



सत्यमेव जयते

**TENTH MEETING OF ADVISORY COUNCIL  
NATIONAL MISSION FOR JUSTICE DELIVERY AND  
LEGAL REFORMS**

**18<sup>TH</sup> OCTOBER, 2016**

**AT 5.00 P. M.**

**VENUE: CONFERENCE ROOM,  
JAISALMER HOUSE, NEW DELHI**

**AGENDA NOTES**

**DEPARTMENT OF JUSTICE  
MINISTRY OF LAW AND JUSTICE  
GOVERNMENT OF INDIA**

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**Advisory Council**  
**National Mission for Justice Delivery and Legal Reforms**  
**Agenda for the Tenth Meeting**

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## Advisory Council

### National Mission for Justice Delivery and Legal Reforms

#### **Agenda for the Tenth Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms**

#### **AGENDA 1: CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 16<sup>TH</sup> FEBRUARY, 2016**

A copy of the minutes of the meeting of the Advisory Council of National Mission for Justice Delivery and Legal Reforms held on 16<sup>th</sup> February, 2016 is attached at Annexure-I for confirmation.

#### **AGENDA 2: ACTION TAKEN REPORT ON THE MINUTES OF THE MEETING HELD ON 16<sup>TH</sup> FEBRUARY, 2016.**

The following action taken on the minutes of the meeting held on 16<sup>th</sup> February, 2016 may be noted.

<b>S. No.</b>	<b>Action Points</b>	<b>Action Taken Report</b>
1.	Reform of Criminal Justice System with emphasis on review of legal provisions relating to detention / bail and introduction of the concept of restorative justice in criminal law.	The Law Commission of India has undertaken the task of comprehensive review of Criminal Justice System to recommend necessary changes in the Code of Criminal Procedure, Indian Penal Code and the Evidence Act. The Commission has constituted subject specific study groups to conduct preliminary study of the Indian Penal Code, Evidence Act and the Code of Criminal Procedure. Chairman, Law Commission has held a few meetings on the subject after constitution of the 21 <sup>st</sup> Law Commission in March, 2016.
2.	State Governments be requested to increase their investment on judicial infrastructure.	The matter relating to increasing the investment by the State Governments on judicial infrastructure in the States was discussed in detail during the Joint Conference of the Chief Ministers of States and Chief Justices of the High Courts held at New Delhi in April, 2016. It has inter-alia been resolved that a Committee of Judges shall be constituted in each High Court where the State Government will be represented by the senior functionaries of the concerned departments. This Committee shall identify infrastructural needs of the state judiciary and prepare suitable five year and annual action plans and monitor their implementation.
3.	Merger of Tribunals having similar / identical functions	An Inter-Ministerial Group has been set up under Secretary, Department of Legal Affairs. The report of the Group is expected shortly.
4	Judicial Standards and Accountability legislation	An action research project on development and enforcement of performance standards to enhance

	should include productivity and efficiency parameters besides providing for a transparent mechanism for dealing with the serious complaints against the members of higher judiciary.	accountability of the higher judiciary has been assigned to Vidhi Centre for Legal Policy under the scheme of Action Research and Studies on Judicial Reforms.
5	There should be greater participation of the members of the Bar in the work of Legal Services Authorities for providing Legal Aid to the Poor.	This issue was inter-alia discussed during the meeting of the central authority of NALSA held on 9-4-2016. It was resolved that NALSA may respond to the Bar Council's demand only after (i) the manner in which the legal service is to be offered by Bar Council, is prescribed by way of rules (ii) pursuant to the rules, the Bar Council frames a Scheme laying down the modalities to be observed; and (iii) the rules and said schemes are forwarded to NALSA to examine the same.

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## **Advisory Council**

### **National Mission for Justice Delivery and Legal Reforms**

#### **Agenda for the Tenth Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms**

#### **Agenda 3: Reforms of the Criminal Justice System:**

##### **1. Introduction**

The process of administration of criminal justice involves three main organs, namely, the police, prosecution and the courts system. The police are responsible for the investigation of criminal cases; following investigation, the prosecution represents the state before courts of law; and the final responsibility for the administration of justice rests upon the courts. All of these organs need to discharge their functions in a fair and speedy manner in order for the entire criminal justice system to work efficiently. In addition to these institutions, prisons and correctional facilities also form an important part of the criminal law enforcement machinery. However, the reports available on the working of the criminal justice system, present a grim picture, calling for urgent reforms.

The need to reform the criminal justice system stems from the growing discontentment over defects in investigation techniques, poor quality of prosecution, absence of a framework to protect victims and witnesses,<sup>1</sup> inordinate delay in disposal of criminal cases and low rate of conviction in cases involving serious crime.

##### **2. Criminal justice system in India**

As per available data as on December, 2015, there were a total of 27,019,955 cases pending across various district and subordinate courts out of which 18,614,308 were criminal cases. Data from the National Crime Records Bureau shows that there were 2.1 million serious criminal cases pending under the Indian Penal Code in the year 2009 and this has risen to 2.8 million in 2014, indicating an increase in the number of serious crimes. The data further reveal that in 58.3 % cases tried in 2014, the accused was either discharged or acquitted<sup>2</sup>.

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<sup>1</sup><http://ajayshahblog.blogspot.in/2015/05/reforms-of-prosecution-in-indian.html>

<sup>2</sup> <http://ncrb.gov.in/>

### 3. An analysis of the Malimath Committee Report on reforms to the criminal justice system

The Law Commission of India in its various reports has indicated broad lines on which the criminal justice system should be reformed. A detailed and comprehensive examination on the question of revision of criminal law was undertaken by a committee headed by Justice V.S. Malimath (Malimath Committee) in 2003. The Malimath Committee after carefully considering the relevant reports of the Law Commission, the Report of Task Force on Internal security, report of Padmanabhaiah Committee Report on police reforms and other commissions on topics relevant to criminal justice system proposed, amongst others, the following recommendations:

(i) ***Need to strengthen the adversarial system:*** Analysing the international best practices, the Malimath Committee examined the inquisitorial system followed in France, Germany and other continental European countries. It recommended adopting some of the good features of the inquisitorial system in order to strengthen the adversarial system and to make it more effective. This includes; (i) the duty of the Court to search for the truth; (ii) assignment of more pro-active role to the judges to give directions to the investigation officers and prosecution agencies in the matter of investigation and leading evidence with the object of seeking the truth and focusing on justice to victim.<sup>3</sup> In this regard, the Committee favoured incorporating a statement that *Quest for truth shall be the fundamental duty of every court'* immediately above Section 311 Cr.P.C. Consequently, the Committee recommended that Section 311 should be amended to state that *"Any court may at any stage of any inquiry trial or proceeding under this Code.....and the Court shall summon and examine or recall and re-examine any such person already examined as it appears necessary for discovering the truth."*

(ii) ***Investigation and Police Reforms:*** The Committee emphasized the importance of prompt and quality investigation and made several recommendations to strengthen and improve the quality of investigation. The Malimath Committee after deliberating upon the recommendations made by the Committee on Police Reform headed Shri. K. Padmnabhaiah made certain recommendations. Some of these include:

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<sup>3</sup> Vijay.S., The adversarial system in India: Assessing challenges and alternatives. Available at file:///C:/Users/HP/Downloads/SSRN-id2147385%20(1).pdf

- Separation of investigation and law and order wings of the police<sup>4</sup>
- Use of forensic science and modern technology in investigations. The Committee recommended the creation of a cadre of Crime Officers who would be responsible for preservation and collection of data from the crime scene;
- Forensic Medico Legal Services should be strengthened at the District and the State /Central level, with adequate training facilities at the State/Central level for the experts doing medico legal work. The State Governments should prescribe a time frame for submission of medico legal reports;
- Audio/video recording of statement of witnesses, dying declarations and confessions should be authorized;
- Mechanism for co-ordination amongst investigators, forensic experts and prosecutors at the State and District level for effective investigations and prosecutions should be devised;
- Stringent punishment to be prescribed for false registration of cases and false complaints; and
- Investigations of grave and sensational crimes should be carried out by a team rather than a single Investigating Officer in order to ensure proper appraisal of evidence and application of law and promote greater transparency.

It is pertinent to note that some of the recommendations for police reforms in India date back to 1979 when the National Police Commission (NPC) was set up to undertake a review of the working of the police organisation. The NPC produced 8 reports containing recommendations covering almost all aspects of police organisation and its work in addition to drafting a Model Police Act. Almost two decades later, owing to non-implementation of the recommendations made by NPC, a public interest litigation<sup>5</sup> was filed in 1996 praying for issuance of directions to the Government of India to implement the recommendations. In 1998, on the direction of the Supreme Court in the said case the Government constituted the Ribeiro Committee, which was followed by the Padmanabhaiah Committee in 2000 and the Police Act Drafting Committee (PADC)<sup>6</sup> that drafted a new model police bill to replace the Indian Police Act, 1861. The PADC submitted its draft Model Police Bill, 2006 to replace the Indian Police Act, 1861, which was circulated to all the state governments.

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<sup>4</sup> This recommendation was accepted by the Supreme Court vide *Prakash Singh vs Union of India* wherein the Supreme Court had directed that the investigating police should be separated from the law and order police to ensure better expertise and improved rapport with police.

<sup>5</sup> *Prakash Singh v Union Of India*

<sup>6</sup> [http://www.humanrightsinitiative.org/programs/aj/police/india/initiatives/seven\\_steps\\_to\\_police\\_reform.pdf](http://www.humanrightsinitiative.org/programs/aj/police/india/initiatives/seven_steps_to_police_reform.pdf)

In 2006, the Supreme Court delivered its judgement and directed compliance with certain binding directives. However, the States have yet to fully comply with the directives. This was emphasised by Justice Verma in his 2013 Committee Report on Amendments to Criminal Law which called for “full compliance” of the Supreme Court’s directions, and said that this was of “utmost priority to national welfare including the welfare of women and children”.

(iii) **Offences and Sentencing:** The Committee observed that the Indian Penal Code, 1860 (IPC) prescribed the maximum and minimum punishments for offences leaving the judge with a wide discretion while awarding sentences. In the absence of guidance available to judges regarding selecting the most appropriate sentence, the Committee recommended constitution of a permanent Statutory Committee for the purpose of prescribing sentencing guidelines as it exists in the United Kingdom. It also made the following recommendations:

- The law should lean in favour of settlement of cases without trial, in cases where the interest of the society is not involved; and
- Wherever fine is prescribed as one of the modes of punishment, suitable amendments to should be made to the relevant provisions to increase the fine by 50 times

(iv) **Rights of the victims:** In the opinion of the Malimath Committee, the present system is completely insensitive to the rights of the victims and therefore, the Committee proposed the following recommendations:

- The victim and if he/she is dead his legal representative should have the right to be impleaded as a party in every criminal proceeding, where the offence is punishable with seven year imprisonment or more.
- The victim should have the right to be represented by an advocate of his choice, provided that it shall be the duty of the State to provide an advocate in case the victim is not able to afford a lawyer;
- The victim should have the right to participate in the criminal trial; and
- The victim shall have the right to appeal against any adverse order passed by the court acquitting the accused.

(v) **Expanding the list of compoundable offences:** The need to enlarge the list of compoundable offences has been emphasized in the judgements of the Supreme

Court as well by the recommendations of Law Commission. The Supreme Court of India in *Ramgopal v. State of M.P.*<sup>7</sup> observed “*There are several offences under the IPC that are currently non compoundable....We are of the opinion that the Law Commission of India could examine whether a suitable proposal can be sent to the Union Government in this regard*”.

The Law Commission of India embarked on the task of identifying appropriate offences which could be added to the list of compoundable offences under Section 320 of the CrPC.<sup>8</sup> The Commission in its 237<sup>th</sup> report recommended that the following offences, among others, may be made compoundable in the IPC: (i) Section 324 IPC (Voluntarily causing hurt by dangerous weapons or means) with the permission of Court; (ii) Section 380 (theft in dwelling house) subject to the proviso that the value of property stolen is not more than Rs.50,000/; (iii) Section 384 (extortion); (iv) Section 385 (extortion by putting a person in fear of injury); and (v) Section 461 (dishonestly breaking open receptacle containing property).

Reiterating the need to expand the list of compoundable offences, the Malimath Committee had also recommended amendments to Section 320 of Cr.PC so as to increase the number offences which could be made compoundable. As per the Committee in addition to the offences prescribed in the Cr.P.C as compoundable with or without the order of the court there are many other offences which deserve to be included in the list of compoundable offences. In the words of the Committee “*Where the offences are not of a serious character and the impact is mainly on the victim and not on the values of the society, it is desirable to encourage settlement without trial*”. The Committee recommended that other offences should be included to the table in 320(1) and offences which are compoundable with the leave of the court may be made compoundable without the leave of the court.

#### **4. Steps taken to improve the Criminal Justice System**

Based on the recommendations of the various committees, several amendments have been introduced to IPC, Cr.P.C and Indian Evidence Act, 1872 to enable expeditious disposal of criminal cases and to make the trial process more efficient.<sup>9</sup> The Government

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<sup>7</sup> 2010 (7) Scale 711

<sup>8</sup> Compounding of IPC Offences, Report No 237, Available at <http://lawcommissionofindia.nic.in/reports/report237.pdf>

<sup>9</sup> These include: (i) introduction of provision relating to audio-video recording of confessions and statements [Section 164 (1) Cr.PC] (ii) a new Chapter XXIA on plea bargaining was added to the CrPC which makes it possible for an accused to

has taken a number of administrative decisions to improve the criminal justice system. These include undertaking consultation with the High Courts and the State Governments for increasing the sanctioned strength of judges and filling up the existing vacancies. In addition, the Government has also made adequate provisions to improve the judicial infrastructure and computerization of Courts.

However, it is pertinent to note that a major portion of the recommendations still remain to be adopted. Under the Constitutional framework criminal law and procedures fall under the Concurrent List (Items 1 and 2 of List III of Seventh Schedule). The State Governments therefore, also have a responsibility in ensuring the implementation of the recommendations of the key components of the criminal justice system.

The issue relating to implementation of the remaining recommendations of the Malimath Committee was taken up in the Ninth Meeting of Advisory Council held on February 16, 2016. The discussions in the meeting was focused on various aspects of the functioning of the criminal justice system including the plight of under trial prisoners, integration of different stages of criminal proceedings, restrictions to be placed on the power of the police to make arrest, separation of investigation and prosecution wings.<sup>10</sup> It was highlighted that the Law Commission on the request of the Government of India is currently reviewing the substantive and procedural aspects of criminal justice and is due to submit its recommendations.

## **5. Suggestions**

In addition to the recommendations discussed above and the steps which have already been initiated by the government and the judiciary for the fast tracking of criminal justice, there is also need for certain procedural reforms, either through amendments to the existing law or through proper implementation of the provisions that are already in place. Some of the recommendations/suggestions which may assist in improving the criminal justice system are enumerated below:

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voluntarily make an application for plea bargaining in certain types of criminal cases (iii) limitation of powers to adjourn proceedings [Section 309 Cr.PC] (iv) insertion of [Section 436A Cr.P.C] to provide release of under trial prisoners who have spent half of the maximum period of imprisonment specified for a particular offence in jail (except for those punishable by death) (v) amendment to Section 375 (IPC) which broadened the definition of rape and enhanced the punishment for rape (vi) introduction of Section 376 (IPC) which prescribes punishment when a woman is killed or injury is so fatal that it results in her permanent vegetative state (vii) introduction of certain acts as offences such as, acid attack, sexual harassment, voyeurism, stalking and incorporated in the IPC.

<sup>10</sup><http://doj.gov.in/sites/default/files/Minutes-Ninth-Meeting.pdf>

### **(i) *Curtailling the power to grant adjournments***

Frequent adjournments are one of the main reasons for delays in criminal cases. Section 309, CrPC requires that the proceedings in a criminal case should be held as expeditiously as possible and on a day to day basis. It also grants the court the power to postpone or adjourn proceedings for reasonable time periods; for reasons to be recorded in writing.<sup>11</sup> This provision is however accompanied by certain restrictions on the power to grant adjournments, some of which were added through the Code of Criminal Procedure (Amendment) Act, 2008 to address the issue of frequent adjournments being sought by the parties. For instance, it provides that no adjournments are to be granted at the request of a party, except for circumstances beyond the control of that party. It is also explicitly stated that the pleader of a party being engaged in another court is not a sufficient ground for seeking adjournments. Further, in order to minimize the inconvenience caused to witnesses, the section discourages the grant of adjournments in situations where witnesses are present in court and allows the judge to record the statement of the witness in situations where a party, though present in court, is not prepared to examine the witness.

Despite the existence of these provisions, criminal trials are riddled with the problem of delays on account of frequent adjournments. This calls for the urgent need to put in place a system for the proper monitoring of the number of adjournments being granted by judges in each case. In addition, courts should proactively enforce the provisions of Section 309, which allows them to order the payment of costs for adjournment requests.

### **(ii) *Amending the provisions relating to service of summons***

Another common cause for delays in criminal cases is the delay in service of summons on the accused and other witnesses. Section 62 of the CrPC provides that summons is to be served by a police officer, or subject to such rules being framed by the State Government, by any officer of the court or other public servant. The usual practice followed by criminal courts is to get the summons served by the police officer of the concerned police station. It is however noted that the summons is often returned without effective service for one or the other reason. This mode of service of summons by the police officer has therefore proved to be highly ineffective and results in undue delays in

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<sup>11</sup> Proviso to Section 309(1) states that 'when the inquiry or trial relates to an offence under section 376, section 376-A, section 376-B, section 376-C or section 376-D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within two months from the date of filing of the charge-sheet.

the dispensation of justice. The Malimath Committee had recommended that since the CrPC provides for service of summons through other means namely registered post in case of witnesses (Section 69), this method should be extended to the accused also. In addition, it was suggested that the law should also allow the flexibility of using facilities like courier services and fax services. Suitable amendments to that effect could be made to the CrPC.

### ***(iii) Procedures relating to witnesses***

Witnesses are a critical constituent in the process of administration of criminal justice. They discharge an important public function by assisting courts in seeking the truth. Unfortunately, the ground reality is that witnesses are also the most neglected segment in the criminal justice system. As observed by the Malimath Committee, there is a growing tendency of subjecting witnesses and their family members to serious threats to life, abduction or raping, damaging the witnesses' property or harming the person's image and interest in other ways.

The Code of Criminal Procedure (Amendment) Act, 2008 added a new section 195A to the CrPC to allow a witness or any person acting on behalf of the witness to file complaint in case of an offence under section 195A of Indian Penal Code, which relates to threatening a witness to give false evidence. To minimize inconvenience to witnesses and save time, the Malimath Committee had recommended that the evidence of certain types of witnesses like medical witnesses, government scientific experts and officers contemplated by Sections 291, 292 and 293, CrPC should be tendered in the form of affidavits and any challenge to the same by the opposite party should be by means of a counter affidavit. The Committee further recommended that courts should strictly implement the provisions of Section 344, CrPC, which provide a summary procedure to deal with cases of perjury.

### ***(iv) Amendments to procedures relating to summary trial and petty offences***

Criminal cases are divided into two categories; warrant cases and summons cases. A warrant case is a case relating to an offence punishable with death, imprisonment for life, or imprisonment for a term exceeding two years. Other offences come under the category of summons cases. In a summons case the upper limit of imprisonment that can be awarded is two years and/ or fine. All summons cases and a few enumerated warrant

cases can be tried summarily by the Magistrates empowered to do so<sup>12</sup>. However, their sentencing power in such cases is restricted under Section 262, CrPC to a term of imprisonment not exceeding three months. If used extensively, these provisions can be of great use in the speedy disposal of cases involving petty offences. Malimath Committee had recommended that the limit of imprisonment prescribed by Section 262, CrPC should be enhanced to three years so as to expand the number of offences covered by the said section. A recommendation to this effect, of enhancing the sentence limit under Section 262, CrPC to three years, was also made by the Law Commission in its 154th Report.

There is an enabling provision in the shape of Section 206, CrPC for dealing with the petty offences in a speedy manner. The provision applies only to the cases that can be tried summarily under Section 260, CrPC. It defines a 'petty offence' means offence punishable only with fine not exceeding Rs. 1,000. Section 206(3) empowers the State Government to specially empower the Magistrate to exercise the power under Section 206(1) to any offence which is compoundable under Section 320, CrPC or any offence punishable with imprisonment not exceeding three months or with fine or with both where the Magistrate is of the opinion that imposition of fine only would meet the ends of justice.

It is recommended that summary trial procedure and procedure for trying petty cases should be adopted more frequently for dealing with the large number of cases which do not involve serious offences. The limits specified under Section 260 and 206 of the CrPC may need to be reconsidered so as to ensure that a greater number of cases are brought within the scope of those provisions.

#### **(v) *Conferring inherent powers on criminal courts***

The criminal courts are bound by the powers conferred on them by the CrPC. The Indian criminal judicial system recognises the inherent powers of the High Courts under Section 482, CrPC to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of process of any court or otherwise to secure the ends of justice. The Code however does not confer any inherent powers on the subordinate criminal courts. In contrast, the inherent powers in civil matters are conferred by Section 151 of the Civil Procedure Code on all courts and are not limited to the High Courts. In the absence of a statutory provision, criminal courts are not empowered to

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<sup>12</sup> Section 260, Cr.P.C

exercise inherent powers even if they feel the need to do so in the interests of justice. Such inherent powers could be favorably used by criminal courts for preventing the abuse of process, securing the ends of justice and for curtailing undue delays caused in criminal trials.

The Malimath Committee felt that there was no good reason for not allowing criminal courts the right to exercise inherent powers for seeking the truth or to prevent abuse of process of any court or otherwise to secure the ends of justice. The Committee observed that the lower courts can be trusted to exercise such inherent powers in accordance with settled principles. The Law Commission of India, in its 14th Report, had also recommended the conferment of inherent powers on the Sessions courts. This recommendation was also reiterated in the 141st Report of the Law Commission.

**(vi) Conclusion**

As noted above, the Law Commission is undertaking a comprehensive review of the criminal laws. As per information received from the Law Commission, the Commission is actively pursuing the issue and has identified certain focus areas and formed sub groups to deliberate on these areas. In addition, the Law Commission may also consider the suggestions placed during the 7<sup>th</sup>, 8<sup>th</sup> and 9th Advisory Committee Meetings on the subject which *interalia* include, feasibility of providing specified time frame for conclusion of criminal trial, review of provisions relating to under trial prisoners, possibility of revamping plea bargaining provisions and incorporating a new chapter on pre trial hearing in Cr.P.C, in addition to reviewing matters relating to bail and arrest.

The Advisory Council may provide further necessary guidance on the measures to be taken for improving the criminal justice system in our country.

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## Advisory Council

### National Mission for Justice Delivery and Legal Reforms

#### **Agenda for the Tenth Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms**

#### **Agenda 4: Manpower planning for Subordinate Judiciary:**

The issue of mounting arrears and the ever increasing burden on the justice delivery system has engaged the attention of the Law Commission of India from time to time. As far back as in 1958, the Law Commission in its 14<sup>th</sup> Report titled “Reforms of the judicial administration”, had observed *“the view which attributes the delay mainly to the cumbersome procedure fails to take into account numerous extraneous and personal factors responsible for the delays like, an inefficient and inexperienced judiciary, insufficient number of judicial officers, an incompetent and corrupt ministerial and process serving agency, the diverse delaying tactics adopted by the litigants and their lawyers, the un-methodical arrangement of work by the presiding judge and the heavy files of arrears”*. In the opinion of the Commission *“when adequately supervised, the courts in our country can under the existing procedure, dispose of proceedings expeditiously.”* The Commission further observed that the failure of judicial administration had occasioned because of unsystematic and dilatory methods of work. It suggested that the defects were capable of being remedied by the exercise of continuous vigilance on the part of the superior courts which would ensure the adoption of proper methods of work.

Commenting upon the state of affairs in Subordinate Judiciary, the National Commission to Review the Working of the Constitution had observed as follows:-

*“Particularly disturbing has been the chronic and recurrent theme of near collapse of the judicial trail-system, its delays and the mounting costs. The glorious uncertainties of the law have frustrated the aspirations of an equal, predictable and affordable justice”*.

Most of the interventions to address the problems have been sporadic and unstructured resulting in little or no impact on the issue. Merely looking at the total number of cases pending without digging deeper into the data, provides a rather one-sided and skewed picture of the problem.<sup>13</sup>

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<sup>13</sup> Aparna Chandra “The State of Judicial Statistics in India” available at <http://dakshindia.org/the-state-of-judicial-statistics-in-india/>

## Judicial manpower and pendency

While examining the issue of adequate judicial manpower in the country, the Law Commission of India in its 120<sup>th</sup> Report (1987) observed “*no doubt the lamentable fact that after four decades of independence, we have not been able to organize even the minimum number of information on the basis of which concrete proposals for judicial manpower planning may take place.*” While the Commission recommended that the judge population ratio should be increased to 50 judges per million of the population, it observed that absence of hard technical information and analysis left them with no option but to base their recommendation on the opinion of those knowledgeable in the field and the general public. The Commission however admitted that this was a very poor substitute for sound scientific analysis.

A wide variation exists in the performance of the judiciary across different States. Prior to determining or ascertaining the additional number of judges, it is necessary to undertake a review of the performance of the judiciary across the different States and the factors responsible for such variation in performance. The table below shows a State wise comparison of the judge-population ratio, number of cases being instituted in the district and subordinate courts, the cases being disposed of per judge per annum and the number of pending cases.

Name of State/UT	Institution of Cases per 1000 of population	Pendency of Cases per 1000 of population	Disposal Per Judge (as per working strength)	Judge Population Ratio on the basis of Sanctioned Strength (per million of population)	Ranking of state as per Judge Population Ratio on the basis of Sanctioned Strength (per million of population)
Andhra Pradesh and Telangana	8	13	839	12	30
Arunachal Pradesh	5	6	239	12	29
Assam	9	8	854	14	28
Bihar	4	20	274	17	22
Chandigarh	135	34	4866	28	7
Chhattisgarh	8	11	572	15	23
Daman & Diu and Dadra Nagar Haveli	7	10	554	12	31
Delhi	41	32	1250	47	2
Goa	27	27	709	39	4
Gujarat	18	35	934	32	5
Haryana	23	21	1144	25	10
Himachal Pradesh	26	24	1454	22	12
Jammu and Kashmir	7	10	399	19	15
Jharkhand	4	10	255	18	19
Karnataka	20	21	1474	18	18

Name of State/UT	Institution of Cases per 1000 of population	Pendency of Cases per 1000 of population	Disposal Per Judge (as per working strength)	Judge Population Ratio on the basis of Sanctioned Strength (per million of population)	Ranking of state as per Judge Population Ratio on the basis of Sanctioned Strength (per million of population)
Kerala	40	40	3028	14	26
Lakshadweep	3	6	71	46	3
Madhya Pradesh	15	16	948	19	17
Maharashtra	16	27	860	20	14
Manipur	2	2	211	15	24
Meghalaya	3	2	318	19	16
Mizoram	10	4	345	58	1
Nagaland	3	2	193	14	27
Orissa	10	25	683	17	21
Puducherry	17	20	1458	21	13
Punjab	21	18	1181	24	11
Rajasthan	20	22	1393	17	20
Sikkim	3	2	123	30	6
Tamil Nadu	17	15	1188	14	25
Tripura	56	35	2825	28	8
Uttar Pradesh	17	28	1813	10	32
Uttarakhand	22	16	975	28	9
West Bengal and A&N Islands	13	28	1222	10	33

- From the above table, it can be noted that there is no direct relation between judge population ratio and pending cases. States with a higher judge population ratio such as Delhi (ranked 2 in terms of the judge-population ratio) and Gujarat (ranked 5 in terms of the judge population ratio) are still struggling to dispose of the pending cases. Conversely, States such as Tamil Nadu and Punjab which are ranked lower in terms of judge population ratio have comparatively lesser number of pending cases.
- There is a huge variation in the number of cases being instituted between different States. States such as Delhi, Kerala and Haryana which fare better on the socio-economic scales have a relatively higher rate of institution than States such as Jharkhand and Bihar which have low institution per annum.
- There is also a variation in the number of disposal per judge per year. For instance in States such as Kerala and Tripura the rate of disposal per judge is as high as 3028 and 2825 cases respectively, while in states such Jharkhand and Bihar the rate of disposal per judge is at 255 and 274 cases respectively.
- Due to lack of uniformity in the collection and presentation of data some of the variation in indicators mentioned above could be on account of different methodology adopted by various High Courts for collecting judicial statistics.

The linking of problem of pendency of cases in courts with shortage of judges alone may not present the complete picture. An analysis of the figures regarding the number of civil cases instituted per annum in district and subordinate courts between 2005 and 2015 reveals that the number of cases instituted has come down from 40,69,073 civil cases in 2005 to 36,22,815 in 2015; a decline of 11%. During the same time the pendency of civil cases has increased from 72,54,145 in 2005 to 84,056,47 in 2015; an increase of 16%. It is pertinent to note that in 2005, the working strength of the judges in the district and subordinate courts was 11,682 which increased to 16,070 in 2015. Despite the increase in the number of judges and a decline in the number of cases being filed, the pendency of civil cases has increased.

As per Justice Bharuka, "the suggestions regarding judicial manpower, their salaries, perks, training and infrastructural requirements have to a large extent been implemented, however, finding out appropriate methods and means for exercising effective control and supervision over subordinate courts and creating management tools by harnessing best of the present day technology has not been given the attention they deserve".<sup>14</sup>

### **Recent Developments**

The Supreme Court vide its order dated February 1, 2012 in the case of *Imtiyaz Ahmad v State of U.P.* directed the Law Commission to undertake an inquiry for arriving at a scientific method to compute the additional number of courts/manpower required to clear the backlog of cases. In view of the directions of the Supreme Court, the Commission submitted its 245<sup>th</sup> Report (2014) titled "**Arrears and Backlogs: Creating Additional Judicial (wo) manpower**", in which it rejected the judge population matrix as an adequate method to compute the judge strength. The Commission after analyzing different methodologies for computing adequate judge strength proposed that in the absence of complete and scientific approach to data collection, the '**Rate of Disposal**' method was the most appropriate to assess judge strength required for subordinate courts.

The Supreme Court thereafter asked the National Court Management System (**NCMS**) Committee to examine the recommendations made by the Law Commission. The NCMS Committee was established in 2012 by the Supreme Court to inter-alia introduce

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<sup>14</sup>Dr. Justice G.C. Bharukha, "*Technology and Timely Justice*", Common Cause, January-March 2016.

necessary reforms in court and case management system. The Committee in its report to the Supreme Court expressed reservations over the rate of disposal method proposed by the Law Commission and noted that the said method was only limited to reducing backlog. The Committee further stated that the rate of disposal method treated all types of cases at par (for example it treated a traffic challan case at par with a murder case) and did not take into account reasonableness of work load of judges. The NCMS Committee noted that *in the long term, the judge strength of subordinate courts will have to be assessed by a scientific method to determine the total number of judicial hours required for disposing of the case load of each court.* This in the words of the NCMS Committee will require gathering data and calculating required judicial hours. The NCMS Committee in the interim proposed a '**Weighted disposal method**' (this approach augments the disposal rate method with the prevailing 'unit system' of the High Courts to attribute 'weightage' to cases based on nature, complexity of cases in local condition) for assessing the judge strength of subordinate courts. The Central Government supported the recommendations made by the NCMS Committee.

### **Reasons for the increasing pendency**

There is no denying the fact adequate number of judges and judicial manpower is required to address the issue of pendency and that it is imperative that the existing vacancies are filled as soon as possible. However, it is also evident that the shortage of judges is not the sole reason for the increasing pendency and lower rate of disposal, therefore, there is a need to analyse the other reasons for the same. Experts have identified a variety of factors that contribute to delay in disposal of court cases which, inter alia, include, lack of court management systems, frequent adjournments, strikes by lawyers, accumulation of first appeals, indiscriminate use of writ jurisdiction and lack of adequate arrangement to monitor, track and bunch cases for hearing. Most of the reasons have been discussed before, but some of them are important and relevant enough to be reiterated again so that concrete steps to address these issues are taken.

- (i) **Improper application of procedural laws-** Procedural delays can occur before the trial begins, during the trial, at the appellate stage and in the execution proceedings. Delays before commencement of trial include delays in the service of summons, delays owing to filing of written statements and documents and no stipulation about issues being framed within a certain time period after the date of first hearing. Trial

delays include lengthy oral arguments, random adjournments, non-attendance of lawyers and parties.

As per CPC, a maximum of 3 adjournments can be granted during the trial of a civil case. However, as is well known this norm restriction is seldom adhered to. For example in Rajasthan, the average number of adjournments granted in the district and subordinate courts ranges from 12-42 in civil cases and from 4-34 in criminal cases. Similarly, in Orissa the average number of adjournments granted in civil cases is 51 and in criminal cases the average number is 33.

- (ii) **Role of Investigation Agencies-** Often incompetent and unscientific investigation conducted by the police and other investigation agencies leads to delay in disposal of cases. Police stations are routinely manned by inadequately trained personnel which hamper the investigation process, which is further exacerbated by coordination between police and prosecution machinery.
  
- (iii) **Service of summon:** Delay and complexities in service of process, aggravated by delay in payment of process fees is one of the major factors for pendency of court cases. Necessary amendments have been made in the Civil Procedure Code to curtail delay in the service of court process by allowing of process via electronic means via, fax, courier etc. However, the service of summon continues to be made through process server resulting in frequent adjournments on account on non-service of summon for several reasons.
  
- (iv) **Outdated court processes and lack of case management-** The key aspect of successful case management is fixing of a timetable for a law suit and strict supervision of that timetable.<sup>15</sup> Several steps have been initiated by the Supreme Court to develop standardised processes for case management. However, subordinate courts continue to operate under outdated rules and procedures.

## **The Singapore Experience**

In 2007, the World Bank undertook a study titled “**Judiciary Led Reforms in Singapore-Framework, Strategies and Lessons**” and observed that prior to 1990, Singapore’s courts were slow and inefficient. Businesses had to wait long periods for the

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<sup>15</sup> Alok Prasanna Kumar “*Judicial Efficiency and Causes for Delay*”, State of the Indian Judiciary- A Report by Daksh

resolution of disputes, souring the commercial climate, and lags in settling civil and family cases often deprived victims of needed protection for extended periods.<sup>16</sup> However, the situation changed in the nineties, the government as well as the judiciary initiated a large number of measures and proposals to reform the judicial process. The judicial authorities systematically analyzed the courts' problems and capabilities and then charted their probable prospects and requirements in the future. Based on the review of the problems and issues facing the judiciary, they developed a systematic plan to introduce corrective and reformative measures. These included introducing greater discipline in the court room procedures, imposing costs so as to ensure that the trial does not extend beyond a certain time period, prescribe detailed annual work plans which were publicly announced and publicized.<sup>17</sup>

As per the report, many inter related reform strategies were developed in the nineties, which helped the judicial leadership to implement comprehensive action plans. These action plans concentrated on the importance of applying management concepts that underscore the significance of using leadership, expanding the possibilities for reform, increasing access, improving capacity, improving the use of human resources, improving performance and measuring results, leveraging technology, and fostering strategic partnerships<sup>18</sup>. Case management along with mediation and conciliation services have helped eliminate the backlog and reduce the number of days within which the cases will be disposed of. The judicial reforms have resulted in Singapore Subordinate Courts having minimal number of pending cases.

## **Conclusion**

As can be observed, there has to be a holistic approach to deal with the pendency problem. Increasing the number of courts alone would not help much, if there is no corresponding improvement in the judicial processes. The quality of the lawyers and the legal education has a major bearing on the quality of judges. The procedural laws have to be updated and applied properly to reform the judicial process<sup>19</sup>. Therefore, solution to the

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<sup>16</sup>Waleed Haider Malik, "*Judiciary-Led Reforms in Singapore: Framework, Strategies and Lessons*", 2007 World Bank.

<sup>17</sup>ibid

<sup>18</sup>ibid

<sup>19</sup> Alok Prasanna Kumar "Beyond Rhetoric", Frontline Magazine, May 27, 2016.

problem of pendency requires the coordinated and concerted efforts of all the stakeholders, i.e. the judiciary, the bar and the government.

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## Advisory Council

### National Mission for Justice Delivery and Legal Reforms

#### **Agenda for the Tenth Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms**

##### **Agenda 5: Streamlining Court Processes:**

Access to justice encompasses multiple variables which include quality, availability, accessibility, impartiality and accountability of justice system and is a pre requisite for realization of basic rights guaranteed by the Constitution of India. Timely resolution/disposal of cases in courts is one of the main benchmarks of access to justice. Experts have identified a variety of factors that contribute to delay in disposal of court cases which, *inter alia*, include shortage of judges, inadequate infrastructure, lack of court management systems, frequent adjournments, strikes by lawyers, accumulation of first appeals, indiscriminate use of writ jurisdiction and lack of adequate arrangement to monitor, track and bunch cases for hearing.

Although efforts to simplify and streamline court processes have been made in the recent past, the justice system continues to be plagued by costly, time consuming technicalities and inefficient court and case management systems. Justice delivery mechanism requires introduction of set of reforms linked to improving judicial efficiency and court productivity through process reengineering and improved case management systems coupled with the increased use of information and communication technology.

##### **1. *Process Re-Engineering***

A process reengineering exercise initiated by the e-committee of the Supreme Court of India is being carried out by all the High Courts. Two process re-engineering committees; one for civil cases and the other for criminal cases have been constituted by the High Courts to study and suggest simplification in existing rules, processes and procedures. As part of the exercise, the High Courts are examining the possibility of reducing delays in court processes with specific emphasis on the use of information and technology tools (ICT) to increase the efficiency of court processes and to make them transparent and accessible to all. Since process reengineering encompasses a whole range of processes and procedures right from the filing of a plaint to making available a certified copy of final order and decree, reforms in the following areas, among others, are

being looked into (i) filing procedures (ii) scrutiny of cases filed (iii) listing of cases (iv) allocation of cases (v) supply of certified copies (vi) service of notice/summon (vii) payment of court fees, *etc.*

**a. Service of summon:**

Delay and complexities in service of process is one of the major factors for pendency of court cases. Necessary amendments have been made in the Civil Procedure Code to curtail delay in the service of court process by allowing service of process via electronic means such as email, fax and by courier service. Despite these efforts, a majority of High Courts are yet to formalize and adopt ICT tools for process service. For instance, in civil cases the summons, in most courts, continues to be served through process servers resulting in frequent adjournments. Given that the efforts to make courts more ICT enabled have been ongoing for several years now, there is an urgent need for all High Courts to allow and encourage use of information technology in serving processes in civil cases.

**b. Status of Process Reengineering exercise by High Courts**

A workshop of the Registrar General of High Courts and Law Secretaries of States on Process Re-engineering was organised by the Department of Justice, Ministry of Law and Justice, Government of India on June 11, 2016. The objective of the workshop was to seek responses from the High Courts on the status of process reengineering exercise undertaken by them and to put together a Model Rule of Court procedure for civil as well as criminal cases.

An analysis of the responses received from the Registrars General of the High Court at the workshop indicate that a number of the High Courts have completed the exercise of revising their rules and the revised rules have either been accepted or are pending before the Full Court or the Rules Committee. Some of the High Courts have amended their civil and criminal court rules in line with the recommendations made by their process reengineering committees. For instance, the High Court of Jharkhand notified its new civil and criminal court rules in June 2016. Similarly, the High Court of Calcutta has also amended its civil and criminal court rules. In the case of High Courts of Uttarkhand and Jammu and Kashmir the rules relating to criminal and civil procedures have been approved and are pending for notification before their respective State governments. In addition, High Courts have also adopted several innovative initiatives to improve upon the

existing court processes. For example, the High Court of Delhi has introduced a centralized filing system and an amendment in the rules to introduce electronic registers in place of physical registers is being considered by the Full Court.

During the workshop each High Court was assigned four topics related to court processes and procedures and have been requested to devise the draft rules keeping in mind the amendments made in the procedural laws, the advancement in technology as well as the aspiration of the litigants. The objective of the exercise was to come up with Model Rules of Court procedures (civil as well as criminal), which would be circulated to all the High Courts, so as to enable the High Courts to adapt the Model Rules appropriately keeping in view their unique requirements.

## **2. Case Management**

Many courts across the world are increasingly using case management tools in varying degrees, with a view to improve court efficiency. Case management refers to a comprehensive system of management of time and events in a law suit and calls for early involvement of judicial officers in planning the progress of the case, setting of timetable for pre determined events and controlling the trial and other litigation events.<sup>20</sup>

The Supreme Court has established the National Court Management System (NCMS) to inter-alia introduce necessary reforms in court and case management systems. Under NCMS, several sub-committees, headed by senior judges of the High Courts, were constituted which have submitted their baseline reports. The baseline reports sets out minimum national common standards for State Court Management Committees (SCMC) to consider while developing their respective court and case management systems.

It is pertinent to note that the Parliament has recently passed the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act 2015 (Commercial Courts Act) and the Arbitration and Conciliation Act (Amendment) Act, 2015. The basic thrust of these Acts is to streamline procedures with respect to commercial disputes as well as arbitration proceedings to ensure speedy resolution of disputes.

The Commercial Courts Act introduced several amendments to CPC especially pertaining to case management hearing, imposition of costs and other provisions for time

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<sup>20</sup> <http://www.sci.nic.in/Case%20Management%20System.pdf>

bound disposal of commercial cases. A new Order on case management hearing has been introduced which provides that the Court is required to first hold the case management hearing and fix the time limits for framing of issues, listing of witnesses, fixing the date on which the evidence has to be recorded, etc. In fixing the dates or the timelines, the Court shall ensure that the arguments are closed within six months from the date of the first case management hearing. In matters of adjournments, the new Order prescribes that no adjournment shall be granted for the sole reason that the advocate is not present, except when genuine reasons for the absence of the advocate exists to the satisfaction of the court. No adjournment shall be granted for the filing of the written arguments, unless the court for reasons to be recorded in writing, considers it necessary to grant such an adjournment. In the case of non compliance of the order of the court, the amendment further empowers the Court to: (a) condone such non-compliance by payment of costs to the Court; (b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination or file written statements as the case may be; or (c) dismiss the suit or allow the suit where in the non-compliance is wilful, repeated and the imposition of costs is not a sufficient deterrence.

The introduction of case management hearing will enable judges to actively manage commercial cases from filing through disposition and in eliminating and reducing undue delay of commercial disputes. It is also necessary to examine the possibility of extending the provisions relating to case management hearings to all civil cases. Till the time an amendment to the Code of Civil Procedure is introduced, the High Courts may look into the feasibility of introducing changes in their case flow management rules to permit case management hearing in all civil cases to ensure speedy resolution of disputes.

In order to encourage research and evidence based policy making in the field of justice delivery an Action Research and Studies on Judicial Reform (Scheme) is being implemented by the Department of Justice. A study on 'court management techniques in improving the efficiency of subordinate courts' has been approved by the Project Sanctioning Committee under the Scheme and is being carried out by the National Academy of Legal Study and Research (NALSAR) University, Hyderabad. The findings of the study will be useful in identifying the necessary reforms needed to be adopted in the area of court and case management with the objective of improving the efficiency of subordinate courts.

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## Advisory Council

### National Mission for Justice Delivery and Legal Reforms

#### **Agenda for the Tenth Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms**

#### **Agenda 6: Judicial database for policy formulation:**

##### **Introduction:**

The availability of reliable and accurate data is a pre-requisite for informed policymaking. At present, quarterly statistics relating to the total number of civil and criminal cases pending before the Supreme Court, High Courts and District & Subordinate Courts are made available by the Supreme Court on its website. In addition, the e-Committee of Supreme Court has also launched the National Judicial Data Grid (**NJDG**), which provides data on cases pending in the district courts across the country. The data is segregated into civil and criminal cases and further broken down on the basis of the number of years the cases have been pending. The NJDG website also disseminates information about the institution and disposal of cases in a month. As the data available on NJDG does not cover all courts across the country, the Department of Justice periodically collects the data on pendency of cases from High Courts and Supreme Court.

As per available data on the NJDG website as on July 31, 2016, there are a total of 2,22,37,248 cases pending across the district courts in the different states in India. The following table gives a break-up of the cases as per the number of years they have been pending:

<b>Particulars</b>	<b>Civil Cases</b>	<b>Criminal Cases</b>	<b>Total Cases</b>	<b>%</b>
Cases Pending over 10 years.	6,68,117	15,74,284	22,42,401	(10.08%)
Cases Pending (Between 5 to 10 years)	11,77,180	25,43,163	37,20,343	(16.73%)
Cases Pending (Between 2 to 5 years)	22,25,294	42,66,809	64,92,103	(29.19%)
Cases Pending less than 2 years.	34,13,740	63,68,665	97,82,405	(43.99%)

#### **A. Issues**

##### **(i) Lack of a benchmark to evaluate pendency**

One of the biggest problems facing policy makers in this field is the lack of any benchmark to determine when a case should be considered delayed<sup>21</sup>. For example, if a case is not disposed of within a year of it being instituted, will it be considered to be

<sup>21</sup>"The State of Judicial Statistics in India", Aparna Chandra, February 10, 2015 available at <http://blog.dakshindia.org/search?updated-min=2015-01-01T00:00:00-08:00&updated-max=2015-07-31T03:08:00-07:00&max-results=26&start=18&by-date=false>

delayed? The lack of a clear criterion to determine what constitutes delay poses a hurdle to determine the policy changes needed to address the issue. The usual attempts to reduce pendency include increasing the number of judges or creating additional benches, and while there is no disagreement that the number of judges does need to be increased, this cannot be the only measure to reduce the pendency. A linear formula applied across the different States without taking into consideration the actual reasons behind the delay as well the socio-economic factors of the different States is not going to be too effective in reducing pendency.

**(ii) Inconsistencies in the collection of data**

Lack of uniform data collection methods compounds the problem of lack of quality data. Different States count institutions, disposals and pendency differently. Some include bail, interlocutory applications, committal proceedings and even traffic challans into their calculations<sup>22</sup>. Similarly, different States have different practices of categorising cases.

The Law Commission of India, in its 245<sup>th</sup> Report titled “**Arrears and Backlog: Creating Additional Judicial (wo)manpower**” observed that lack of scientific collection, collation and analysis of statistical data remained a serious constraint. The Commission noted that it faced serious constraints while preparing its report due to the lack of scientific collection, collation and analysis of data. It also observed that High Courts were using a multiplicity of approaches in tabulating the data. A single case may be counted multiple times in some High Courts which record interlocutory applications or committal proceedings as separate cases. This multiplicity of data collection prevents analysis of issues plaguing the system. *For example*, in the High Courts of Delhi, Andhra Pradesh, Bombay, Karnataka and Madhya Pradesh, interlocutory applications are not counted separately. In the High Courts of Punjab and Haryana, Jharkhand and Calcutta, the practice of counting or not counting differs from district to district. Similarly, while Karnataka does not count traffic and police challans as part of the institution, disposal and pendency figures, most other High Courts do. Therefore, a single case may be counted multiple times in some High Courts. Thus, the number of cases pending, instituted or disposed of by the Courts may be smaller than the overall pendency, institution or disposal figures would suggest. In light of the lack of uniformity in data collection and concerns with the quality of data recorded and provided by High Courts, the Commission recommended that High Courts should be directed to evolve uniform data collection and data

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<sup>22</sup>ibid

management methods in order to ensure transparency and to facilitate data based policy prescriptions for the judicial system.

Further, experience has shown that data being uploaded on the websites of High Courts is either static or not being updated at regular interval and one of the major challenges faced with the available data is its quality. High Court data is riddled with errors that render large parts of it unusable in the current form<sup>23</sup>.

The Annual Report of each High Court can play an important role in highlighting the work of judiciary as a public institution. Information was recently obtained from various High Courts about preparation of periodic reports on the functioning of the courts. It was observed that while almost all High Courts are bringing out some report, the contents and periodicity of these reports differ from High Court to High Court.

A brief outline for the Annual Reports of the High Courts which *inter-alia* included relevant information on judicial statistics and performance indicators was prepared and sent to the High Courts in October 2015 for appropriate consideration. Some of the indicators/judicial statistics being sought from the High Courts include information on; (i) number of adjournments being granted during the average life cycle of a case; (ii) category wise pendency and disposal of cases; (iii) age wise pendency of cases; and (iv) the number of cases in which trial proceedings have been stayed by the superior courts and average time for which the trial proceedings remain stayed in the life cycle of a case.

The High Courts of Madhya Pradesh, Himachal Pradesh, Jharkhand, Gujarat, Orissa, Rajasthan, Tamil Nadu and Tripura have compiled their Annual Reports in the suggested format. The High Courts of Delhi, Jammu and Kashmir, Kerala, Madras, Manipur, Punjab & Haryana have also responded positively. The data from the High Courts has revealed some interesting facts, for example, as per the information from the annual reports, in Rajasthan, the number of adjournments granted during a life cycle ranges from 12 to 42 in civil cases and 4 to 34 in a criminal case. Similarly, in Rajasthan on an average a civil case remains pending for 544 days to 1483 days on account of stay being granted by superior courts.

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<sup>23</sup>State of the Indian Judiciary- A report by Daksh

## **B. Measures undertaken to address the issue**

In December 2004, Mr. Fali S. Nariman, had introduced a private member's bill titled the Judicial Statistics Bill, 2004 (Bill).<sup>24</sup> The Bill proposed the creation of an Authority on Judicial Statistics at the national, state and district level to collect statistics about the cases filed in courts national, state and district level respectively. The proposed function of the Authority included collecting the data on the nature of the dispute, the outcome, number of hours taken, adjournments granted, interval between filing of cases and hearing and time taken for delivery of judgment after the hearing. The Bill proposed that the statistics collected by the authorities and the trends appearing from the same would be published in an Annual Judicial Statistics Report.

In 2015, the Parliament passed the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act. Realising the importance of data and the relevance of adequate and correct data, the Act specifically requires the Commercial Courts, Commercial Division or the Commercial Appellate Division as the case may be to maintain and update the number of pending cases, the status of such cases and the number of cases disposed of each month. This requirement needs to be extended and applied to all categories of cases. Appropriate amendments could be made to the rules of the High Courts to mandate the compilation and maintenance of such information.

Currently, most of the debate and discussion on pendency revolves around the total number of cases pending. However, other than this there has been little or no effort made to analyse to convert the raw data regarding the number of cases pending into more useful information and to provide more details regarding the causes of delay. An attempt in this regard has been made by Daksh, a civil society organisation working in the field of judicial accountability and better governance in India. It has published a report titled the "State of the Indian Judiciary"- a report on the issues plaguing the justice delivery system in India. The report has taken the raw data uploaded on the websites of the various High Courts and then analysed to meaningfully understand the functioning of the judiciary and identify the various reasons that contribute to the pendency crisis.

The report provides disaggregated and granular level data on parameters such as case types, the average number of hearings per judge per High Court, the frequency of hearing per High Court as well as frequency of hearings as per different categories of cases. For example, by comparing the data available from 21 High Courts of the country,

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<sup>24</sup> A copy of the Bill is available at [http://164.100.47.4/BillsTexts/RSBillTexts/AsIntroduced/XII\\_2004.PDF](http://164.100.47.4/BillsTexts/RSBillTexts/AsIntroduced/XII_2004.PDF)

they found that the highest pendency is in the High Court of Allahabad, with a case pending for an average of 3 years and 9 months, whereas the Sikkim High Court has the lowest average pendency of 10 months. Apart from the details of the numbers of pending cases, the report also discusses an equally important and pressing aspect-the workload of the judges. The report states that judges hear anywhere between 20 and 150 cases a day, averaging 70 hearings. It also provides information on the frequency of hearings (i.e.the number of days between each hearing) in each High Court-Calcutta High Court has the lowest number of days between hearings with 16 days between hearings, whereas the Delhi High Court with 80 days has the highest number of days between hearing. Information such as this can assist in identifying all the causal factors of pendency which is essential for judicial reform.

The report also discusses the challenges faced by them while collecting and analysing the data from the High Courts and subordinate courts. The primary challenges faced by them were:

- (i) **Lack of basic data**-There are 64 data elements that the High Courts make available about the cases, and of these less than a third is found in all courts. Only a few High Courts provide information about the lower courts orders and links to those orders as well as the poor quality of the data that is available;
- (ii) **Quality of Information**- The High Court data was riddled with errors and inconsistencies such as incorrect or incomplete data, incorrect spellings and abbreviations; and
- (iii) **Lack of standardisation**- Each High Court website has its own site layout, data formats and varying extents of data availability. Further, even within each High Court's website, the same data is at times displayed differently in different places. Without proper categorisation, how certain kinds of cases fare in courts cannot be effectively compared. Comparisons need to be made both amongst and within courts, in order to benchmark delay and to understand judicial efficiency. For instance, there are certain kinds of criminal cases that need to be resolved with more urgency than other matters. It could not be confirmed whether this is in fact occurring.

The NJDG has been established to provide critical data of subordinate / district court cases. However, the NJDG in its present form does not provide any analysis of the information required to enable the policy makers to identify the problems facing the judicial system. The need of the hour is to convert the data into useful and relevant information, which as the report by Daksh has shown is possible. If a non-governmental organisation

relying on information available in the public domain is able to provide the in-depth analysis required, then the National Informatics Centre which is the custodian of such information should be in a position to provide the judiciary and the government with periodic reports on various aspects of the functioning of our judicial system for appropriate policy formulation. Availability of such data will help in understanding the manner in which the cases progress through their life cycles, as well as in identifying the reasons for delay in disposing off the cases.

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**Minutes of Ninth Meeting of Advisory Council of the National Mission for Justice Delivery and Legal Reforms held on 16<sup>th</sup> February, 2016.**

The Ninth Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms was held on 16th February, 2016 at Jaisalmer House, New Delhi under the Chairpersonship of Shri D. V. Sadananda Gowda, Hon'ble Minister of Law and Justice. The list of participants is attached.

2. In his opening remarks, Hon'ble Minister of Law and Justice while welcoming the Members of the Council, stressed on the need for adoption of a collaborative approach by the Central Government, State Governments and Judiciary for realising the constitutional objectives of Access to Justice. Hon'ble Minister observed that a number of legislative initiatives have been taken in the recent past by the Government for reducing the backlog of cases. He made a particular reference to the enactment of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 which would help resolution of high value commercial disputes in a time bound manner. The recent amendments made to the Arbitration and Conciliation Act, 1996 and the Negotiable Instruments Act, 1881 would also help in reducing the pendency of cases in our courts.

3. While emphasising the need for a proper judicial database in the High Courts for appropriate policy formulation, the Hon'ble Minister appreciated the efforts made by several High Courts for bringing about their annual reports which, *inter-alia*, include judicial statistics and performance indicators. He dwelt upon the need for States to increase their investment on Justice Sector on account of enhanced devolution of funds to them on the recommendations of the 14<sup>th</sup> Finance Commission. He informed the Members that necessary communications have been addressed by him as well as Hon'ble Prime Minister to the Chief Ministers in this regard.

4. The Hon'ble Minister appreciated the initiatives taken by the Chairman, Bar Council of India and Professor Madhava Menon for establishing the first academy of Continuing Legal Education at Kochi as a collaborative project of M.K. Nambiyar Memorial Trust and the Kerala Bar Council. He felt that Bar Council needs to play its important role for bringing about the necessary reforms in the spheres of legal education and continuous skill development of the legal practitioners throughout the country. The Hon'ble Minister thereafter gave a brief outline about each of the agenda item slated for discussion and requested the Members of the Advisory Council to give their valuable suggestions.

5. The Secretary, Department of Justice thanked the Hon'ble Minister and the Members of the Council for sparing their valuable time. She felt that though a number of steps have been taken in the recent past for fast tracking the dispute resolution mechanisms in civil cases but the need to undertake urgent measures to reform our criminal justice system cannot be over-emphasized. Making specific reference to the recent interactions, she had with Parliamentary Committees, she reflected on the concerns expressed by the Hon'ble Members on the various aspects of the functioning of our criminal justice system in general and the plight of undertrial prisoners in particular.

6. Secretary (Justice) highlighted the need for early implementation of an integrated criminal justice information system in the country. This would enable integration of different stages of criminal proceedings from the commencement at a police station through the process of investigation, prosecution, judicial determination, sentencing and

appeal in a seamless electronic format. She observed that an inter-department Committee headed by Justice Madan Lokur of the Supreme Court is looking into the possibilities of integrating Crime and Criminal Tracking Network and System (CCTNS) being implemented by Ministry of Home Affairs with eCourts and ePrisons in order to facilitate exchange of information and data among the various institutions concerned with criminal justice system.

7. The Hon'ble Minister of State for Home Affairs intervening in the discussion informed the Council that Hon'ble Home Minister has taken up the issue of under-trial prisoners with the Chief Ministers of the States to streamline the process for their timely release under specific provisions of the Code of Criminal Procedure, 1973. He agreed that further steps are required by all stakeholders to improve the system and he would like to hear suggestions / recommendations from the other members on this issue. The representative from National Legal Service Authority (NALSA) recounted his experience from Nagpur and Jodhpur jails where on account of shortage of police personnel the prison authorities were finding it difficult to take under-trial prisoners for court appearances.

8. Registrar, Supreme Court stated that the time has come to integrate the information networks of police, prosecution and the judiciary. There should be an end to end IT connection between these stakeholders because if one of them is dis-connected, the entire system comes to an abrupt halt. He felt that for criminal matters relating to petty offences such as Motor Vehicle Challans, the entire process needs to be automated. He was informed that such exercise has already been undertaken in several major cities of the country.

9. Secretary (Legal Affairs) informed the members that a representation was received by Hon'ble Minister from female under-trial prisoners stating that they were not being released as they were not in a position to furnish the bail bond. The matter was forwarded to NALSA and they have taken up this matter under their legal aid programme. Simultaneously, the Hon'ble Minister has asked the Law Commission of India to undertake a review of the entire bail law in the country. The Hon'ble Minister observed that once the Law Commission of India is constituted, the review should be completed within six months.

10. With regard to an integrated criminal justice system, the Secretary (Legal Affairs) stated that Justice Madan Lokur had organised a meeting on this subject on February 15, 2016. At this meeting the integration of systems was discussed and it was observed that the process of integration has begun in certain areas. However, some departments / agencies were reluctant to integrate as they do not want to share their information. Secretary (Legal Affairs) was of the opinion that there is a need to sensitise these agencies that sharing of information will facilitate the necessary improvement in criminal justice system.

11. Chairman, Bar Council of India emphasized on the need for change in attitude of judges in the matter relating to grant of bail. He cited the example where an accused was denied the bail for fourteen long months due to delay in court proceedings and ultimately the Supreme Court had to intervene in the matter. He supported the proposal for enacting a specific law on bail at the earliest.

12. Professor Madhava Menon had three broad observations on the reform of criminal justice reforms. He stated that the remaining recommendations of the Malimath Committee Report need to be processed and implemented. He felt there was a need to ensure that when a person is available for interrogation by issuing notice, there should be

no cause for arrest. This procedure should be binding norm because arrest as a first step leads to a lot of harassment. He further mentioned that we need to re-evaluate the rationale and feasibility behind completely separating the investigation and prosecution wings. According to him, prior to the 1973 amendment of the CrPC, Maharashtra had a conviction rate of 63%, however, after the amendment the conviction rate has come down to 33%. There has to be better co-ordination between the investigation and prosecution agencies.

13. Professor Madhava Menon thereafter elaborated upon the concept of 'restorative justice'. He mentioned that this concept is gaining ground the world over. Explaining the concept, he stated that even before the investigation is initiated, the parties may negotiate and settle the dispute. The victim has to be brought into the process and if the victim gets adequate satisfaction through a negotiated process and the public interest is protected, then such a system should be brought into our criminal justice.

#### **Agenda 1: Confirmation of the minutes of the meeting held on 15<sup>th</sup> July, 2015**

14. While confirming the minutes of the previous meeting, Prof. Madhava Menon congratulated the Bar Council for establishing the first academy for advocates. He emphasized that lawyers are an integral part of the judicial system and that their capacity building cannot be sidelined if judicial reforms were to be accomplished. He appreciated the Bar Council's suggestions to amend the Advocate Act, 1961 to introduce some filtering before law graduates start practicing in courts. Some of the other reforms suggested include a mandatory training like the old apprenticeship system or an organized training course as suggested by the Bar Council. With these observations the minutes of the meeting held on 15<sup>th</sup> July, 2016 were confirmed.

#### **Agenda 2: Action Taken Report on the minutes of the meeting held on 15<sup>th</sup> July, 2015**

15. Deliberating on the action taken report, Prof. Madhava Menon presented a note prepared by him regarding the expenditure by States in the justice sector. He observed that in the last three years, in 10 states there was almost 100% increase in the capital expenditure whereas in 8 states there was a steady decrease during the period. On the revenue side the expenditure has increased marginally. He mentioned that some States such as Kerala were making much less capital investment in the justice sector than the revenue they had collected as court fee and fines. In Kerala, the State had collected Rs. 203 crores by way of court fee and fines, but had invested only 4 crores on capital expenditure. Tamil Nadu had collected Rs. 200 crores by way of court fee and fines but spent only Rs. 70 crores as capital expenditure on state judiciary. He urged the Hon'ble Minister of Law and Justice to ask the State Governments to invest the revenue collected by way of court fee and fines for improving judicial infrastructure in the State.

16. Adding to the discussion on capital expenditure, the Mission Director informed the Council that the Central Government had spent more than Rs. 3,600 crores in the last five years on judicial infrastructure in different States. This could be reflecting in total spending by the States on justice sector as the central assistance is channelized through state plans. He also mentioned that the current working strength of the judicial officers in the country is around 16,000 and that matching number of court rooms / court halls are available to District and Subordinate Courts as per the information received from the High Courts.

17. The Chairman, Bar Council of India raised his concern that while discussing infrastructure for court campuses, the need for making provisions for the bar is often neglected. He gave examples where lawyers in many States have to sit outside in the open under temporary arrangements. He reiterated that lawyers are also part of the system and their needs should be included in Court Development Plans.

18. The Mission Director apprised the Advisory Council regarding the efforts of the National Court Management System Committee set up by the Supreme Court in this regard. A sub-committee headed by Justice Badar Durrez Ahmed of Delhi High Court looked into the concept of a model court building. The model court building suggested by the sub-committee includes provisions for everybody in the court system, including the lawyers.

19. At this juncture Secretary (Justice) clarified that the Centre provides funding based on the plans submitted by the State Governments. Therefore, the Bar Council should approach their counterparts in the States to ensure that provisions for the Bar are included in the plans for court infrastructure being prepared by the States. Hon'ble Minister of Law and Justice observed that court infrastructure is a key issue and shall be discussed in the forthcoming Conference of Chief Ministers and Chief Justices.

### **Agenda 3: Specialisation of Courts**

20. Moving on to the third agenda item, the Mission Director underlined the role of specialised courts in improving the justice delivery mechanism in the country. He shared his experience at a recent conference in Singapore where he learnt that Queensland State in Australia has merged 23 tribunals into one single tribunal. This tribunal's dispute resolution mechanism is strictly based on mediation and conciliation process unlike India where the tribunals more or less follow the provisions of Civil Procedure Code. This practice has contributed to pendency of cases even in Tribunals. He requested inputs from the Secretary (Legal Affairs) on issues concerning tribunals and special courts and the choice between the two.

21. Secretary (Legal Affairs) informed the members that during his visit to Australia he realised that the concept of Tribunals in Australia is different from the understanding in India. In Australia, the members of the tribunals are selected through an All Australia Tribunal Service which is headed by a judge and the members of the tribunals are appointed in a uniform manner. He also explained that during the process initially only the applicant is called and informed about legal provisions. If the applicant is not convinced with the solution offered, the other side is then called for a discussion. Only if the parties fail to reach an amicable resolution, the adjudication process will begin. He said that approximately 80% of their disputes are settled through mediation.

22. Secretary (Legal Affairs) also pointed out that in India we have created tribunals sector wise and the Government is of the view that there are too many tribunals. While some tribunals have sufficient work; there are others where investment has been made for the infrastructure and staff, but the work is not adequate. The Department of Legal Affairs has undertaken a study to see whether it is possible to merge certain tribunals with identical or similar functions. The preliminary study has already been conducted and comments are awaited from various ministries and departments on the same. After receiving comments and feedback, the Department of Legal Affairs shall look at merger of tribunals without compromising the principles of specialization of a particular subject. As far as specialised courts were concerned, based on the deliberations and report of the Law

Commission, Commercial Courts have been established. While setting up the Commercial Courts, two important aspects were considered, firstly that the judges assigned to this bench would have had exposure to commercial law and secondly that the process will have to be supported by large scale changes in the Civil Procedure Code so that the disposal of cases referred to these courts are conducted in a time bound manner. He said that these changes have the potential to alter the civil litigation process in the country. It may be desirable to wait and assess the success of the newly introduced commercial courts system before replicating similar processes for the other civil litigation.

23. Commenting on the subject, Prof Madhava Menon stated that the issue is intimately connected with two things namely, the recruitment policy in the judiciary and the personal disposition of the judges. If a person is put on a specialised job in which he has an interest and aptitude, he is bound to develop expertise in the topic and over a period of time the output will improve. He clarified that his suggestions were solely for specialisation of trial court judges as trial courts have a larger case load. He cited the example of an accident court in Delhi where a particular judge with the approval of the High Court had framed specific rules and guidelines for determining accident/compensation cases. The Judge had listed the main aspects that he would look into each claim, for example, the nature of injury, medical evidence in support of it, particulars for calculation of damages and limited adjournments. The Judge was able to show a three fold increase in disposal of cases which was applauded by the High Court and the other courts were recommended to follow similar processes. Prof. Menon reiterated that if Judges in the trial courts were given sufficient time to develop their strategies and allowed to continue in one jurisdiction for at least 10 years without assigning additional tasks, it would result in improved efficiency and reduce delay in the procedure.

#### **Agenda 4: Judicial Accountability**

24. Initiating the discussion on Judicial Accountability, the Mission Director pointed out that in common law countries certain parameters /modalities are followed to ensure both judicial independence as well as judicial accountability. He explained that during the International Conference on Court Excellence held recently in Singapore, many countries from the developing and developed world gave an account of different mechanisms followed by them to strike a balance between judicial independence and judicial accountability. He was of the view that in India the scope of Judicial Accountability is being confined to the issues relating to judicial ethics and judicial mis-conduct. He felt that if we follow the framework of court excellence, it may widen the scope and bring in the issues of efficiency and transparency in our court processes.

25. Professor Madhava Menon was of the view that the Accountability Bill which was earlier presented to the Parliament needs to be strengthened with a view to streamline procedures and include productivity and efficiency parameters. He mentioned that though trial court judges have some level of accountability but as you go higher the level of accountability declines. He suggested that creation of a data-base of cases is useful for measurement of performance. At this juncture, Joint Secretary (AK) drew attention of the members to the National Framework for Court Excellence being considered by the National Court Management System Committee of the Supreme Court. Secretary, Legal Affairs observed that the work being done by National Court Management System Committee is similar to the basic principles of International Framework of Court Excellence (IFCE). The Registrar, Supreme Court informed that we are not signatory to the IFCE. Secretary (Justice) mentioned that this issue has been taken up with the Supreme Court.

## Agenda 5: Pre Litigation Dispute Resolution

26. Prof. Madhava Menon expressed his agreement on the need for a separate law for mediation at both pre and post litigation stages. He opined that mediation requires a different code of ethics, approach and procedures and the existing provision of civil procedure code have not allowed mediation to gain much traction. Chairman, Bar Council of India intervened in the discussion and felt that the task of pre litigation resolution of disputes must be entrusted to the members of the bar and social activists. The Judiciary's role must come only after the mediation fails. The Member, Bar Council observed that mechanism for post litigation ADR already exists in the form of Section 89 of the Code of Civil Procedure, 1908. He was of the view that Legal Services Authority Act, 1987 needs to be revisited as the work being undertaken by the judges under this Act actually falls within the domain of the lawyers. He further stated that they have prepared a proposal in this regard.

27. Secretary (Legal Affairs) was in agreement with the need for a separate law on mediation. He agreed with the Chairman Bar Council of India's view that advocates and social activists/ NGO's should have a proactive role in mediation. At present in the absence of a standalone law on mediation, mediation centres have been opened by the courts and are being monitored by the Judges. There is a need to have trained mediators as the skill sets required for mediation are completely different from the ones required for adjudication and arbitration.

28. The Registrar, Supreme Court gave an example of the system prevalent in Australia, where 80% of the matters are decided before entering the formal judicial system. Once the matter is filed, it goes to the court annexed mediator. If the mediator fails, then the matter enters the formal court system. Intervening at this stage, Prof. Madhava Menon stated that an advocate who is a litigator cannot be a mediator. Secretary, Legal Affairs agreed with this view and felt that some member of the bar may specialise in mediation work.

29. Concluding the discussions, Hon'ble Minister thanked the participants for their valuable suggestions. He observed that brief notes will be prepared on the issues discussed in the meeting and some of the matters will be taken up in the Joint Conference of the Chief Ministers and Chief Justices of the High Courts in April this year.

30. The meeting ended with a word of thanks to the Chair.

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**List of participants of Ninth Meeting of Advisory Council of the National Mission for Justice Delivery and Legal Reforms held on 16<sup>th</sup> February, 2016**

1. Shri Kiren Rijju, Hon'ble Minister of State for Home Affairs
2. Ms. Kusumjit Sidhu, Secretary, Department of Justice
3. Shri P.K. Malhotra, Secretary, Department of Legal Affairs
4. Prof. N.R. Madhava Menon, Jurist
5. Shri Manan Kumar Mishra, Chairman, Bar Council of India
6. Shri Bhoj Chander Thakur, Member, Bar Council of India
7. Shri Dinesh Bhardwaj, Additional Secretary, Department of Legal Affairs\
8. Shri Chirag Bhanu Singh, Registrar (Judicial), Supreme Court
9. Shri CSSV Durga Prasad, Secretary, Law Department, State Government of Andhra Pradesh.
10. Dr. Pawan Sharma, Secretary, Law Commission of India
11. Shri A.K.Gulati, Joint Secretary/Mission Director, National Mission, D/o Justice
12. Shri Rajinder Kashyap, Joint Secretary (J-I), D/o Justice
13. Shri Atul Kaushik, Joint Secretary (J-II), D/o Justice
14. Shri Anil Kumar Singh, Joint Secretary, D/o Justice
15. Shri Rajesh Kumar Goel, Director, NALSA

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**Review of Progress made on the Action Plan of National Mission for Justice  
Delivery and Legal Reforms**

**Strategic initiative: 1: POLICY & LEGISLATIVE CHANGES**

<b>Action Point</b>	<b>Action Taken / Progress</b>
National Litigation Policy & State Litigation Policies	State Governments have notified the State Litigation Policies so as to reduce Government Litigation. National Litigation Policy has been drafted and referred to the Law Commission of India for advice.
Judicial Impact Assessment	Feasibility of Judicial Impact Assessment has been looked into by a Committee of Experts. Report of the Expert Committee has been circulated to High Courts and State Governments for their views.
All India Judicial Service (AIJS)	There is divergence of opinion among the State Governments and among the High Courts on formation of All India Judicial Service. The government has undertaken the consultative process to arrive at a common ground.
Reforms in the present Collegiums system of appointment to higher judiciary	The Memorandum of Procedure for appointment of judges in the High Courts and Supreme Court is being revised in terms of the judgment of the Supreme Court dated 16-12-2015
Amendment in Negotiable Instruments Act	Necessary amendments have been made in the Negotiable Instruments Act, 1881 to prevent multiplicity of litigation.
Amendment in Arbitration & Conciliation Act, 1996	Necessary amendments have been made in the Arbitration and Conciliation Act, 1996 for time bound conclusion of arbitration proceeding..
Amendments to Motor Vehicle Act, 1988	The matter is under active consideration of Ministry of Road Transport and Highways.

**Strategic initiative: 2: RE-ENGINEERING PROCEDURES & ALTERNATIVE METHODS OF DISPUTE RESOLUTION**

<b>Action Point</b>	<b>Action Taken / Progress</b>
1. Procedural changes in court processes / case management.	Process service was identified as a major bottleneck for timely delivery of justice. A research note was prepared and circulated to High Courts for improving the process service in civil and criminal matters. High Courts are in the process of amending their rules. A Process Re-engineering workshop of Registrars-General of High Courts and Law Secretaries of States was conducted recently in Delhi to draft model court rules and procedures across the country in consonance with the introduction of ICT in court processes under the eCourts Mission Mode Project. The subject matter of re-engineering of court processes and case management is also under active consideration of the National Court Management System (NCMS) of the Supreme Court. Reports of the Sub-Groups constituted by the NCMS have been shared with the State Court Management System Committees (SCMS).

2. Improving criminal justice system.	A note on road map for improving the criminal justice system has been prepared and shared with the Ministry of Home Affairs. Law Commission has been requested to undertake a comprehensive review of the Criminal Justice System and suggest necessary changes in the Laws and the procedures to ensure fair and timely conclusion of criminal cases.
3. Promoting Alternative Methods of Dispute Resolution	ADR centres are being set up at District and Taluka Level. High Courts have framed necessary rules for referral of civil disputes to arbitration, mediation, conciliation and judicial settlement through Lok Adalats in terms of Section 89 of the Code of Civil Procedure. High Courts have been requested to promote dispute resolution through ADR by allotting higher units in performance appraisal to judicial officers.

### **Strategic initiative: 3: FOCUS ON HUMAN RESOURCE DEVELOPMENT**

Action Point	Action Taken / Progress
Increasing sanctioned strength of subordinate judiciary and filling up of posts.	The sanctioned strength of Judicial Officers in subordinate courts has increased from 17,715 as on 31-12-2012 to 20,502 as on 31-12-2015. The methodology for determining the adequacy of judge strength in subordinate judiciary is being looked into by Supreme Court in Imtiaz Ahmed case.
Legal Education Reforms	On the recommendation of Advisory Council, Bar Council of India has broad based its Legal Education Committee by including eminent jurists and professors to hasten the reform process in Legal Education. Two research projects for Legal Education Reform have been assigned to NALSAR University of Law, Hyderabad under the scheme of Action Research and Studies on Judicial Reform.
Bar Reforms	The Bar Council of India has framed necessary rules which <i>inter-alia</i> provide for curbing frequent strikes by the members of the bar. On the initiative of Bar Council of India Lawyers Academies have been set up in Kerala and Jharkhand.
Strengthening Judicial Academies.	Research on Judicial Reforms is being promoted through Action Research Scheme. A compendium of legislative, Policy and Administrative initiative taken by the Government and Judiciary to expedite disposal of cases has been prepared and circulated to Judicial Academies. A National judicial Academic Council has been set up with the Chief Justice of India as its Chairperson to achieve integration and close co-operation between National Judicial Academies and State Judicial Academies for optimal utilization of existing judicial training facilities across the country.

### **Strategic initiative: 4: LEVERAGING ICT FOR BETTER JUSTICE DELIVERY**

This strategic initiative is being implemented through eCourt Mission Mode Project.

**Strategic initiative: 5: IMPROVING INFRASTRUCTURE**

<b>Action Point</b>	<b>Action taken / Progress</b>
Improving physical infrastructure of the District and subordinate courts.	As of July, 2016, a sum of Rs.5,350 crore has been released to the States / UTs under the centrally sponsored scheme of infrastructure development for judiciary. Out of this a sum of Rs. 1900 crore has been released since May, 2014. As of December, 2015 16,513 Court Halls were available for Subordinate Judiciary against the working strength of 16,070 judicial officers. 2,447 Court Halls were under construction. 14,420 Residential Units were available for Subordinate Judiciary and 1,868 units were under construction.

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