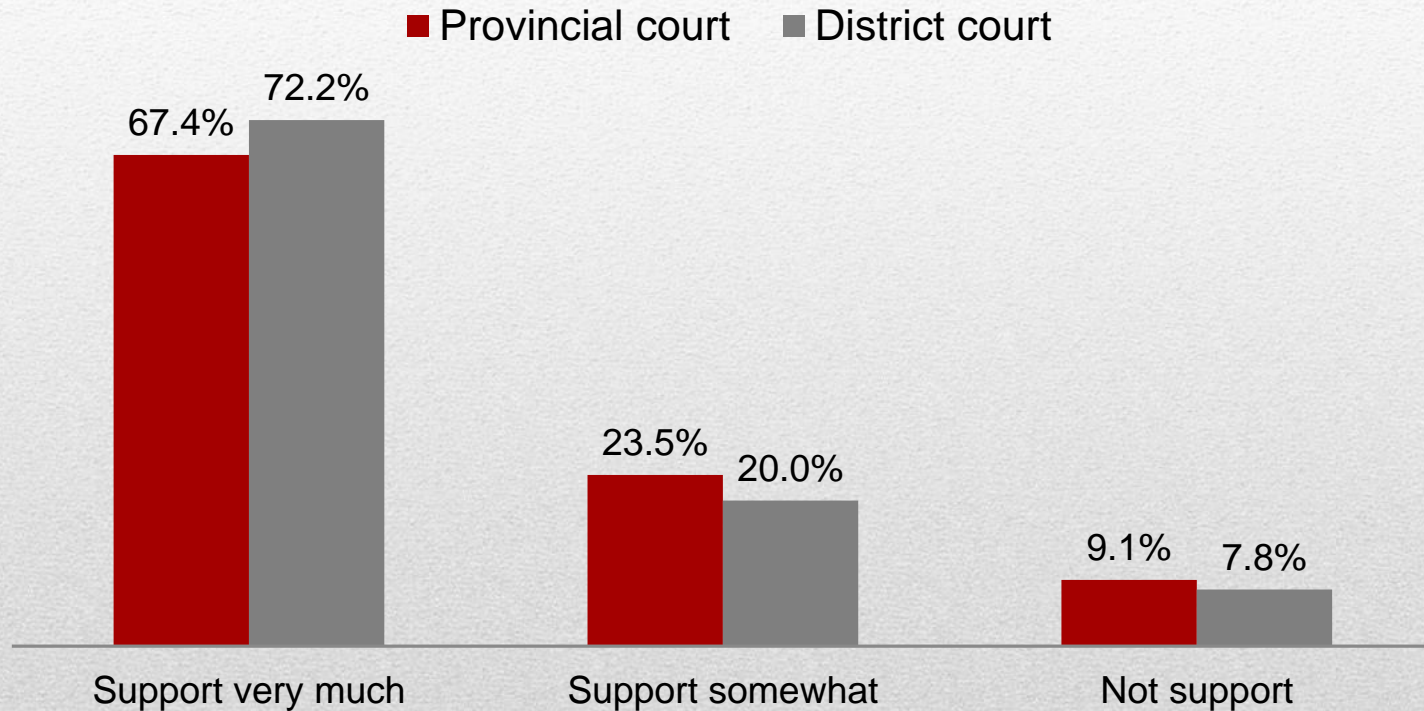


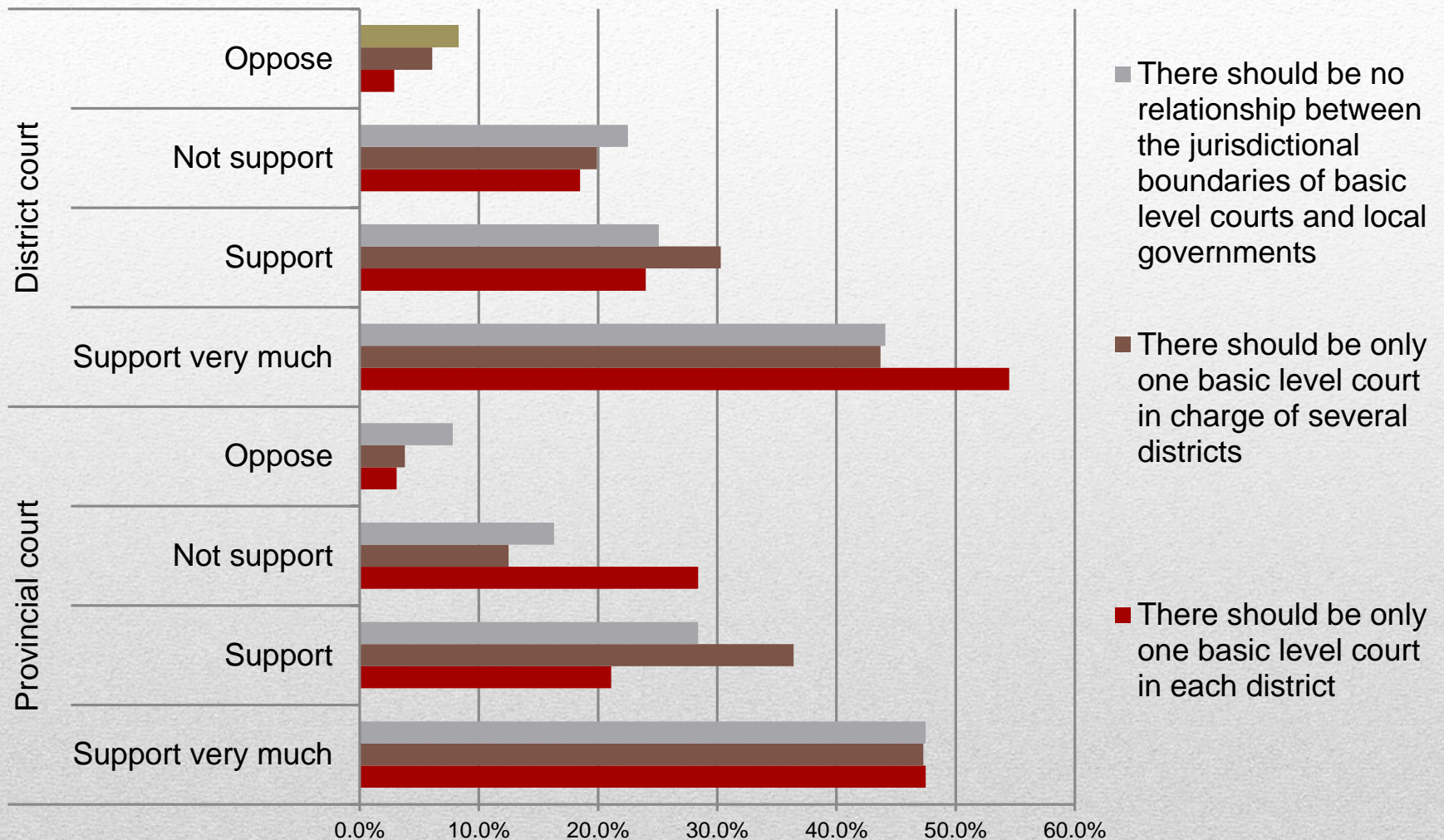
Judicial reform

Judges' access to cassational review decisions of the SPC




Judges' views on law interpretation by using judgments or by the SPC as its duty





Viewpoint about regional court scheme



THANK YOU FOR YOUR
ATTENTION
