

## Agenda Notes

### Joint Conference of Chief Ministers of the States/UTs and Chief Justices of the High Courts, April 24, 2016

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**1. Progress on Implementation of Resolutions passed in the previous Conference of Chief Ministers and Chief Justices held on 5<sup>th</sup> April, 2015**

Action Taken Report on the Resolutions is at Annexure-I.

## **2. Steps required to be taken for reduction of arrears and ensuring speedy trial**

- **Arrears Committee of High Courts - Progress by High Courts**
- **Action Plans of High Courts for time bound pendency reduction**

### **Background**

Justice delayed is justice denied is an oft repeated adage and one which resonates amongst the public at large. The delay in disposal of cases understandably leads to disillusionment amongst the litigants and also undermines the rule of law in the country. This has engaged the attention of the Law Commission of India from time to time starting from the 14<sup>th</sup> Law Commission report on 'Reform of Judicial Administration' in 1958. The Law Commission recognised that time lags between institution and disposal are necessary to complete the various stages of dispute resolution. However, the Commission felt that it would still be possible to frame a timeline within which various classes of cases should normally be disposed, and therefore, the Commission proceeded to outline the general time frame for disposal of the different types of cases.

The need for paying special attention to pendency and backlog of cases was reiterated by the Law Commission in its later reports such as in the 77<sup>th</sup> Report (*Delays and Arrears in Trial Courts, 1979*), the 79<sup>th</sup> report (*Delays and Arrears in High Courts and other Appellate Courts, 1979*), and the 230<sup>th</sup> report (*Reforms in Judiciary-Some suggestions, 2009*). More recently in 2014, the Law Commission on a reference made by the Supreme Court in the case of *Imtiyaz Ahmad v. State of Uttar Pradesh & Ors*<sup>1</sup>, has submitted the 245<sup>th</sup> report on 'Arrears and Backlog: Creating Additional Judicial (wo)manpower.'

The Law Commission in its 245<sup>th</sup> Report recommended that the High Courts should undertake Periodic Judicial Needs Assessment to monitor the rate of institution and disposal and to review the strength of the judiciary. The Commission also noted with deep concern the lack of uniform data collection and the poor quality of data maintained by the High Courts. It 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 analysts of issues plaguing the system. For

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<sup>1</sup>AIR SC 2012 642

example, in the High Courts of Delhi, Andhra Pradesh, Bombay, Karnataka and Madhya Pradesh, interlocutory applications are not counted separately. In Punjab and Haryana, Jharkhand and West Bengal, 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.

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

A brief outline for the Annual Reports of 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. The High Courts of Madhya Pradesh, Rajasthan and Tripura have compiled their Annual Reports in the suggested format. The High Courts of Gujarat, Chhattisgarh, Delhi, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Kerala, Madras, Manipur, Orissa, Punjab & Haryana have also responded positively.

**(a) Arrears Committee of High Courts**

During the Joint Conference of Chief Ministers of States and Chief Justices of High Courts (CM/CJ Conference) held in April 2015, it was resolved that (a) each High Court will establish an Arrears Committee and shall prepare an action plan to clear backlog of cases pending for more than 5 years; (b) the High Courts will endeavour to evolve a uniform nomenclature for all categories of cases in coordination with the e-Committee for the entire country; and (c) for statistical purposes, the High Court will count only the main cases towards pendency and arrears. Interlocutory applications will continue to be separately numbered in original proceedings before the High Court exercising original jurisdiction.

Subsequent to the CM/CJ Conference in 2015, the Minister of Law and Justice had written to the Chief Justices of High Courts requesting them to establish an Arrears Committee in their respective High Court and to also apprise the Government of the steps being taken by them to address the issue of pendency. As per the available information, almost all High Courts have established Arrears Committees.

**(i) Status of Pending cases**

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. 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.

### Supreme Court

As per the information made available by the Supreme Court of India, the number of pending cases and the number of cases disposed by the Supreme Court in the last three years are as follows:

Pending Cases as on February 19, 2016			Number of cases pending for more than 10 years			Number of cases disposed of during the last 3 years		
Civil	Criminal	Total	Civil	Criminal	Total	2013	2014	2015
48,418	11,050	59,468	1,132	82	1,214	40,189	45,042	47,424

As can be seen, there has been a steady increase in the disposal of cases between 2013 and 2015.

### High Courts

As per the information received from the High Courts, the number of cases pending in High Courts is as follows:

Pending Cases as on December 31, 2015			Number of cases pending for more than 10 years			Number of cases disposed of during the last 3 years		
Civil	Criminal	Total	Civil	Criminal	Total	2013	2014	2015
28,40,270	10,35,743	38,76,013	5,32,623	2,12,406	7,45,029	17,72, 917	17,34,542	16,05,283

- As can be seen from the above data, there has been a decline in the number of cases disposed of by the High Courts in 2015.
- As per the 2015 Annual Report of the Madhya Pradesh High Court, the average time taken for disposal of a civil case is 1202 days.
- As per the 2015 Annual Report of Rajasthan High Court, the average time taken for disposal of a civil case is 1550 days.

The break-up of the cases pending in different High Courts has been provided in the attached statement.

## Subordinate Courts

As per the information received from the High Courts, the number of cases pending in subordinate courts is as follows:

Pending Cases as on December 31, 2015			Number of cases pending for more than 10 years			Number of cases disposed of during the last 3 years		
Civil	Criminal	Total	Civil	Criminal	Total	2013	2014	2015
84,05,647	1,86,14,308	2,70,19,955	61,0643	14,19,324	20,29,967	1,87,45,380	1,90,19,658	1,78,97,488

- The data shows that the annual disposal of cases has decreased in 2015 which has led to a slight increase in the pendency of cases.
- As per the 2015 Annual Report of Rajasthan High Court, the average time taken by the subordinate courts for disposal of a criminal original matter is 822 days, while the average time taken for disposal of a criminal miscellaneous matter is 94 days.
- As per the 2015 Annual Report of the Tripura High Court, the average time taken by the subordinate courts for disposal of a Sessions case is 1 year 2 months.

The break-up of the cases pending in different subordinate courts has been provided in the attached statement

### (b) Action Plan for Reduction of Pendency

While the subject matter of pendency of cases in the courts has been a focus area for the judiciary and the Government for some time now, this issue has gained further importance in the context of the Government's recent efforts to improve the ease of doing business in India. The time taken for disposal of cases through court processes and the costs incurred by the litigants are important indicators for determining the efficiency of the judicial system, which in turn affects the country's investment climate. In order to reduce delays and costs in court processes, several steps had been taken in the recent past which *inter-alia* included amendments to the procedural laws such as limiting the number of adjournments, reducing the time to file written statements, fixing time limit for pronouncing judgments and imposing cost for causing delays. Other initiatives such as increasing the sanctioned strength of judges and judicial officers and improvements in judicial infrastructure have also been undertaken with greater vigour. The problems of delays and arrears are also being addressed through re-engineering of court procedures, identification of areas prone to excessive litigation, and promotion of alternative dispute resolution mechanisms.

### ***Policy and other administrative measures of High Courts for time bound pendency reduction***

Based on the information received from High Courts, it is noted that they have undertaken several measures to reduce pendency and ensure speedy disposal of cases. The following is a summary of some of the key steps taken by High Courts for the reduction of pendency in courts:

**Bombay High Court:** The High Court has formulated an 11 point programme for speedy disposal of cases. Some of these initiatives include:

- Grouping of identical matters of death and injury claims in motor accidents claims.
- Weeding out of stale and ineffective cases by the District Committee established for that purpose.
- Making effective use of special summons in petty offences as per Section 206 of the CrPC.
- Focusing on disposal of some special categories of cases such as those relating to under-trial prisoners, cases pending for more than 5 years or more, cases involving weaker sections of society, senior citizens, cases of atrocities against women, cases under Section 138 of NI Act, cases under Prevention of Corruption Act.
- Formulation of a “*Special Board Scheme*” wherein 3 days in a week is earmarked for trials of cases pending for more than 5 years as “Special Board Days”. Under the scheme, the presiding officer has to identify old matters, which can be disposed of in a month and fix appropriate number of such cases on scheduled days in a month.

**Patna High Court:** The High Court has introduced measures such as requiring the judges to set aside at least one day a week to attend to long term admission matters, constitution of 4 separate benches to dispose of the cases pending before the division bench. Further, the subordinate courts are required to dispose of the bail petitions within a maximum period of 15 days from the date of filing and each subordinate judge is required to identify 100 of the oldest cases and attend to them on a priority basis.

**Calcutta High Court:** The High Court has proposed holding regional Conferences; each regional conference will comprise of 4-5 districts in each region. The focus of the conferences will be on formulating an action plan for disposal of pending cases as well as on identifying the measures/steps required to improve the infrastructure facilities and improving the case management system. The High Court has also been encouraging the increased use of ADR mechanisms to settle cases outside the litigation process and has requested the State Government to increase the number of Fast Track Courts for expediting the trial of special categories of cases.

**Chhattisgarh High Court:** The Full Court had passed a resolution directing the subordinate courts to expeditiously deal with cases pending for more than 10 years as well as cases relating to senior citizens and women.

**Jharkhand High Court:** The High Court has formulated different steps to be taken by the High Court and the district courts. For the High Court, the steps include constitution of a separate cell headed by the Deputy Registrar for identifying (a) cases covered by earlier judgments; (b) cases that are similar in nature; and/or (c) cases that are analogous matters for the purpose of clubbing the cases. Further, they are considering assigning fresh matters to only two days in a week and reserving the second half of all days to dispose of cases pending for more than 5 years. In case of the district judiciary, steps include giving priority to cases pending for more than 10 years and ensuring that the said cases are disposed of by March 31, 2016. Priority will be given to cases relating to women and senior citizens.

**Manipur High Court:** Cases which have been pending for more than 5 years are listed on priority basis and emphasis is laid on clubbing of similar cases and disposing of such cases together. The High Court has also issued instructions to the subordinate courts to set a target date by which cases pending for more than 5 years are completely disposed of.

**Tripura High Court-** The High Court has formulated guidelines for disposal of pending cases. The guidelines include:

- The district/subordinate judges who are authorised to distribute cases, shall ensure that the old pending cases are equally distributed to all courts,
- Cases pending for more than 5 years shall be fixed for a day-day hearing. Adjournment only on exceptional grounds, subject to the maximum period of adjournment not exceeding 14 days
- Cases pending for more than 5 years should be disposed of within 6 months from the date of issuance of these guidelines and cases pending for more than 3 years should be disposed of within 1 year from the date of issuance of these guidelines. The guidelines were issued on January 30, 2016.
- In the case diary and the cause list, the old pending cases should be marked in red ink.
- All pending challan cases and cases under the Police Act should be transferred to Lok Adalats and such cases should be disposed of within a year of these guidelines coming into force.
- For new cases, targets should be set to dispose of the cases within the shortest possible time period and trial should be fixed on a day to day basis.



**Sikkim High Court:** As on December 31, 2014 only 2 cases were pending for more than 5 years in the High Court and 20 cases were pending in the district courts. Therefore, no specific action plan has been prepared. However, the High Court is regularly monitoring the status of these cases. Further, Special Courts are designated as Children's Courts to try the cases under Protection of Child Rights Act, 2005 and Protection of Children from Sexual Offences Act, 2012. Lok Adalats are regularly held at High Court, District Courts and Taluka Courts level.

**Himachal Pradesh High Court:** Every month the judicial officers have to earmark 10% of the oldest cases for disposal. If they are successful in achieving the said target, then their units/disposal credits are doubled. Three Special Judicial Magistrate courts have been established for hearing traffic challan cases and four Courts of Special Judicial Magistrates have been established to try cases under Section 138 of Negotiable Instruments Act, 1881.

**Madras High Court:** Old cases are listed for hearing and disposal every Wednesday. The subordinate judiciary will be awarded increased units for disposing of cases pending for more than 7 years. Subordinate courts have been directed to have periodical meetings with police officials to remove the bottlenecks in the disposal of criminal cases and to have a special list of old cases for hearing and disposal on every Monday and Wednesday. The High Court has also laid emphasis on regularly organizing Lok Adalats on all working days and supporting the running of mediation and conciliation centres. Further, the High Court has also adopted a 10 points programme for speedy disposal of criminal cases. Some of these items are:

- (i) All Session trials to be dealt with by Fast Track Courts, and none of the Session Courts should have more than 25 trial cases in their docket.
- (ii) All cases relating to compoundable offences are to be disposed of on a priority basis.
- (iii) Nine Fast Track Courts have been constituted at Magistrate level to exclusively deal with cases under Negotiable Instruments Act 1881.
- (iv) All Magistrates have been directed to dispose of the cases under Motor Vehicles Act on a priority basis.
- (v) Lok Adalats within the prison compound are to be conducted by the Magistrates, to dispose of petty and compoundable criminal cases.
- (vi) A Special time-bound drive will be conducted to dispose of Summary Trials under Chapter XXI of CrPC by the District Judges and Judicial Magistrates.

**Orissa High Court** has taken several steps to dispose of and reduce pendency of cases in courts. Lok

Adalats/ Mega Lok Adalats are being organized on a regular basis. The High Court has set targets for disposal of very old cases. All the District Judges have been instructed to take necessary steps to ensure maximum possible disposal of petty cases and to give top priority for disposals of cases involving senior citizens, minors, disabled persons and other marginalized groups. A target was fixed for disposing matters pending upto the year 1998, for which a special incentive of doubling of the prescribed yardstick was announced. For disposal of cases pending for more than 7 years, a 25% extra incentive has been prescribed. All the District Judges have been instructed to dispose of all cases involving under-trial prisoners on a priority basis within 6 months where the custody period of the accused in a Sessions case is more than 2 years and within 2 months where the custody period is more than 6 months in a case before Magistrates Court.

**Karnataka High Court:** A Watch Committee has been constituted to monitor the status of cases pending for more than 5 years in the subordinate courts as well as the High Courts. Further 2 committees have also been constituted, one is to look into and monitor the disposal of cases relating to intellectual property rights and commercial arbitration and the other committee is to monitor the cases filed under Prevention of Corruption Act as well as rape and sexual harassment cases.

**Delhi High Court:** The Court has adopted a 'Case Flow Management System' and Thursdays have been earmarked as 'Old Matters Day'. Special emphasis has been laid on early disposal of cases pertaining to senior citizens, minors, disabled and other marginalized groups. The Delhi High Court has also undertaken special efforts to ensure efficient functioning of District Mediation Centres in Delhi. Steps have also been initiated to identify and weed out cases of petty nature and the cases involving minor disputes which have become infructuous with the passage of time by invoking relevant provisions of law.

**Punjab & Haryana High Court** has taken up steps like reduction of summary trial cases through a special drive, disposal of 20 years old cases, fast tracking of cases of heinous crimes against women and supply of monthly statements through e-mail etc. The Court has formulated Annual Action Plan, fixing targets for disposal of old cases and cases of other specified categories with a view to reduce pendency and ensuring expeditious disposal of old cases. The High Court has issued specific instructions to subordinate courts to dispose of cases which are more than five year old in a time bound manner. Exclusive courts have been established for the purpose of fast tracking cases of heinous crimes against women. The High Court has also been organizing Lok Adalats and taking prompt steps to fill up vacancies of judicial officers.

**Kerala High Court** has framed 'Case Flow Management Rules' for subordinate courts to reduce the pendency. The High Court has also framed and implemented the ADR Rules and has established the Kerala Mediation Centre in the High Court and Mediation Centres in most of the districts.

**High Court of judicature at Hyderabad for the state of Telengana and Andhra Pradesh:** The Court has framed guidelines for disposing the pendency of cases. The guidelines include:

- (i) Identification and grouping of cases which can be easily disposed of such as (a) infructuous matters; (b) matters covered by earlier judgments; (c) writ petitions filed for registration of FIR under Section 154 Cr.P.C; and (d) cases capable of mediation and settlement before the Lok Adalats
- (ii) Identification of criminal petitions which have been pending for 2 years and wherein the criminal proceedings are sought to be quashed.
- (iii) Grouping of cases where there are common issues for consideration.
- (iv) 15 of the 53 retired officers, specifically deployed for identifying the aforesaid categories of cases shall work under the overall supervision of the court managers who shall in turn daily report to the Registrar (Judicial).

**Allahabad High Court:** The Arrears Committee has made certain recommendations to reduce the pendency and these include:

- (i) Cases pending from 1980 should be listed on an expeditious basis and if necessary special benches should be constituted to dispose of such cases. With regard to the cases pending between 1980 and 1990, the oldest cases should be heard on a day to day basis.
- (ii) Thereafter five year plans should be formulated, i.e. from 1991 to 1995, 1996-2000, 2000-2005, 2005-2010 and 2010-2014.
- (iii) In cases of old criminal cases an elaborate set of guidelines has been provided to dispose of such cases
- (iv) An annual physical verification of records of each section to ensure that the records are not lost or misplaced. In case any record or file is missing, then the Registrar General will be required to take appropriate action against the errant officials.
- (v) Constitution of special benches to deal with cases seeking the quashing of FIRs, rent control and bail applications.
- (vi) Judges should preferably be assigned cases according to their expertise as this will lead to faster disposal of cases.
- (vii) A weekly/monthly list of cases disposed of by judges should be prepared and circulated

amongst all judges.

**Madhya Pradesh High Court** has introduced several steps to reduce pendency. This includes the introduction of a new listing policy wherein all admission matters are given a fixed date either by the Court or auto-generated by the system. Further, the cases for motion hearing/admission matters are listed in order of a specified precedence. In one day, about 100 cases are listed before the benches and all connected cases civil or criminal are listed as one item chronologically. The High Court has also introduced the system of sending an auto-generated e-mail or SMS to the registered mobile number/email address of the Advocate and/or litigant informing them about any defect and the listing of the cases. An android application has been prepared whereby the litigants and/or advocated can track the status of their case on their mobile phones.

The High Court has also introduced scheme for withdrawal of stale, ineffective and infructuous cases in the Subordinate courts. The Scheme stipulates setting up District Level Committee headed by District and Sessions Judge. The Committee meets on monthly basis to identify cases which fall in the category of stale, infructuous or ineffective and to suggest for withdrawal of such cases.

**Rajasthan High Court:** The High Court has issued directions to the District and Sessions Courts to ensure proper distribution of case load amongst the courts and to identify ineffective and infructuous cases so that such cases may be withdrawn. Directions have also been issued to the district and subordinate courts to give priority to long pending cases specifically cases pertaining to senior citizens, women and disabled persons. The Rajasthan State Legal Services Authority has 8 mobile vans which are being used for legal awareness as well as for the purpose of holding mobile Lok Adalats. In addition, emphasis has also been laid on mediation and ADR and in this regard ADR Centres in 28 judicial districts as well as 154 mediation centres have been established in the state.

(ii) **Conclusion**

The High Courts have initiated several steps to reduce pendency. However, there is a need to streamline the processes to develop and evolve a coherent Action Plan for reduction in pendency. The first step in this process is to streamline and automate the mechanism for collecting reliable and accurate judicial statistics. The availability of reliable and accurate data is a pre-requisite for informed policymaking and therefore, once the High Courts are able to get accurate data on the state of pendency and delays in their respective Courts, then each High Court would be in a position to develop an Action Plan depending on its own unique requirements.

During the CM/CJ Conference held in April 2015, it was *inter-alia* resolved to evolve appropriate methods within the existing system to fill the vacancies of district judges expeditiously. At present the sanctioned strength of district and subordinate courts in the country is 20502 judges and the working strength is 16070 judges leaving 4432 vacancies. If these vacancies are filled up in a time bound manner it will have a salutary effect on the overall disposal of cases which in turn will reduce pendency and backlog of cases.

**Statement indicating High Court wise pendency of cases as on December 31, 2015\***

Sl. No	High Court	Type of Case	Years				Total
			0 to 2 year old	2 to 5 years old	5 to 10 years old	More than 10 years old	
1	Allahabad	Civil	98529	119163	142235	199572	559499
		Criminal	65323	68959	113425	111623	359330
		<b>Total</b>	<b>163852</b>	<b>188122</b>	<b>255660</b>	<b>311195</b>	<b>918829</b>
2	Andhra Pradesh	Civil	72000	71061	63811	25189	232061
		Criminal	15543	13852	8505	311	38211
		<b>Total</b>	<b>87543</b>	<b>84913</b>	<b>72316</b>	<b>25500</b>	<b>270272</b>
3	Bombay	Civil	62870	45054	50288	41690	199902
		Criminal	17666	9131	11030	8712	46539
		<b>Total</b>	<b>80536</b>	<b>54185</b>	<b>61318</b>	<b>50402</b>	<b>246441</b>
4	Calcutta	Civil	40954	32987	54104	53299	181344
		Criminal	7902	8241	10226	13569	39938
		<b>Total</b>	<b>48856</b>	<b>41228</b>	<b>64330</b>	<b>66868</b>	<b>221282</b>
5	Delhi	Civil	29414	10785	9769	2994	52962
		Criminal	9359	2868	2085	1510	15822
		<b>Total</b>	<b>38773</b>	<b>13653</b>	<b>11854</b>	<b>4504</b>	<b>68784</b>
6	Gujarat	Civil	21869	14380	14740	8603	59592
		Criminal	11260	8281	7948	5631	33120
		<b>Total</b>	<b>33129</b>	<b>22661</b>	<b>22688</b>	<b>14234</b>	<b>92712</b>
7	Gauhati	Civil	12131	5953	2864	221	21169
		Criminal	2228	1584	901	66	4779
		<b>Total</b>	<b>14359</b>	<b>7537</b>	<b>3765</b>	<b>287</b>	<b>25948</b>
8	Himachal Pradesh	Civil	8420	8788	2818	898	20924
		Criminal	2443	1917	1204	45	5609
		<b>Total</b>	<b>10863</b>	<b>10705</b>	<b>4022</b>	<b>943</b>	<b>26533</b>
9	Jammu & Kashmir	Civil	20729	14455	13958	2966	52108
		Criminal	2187	1520	504	134	4345
		<b>Total</b>	<b>22916</b>	<b>15975</b>	<b>14462</b>	<b>3100</b>	<b>56453</b>
10	Karnataka	Civil	120956	71978	23524	1177	217635
		Criminal	10856	7681	1252	30	19819
		<b>Total</b>	<b>131812</b>	<b>79659</b>	<b>24776</b>	<b>1207</b>	<b>237454</b>
11	Kerala	Civil	49318	36324	27479	8185	121306
		Criminal	9483	8795	14339	3446	36063
		<b>Total</b>	<b>58801</b>	<b>45119</b>	<b>41818</b>	<b>11631</b>	<b>157369</b>
12	Madras	Civil	88132	76889	54233	30879	250133
		Criminal	15116	12674	5986	519	34295
		<b>Total</b>	<b>103248</b>	<b>89563</b>	<b>60219</b>	<b>31398</b>	<b>284428</b>
13	Madhya Pradesh	Civil	59237	49995	44884	17737	171853
		Criminal	34402	24288	23911	19373	101974
		<b>Total</b>	<b>93639</b>	<b>74283</b>	<b>68795</b>	<b>37110</b>	<b>273827</b>

Sl. No	High Court	Types of Cases	Years				Total
			0-2 year old	2-5 Year Old	5-10 Year Old	More than 10 years old	
14	Orissa	Civil	31993	33748	28533	36474	130748
		Criminal	14249	8001	10206	6249	38705
		<b>Total</b>	<b>46242</b>	<b>41749</b>	<b>38739</b>	<b>42723</b>	<b>169453</b>
15	Patna	Civil	36454	24122	9063	9463	79102
		Criminal	20747	10072	11316	7501	49636
		<b>Total</b>	<b>57201</b>	<b>34194</b>	<b>20379</b>	<b>16964</b>	<b>128738</b>
16	Punjab & Haryana	Civil	75198	42109	35492	56045	208844
		Criminal	38387	20280	16841	3999	79507
		<b>Total</b>	<b>113585</b>	<b>62389</b>	<b>52333</b>	<b>60044</b>	<b>288351</b>
17	Rajasthan	Civil	53060	48291	51778	29372	182501
		Criminal	20383	10899	13662	17421	62365
		<b>Total</b>	<b>73443</b>	<b>59190</b>	<b>65440</b>	<b>46793</b>	<b>244866</b>
18	Sikkim	Civil	77	3	1	0	81
		Criminal	33	0	0	0	33
		<b>Total</b>	<b>110</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>114</b>
19	Uttarakhand	Civil	8677	5897	3469	517	18560
		Criminal	4528	2498	925	169	8120
		<b>Total</b>	<b>13205</b>	<b>8395</b>	<b>4394</b>	<b>686</b>	<b>26680</b>
20	Chhattisgarh	Civil	12408	8156	6730	3842	31136
		Criminal	6363	4373	4182	4057	18975
		<b>Total</b>	<b>18771</b>	<b>12529</b>	<b>10912</b>	<b>7899</b>	<b>50111</b>
21	Jharkhand	Civil	14810	13147	11120	3493	42570
		Criminal	10291	8572	10945	8041	37849
		<b>Total</b>	<b>25101</b>	<b>21719</b>	<b>22065</b>	<b>11534</b>	80419
22	Tripura	Civil	1896	519	69	1	2485
		Criminal	444	100	8	0	552
		<b>Total</b>	<b>2340</b>	<b>619</b>	<b>77</b>	<b>1</b>	3037
23	Manipur	Civil	1627	1407	139	6	3179
		Criminal	87	28	21	0	136
		<b>Total</b>	<b>1714</b>	<b>1435</b>	<b>160</b>	<b>6</b>	<b>3315</b>
24	Meghalaya	Civil	534	25	17	0	576
		Criminal	18	2	1	0	21
		<b>Total</b>	<b>552</b>	<b>27</b>	<b>18</b>	<b>0</b>	<b>597</b>
	All High Courts total Civil		921293	735236	651118	532623	2840270
	All High Courts total Criminal		319298	234616	269423	212406	1035743
	<b>Grand Total of all High Courts</b>		<b>1240591</b>	<b>969852</b>	<b>920541</b>	<b>745029</b>	<b>3876013</b>

\*Data is provisional

**Statement indicating subordinate court pendency of cases as on December 31, 2015\***

Sl. No	States	Case Type	Years				Total
			0 to 2 year old	2 to 5 years old	5 to 10 years old	More than 10 years old	
1	Andhra Pradesh	Civil	274950	149061	64595	10073	498679
		Criminal	347556	133151	43571	8558	532836
		<b>Total</b>	<b>622506</b>	<b>282212</b>	<b>108166</b>	<b>18631</b>	<b>1031515</b>
2	Arunachal Pradesh	Civil	772	571	78	36	1457
		Criminal	5746	1509	41	23	7319
		<b>Total</b>	<b>6518</b>	<b>2080</b>	<b>119</b>	<b>59</b>	<b>8776</b>
3	Assam	Civil	39994	19497	5130	2754	67375
		Criminal	114885	47135	9786	3322	175128
		<b>Total</b>	<b>154879</b>	<b>66632</b>	<b>14916</b>	<b>6076</b>	<b>242503</b>
4	Bihar**	Civil	100416	97335	96004	42221	335976
		Criminal	532371	548637	524523	131796	1737327
		<b>Total</b>	<b>632787</b>	<b>645972</b>	<b>620527</b>	<b>174017</b>	<b>2073303</b>
5	Chhattisgarh	Civil	31428	17938	9553	5802	64721
		Criminal	103415	64341	36240	17245	221241
		<b>Total</b>	<b>134843</b>	<b>82279</b>	<b>45793</b>	<b>23047</b>	<b>285962</b>
6	Goa	Civil	16639	4144	2023	1639	24445
		Criminal	13397	1359	330	84	15170
		<b>Total</b>	<b>30036</b>	<b>5503</b>	<b>2353</b>	<b>1723</b>	<b>39615</b>
7	Gujarat	Civil	206623	173565	158775	118867	657830
		Criminal	535402	389063	289849	269867	1484181
		<b>Total</b>	<b>742025</b>	<b>562628</b>	<b>448624</b>	<b>388734</b>	<b>2142011</b>
8	Haryana	Civil	170027	56258	4984	261	231530
		Criminal	226355	61386	4789	221	292751
		<b>Total</b>	<b>396382</b>	<b>117644</b>	<b>9773</b>	<b>482</b>	<b>524281</b>
9	Himachal Pradesh	Civil	38976	24647	6005	449	70077
		Criminal	57849	27060	7307	260	92476
		<b>Total</b>	<b>96825</b>	<b>51707</b>	<b>13312</b>	<b>709</b>	<b>162553</b>
10	Jammu & Kashmir	Civil	32093	8929	3491	914	45427
		Criminal	51058	21019	6034	1225	79336
		<b>Total</b>	<b>83151</b>	<b>29948</b>	<b>9525</b>	<b>2139</b>	<b>124763</b>
11	Jharkhand	Civil	26704	23428	10871	4758	65761
		Criminal	99132	106241	46136	7087	258596
		<b>Total</b>	<b>125836</b>	<b>129669</b>	<b>57007</b>	<b>11845</b>	<b>324357</b>
12	Karnataka	Civil	373291	211491	76631	13401	674814
		Criminal	372850	157978	54752	8572	594152
		<b>Total</b>	<b>746141</b>	<b>369469</b>	<b>131383</b>	<b>21973</b>	<b>1268966</b>



Sl. No	States	Case Type	Years				Total
			0 to 2 Year old	2 to 5 year old	5-10 year old	More than 10 years old	
13	Kerala	Civil	291806	100456	33721	5741	431724
		Criminal	663308	203916	44177	2002	913403
		<b>Total</b>	<b>955114</b>	<b>304372</b>	<b>77898</b>	<b>7743</b>	<b>1345127</b>
14	Madhya Pradesh	Civil	141995	85242	25405	8875	261517
		Criminal	496721	319446	86575	27540	930282
		<b>Total</b>	<b>638716</b>	<b>404688</b>	<b>111980</b>	<b>36415</b>	<b>1191799</b>
15	Maharashtra	Civil	583936	280834	151733	65450	1081953
		Criminal	1150133	376650	238547	146791	1912121
		<b>Total</b>	<b>1734069</b>	<b>657484</b>	<b>390280</b>	<b>212241</b>	<b>2994074</b>
16	Manipur	Civil	1035	1866	605	26	3532
		Criminal	1178	1607	545	23	3353
		<b>Total</b>	<b>2213</b>	<b>3473</b>	<b>1150</b>	<b>49</b>	<b>6885</b>
17	Meghalaya	Civil	685	478	786	120	2069
		Criminal	1456	1606	2082	280	5424
		<b>Total</b>	<b>2141</b>	<b>2084</b>	<b>2868</b>	<b>400</b>	<b>7493</b>
18	Mizoram	Civil	1717	438	68	43	2266
		Criminal	1957	428	14	6	2405
		<b>Total</b>	<b>3674</b>	<b>866</b>	<b>82</b>	<b>49</b>	<b>4671</b>
19	Nagaland	Civil	1010	380	176	77	1643
		Criminal	969	468	428	354	2219
		<b>Total</b>	<b>1979</b>	<b>848</b>	<b>604</b>	<b>431</b>	<b>3862</b>
20	Orissa	Civil	124459	72914	41897	24609	263879
		Criminal	305973	175868	184941	133378	800160
		<b>Total</b>	<b>430432</b>	<b>248782</b>	<b>226838</b>	<b>157987</b>	<b>1064039</b>
21	Punjab	Civil	166201	66708	11036	881	244826
		Criminal	188963	61269	8474	496	259202
		<b>Total</b>	<b>355164</b>	<b>127977</b>	<b>19510</b>	<b>1377</b>	<b>504028</b>
22	Rajasthan	Civil	213828	148229	78096	32843	472996
		Criminal	460912	274896	195526	74843	1006177
		<b>Total</b>	<b>674740</b>	<b>423125</b>	<b>273622</b>	<b>107686</b>	<b>1479173</b>
23	Sikkim	Civil	344	53	3	3	403
		Criminal	796	95	4	1	896
		<b>Total</b>	<b>1140</b>	<b>148</b>	<b>7</b>	<b>4</b>	<b>1299</b>
24	Tamil Nadu	Civil	352712	199712	74625	24648	651697
		Criminal	204908	152299	56384	17505	431096
		<b>Total</b>	<b>557620</b>	<b>352011</b>	<b>131009</b>	<b>42153</b>	<b>1082793</b>
25	Tripura	Civil	5956	3658	892	126	10632
		Criminal	91895	16720	8004	2538	119157
		<b>Total</b>	<b>97851</b>	<b>20378</b>	<b>8896</b>	<b>2664</b>	<b>129789</b>
26	Uttar Pradesh	Civil	562217	429967	286336	188402	1466922
		Criminal	1636327	1218707	789433	463101	4107568
		<b>Total</b>	<b>2198544</b>	<b>1648674</b>	<b>1075769</b>	<b>651503</b>	<b>5574490</b>

Sl. No	States	Types of cases	Years				Total
			0 to 2 Year old	2 to 5 year old	5-10 year old	More than 10 years old	
27	Uttarakhand	Civil	16953	9629	3165	1135	30882
		Criminal	83570	36828	13072	2266	135736
		<b>Total</b>	<b>100523</b>	<b>46457</b>	<b>16237</b>	<b>3401</b>	<b>166618</b>
28	West Bengal	Civil	223728	171133	123237	50380	568478
		Criminal	1053087	646622	266089	84537	2050335
		<b>Total</b>	<b>1276815</b>	<b>817755</b>	<b>389326</b>	<b>134917</b>	<b>2618813</b>
29	A & N Island	Civil	1701	975	481	124	3281
		Criminal	3016	2132	1003	63	6214
		<b>Total</b>	<b>4717</b>	<b>3107</b>	<b>1484</b>	<b>187</b>	<b>9495</b>
30	Chandigarh	Civil	10505	3931	687	31	15154
		Criminal	17135	3521	480	32	21168
		<b>Total</b>	<b>27640</b>	<b>7452</b>	<b>1167</b>	<b>63</b>	<b>36322</b>
31	D & N Haveli	Civil	1185	111	161	31	1488
		Criminal	901	171	992	351	2415
		<b>Total</b>	<b>2086</b>	<b>282</b>	<b>1153</b>	<b>382</b>	<b>3903</b>
32	Daman & Diu	Civil	637	116	129	56	938
		Criminal	589	105	67	24	785
		<b>Total</b>	<b>1226</b>	<b>221</b>	<b>196</b>	<b>80</b>	<b>1723</b>
33	Delhi	Civil	78359	40190	14391	5484	138424
		Criminal	257335	88046	41008	14788	401177
		<b>Total</b>	<b>335694</b>	<b>128236</b>	<b>55399</b>	<b>20272</b>	<b>539601</b>
34	Lakshadweep	Civil	77	33	18	3	131
		Criminal	147	83	19	0	249
		<b>Total</b>	<b>224</b>	<b>116</b>	<b>37</b>	<b>3</b>	<b>380</b>
35	Pondicherry	Civil	6370	4665	1305	380	12720
		Criminal	7017	3287	1804	145	12253
		<b>Total</b>	<b>13387</b>	<b>7952</b>	<b>3109</b>	<b>525</b>	<b>24973</b>
Grand total of Civil cases			4099329	2408582	1287093	610643	8405647
Grand total of Criminal cases			9088309	5143649	2963026	1419324	18614308
<b>Grand total of all Subordinate Courts</b>			13187638	7552231	4250119	2029967	27019955

- 3. Reforms in Court Procedures and Processes, including:**
- **Case and court management**
  - **Pre-Trial Conference**
  - **Process reengineering through changes in the High Court Rules**
  - **Enforcement of time lines for disposal of cases as provided through Legislative provisions/Judicial pronouncements**

An effective justice system requires that justice should be easily accessible to litigants and delivered on time. Reforms in the judicial process are the need of the hour in order to provide speedy and quality justice accessible to all. The process of reforms must begin with an assessment of current shortcomings across various levels and the future needs of the system. Comprehensive reforms required to build an efficient justice delivery system include improvement in court and case management, adopting pre-trial conferences, process re-engineering of Court processes and prescribing timelines for various types of cases. These have been discussed in the following paragraphs.

**A. Court and Case Management:**

The Law Commission in its 254<sup>th</sup> Report<sup>2</sup> noted that the judicial system is failing to deliver timely justice due to huge backlog of cases. The large figures of pendency of cases in High Courts as well as subordinate courts call for urgent reforms to be introduced in area of administration of justice. In recent years, courts worldwide have adopted case and court management systems to reduce pendency and strengthen the justice delivery mechanism management of court processes and case management today has become an indispensable part of legal system in most jurisdictions. However in the case of India, we still have a long way to go. Various reports of the Law Commission of India have time and again called for institution of court and case management mechanism in India. The Supreme Court has also issued a number of directions for courts to observe in order to improve the administration of justice. However, these recommendations and directions have not been fully implemented.

Case Management is a term used to describe all aspects of judicial involvement in the administration and management of courts and the cases before them. It includes procedural activism by judges in pre trial and trial process<sup>3</sup>. The key aspect of successful case management is fixing of a timetable for a law suit and strict supervision of that timetable. Case management requires involvement of all stakeholders such as the lawyers, litigants, court staffs and registry. Each of them have a specific role to play in the

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<sup>2</sup>Report No 245, Arrears and Backlog: Creating Additional Judicial (wo)manpower. Available at <http://lawcommissionofindia.nic.in/reports/Report245.pdf>

<sup>3</sup> M. Jagannadhan Rao, 'Case Management and its Advantages'. Available at [http://lawcommissionofindia.nic.in/adr\\_conf/Mayo%20Rao%20case%20mngt%203.pdf](http://lawcommissionofindia.nic.in/adr_conf/Mayo%20Rao%20case%20mngt%203.pdf)

way cases and courts are managed. The judge assumes the role of a manager and steers the case management process.<sup>4</sup>

Justice M. Jagannadhan Rao in his report entitled 'Case Management and its Advantages'<sup>5</sup> outlined various measures that may be adopted for effective case management. These include; (i) setting up of a department of experienced persons in each High Court to take up old cases and identify reasons for backlog and defects to be cured. This department may also club cases into groups and subgroups based on the issues presented and prepare a short iteration of facts and sub issues raised; (ii) demand filing of written submission before oral submissions for judges to be well versed with the submission before oral arguments are made which in turn will help in shortening the time for oral argument; (iii) award exemplary costs to litigants who deliberately use tactics to delay the court processes.

**(a) Supreme Court on case Management:**

The origin of case management as a system of rules in India can be traced to the landmark judgment of the Supreme Court in *Salem Advocate Bar Association, Tamil Nadu v Union of India*<sup>6</sup>. The Supreme Court in the instant case constituted a Committee which was tasked with the responsibility of formulating modalities for implementation of various amendments made to Code of Civil Procedure, 1908 (CPC) and to develop a model case management formula as well as rules to be followed while taking recourse to alternate dispute resolution (ADR). The Committee submitted its report along with Model Case Flow Management Rules and Draft Rules for trial and subordinate appellate courts and a separate rule for High Courts (Model Rules), which was dealt in *Salem Advocate Bar Association, Tamil Nadu v. Union of India*<sup>7</sup>. The Model Rules called for categorization of cases into different tracks and prescribed a time frame for disposal of cases falling under each track. The Model Rules were circulated to High Court, Bar Councils and Bar Associations for their feedback and review. These were prepared after examination of case management regimes in Australia and United Kingdom<sup>8</sup>. The Supreme Court in the second Salem Bar Association Case directed the High Courts to examine these rules and consider adopting them with or without modifications.

The Supreme Court in *Rameshwari Devi v. Nirmala Devi* (2011) 8 SCC 249, while considering the reason for delay in civil litigation issued a set of directions for the trial courts to observe in order to

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<sup>4</sup>Justice Lokur, Case Management and Court Administration. Available at [http://lawcommissionofindia.nic.in/adr\\_conf/Mayo%20Rao%20case%20mngt%203.pdf](http://lawcommissionofindia.nic.in/adr_conf/Mayo%20Rao%20case%20mngt%203.pdf)

<sup>5</sup>Supra note 2

<sup>6</sup> (2003) 1 SCC 49

<sup>7</sup> (2005) 6 SCC 344

<sup>8</sup>Consultation Paper on Case Management. Available at [http://lawcommissionofindia.nic.in/adr\\_conf/casemgmt%20draft%20rules.pdf](http://lawcommissionofindia.nic.in/adr_conf/casemgmt%20draft%20rules.pdf)

improve the system of administration of justice in civil cases which *inter-alia* include; (i) scrutiny of pleadings and documents filed by the parties immediately after suits are filed (ii) discovery and production of documents and interrogatories to be made at the earliest in order to arrive at truth of matter (iii) imposition of actual, realistic or proper costs and or order prosecution to control unnecessary adjournments and false pleadings (iv) complete time schedule and dates to be fixed for all the stages of the suit and disposal of interlocutory application on the fixed date so that the date fixed for main suit is not disturbed. These observations of the Supreme Court follow the best practices from different jurisdictions where case management is an indispensable part of the legal system.

Thereafter, the Supreme Court in its efforts to build a comprehensive national court management system for the country adopted a scheme of National Court Management Systems (NCMS) in 2012.<sup>9</sup> A National Court Management Committee (NCMS Committee) was constituted to facilitate development of policy ideas and initiatives in order to reform and strengthen the judicial system and enhance quality, responsiveness and timeliness of judicial administration. The Policy and Action Plan (Plan) of the NCMS provides for proposals to be developed by the NCMS Committee on setting measurable performance standard for courts, adoption of case management systems, standardization of judicial data and statistics and adoption of human resource plan for the courts. The Plan outlines a broad framework for case management, which includes settling issues, encouraging parties to resort to ADR, extensive use of Order X of CPC in civil matters and fixing a time schedule for resolution of cases.<sup>10</sup> The Plan indicates that specific guidelines will be formulated for each of the six areas for consideration and implementation through the High Courts.<sup>11</sup> Sub-committees in the areas of National Framework for Court Excellence, Case Management System, National System of Judicial Statistics and Court Development Planning Strategy have been constituted, some of which have submitted their reports which are currently under consideration.

One of the sub-committees is a committee on Case Management System (CMS) headed by Justice A.M. Khanwilkar. The CMS Committee was appointed to frame standardized processes for case management in order to enhance user friendliness of the judicial system. The Sub Committee in its report made several recommendations which *inter-alia* include; (i) designing a case management information system (CMIS) for analysing real time progress of a given case, (ii) appointment of professional administrators with knowledge and experience of Court Management, (iii) digitalization

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<sup>9</sup>Policy and Action Plan, National Court Management System. Available at <http://supremecourtfindia.nic.in/ncms27092012.pdf>

<sup>10</sup>*Ibid*

<sup>11</sup>*Ibid*

of entire court record and integrating it with the CMIS, (iv) assigning cases to specialized courts manned by Judges having expertise in that subject. Treating these reports as baseline studies, policy guidelines were proposed to be formulated on each of the elements of NCMS.

At the Chief Justices Conference in 2013, a resolution was passed to constitute a subcommittee on the lines of NCMS Committee at the State level to provide inputs and suggestions to NCMS Committee<sup>12</sup>. Further, at the Conference of Chief Justices held in April 2015 it was resolved that the State Court Management Committees shall endeavour to evolve workable solutions for clearance of arrears and share them with NCMS<sup>13</sup>. However the real impact of these initiatives has not yet been documented.

**(b) E -Court Mission Mode Project**

The E- Courts mission mode project (Phase I) envisaged computerisation of courts at the District and Subordinate level. One of the key services envisaged under Phase I of the project was to institute automation of Case Management in order to enable the judges to exercise greater control over management of cases. For review and monitoring of pendency across the nation the Project sought to link all High Courts with the National Judicial Data Grid, which would result in the creation of the National Arrears Grid.<sup>14</sup> At present the National Judicial Data Grid (NJDG) provides information of pending, pre registered and disposed cases at the District level of most of the High Courts. More details of the progress under the project can be seen at Agenda Item 6 (b) below.

**(c) Case management in India- Current scenario**

Article 227 of the Constitution of India confers powers of superintendence to the High Court over all the courts in the territories falling under their jurisdiction. The High Courts are expected to ensure expeditious disposal of cases by the subordinate courts and fix accountability for delays.

Various High Courts have adopted Case Flow Management Rules for Subordinate Courts in tune with the Model Rules. For instance, the Bihar Case Flow Management in Subordinate Court Rules, 2008 (Bihar Rules) provides for civil suits to be categorised under different tracks and stipulates time period for disposal of cases falling under each track<sup>15</sup>. The Bihar Rules also lay down procedures to be

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<sup>12</sup>Minutes of Chief Justice Conference, 2013. Available at [http://supremecourtindia.nic.in/outtoday/resolution\\_cjc2013.pdf](http://supremecourtindia.nic.in/outtoday/resolution_cjc2013.pdf)

<sup>13</sup>Minutes of Chief Justice Conference, 2015. Available at [http://supremecourtindia.nic.in/outtoday/resolution\\_cjc2013.pdf](http://supremecourtindia.nic.in/outtoday/resolution_cjc2013.pdf)

<sup>14</sup>[www.nic.in/sites/upload\\_files/nichome/files/documents/ECourts.docx](http://www.nic.in/sites/upload_files/nichome/files/documents/ECourts.docx)

<sup>15</sup> Track I- suits for maintenance, child custody, divorce, visiting rights, appointment of guardian and wards, letter of administration, succession certificate, eviction cases, permanent injunction. Track II- execution of cases, recovery of rent, money suits, suits based on negotiable instruments, proceedings under M.V Act. Track III- Partition, Declaration, specific

followed by the Court during issuance of notice, service of summons, calling of cases, grant of interim order, referral to alternative dispute resolution, granting adjournments, etc. However, these are only directory in nature and in the absence of a strong monitoring framework, monitoring compliance of the Bihar Rules by individual judges becomes challenging. Even in the case of recommendations made by NCMS related to case management it is left upon each High Court to suitably modify and adopt them.

Most of the Courts continue to operate under outdated rules and procedures. Even where rules have been amended in tune with the amendments made in the CPC and Code of Criminal Procedure, 1973 (Cr.PC), the Courts have failed to implement these provisions. For instance, in the matter of adjournments, the Courts have remained ineffective in restricting the number of adjournments to three and failed to impose costs and penalize litigants who file frivolous cases. There is no uniformity in the application of rules and each High Court has adopted its own system. Furthermore, the Courts have also failed to adhere to timelines fixed by the CPC. A recent study on case movements across various high courts in India conducted by Daksh reveals that the 'time period for scheduled hearing of the same case range from 20 to 60 days.<sup>16</sup> Dates of filing and hearing are often fixed at the request of the counsels leaving case management in the hands of the advocate. Even where cases are listed, they are still subject to manual interventions. This leaves the system vulnerable to abuse. The study reiterates the need for introducing effective case management system and doing away with antiquated methods of managing case flow.

However, it is pertinent to note that both the judiciary and the executive have begun to realise not only the importance of case management system, but also the need to give it a statutory backing. This can be seen from the recent enactment of The Commercial Courts, Commercial Divisions and Commercial Appellate Division of High Courts Act, 2015 (Commercial Court Act) which has introduced mandatory case management hearing for commercial disputes above a specified threshold. This is similar to the procedure adopted under the UK Civil Procedure Rules. Under the Commercial Court Act, the Court is required to fix time lines and procedures to be followed in a commercial suit for matters such as recording of evidence, commencement and conclusion of oral arguments including timelines for advocate and parties to file written and oral arguments. The Commercial Court Act further authorises the Court to pass a variety of order at the case management hearing to ensure effective disposal of suit and order cost in the event of non-compliance.

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performance, possession, mandatory injunction, appeals, damages, easement, trademarks, copy rights, patent. Track IV - All other matter not included in Track I to III. The timeline stipulated for disposal of case under the Rule is 9 months for cases in Track I, 12 months for cases in Track II and 24 months for cases in Track III and IV.

<sup>16</sup>G. Kian, How cases move through different High Courts. Available at <http://www.livemint.com/Politics/vuMULAED3UPNcvQgsNZrSK/How-cases-move-through-different-high-courts.html>

**(d) Challenges in the implementation of cases management system**

One cannot discuss the effective use of case management in isolation. Case management is a part of the larger, interwoven fabric of our dispute-resolution system<sup>17</sup>. For case management to be successful the Courts need to be equipped with sufficient man power and resources. There are many challenges facing the judicial system today which makes implementation of case management difficult. Some of these challenges are highlighted below:

- i. The Judges of the High Court and subordinate courts may not have the required expertise in court management. Comprehending the need for expert managerial intervention in court administration, the 13<sup>th</sup> Finance Commission allotted a sum of Rs. 300 crore for appointment of Court Managers for the period 2010-2015 to assist the judges in streamlining court administration. However, it has failed to achieve its desired results. Only one third of the sanctioned amount was released and one seventh utilized. Most of the High Courts have remained unsuccessful in finding suitable candidates leaving the position of court managers to continue to remain vacant.<sup>18</sup> Recruitment on contract basis<sup>19</sup>, low remuneration package, reluctance on the part of the judiciary to accept court managers to participate in judicial process<sup>20</sup> have been identified as some of the reasons for failure to attract suitable candidates. During a week long discussion on the subject by the Maharashtra Judicial Academy in February 2016, participating Court Managers identified lack of clear directions from Judges and their ambiguous status in the court system, non-inclusion in various court committees, lack of permanent employee status and lack of promotional avenues as issues to be remedied for more effective utilisation of their services.
- ii. For a Case Management System to be successful, a well maintained and up to date judicial statistics on pendency and the status of each case is crucial. A judge will not be able to get a clear picture of

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<sup>17</sup>Gensler S Steven, Judicial Case Management: Caught in the Cross Fire. Available at <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1484&context=dlj>

<sup>18</sup>In the case of Gujarat less than five percent MBAs were able to pass the screening test held by the recruitment cell of Gujarat High Court for the post of court manager. Available at <http://www.dnaindia.com/academy/report-managing-court-hard-nut-to-crack-for-mbas-1845734>

<sup>19</sup> The Guidelines for Recruitment, Conditions of Service and Functions of Court Managers for Allahabad High Court provides that the Court Managers shall be made on contractual basis for one year, to be renewed on performance appraisal subject to the availability of the post and finance upto the period of five years;. Available at [http://www.allahabadhighcourt.in/rules/court\\_manager\\_16-04-12.pdf](http://www.allahabadhighcourt.in/rules/court_manager_16-04-12.pdf)

<sup>20</sup>Case Management degree proves a flop in NALSAR MBA. Available at <http://www.legallyindia.com/Law-schools/nalsar-hyderabad-mba-program-progress-report>. In a bid to offer specialization courses in court management NALSAR launched a two year full time MBA specializing in court management, the first of its kind in India in 2013. However it failed to attract students to opt for the course as expressed in the words of former Vice Chancellor Faizan Mustafa “not many people are interested in court management. In fact, the best of students have not opted for court management”



the cases and the stage at which it is pending in the absence of up to date and reliable data. At present the responsibility of court administration (which includes data collection and management) lies with the judge who may not be equipped to perform this task. On the contrary in countries such as U.K (HMCTS); Australia (Court Services, Victoria); Canada (Court Administrative Service and U.S.A (Administrative Office of U.S Courts) separate court administration agencies have been established who are responsible to collect court data<sup>21</sup>.

- iii. Case Management is often viewed as a departure from the adversarial system in which the Judges take a more proactive role in the management of cases. Traditionally, the role of the courts was limited to responding to the processes initiated by the litigants, while case management today calls for active involvement of the courts in the management and administration of cases. The proposal to introduce case management is likely to invite objections on the grounds that the case management system will undermine the adversarial nature of the civil justice system. A similar objection was raised in UK and Lord Woolf in reply to the objections clarified that ‘the adversarial role will continue but will function in an environment which will focus on the key issues rather than allowing every issue to be pursued regardless of expense and time, as at present’.<sup>22</sup>
- iv. At present, no information monitoring system exists at the High Court as well as subordinate court level to monitor compliance with the rules and procedures regarding service of summon, grant of adjournments and use of ADR for civil cases and plea bargaining for criminal cases. The fundamental elements of successful management system will have to include judicial commitment and leadership, adequate staffing, court consultation with legal profession, court supervision of case progress, use of standards and goals, listing of credible date and an effective monitoring information system.

e) **International experience:**

(i) **United States:**

In the United States, Case Management was introduced by the Civil Justice Reform Act, 1990 in response to persistent demand for reform in civil litigation to reduce delay and cost. Case management systems are firmly established and call for active involvement of judges throughout the litigation process. The Judges periodically monitor the progress of the litigation to see that the schedules are followed and determine if any changes are required to be made in the litigation plan. The Judges may

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<sup>21</sup>Kumar A. P &Datta P, Instrumenting Courts in India. Available at <http://ajayshahblog.blogspot.in/>

<sup>22</sup>*Supra* note 2

call for interim reports between scheduled case management conferences, but at the same time, time limits are not fixed arbitrarily and without considering the views of the counsels. Once a litigation plan is established the judges expect schedules to be met and whenever necessary impose sanctions for dereliction and dilatory tactics.<sup>23</sup>

**(ii) Singapore**

Case Management was introduced through appropriate amendment of the court rules in Singapore to improve efficiency of the courts. It has brought substantial procedural, operational and cultural changes in the judicial systems. Singapore has introduced a number of case management measures to overcome the problem of backlog of civil cases, namely; diversionary method; facilitative method, quality management method and automatic discontinuance method. The “diversionary” method aims to divert the disputes from growing into a full blown litigation through the use of alternative dispute resolution mechanisms, pre action protocols and extra judicial resources. The “facilitative” method aims at facilitating the judiciary to prevent the problem of backlog of cases by supporting infrastructure for disposing of cases. Singapore also focuses on “quality management” which includes setting benchmark and key performance indicators and of monitoring relevant statistical data in order to improve the overall quality of justice system. In addition Singapore Rules of Court provide for automatic discontinuance of action, cause or matter where no step or proceedings have been taken for more than a year<sup>24</sup>.

**B. Pre-Trial Conference**

The Law Commission<sup>25</sup> while considering the delays in the delivery of justice had observed that it has been frequently asserted that the chief cause of the delay are the laws of civil and criminal procedure which, it has been said, are cumbersome, wasteful and time-consuming. It had further pointed out that very often the procedure becomes an end in itself and that the fate of the suits is made to depend upon the procedural technique to be gone through to bring them on the files of the court for adjudication. Giving appropriate and adequate attention to Pre-Trial Conferences is one method to improve the efficiency of trial and to check the avoidable delays as it provides the courts with effective control of the life cycle in any case.

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<sup>23</sup> *Ibid*

<sup>24</sup> Hock. F. Chee, Civil Case Management in Singapore: of Models, Measures and Justice. Available at <http://www.aseanlawassociation.org/11GAdocs/workshop2-sg.pdf>

<sup>25</sup> 14<sup>th</sup> Report of The Law Commission of India; Reform of Judicial Administration

Pre-Trial Conference refers to an informal discussion between the parties to a case along with their advocates. The conference is presided over by a Judicial Officer and the parties discuss the issues and they are encouraged to reach to a settlement on the same. The Judicial Officer does not make a decision on the case but assists the parties in evaluating the strengths and weakness of the case and in negotiating a settlement and controls the conference to ascertain that its purpose is attained in so far as possible. Pre-Trial conferences can therefore be considered to be conducted to outline the legal issues with respect to a case so as to explore the possibility of early resolution.

***(a) Pre-Trial Procedures in the Code of Civil Procedure & Criminal Procedure Code:***

Although Pre-Trial hearings are not a separate part of the procedural laws of our country there are provisions in the codified laws which do relate to and are relevant in context of the pre-trial hearing.

***Code of Civil Procedure:***

- The oral examination of the parties with regard to the admissions and denials of the allegations of facts as are made out in the plaint or written statement are dealt with in Order X of the CPC, the purpose of which is to ascertain the dispute between the parties.
- Order XI of CPC deals with the discovery and inspection of documents after delivery of interrogatories in writing for the examination of the opposite parties and it states that due consideration should be given by the court to such interrogatories which shall be necessary for fair disposal of the suit.
- Order XII of CPC deals with the rules of admitting truth of the whole or any part of the case of any other party after serving of notice.

Though expressly mentioned, the courts seldom resort to such provisions as these stipulations are not binding in nature and are discretionary. The Law Commission<sup>26</sup> has observed that many delays would be eliminated if proper attention is paid on the compliance of Order X and judicious use of Order XI & XII of the CPC.

***Code of Criminal Procedure***

The CrPC also includes stages that can be considered as pre trial processes for the purposes of a criminal trial. The procedures for arrest of a person, investigation of offence, provisions related to bail,

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<sup>26</sup> 77<sup>th</sup> Report of the Law Commission of India; Delay & Arrears in Trial Court

recording of plea or charge mainly relate to the pre-trial hearing stages of a criminal trial that are governed by chapters V to XVII of the CrPC. These provisions are intended to ensure the right of a speedy trial and a fair investigation to an accused.

The system of Plea Bargaining introduced through the Criminal Law (Amendment) Act, 2005 also relates to the concept of pre-trial hearing as it works on the concept of arriving at a decision which is mutually agreeable to both parties. In broad sense, Plea Bargaining pertains to a pre-trial negotiation process between the accused and the defense, the introduction of which in the criminal justice system is a response to the huge backlog of criminal cases and delay in disposal of criminal cases and appeals<sup>27</sup>. The Law Commission<sup>28</sup> deliberated on this issue and *suo moto* took cognizance of the problems faced on account of abnormal delays in the criminal trials and recommended the introduction of the concept of Plea Bargaining.

#### **(b) International Practices:**

##### **(i) *Canada***

Canada has a sustainable system of pre trial conferences where the parties are directed to move towards the conference at any stage before the beginning of a trial. A pre trial conference can be requested by any of the parties and the same is thereafter referred to a judge to conduct the pre trial conference. The idea behind the same is for the judge to ascertain that the case is ready for initiating a trial and giving a chance to the parties to settle the same before the process is initiated.<sup>29</sup>

##### **(ii) *United States of America***

The United States of America endorsed the approach of reducing the cost and delay in civil cases by enacting the Civil Justice Reform Act of 1990 where emphasis was laid upon litigation management. As per the Civil Reforms Act, the courts shall develop a case management system with relevant laws and procedures that govern the civil cases filed in the courts.

The concept behind the same is for the court to be involved early in the case to analyse issues presented in a particular lawsuit and to work with the counsels and the parties to manage the structure of the proceeding of the case and to achieve the most cost effective and early resolution to the dispute.

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<sup>27</sup> The Bargain Has Been Struck: A case for Plea Bargaining in India, SonamKathuria available at <http://www.manupatra.co.in/newsline/articles/Upload/3BEB7B04-1EE3-48EB-8716-279FA2B9AF8A.pdf>

<sup>28</sup> 142<sup>nd</sup> Report of the Law Commission of India: Concessional Treatment for Offenders Who On Their Own Initiative Choose To Plead Guilty Without Bargaining

<sup>29</sup> Litigating in Canada: A Brief Guide for US Clients

The goal of the management of every case is to structure the pre-trial proceeding of every case that will compel the parties to exchange additional information on key issues as early as possible.<sup>30</sup>

### **(iii) Singapore**

Once the parties to a case are ready for trial, a pre-trial conference is held to determine the status of the proceedings and fix the number of days and appropriate dates for trial. It helps to ensure that if a settlement is possible the parties can settle the matter and that parties have taken all necessary steps in the proceedings and it is moving along swiftly and expediently. A trial date is generally given within 28 days from the date of the latest pre-trial conference.<sup>31</sup>

In criminal procedures the courts conduct pre-trial conferences which are court administered conference conducted in-chambers at which parties are required to update the court on the progress of investigations, the taking of clients' instructions, the narrowing of contested issues of fact and/or law, and the fixing of trial dates. If a trial is required, the parties to dispute are then required to exchange list of witnesses and serve statements and reports that would be presented in the trial. The courts of Singapore have recently developed a Criminal Case Management System in which the proceedings are conducted in the absence of judicial officers and where the prosecution and defense meet to discuss the merits of the case, narrow down issues or to reach an agreement of plea bargaining even before a pre-trial conference resolved.<sup>32</sup>

### **C. Process reengineering through changes in High Court Rules**

Reengineering of court process involves fundamental re-thinking and re-design of judicial processes to bring about a significant improvement in performance.<sup>33</sup> The judicial processes are contained in the procedural laws and rules of practice followed in the courts of all the States including directions issued from time to time. The performance of the judiciary is dependent on its people and the processes. Even if judges and court staffs are motivated, the judiciary will fail to achieve its goals of imparting fair and speedy trial, if the processes laid down are cumbersome and time consuming. This calls for the need of reengineering court processes in order to enable the courts to ensure fair trial and speedy justice. The subject matter of re-engineering of court processes and case management is under active consideration

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<sup>30</sup> Case Management In The Federal Courts Of The United States Of America

<sup>31</sup> Inta Courts & Tribunals Subcommittee Case Management Procedures Report With Model Case Management Procedures

<sup>32</sup> Legal Systems In ASEAN – Singapore Chapter 5 – Legal Procedure (Criminal), Jennifer MARIE

<sup>33</sup> <http://justicebharuka.in/file/E-Governance%20-%20Judicial%20Process%20Re-engineering.pdf>

of the National Court Management System (NCMS) of the Supreme Court. Process re-engineering exercise is also being carried out under E-Courts Mission Mode Project.

(i) **Initiatives taken so far:**

The automation happening in courts in the wake of computerisation lends itself to changes in procedures to improve efficiency of courts. Keeping this in mind, there is a need to revisit the existing processes and procedures and to examine whether and how, due to the passage of time and advancements that have taken place (both technology related and otherwise), court related processes and procedures should be streamlined. In addition to modernizing the existing processes and procedures, we need to innovate and introduce new processes and procedures to expedite disposal of cases. This will require re-engineering of court processes.

The E-Committee of the Supreme Court of India in its National Policy and Action Plan for the implementation of information and communication technology in the Indian Judiciary, noted that the Indian judiciary is in urgent need of reengineering its processes. The exercise of reengineering court processes was taken up under Phase I of the E-Courts Project. The High Courts were instructed to take up process reengineering and accordingly all High Courts set up their own process reengineering committees to modernize the processes, procedures and civil court and criminal court rules<sup>34</sup>. It was earlier reported in the press that 22 High Court have submitted their reports to the Supreme Court on what processes need to be introduced and these are currently being examined by the Law Commission of India<sup>35</sup>. Since then suggestions have been received from all High Courts, and many of them have undertaken changes in High Court Rules based on their suggestions. For instance the High Court of Delhi has framed the Delhi Court Service of Processes by Courier, Fax and Electronic Mail Service (Civil Proceedings) Rules, 2010. The said rule provides for use of emails to summon witnesses and receive court communications. Similarly, the Bombay High Court Appellate Side Rules, 1960 was amended to allow urgent orders to be communicated through Fax or email to parties, whenever such facility was available. Now a retired High Court Judge has been requested by the eCommittee to identify best practices for all High Courts to emulate.

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<sup>34</sup> [http://supremecourtfindia.nic.in/ecommittee/PolicyActionPlanDocument-PhaseII-approved-08012014-indexed\\_Sign.pdf](http://supremecourtfindia.nic.in/ecommittee/PolicyActionPlanDocument-PhaseII-approved-08012014-indexed_Sign.pdf)

<sup>35</sup> <http://www.thehindu.com/opinion/interview/courts-should-be-dealing-with-serious-criminal-offences-not-with-petty-cases/article6342812.ece>

The study of processes with potential to automate further will be continued in Phase II of the eCourts project, for which the Judicial Process Re-engineering exercise will be completed to explore further automation of processes with latest trends in technology. The initiatives proposed in Phase II include (a) Automation of Process Serving to effectively address the issue of delays due to non-service or late service of Court Process, (b) Court Registers in only eForm (No Manual Registers) to ensure use of Computer for all day-to-day Court processes, (c) eFiling through e-filing Portal for High Courts and the District Judiciary to facilitate online e-filing of cases, (d) Judicial Financial Accounts Book Keeping Practice through Computerized Financial Accounting System, and (e) Administrative Process Automation such as file movement and tracking, leave management, personnel information management system etc. The Policy document further provides that Phase II of the court project will involve process and procedure automation not only in judicial functions but also in administrative functions concerning the Registry of the courts.

Each High Court needs to take up this task, if not already taken up, and complete and implement process re-engineering as soon as possible.

#### **D. Enforcement of Time lines for disposal of cases**

Speedy and timely justice is a basic human right and dispensation of justice has little significance if not delivered within a reasonable time. Speedy trial is also the fundamental requirement of good judicial administration.<sup>36</sup> A good legal system is one that provides proper, just and timely resolution of case.

##### **(i) Supreme Court Judgments:**

The fundamental right to life and liberty enshrined under Article 21 of our Constitution signifies expeditious procedure of trial prescribed under a law that is reasonable, fair and just.<sup>37</sup> Integral and essential parts of Speedy trial are the conclusion of trials within time limits and that the same are significant in the context of both civil & criminal proceedings. The Supreme Court of India has dealt with the issue of speedy and time bound justice in a number of rulings, predominantly in criminal trials.

The Supreme Court of India in *Abdul Rehman Antulay & Ors vs R.S. Nayak&Anr*<sup>38</sup> while considering the demand for providing a time limit to criminal trials was of the opinion that setting outer limits for

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<sup>36</sup> <http://lawcommissionofindia.nic.in/reports/report221.pdf>

<sup>37</sup> *HussainaraKhatoon vs. State of Bihar*, AIR 1979 SC 1360

<sup>38</sup> 1992 AIR 1701

the criminal proceeding is not reasonable as the same depends on a number of reasons that include the workload of every court, the nature of offence, number of accused, non availability of counsels and other systematic delays. The court further observed that certain cases, such as, conspiracy cases, cases of misappropriation, fraud, forgery, sedition, cases of corruption against high public servants and high public officials take longer time for investigation than those required in other minor offences trials.

The Supreme Court in *Kartar Singh vs. State of Punjab*<sup>39</sup> while referring to the right to speedy trial embedded under Article 21 of the Constitution of India and being reflected under Section 309 of Cr.PC had observed that the right of a speedy trial begins with the restraint imposed at the time of arrest and continues in all stages of the trial and thus the court has to adopt a balanced approach by judging the possible disadvantages that can be suffered by an accused and that whether the accused has been denied of the right of speedy trial with unreasonable interruption. The Court had suggested that such delays can be measured by considering the length of delay, the justification for the delay, the prejudice caused to the accused by such delay and the accused assertion of his right to speedy trial.

Subsequent to such observations the Supreme Court of India its judgment in *Common Cause*<sup>40</sup> cases while stating that the pendency of criminal proceedings for long periods by itself operates as an engine of oppression, specified different periods for different type of cases beyond which they would not be allowed to proceed. For instance if the non-cognizable and bailable cases are pending for more than two years without commencement of trial, then the criminal court shall discharge or acquit the accused, as the case may be, and close such cases. It was consequently made clear that the time spent in criminal proceedings, wholly or partly, attributable to the dilatory tactics or prolonging of trial by the accused would be excluded in counting the time-limit. The Supreme Court has also fixed a time limit for closing of the prosecution evidence. The maximum time period within which the prosecution evidence has to be closed ranges from 2 years to 3 years, depending on the nature of the offence.<sup>41</sup>

In *P. Ramachandra Rao vs State Of Karnataka*<sup>42</sup> a seven judge bench of the Supreme Court considered whether time limits of the nature mentioned in the above-mentioned judgments is permissible under law The Court concluded that the bars of limitation created in the abovementioned cases were impermissible because (i) it amounted to the creation of legislation by the judiciary, which was an activity beyond their powers and (ii) the creation of such bars was contrary to the law laid down by the Constitution Bench in *A.R. Antulay's* case. The Court also observed that they cannot encroach upon the

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<sup>39</sup> 1994 (3) SCC 569

<sup>40</sup> *Common Cause vs Union Of India And Ors* 1996 AIR 1619; *Common Cause vs. Union of India* 1996 (6) SCC 775

<sup>41</sup> *Raj Deo Sharma vs. State of Bihar* (1998(7) SCC 507) and *Raj Deo Sharma (II) vs. State of Bihar* 1999 (7) SCC 604

<sup>42</sup> 2002 (4) SCC 578



field of the legislature, it can only declare and interpret the law and remove obvious lacunae. On curbing the delays in the civil trials the Supreme Court of India in *Ramrameshwari Devi & Ors vs Nirmala Devi & Ors*<sup>43</sup> proposed certain guidelines to check the delay in the trials and efficient disposal of cases. The Court had directed that pleadings should be scrutinized and verified as they form the foundation of the claim of the parties. It also emphasized that the trial court at the time of filing of the plaint should prepare complete schedules and fix dates for all the stages of the suit, right from filing of the written statement till pronouncement of judgment and the courts should strictly adhere to the said dates and the said time table as far as possible. Directions have also been given that the interlocutory application shall be disposed in between the dates of hearings fixed in the said suit itself so that the date fixed for the main suit may not be disturbed.

**ii. Statutory provisions:**

Various provisions exist in the CPC<sup>44</sup> as well as Cr.PC<sup>45</sup> which prescribe specific time period for completion of particular steps in the trial process. In addition, specific laws also provide indicative timelines for the completion of trial in the cases governed under those laws. Some of these are listed below:

- a. Commercial Courts Act, 2015—Under Section 3 of the Act the Court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing. Section 4 further provides that the Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete. For appeals made before the Commercial Appellate Division, Section 14 provides that the Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

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<sup>43</sup> 2011 (8) SCC 249

<sup>44</sup>Some of the provisions under the CPC are as follows: Order VII, Rule I provide that the defendant shall file a written statement within thirty days from the date of service of summons. The period may be extended by the Court for reasons to be recorded in writing, but not less than ninety days from the date of service of summon. Order XVII, Rule 1(1) stipulates that the Court may, if sufficient cause is shown, at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit for reasons to be recorded in writing: Provided that no such adjournment shall be granted more than three times to a party during hearing of the suit. Order XX, Rule 1: states that the Court shall pronounce judgment either immediately or soon after the case is heard. Where the judgment is not pronounced at once, every endeavour shall be made to pronounce it within thirty days or where that is not practicable due to extraordinary circumstances, it should ordinarily be done within sixty days from the conclusion of the hearing.

<sup>45</sup> Some of the provisions under Cr. P.C are as follows: Section 309 provides that when the examination of witnesses has begun it will be continued on a day to day basis unless an adjournment is found to be necessary. In an inquiry or trial under Sections 376, 376A, 376B, 376C or Section 376D of the Indian Penal Code (IPC) within two months from filing of charge sheet. Section 437 (6) states 'If, in any case of a non bailable offence triable by a Magistrate, the trial is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, the person shall, if he has been in custody during the whole of the said period, be entitled to be released on bail.'

- b. Protection of Children from Sexual Offences Act, 2012 (POCSO Act)- Under Section 35 of the POCSO Act, the evidence of a child has to be recorded by the Special Court within a period of thirty days and the trial itself should be completed, as far as possible, within a period of one year from the date of taking cognizance of the offence.
- c. Information Technology Act, 2000 (IT Act)- Section 57(6) of the IT Act provides that an appeal before the Cyber Appellate Tribunal shall be dealt with as expeditiously as possible and endeavours shall be made to dispose of the appeal within six months.
- d. The Consumer Protection Act, 1986 (CPA)- Section 12(3) of the CPA provides that the District Forum should ordinarily decide on the admissibility of a complaint filed by a consumer within twenty-one days from the receipt of the complaint. In case of appeals filed before the State Commissions or the National Commission, Section 19A provides that the same shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission.

While statutory provisions exist where time lines have been prescribed, the Supreme Court has interpreted these time lines as being directory in nature. The Supreme Court in *Salem Advocate Bar Association v. Union of India*<sup>46</sup> observed that strict interpretation regarding provisions on timeline as being mandatory will defeat the cause of justice. The Court however observed that courts must adhere to the time line and extensions should only be allowed in exceptionally hard cases. A similar view was held by the Supreme Court in *Topline Shoe Ltd. v. Corporation Bank*<sup>47</sup>. In this case the Supreme Court held that the time period prescribed for filing of reply under Section 13 of the Consumer Protection Act, 1986 is not mandatory in nature. The Court further observed that the Forum or Commissioner must consider the provision of the Consumer Protection Act providing time frame to file reply, as a guideline, and exercise its discretion to achieve the object of speedy disposal of such cases, keeping in mind, the principle of natural justice.

### iii. International experience:

The Speedy Trial Act of 1974 in the United States prescribes time limit for completing various stages of a federal crime prosecution. The Act specifies time limits designed to protect a defendant's right to speedy trial. To determine whether or not there has been a speedy-trial-right violation, a court must review four related factors: length of delay, reason for delay, defendant's efforts to facilitate a speedy

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<sup>46</sup>(2005) 6 SCC 344

<sup>47</sup>(2002) 6 SCC 33

trial, and prejudice to the defendant. The Act further specifies a 30-day time limit for indictment and a 70-day time limit for bringing a defendant to trial. In determining whether or not to dismiss a case with or without prejudice, the Act states that a district court must consider three factors: the seriousness of the offense, the facts and circumstances of the case that led to the dismissal, and the impact of a re-prosecution on the act and the administration of justice.<sup>48</sup>

**Conclusion:**

Despite various suggestions and recommendations being given by the Law Commission of India, a number of steps taken by the Government and pro active role of the Judiciary, inordinate delay has become a common feature of Indian legal system. Delay in disposal of cases has defeats the purpose for which the people come to the courts. It cannot be denied that timely delivery of justice is the foremost interest of all the stakeholders and that improving the case procedure and processes can help in decreasing the backlogs of cases and the inordinate delays in our justice delivery system.

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<sup>48</sup> Susskind R.S, Right to speedy Trial. Available at <https://www.ncjrs.gov/App/publications/abstract.aspx?ID=143703>

#### 4. **Judicial Reforms:**

- **Filling up of vacancies**
- **Performance Management and Court and Case Management through NJDG**

##### A. **Filling of Vacancies**

###### a) **Vacancies in the High Courts**

The Constitutional validity of Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission Act, 2014 was challenged in Supreme Court. During the hearing and till the Judgment was pronounced only those Additional Judges whose terms were expiring were given extensions of three months as per the Supreme Court Orders dated 12.05.2015 and 15.07.2015. No other appointments were made. The Supreme Court pronounced its judgment on 16.10.2015 and declared both the Acts as unconstitutional and void. The Collegium system as existing prior to the above amendments was declared to be operative.

Simultaneously, the Supreme Court, vide its Order dated 16.12.2015 asked the Government to review the Memorandum of Procedure (MoP) for appointment of Judges of Supreme Court and High Courts by supplementing it with the provisions relating to eligibility criteria, transparency in the appointment process, setting up of Secretariat and complaint mechanism.

In view of the large number of vacancies and keeping in view the fact that the process of supplementing the existing MoP was likely to take some time, the matter was taken up with the Supreme Court and the process of appointment has been restarted. The following appointments and transfers were made since January, 2016 till 31.03.2016:

###### **Appointment/transfer of Judges: (From January 2016 till 31.03.2016)**

1. Appointment of Chief Justices in High Courts:	06
2. Appointment of Addl. Judges as Permanent Judges:	80
3. Fresh appointment made:	07
4. Extension of term of Additional Judges:	14
5. Transfer of Chief Justice:	01
6. Transfer of Judges from one High Court to another:	07

###### **b) Vacancies in the District and Subordinate Courts**

Lack of adequate number of judges to handle the large number of cases pending in courts is often cited as one of the main reasons for delays. Efforts are being made to address this issue, mainly through a two pronged strategy, firstly by filling up the large number of existing vacancies in the judiciary and secondly, by increasing the sanctioned strength of judges.

On account of concerted efforts made by all stakeholders there has been a gradual increase in the sanctioned strength of the subordinate judiciary over the past few years. The sanctioned strength in subordinate judiciary has increased from 16,949 at the end of 2010 to 20,502 in December 2015. The recruitment of judicial officers/judges in Districts and Subordinate Courts is within the domain of State Governments and High Courts concerned. High Courts need to initiate proposals well in time for filling the existing vacancies as well as anticipated vacancies.

As of 31<sup>st</sup> December 2015, there were 4,432 vacancies in posts of judicial officers, representing about 21.61 per cent of the sanctioned strength. Total working strength of the subordinate judiciary at the end of 2015 stands at 16,070. A Statement indicating State wise sanctioned and working strength of the subordinate judiciary as on 31.12.2015 is attached. It may be noted that over the past six years (2010 to 2015), the sanctioned strength has increased by about 20.96 per cent but the increase in the working strength during that period is only 15.09 per cent. The matter regarding filling up of vacancies in District and Subordinate Courts is being monitored in the Malik Mazhar Sultan case by the Supreme Court.

Some of the reasons for delays in filling up of vacancies, as indicated by the High Courts, are inability to find suitable candidates, pending court cases challenging previous recruitments and difficulties in coordination between High Courts and State Public Service Commission. Based on these responses, the Minister of Law and Justice had written to the Chief Justices of all High Courts with a list of actionable points that might be considered to address each of these issues.

In the Conference of Chief Justices held in April 2015 it was resolved that it would be left open to the respective High Courts to evolve appropriate methods within the existing system to fill up the vacancies for appointment of District Judges expeditiously. Following this a letter on this subject was sent by the Minister of Law and Justice to the Chief Justice of High Courts requesting them for information on the action being taken by each High Court to make the recruitment process more broad based to fill up the existing vacancies of judges and judicial officers. Encouraging response has been received from several High Courts in this regard and the process of filling up the posts in subordinate judiciary is being streamlined.

Sr. No.	Name of State/UT	Total Sanctioned Strength	Total Working Strength	Vacancies
1	Arunachal Pradesh	17	15	2
2	Andhra Pradesh and Telengana	1034	785	249
3	Assam	424	319	105
4	Bihar	1727	1067	660
5	Chandigarh	30	30	0
6	Chhattisgarh	385	341	44
7	Daman & Diu and Dadra Nagar Haveli	7	6	1
8	Delhi	793	490	303
9	Goa	57	49	8
10	Gujarat	1939	1170	769
11	Haryana	644	474	170
12	Himachal Pradesh	152	134	18
13	Jammu and Kashmir	245	220	25
14	Jharkhand	592	466	126
15	Karnataka	1122	820	302
16	Kerala	457	442	15
17	Lakshadweep	3	3	0
18	Madhya Pradesh	1350	1132	218
19	Maharashtra	2251	1917	334
20	Manipur	41	35	6
21	Meghalaya	57	29	28
22	Mizoram	63	30	33
23	Nagaland	27	25	2
24	Orissa	716	598	118
25	Puducherry	26	14	12
26	Punjab	672	490	182
27	Rajasthan	1191	985	206
28	Sikkim	18	14	4
29	Tamil Nadu	1015	969	46
30	Tripura	104	68	36
31	Uttar Pradesh	2104	1827	277
32	Uttarakhand	280	206	74
33	West Bengal and A&N Islands	959	900	59
<b>Total</b>		<b>20502</b>	<b>16070</b>	<b>4432</b>

## **B. Performance Management and Court and Case Management through NJDG**

A significant outcome of the eCourts Project is the establishment of National Judicial Data Grid (NJDG). The NJDG has the following three objectives:

- a) Act as a monitoring tool for the Judiciary to help in reducing case pendency by ascertaining and analyzing the exact number of arrears in every court in the country
- b) Facilitate better monitoring of court performance and provide timely inputs for policy decisions
- c) Facilitate better resource management

NJDG was launched on 7th August 2013 and has been opened to general public on 19th September, 2015. NJDG is the national data warehouse for case data including case registration, cause lists, case status and orders/ judgements for courts across the country. Case data of 17468 courts in 4929 establishments spread over 542 judicial districts is available on the NJDG. Under Phase II of the eCourts project it is aimed to cover case data of all courts across the country. The number of courts is not the same as the number of computerized courts (13742) mentioned elsewhere, as many judicial officers hold more than one court. Data of cases relating to family matter is not visible on the NJDG portal for reasons of privacy.

In its Policy and Action Plan Document for Phase II of the Project, the eCommittee of the Supreme Court of India has recommended strengthening of the NJDG in order to enable policy planners and policy makers to manage case loads and bring in effective case management systems. It added that data analysis tools in NJDG and Judicial Management Information system is *inter-alia* meant to serve as judicial performance enhancement measure for Chief Justices of High Courts and Judges in administrative charge of a district.

The data available on NJDG can be used to generate different types of MIS reports. This has immense benefits for researchers, the general public, litigants and lawyers, the judiciary and the government, as explained below:

- i) NJDG is an effective tool for researchers to undertake statistical analysis, and in particular to analyse pendency of cases, reasons for pendency, main stages of delays in judicial proceedings etc., and to make suggestions for policy planning.

- ii) The public can access the NJDG for getting better knowledge of judicial processes and about the categories of cases being adjudicated, such as cases filed by senior citizens and women.
- iii) While litigants and lawyers are able to see the cause lists and progress of their cases in relevant courts.
- iv) NJDG helps the judiciary in monitoring of case loads, optimum distribution of cases, court performance, resource management, monitoring the number of adjournments etc. NJDG can also give information of types of cases reported in particular locations, thus enabling discernment of patterns and trends of institution of different types of cases for better court and case management. Thus, the judiciary benefits from the NJDG for better judicial management and monitoring
- v) Collection of data from all courts across the country manually takes several months. Non-availability of up-to-date data related to pendency of cases and other judicial performance indicators made it difficult to identify actionable areas and take timely policy decisions. The information on NJDG will help the government in policy planning.

Effective utilisation of this immensely useful facility is still evolving. Researchers have started using the data to undertake research and analysis, which is being periodically published in newspapers etc. Lawyers are benefitting from availability of cause lists online and litigants need not go to court premises or their lawyers' chambers to know about the proceedings in their case or the next date of hearing in their matter. The Government has started using the data for generic trend analysis, but is awaiting reconciliation of data submitted through manual registers by the High Courts and the data available on the NJDG before using it for policy planning or for replying to Parliament Questions.

The Judges benefit the most from availability of court and case data on the NJDG in judicial management and monitoring. However, feedback received through various interactions with Judges in workshops, meetings and other platforms has been that while some of them are aware of this facility and have started making use of it, many others are either not aware at all or have not starting making use of it. A systematic sensitisation of all High Court Judges in the matter needs to be undertaken by the Chief Justices.

Information and publicity needs to be undertaken to make the litigants and the general public aware about the uses of this tool. Besides generating or displaying this information in the High Courts and



district court complexes, a publicity campaign needs to be taken through multiple platforms such as media, websites, State and District Legal Services Authorities etc.

## 5. Strengthening of legal aid services:

The provision of free legal aid is a significant cornerstone of social justice in our country, and has also been recognized by the Hon'ble Supreme Court as a fundamental right under Article 21 of the Constitution. Article 39A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society and ensures justice for all. To further this Constitutional mandate, in 1987, the Legal Services Authorities Act was to establish a nationwide network for providing free and competent legal services to the weaker sections on the basis of equal opportunity. A National Legal Services Authority (NALSA) has been constituted under the Act to monitor and evaluate implementation of legal aid programmes and to lay down policies and principles for making legal services available under the Act.

Under the Act, State and district level legal services Authorities are required to not only provide free legal services to the eligible persons, but also to undertake preventive and strategic legal aid programmes and conduct Lok Adalats for amicable settlement of disputes.

Most recently, NALSA has launched village legal service clinics across the country. This kind of progress indicates how innovative India is becoming, in bringing legal services to the doorsteps of those who would otherwise have great difficulty in accessing legal aid. NALSA will also be using para-legal volunteers and empanelled lawyers to educate villagers who remain unaware about the laws and their rights. Such initiatives are enabling the availability of legal services and legal assistance at the grassroots.

The Government of India gives Grants-in-Aid to NALSA which in turn allocates funds to the State Legal Services Authorities which are spread over 36 States and UTs. The details of grants-in-aid given by Govt of India to NALSA in last four years are as under:

Financial Year	Budget Estimate	Revised Estimate	Allocation
2012-13	44.50	39.00	39.00
2013-14	100.00	100.00	80.44
2014-15	142.00	137.00	82.65
2015-16	145.00	120.00	93.94
2016-17	140.00		

To reduce the pendency of cases both at the pre-litigation and post litigation stages legal services institutions under the LSA Act have been organising lok Adalats on various subject matters all over

the country. However, the efforts are still not enough. The following areas be further strengthened and looked at more closely

**(i) Formulating a Monitoring System for legal aid services rendered**

A mechanism needs to be put up in place, based on which data can be collected and analysed relating to number of legal aid seekers (their age, sex, SC/ST etc), the type of aid given, whether satisfied or not and further action required to improve services. Towards this goal, presently the website of NALSA is under updation and a Web-enabled Case Management System of Legal Services Authorities is also being developed. NALSA has also been requested to make provision for linking/incorporation of complaints/receipts/applications being received for legal aid by them, as well as in DoJ, in their system, so that this data can also be captured and monitored and can be reviewed periodically.

**(ii) Increasing lawyers' fee**

Issues relating to the quality of legal aid being provided through legal service institutions have been raised in various fora including in the Parliament. Towards this end, a Committee on the payment of fee to the legal aid lawyers had been set up by NALSA. This Committee has inter alia recommended that fee to Legal Aid Panel Lawyers should be somewhat at par to the fee paid to the Government pleaders and Public Prosecutors, as per the following details:

Sl.No.	Item	Court	Amount in (Rs.)	Court	Amount in (Rs.)
1.	Drafting of substantive pleading	High Courts	1500	<b>Subordinate Courts</b>	1200
2	Drafting of miscellaneous applications	High Courts	@500 per application subject to maximum of Rs.1000 for all applications		@400 per application subject to maximum of Rs.800 for all applications
3	For Appearance	High Courts	@ Rs.1000/- per effective hearing, @Rs.750 for non-effective hearing subject to a maximum of Rs.10,000 (per panel lawyer).		@ Rs.750/- per effective hearing @Rs.500 for non-effective hearing subject to a maximum of Rs.7500 (per panel lawyer).
It would be appropriate if the fee structure is reviewed by NALSA and SLSAs every three years.					

The co-operation of the State Governments is solicited for the immediate implementation of the recommendations, once it has been approved by NALSA.

**(iii) Training**

While Training Modules have been developed for Panel Lawyers and Para Legal Volunteers they also need to be developed for Legal Services Lawyers and Probation Officers attached to the Juvenile Justice Board. Towards this aim, perhaps consultation with National Judicial Academy and State Judicial Academies will be useful.

**(iv) Under-trials**

For provision of legal aid to the poor/needful under-trial prisoners, so far as National Legal Services Authority is concerned, it has to be ensured that the legal aid of good quality is provided on time to the under trials, so that their release is not delayed unnecessarily. Besides legal aid, however, it also needs to be ensured that the police authorities adhere to the time limits for police investigations so that the remands are not extended for the sake of convenience of the authorities alone. Legal Services Authorities also need to ensure that Legal Aid Clinics are established in all Jails in the Country and are fully operational so that day to day needs of under-trials seeking assistance to apply for bails is readily available.

**(v)** The Bar Council and the DRPC of the Department has suggested that the executive & the legal fraternity should be given a larger responsibility in the functioning of State Legal Services Authorities. This may be considered.

## FUNDS ALLOCATED BY NALSA TO SLSAs AND THE SUPREME COURT

S. No.	Name of the State Leg. Ser. Authority	Amount	Amount	Amount	Amount	Amount
		(in crores) <b>2011-2012</b>	(in crores) <b>2012-2013</b>	(in crores) <b>2013-2014</b>	(in crores) <b>2014-2015</b>	(in crores) <b>2015-2016</b>
1	Andhra Pradesh	1.50	1.50	3.00	2.15	3.00
2	Arunachal Pradesh	0.75	0.25	1.22	0.97	0.84
3	Assam	1.50	1.38	1.22	0.97	2.00
4	Bihar	1.50	1.25	3.00	2.15	0.50
5	Chhattisgarh	1.50	0.50	2.22	1.63	2.00
6	Goa	0.80	0.25	1.47	1.13	0.50
7	Gujrat	1.00	1.50	2.57	1.87	2.50
8	Haryana	1.40	1.75	2.77	8.56	0.50
9	Himachal Pradesh	1.30	0.75	1.72	1.30	3.00
10	J & K	1.50	1.25	1.72	1.30	2.00
11	Jharkhand	1.50	0.75	1.42	1.10	2.00
12	Karnataka	1.50	1.00	2.47	1.80	2.50
13	Kerala	1.43	1.75	2.72	3.47	1.50
14	Madhya Pradesh	1.50	2.25	1.82	1.37	1.00
15	Maharashtra	1.50	1.50	1.72	1.30	2.00
16	Manipur	0.90	0.75	1.72	1.30	0.50
17	Meghalaya	0.90	0.75	1.22	0.97	0.50
18	Mizoram	0.90	0.75	1.47	1.13	0.75
19	Nagaland	0.90	0.75	1.72	1.30	1.00
20	Orissa	1.50	1.50	2.22	1.63	2.00
21	Punjab	1.40	1.50	1.72	1.30	2.00
22	Rajasthan	1.50	1.50	1.82	1.37	2.00
23	Sikkim	0.90	0.75	1.22	0.97	0.75
24	Tamil Nadu	1.50	1.75	1.82	1.37	2.00
25	Telangana				2.15	1.50
26	Tripura	1.00	0.75	1.22	0.97	1.00
27	Uttar Pradesh	1.50	1.00	1.52	1.15	1.00
28	Uttarakhand	1.30	0.75	1.47	1.13	1.00
29	West Bengal	1.50	1.75	1.47	1.13	2.50
30	And. & Nico. Islands	0.33	0.05	0.30	0.35	0.50
31	U.T. Chandigarh	0.60	0.30	1.22	0.97	0.50
32	Dadra & Nagar Haveli	0.35	0.05	0.30	0.35	0.50
33	Daman & Diu	0.35	0.05	0.30	0.35	0.50
34	Delhi	1.30	1.25	1.72	1.30	1.00
35	Lakshadweep	0.30	0.05	0.30	0.35	0.50

36	U.T.Puducherry	0.62	0.75	0.97	0.80	0.50
37	Supreme Court LSC	1.50	1.00	2.00	1.35	2.50
	Mediation & Conciliation		1.00	1.00	0.65	0.75
	Project Committee, Supreme Court of India	41.23	36.38	59.78	55.40	51.59
	NGO	0.68	0.55	0.61	0.61	0.00
	<b>Total</b>	<b>41.91</b>	<b>36.93</b>	<b>60.39</b>	<b>56.01</b>	<b>51.59</b>

**6. Progress made in development of the infrastructure of Subordinate Courts.**

**(a) Status of availability of Court Halls and Residential Units**

**(b) Progress in the ICT enablement of courts under Phase II of the eCourts Project**

**(c) Functioning of the institutional mechanism of the Chief Justices and Chief Ministers for regular interaction among themselves to resolve issues, particularly those related to infrastructure and manpower needs and facilities for the Judiciary, as decided in the Conference of Chief Ministers and Chief Justices held on April 05, 2015**

**a) Status of availability of Court Halls and Residential Units**

Adequacy of judicial infrastructure is a pre-requisite for timely delivery of justice. The issue relating to increasing the number of courts and enhancing their productivity has been on the agenda of judicial reforms for the past several years. The Vision Statement presented in October 2009 at the National Consultation for strengthening the judiciary towards reducing pendency and delays, stressed on the need for efficient utilization of the judicial infrastructure and increasing the use of technology in judicial processes.

The primary responsibility of infrastructure development for the subordinate judiciary rests with the State Governments. The Central Government augments the resources of the State Governments by releasing financial assistance under a Centrally Sponsored Scheme (CSS) for development of judicial infrastructure. The scheme has been in place since 1993-94, and was revised in the year 2011. It now covers the construction of court buildings and residential accommodations of judicial officers of District and Subordinate Courts. Financial assistance is released to the States based on their Action Plan for development of judicial infrastructure keeping in view overall availability funds under Scheme. States must utilize grants released earlier along with the State Share before their request for fresh grant is considered. It has now been decided to accord priority to those States who have shown considerable progress in filling up of vacancies of judicial officers in District and Subordinate Courts.

As of March, 2016, the Central Government has released an amount of Rs.3,694 crore to the State Governments and UT administrations under the revised funding patterns effective from 2011-12 to 2015-16. This represents a significant increase over the sum of Rs.1,245 crore that was provided by the Central Government in the initial phase of the scheme (1993-2011). The details of State-wise and year-wise funds released to the State Governments / UTs during last five years are given in the Statement enclosed.

The progress of infrastructure development for judiciary in States is monitored by a Committee chaired by the portfolio judge of the High Court as per the directions of Supreme Court in All India Judges Association case. The Committee is expected to hold meetings periodically with implementing agencies to ensure that judicial infrastructure projects in the States are completed in time. In the Joint Conference of the Chief Ministers of States and the Chief Justices of High Courts held in April, 2013, it was decided that the mechanism created by the Supreme Court in the All India Judges Association case referred to above of District and State Committees should be made a permanent feature and the Chief Justices of High Courts should actively utilise the said mechanism for ensuring timely proposals for creation, furnishing, maintenance and development of infrastructure of court buildings and residences

As per information collected from High Courts as of March, 2015, there were 15,788 court halls / court rooms available for District and Subordinate Courts in the country. In addition, 2,686 court halls / court rooms were under construction. Comparing these figures with the working strength of about 16,000 judges / judicial officers reported by High Courts as of December, 2015, it may be noted that adequate court rooms / court halls are available for the current strength level of judicial manpower. Focus is now to match the availability of court rooms / court halls with the sanctioned strength of judicial officers / judges in District and Subordinate Courts. Considerable progress has also been made with regard to availability of residential units for judicial officers in District and Subordinate Courts. As of March, 2015, 10,943 residential units were available for Subordinate Courts and 1,692 residential units were under construction. A statement indicating state-wise progress made in improving availability of judicial infrastructure as on 31.03.2015 is enclosed.

State Governments have been contributing to infrastructure development of subordinate judiciary regularly, in addition to taking care of revenue expenditure on the administration of justice. Continued support of the Government to ensure adequate infrastructure will be required, as the amount collected through court fee is not sufficient. A statement giving details of Capital and Revenue Expenditure on administration of justice as well as the amount collected in court fees year wise from 2012-13 to 2014-15 is attached.

Provision of adequate judicial infrastructure is closely connected with the need for proper budgetary planning for the judiciary. In the Chief Justices' Conference held in April, 2013 it was decided that Vision Statements and Court Development Plans should be drawn up for all High Courts and District Courts, covering matters relating to infrastructure, computerization, human resource development,



setting measurable performance standards, performance parameters, enhancing user friendliness of the judicial system, etc. A communication in this regard was also sent by the Minister of Law and Justice to the Chief Justices of the High Courts in July, 2013. Following this, several High Courts have formulated their Vision Statements and Court Development Plans.

During the CM/CJ Conference held on April 5, 2015, it was resolved that the Chief Justices and the Chief Ministers shall institute a mechanism for regular interaction among themselves to resolve issues, particularly those relating to infrastructure and manpower needs and facilities for the Judiciary. Once this mechanism is set in motion along with the proper planning and budgeting exercise it would have a salutary effect on availability of adequate judicial infrastructure and judicial manpower for liquidating the pendency and backlog of cases.

**Statement of Grants Sanctioned under CSS Scheme for Infrastructural Facilities for Judiciary**

(Rs. In Crore)

Sl. No	State	Funds sanctioned from 1993-94 to 2010-11	Funds sanctioned in 2011-12	Funds sanctioned in 2012-13	Funds sanctioned in 2013-14	Funds sanctioned in 2014-15	Funds sanctioned in 2015-16	Funds sanctioned from 2011-12 to 2015-16	Total Funds sanctioned (1993-94 to 2015-16)
1	Andhra Pradesh	76.8345	18.8800	63.9300	0.0000	0.0000	0.0000	82.8100	159.6445
2	Bihar	40.3637	0.0000	15.2400	0.0000	49.0935	0.0000	64.3335	104.6972
3	Chhattisgarh	29.0747	20.9700	0.0000	0.0000	21.7660	0.0000	42.7360	71.8107
4	Goa	6.2793	1.7200	0.0000	0.0000	0.0000	0.0000	1.7200	7.9993
5	Gujarat	53.7142	0.0000	98.9300	100.0000	100.0000	50.0000	348.9300	402.6442
6	Haryana	35.1642	21.3800	0.0000	36.3200	0.0000	50.0000	107.7000	142.8642
7	Himachal Pradesh	15.0700	0.0000	0.0000	8.0600	0.0000	0.0000	8.0600	23.1300
8	Jammu & Kashmir	16.8760	10.3500	25.7200	34.2800	34.2900	13.2500	117.8900	134.7660
9	Jharkhand	19.0652	0.0000	15.0000	16.9300	30.4400	30.4400	92.8100	111.8752
10	Karnataka	65.3685	29.6100	76.1000	103.8400	163.7000	50.0000	423.2500	488.6185
11	Kerala	34.1930	11.6900	14.9900	0.0000	0.0000	0.0000	26.6800	60.8730
12	Madhya Pradesh	63.8204	44.0300	20.4600	61.4100	61.4100	50.0000	237.3100	301.1304
13	Maharashtra	111.3162	129.1500	59.2024	100.0000	99.7500	50.0000	438.1024	549.4186
14	Orissa	50.7427	24.1600	15.3400	0.0000	0.0000	0.0000	39.5000	90.2427
15	Punjab	26.7792	0.0000	79.0200	120.0000	98.0500	50.0000	347.0700	373.8492
16	Rajasthan	41.8851	11.7200	10.4200	0.0000	0.0000	50.0000	72.1400	114.0251
17	Tamil nadu	58.3546	0.0000	19.5300	73.4300	0.0000	0.0000	92.9600	151.3146
18	Uttarakhand	16.3535	0.0000	8.2976	20.4300	35.5905	0.0000	64.3181	80.6716
19	UttarPradesh	175.4257	156.5900	93.9800	125.3000	125.3100	50.0000	551.1800	726.6057
20	West Bengal	64.3546	25.1800	0.0000	0.0000	20.0000	0.0000	45.1800	109.5346
<b>Total (A)</b>		<b>1001.0353</b>	<b>505.4300</b>	<b>616.1600</b>	<b>800.0000</b>	<b>839.4000</b>	<b>443.6900</b>	<b>3204.6800</b>	<b>4205.7153</b>
<b>NE States</b>									
1	Arunachal Pradesh	4.4144	9.7200	7.5000	0.0000	10.0000	15.9300	43.1500	47.5644
2	Assam	59.2640	28.9000	29.5490	0.0000	0.0000	0.0000	58.4490	117.7130
3	Manipur	6.4171	0.0000	0.0000	15.0000	20.0000	20.0000	55.0000	61.4171
4	Meghalaya	2.9700	0.0000	0.0000	14.7400	17.0900	20.3700	52.2000	55.1700
5	Mizoram	10.9995	0.0000	7.0478	8.1256	10.8500	0.0000	26.0234	37.0229
6	Nagaland	38.6064	1.6900	7.5000	0.0000	20.1600	0.0000	29.3500	67.9564
7	Sikkim	12.7805	0.0000	5.4950	28.0284	0.0000	0.0000	33.5234	46.3039
8	Tripura	10.9725	0.0000	14.9560	29.1060	15.5000	0.0000	59.5620	70.5345
<b>Total (B)</b>		<b>146.4244</b>	<b>40.3100</b>	<b>72.0478</b>	<b>95.0000</b>	<b>93.6000</b>	<b>56.3000</b>	<b>357.2578</b>	<b>503.6822</b>

<b>UTs</b>									
1	A & N Islands	3.9555	5.0000	0.0000	0.0000	0.0000	0.0000	5.0000	8.9555
2	Chandigarh	34.0095	5.0000	0.0000	0.0000	0.0000	0.0000	5.0000	39.0095
3	Dadra & Nagar Haveili	2.0625	5.0000	0.0000	0.0000	0.0000	0.0000	5.0000	7.0625
4	Daman & Diu	1.9000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	1.9000
5	Delhi	36.4708	22.5000	20.0000	0.0000	0.0000	60.4032	102.9032	139.3740
6	Lakshadweep	0.5125	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.5125
7	Pondicherry	18.9888	12.5000	0.0000	0.0000	0.0000	2.5968	15.0968	34.0856
<b>Total (C)</b>		<b>97.8996</b>	<b>50.0000</b>	<b>20.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>63.0000</b>	<b>133.0000</b>	<b>230.8996</b>
<b>Grand Total (A+B+C)</b>		<b>1245.3593</b>	<b>595.7400</b>	<b>708.2078</b>	<b>895.0000</b>	<b>933.0000</b>	<b>562.9900</b>	<b>3694.9378</b>	<b>4940.2971</b>

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**Statement indicating State-wise Availability of Judicial Infrastructure as on 31.03.2015**

Sl. No	Name of State / UT	Total Number of Court Halls as on 31.03.2015	Number of Court Halls under Construction as on 31.03.2015	Total Number of Residential Units as on 31.03.2015	Number of Residential Units under Construction as on 31.03.2015
1	Andhra Pradesh & Telengana	1047	57	519	33
2	Bihar	1192	212	958	66
3	Chhattisgarh	317	29	178	9
4	Goa	50	0	25	4
5	Gujarat	1189	207	513	244
6	Haryana	428	63	424	100
7	Himachal Pradesh	82	11	68	2
8	Jammu & Kashmir	221	52	101	3
9	Jharkhand	545	43	441	93
10	Karnataka	870	208	712	63
11	Kerala	457	64	190	3
12	Madhya Pradesh	1148	292	1214	163
13	Maharashtra	1841	384	876	206
14	Orissa	359	171	352	8
15	Punjab	490	75	448	15
16	Rajasthan	562	104	649	2
17	Tamil nadu	988	76	1016	26
18	Uttarakhand	188	25	101	25
19	UttarPradesh	1958	388	1176	389
20	West Bengal	771	54	276	70
<b>Total (A)</b>		<b>14703</b>	<b>2515</b>	<b>10237</b>	<b>1524</b>
<b>NE States</b>					
1	Arunachal Pradesh	20	1	13	4
2	Assam	304	39	230	17
3	Manipur	31	14	9	6
4	Meghalaya	30	4	0	0
5	Mizoram	23	22	17	4

6	Nagaland	43	38	19	4
7	Sikkim	12	8	7	7
8	Tripura	66	0	48	0
<b>Total (B)</b>		<b>529</b>	<b>126</b>	<b>343</b>	<b>42</b>
<b>UTs</b>					
1	A & N Islands	17	3	9	0
2	Chandigarh	31	0	27	0
3	Dadra & Nagar Haveili	3	0	3	0
4	Daman & Diu	5	0	3	2
5	Delhi	476	42	302	118
6	Lakshadweep	3	0	3	0
7	Pondicherry*	21	0	16	6
<b>Total (C)</b>		<b>556</b>	<b>45</b>	<b>363</b>	<b>126</b>
<b>Grand Total (A+B+C)</b>		<b>15788</b>	<b>2686</b>	<b>10943</b>	<b>1692</b>

\*As on 30.06.2014

**DETAILS OF CAPITAL AND REVENUE EXPENDITURE INCURRED BY STATE GOVERNMENTS / UT ADMINISTRATION ON HIGH COURTS AND SUBORDINATE COURTS AND AMOUNT OF COURT FEE / FINE COLLECTED IN LAST THREE YEARS (2012-13, 2013-14 and 2014-15) (Rs. In Crore)**

Sr No.	Name of State / UT	Capital Expenditure Incurred on Administration of Justice			Revenue Expenditure incurred on Administration of Justice			Total Expenditure incurred on Administration of Justice (Cabinet + Revenue)			Amount of Court fee / fine collected		
		2012-13	2013-14	2014-15	2012-13	2013-14	2014-15	2012-13	2013-14	2014-15	2012-13	2013-14	2014-15
1	Andaman & Nicobar	2.10	1.25	2.27	5.30	6.02	6.28	7.40	7.27	8.55	1.03	0.82	1.68
2	Andhra Pradesh	25.02	35.92	18.12	588.76	632.91	584.10	613.78	668.83	602.22	35.83	51.20	18.50
3	Arunachal Pradesh	11.55	15.09	2.26	4.61	6.62	23.22	16.16	21.71	25.48	0.20	0.07	0.20
4	Assam	47.26	53.32	41.34	123.49	137.37	155.74	170.75	190.69	197.08	10.30	7.21	7.63
5	Bihar	46.44	49.46	83.86	510.88	558.90	794.06	557.32	608.36	877.92	35.40	45.09	178.00
6	Chandigarh	30.38	24.86	20.53	0.00	4.88	5.07	30.38	29.74	25.60	7.53	8.88	13.32
7	Chhattisgarh	0.00	0.00	13.00	148.79	240.49	386.64	148.79	240.49	399.64	10.86	12.04	25.43
8	Dadra and Nagar Haveli	0.65	0.04	0.00	1.31	1.35	1.47	1.96	1.39	1.47	0.08	0.10	0.09
9	Daman and Diu	0.00	0.00	0.00	1.48	1.38	1.43	1.48	1.38	1.43	3.04	0.16	0.53
10	Delhi	77.26	70.30	130.59	483.93	531.80	605.09	561.19	602.10	735.68	92.15	87.02	92.44
11	Goa	0.00	0.00	0.00	5.17	5.78	6.05	5.17	5.78	6.05	0.23	0.33	0.44
12	Gujarat	25.30	41.83	92.46	365.10	431.22	470.01	390.40	473.05	562.47	26.80	29.98	35.77
13	Haryana				269.65	300.11	371.51	269.65	300.11	371.51	0.57	1.05	0.39
14	Himachal Pradesh	11.04	12.66	2.38	97.07	103.48	118.67	108.11	116.14	121.05	5.98	5.08	6.20
15	Jammu and Kashmir	37.00	39.55	33.07	113.01	119.25	133.91	150.01	158.80	166.98	28.77	35.73	116.25
16	Jharkhand	11.07	41.72	58.24	203.88	224.50	263.12	214.95	266.22	321.36	43.02	39.93	42.17
17	Karnataka	178.48	232.28	329.81	556.29	616.22	696.61	734.77	848.50	1026.42	98.42	128.64	215.48
18	Kerala	1.61	6.95	4.29	349.87	403.14	459.82	351.48	410.09	464.11	146.41	181.62	203.94
19	Lakshadweep	0.00	0.00	0.00	1.00	1.08	1.42	1.00	1.08	1.42	0.00	0.00	0.00
20	Madhya Pradesh	26.71	25.05	27.27	408.31	467.49	530.51	435.02	492.54	557.78	65.20	85.60	97.43
21	Maharashtra	493.53	466.53	192.92	1071.28	1193.78	1265.14	1564.81	1660.31	1458.06	155.64	170.85	157.85
22	Manipur	0.58	0.17	0.74	6.29	6.27	8.87	6.87	6.44	9.61	0.24	0.22	0.30
23	Meghalaya	1.86	15.58	33.79	8.83	18.32	14.20	10.69	33.90	47.99	2.86	3.51	3.23
24	Mizoram	0.00	7.65	18.98	18.76	22.15	22.47	18.76	29.80	41.45	0.54	0.14	0.27
25	Nagaland	21.71	24.47	27.23	12.91	6.53	27.16	34.62	31.00	54.39	0.72	0.25	0.45
26	Orissa	51.81	71.39	46.11	30.96	39.23	46.71	82.77	110.62	92.82	14.54	10.73	17.44
27	Punducherry	0.00	0.00	0.00	10.30	11.14	12.64	10.30	11.14	12.64	2.12	2.26	2.39
28	Punjab				315.49	326.22	373.46	315.49	326.22	373.46	23.19	21.85	22.60
29	Rajasthan	56.00	104.11	137.63	465.99	542.53	665.73	521.99	646.64	803.36	168.50	133.03	186.48
30	Sikkim	0.00	0.00	0.00	0.0147	0.0172	0.0185	0.0147	0.0172	0.0185	0.00	0.00	0.00
31	Tamil nadu	66.11	91.71	70.24	596.19	657.60	756.64	662.30	749.31	826.88	163.32	193.41	200.04
32	Telengana			2.43			185.95			188.38			17.50
33	Tripura	12.43	8.91	24.88	13.44	16.29	25.26	25.87	25.20	50.14	1.56	1.83	2.06
34	Uttar Pradesh	403.67	474.18	599.57	1134.17	1245.15	1281.88	1537.84	1719.33	1881.45	118.98	84.88	102.04
35	Uttarakhand	14.17	10.17	13.46	84.47	94.58	106.95	98.64	104.75	120.41	9.75	13.03	14.71
36	West Bengal	26.47	29.13	52.52	427.84	437.50	436.91	454.31	466.63	489.43	64.73	72.77	65.73
	<b>Total</b>	<b>1680.21</b>	<b>1954.28</b>	<b>2079.99</b>	<b>8434.83</b>	<b>9411.30</b>	<b>10844.72</b>	<b>10115.04</b>	<b>11365.58</b>	<b>12924.71</b>	<b>1338.51</b>	<b>1429.31</b>	<b>1848.98</b>

**b) Progress in the ICT enablement of courts under Phase II of the eCourts Project**

The Government approved Phase II of the eCourts MMP for the duration of four years or until the project is completed, whichever is later, at the cost of Rs.1670 crores. The Project involves further enhancement of ICT enablement of Courts with the objective of

- i. Computerisation of around 5751 new courts
- ii. Enhanced ICT enablement of existing 14,249 computerised courts with additional hardware.
- iii. Connecting all courts in the country to the NJDG through WAN and additional redundant connectivity, equipped for eventual integration with the proposed interoperable criminal justice system (ICJS).
- iv. Citizen centric facilities such as Centralised Filing Centres and touch screen based Kiosks in each Court Complex.
- v. Provision of laptops, printers, UPS and connectivity to Judicial Officers not covered under Phase I and replacement of obsolete hardware provided to Judicial Officers under Phase I.
- vi. Installation of Video Conferencing facility at 2500 remaining Court Complexes and 800 remaining jails.
- vii. Computerisation of SJAs, DLSAs and TLSCs.
- viii. Creating a robust Court Management System through digitisation, document management, Judicial Knowledge Management and learning tools management.
- ix. Installation of Cloud network and solar energy resource at Court Complexes.
- x. Facilitating improved performance of courts through change management and process re-engineering as well as improvement in process servicing through hand-held devices.
- xi. Enhanced ICT enablement through e-filing, e-Payment and use of mobile applications.
- xii. Citizen centric service delivery.

Benefitting from the experience of Phase I, a decentralized model of implementation of procurement activities has been adopted. The eCommittee shall give strategic guidance and approve the specifications of the hardware to be procured, while NIC shall provide technical advice. The High Courts are now responsible for procurement. Sanction Orders issue in this regard are at Annexure II.

The eCommittee has also conveyed to the High Courts to plan procurement for courts not yet covered in Phase I. The eCommittee has finalised the design and specifications for other equipment to be procured under the project, such as touch-screen based kiosks with printers, and is working on the specifications for hand-held devices, display monitors and Digital Signature Tokens and will to the High Courts to begin procurement. Similarly, NIC is working on the Cloud architecture and connectivity options to be deployed in courts.

The Policy Document prepared by the eCommittee had included provision of scanning and digitisation of case records and technical manpower at District and Subordinate Courts. These activities are not being funded through the Central Government, but are included in the recommendations made by the 14<sup>th</sup> Finance Commission for the justice sector. While a onetime investment in computerisation is being provided by the Central Government, all recurring expenses have to be borne by the State Governments. As resolved in the CM/CJ Conference held on 5<sup>th</sup> April 2015, an institutional mechanism between the Chief Ministers of States and the Chief Justices of corresponding High Courts is available to ensure that necessary funds are made available by the State Governments for these activities.

It has been observed that the information regarding number of courts, judicial officers and pendency of cases received from the Registrars General (RGs) of High Courts by the Department of Justice and that received from the Central Project Coordinators (CPCs) by the eCommittee is at variance. Since the figures are coming from different wings of the same High Courts, reconciliation between these wings is essential. This matter has been raised by the Department in the regional discussions organised by the eCommittee with Computer Committees of High Courts, and it is hoped that the reconciliation will be undertaken expeditiously so that factually correct data is available for answering Parliament Questions and for planning purposes.

A Memorandum of Understanding (MOU) has been signed between State Governments, Government of India and High Courts, delineating their respective responsibilities under Phase I of the Project. A similar MoU for Phase II of the Project has been drafted for the Phase II of the Project and submitted to the eCommittee for concurrence, after which it shall be shared with the State Governments and High Courts for acceptance and signature. This Conference may like to set a similar deadline for signing of the MOU so that all parties are clear about their respective responsibilities and discharge them to complete the project in time as well as sustain the ICT enablement in the long term.

The primary advantage of universal computerization of courts will be the ‘automation of workflow management’. This would enable the courts to exercise greater control over management of cases



in the docket. It will also enable administrative Judges in High Courts to monitor and improve court and case managements at the District and Subordinate court level. The Government will also be able to use the automated availability of data to undertake better policy and planning.

Chief Ministers of States and Chief Justices of High Courts may like to deliberate on the steps required to ensure successful completion of all activities under the Project in time.

**c) Functioning of the institutional mechanism of the Chief Justices and Chief Ministers**

It was resolved in the Conference of Chief Ministers and Chief Justices held on April 05, 2015 to have an institutional mechanism of the Chief Justices and Chief Ministers for regular interaction among themselves to resolve issues, particularly those related to infrastructure and manpower needs and facilities for the Judiciary. The CM/CJ Conference may like to review the functioning of this mechanism.

**7.(i) Strengthening the Juvenile Justice System;**

**(ii) Constitution and working of the Authorities and establishment and condition of various homes referred to in the Juvenile Justice (Care and Protection of Children) Act, 2000.**

The Juvenile Justice (Care and Protection of Children) Act, 2000 had been in operation for more than a decade. During the course of its implementation, various issues had arisen, which were hampering its effective implementation such as lack of clarity in roles of statutory bodies, high pendency of cases, delays in adoption, inadequate provisions to counter offences against children, etc. In order to address these issues, the Ministry of Women and Child Development adopted a consultative process for drafting the Juvenile Justice (Care and Protection of Children) Act, 2015 involving all stakeholders such as State Governments, Ministries concerned, experts, academia, civil society organizations, etc. Several provisions from Model JJ Rules, 2007 were included in the JJ Act, 2015 to give the provisions legislative imperative.

The Juvenile Justice (Care and Protection of Children) Act, 2015 has come into effect from 15th January, 2016. The Act provides for proper care, protection and treatment of children by catering to their development needs and by adopting child friendly approach in the best interest of the child.

In order to ensure greater sensitivity to effectively deal in the field of Juvenile Justice, the new Act includes several new provisions and some provisions have been shifted from Central Model Rules, 2007. These provisions are listed below:

- Experience and qualification of Juvenile Justice board Members has been listed in section 4 of the Act. No social worker is to be appointed as members of Board unless he has been actively involved in health, education or welfare activities pertaining to children for at least seven years or a practicing professional with degree in child psychology, psychiatry, sociology and law. Induction training and sensitization of all members including Principal Magistrate has been made mandatory within sixty days from the date of appointment on care, protection, rehabilitation, legal provisions and justice for children.
- Section 8 states that the Board shall ensure informed participation of child in every step of process; that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation; provide interpreter or translator to the child if he

fails to understand the language used in proceedings and provide legal aid for the child through legal service institution.

- With regard to Child Welfare Committee, Section 27 states that no person shall be a member of the Committee unless such person has been actively involved in health, education or welfare activities pertaining to children for atleast seven years or is practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.
- Induction training and sensitization of all members has been made mandatory within sixty days from the date of appointment on. • District Magistrate is to conduct quarterly review of the functioning of the Committee.

With regard to constitution of Juvenile Justice Boards (JJB) and Child Welfare Committees (CWC), the Juvenile Justice (Care and protection of Children) Act, 2015 restates the provisions of the earlier Act that such statutory bodies should be set up by state Government for discharging functions relating to children in conflict with law and children in need of care and protection.

The Hon'ble Supreme Court also has raised this issue in WP (C) 473 of 2005 in the matter of Sampurna Behrua vs. Uol & Ors. in order dated 24/7/2015. The Hon'ble Court had directed the Registrar General of all High Courts to take up the matter of constitution of JJBs and CWCs with Hon'ble Chief Justice of the High Court and the Juvenile Justice Committee of the High Court and look into this matter in conjunction with the Executive Chairman of the State Legal Services Authority and the Member Secretary of the State Legal Services Authority and set up an appropriate number of Juvenile Justice Boards, where necessary.

As per information received under the Integrated Child Protection Scheme, 647 JJBs and 644 CWCs have been constituted across the country.

With regard to regular visits to the Juvenile Homes, Special Homes, Observation Homes, Shelter Homes and Rescue Centres etc. it is to be noted that this was an area of concern in the implementation of the JJ Act, 2000. To ensure inspection of institutions, the JJ Act, 2015 has made several provisions, which are described below:

- Section 8 requires the JJB to conduct at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the state Government

- Similarly Section 30 requires that the CWC shall conduct at least two inspection visits per month of residential facilities for children in need of care and protection and recommend action for improvement in quality of services to the State Government.
- Section 54 provides for appointment of inspection Committees for the State and district for all institutions registered or recognized to be fit under the act. The inspection committees are to mandatorily conduct visits to all facilities housing children in the area allocated, at least once in three months in a team of not less than three members, of whom at least one is to be a woman and one a medical officer, and submit reports of the findings of such visits within a week of their visit to the State Government for further action.
- Section 55 provides for independent evaluation of the functioning of all institutions under the Act.

With regard to setting up of Homes and provision of requisite facilities as per the Standards, Rules, Policies and Guidelines, the JJ Act, 2015 includes a detailed list of rehabilitation and reintegration services that are to be provided by institutions registered under the Act such as basic requirements of food and shelter; appropriate education; skill development; occupational therapy and life skill education; mental health interventions; recreational activities including sports and cultural activities; referral services for education, vocational training, de-addiction; etc. further, in order to bring the Homes under the purview of the new Act, Section 41 makes registration of all institutions mandatory housing children in need of care and protection or children in conflict with law within six months from the date of commencement of the Act. The Section also states that application for registration is to be disposed of within six months and in case of non-compliance, it shall be regarded as dereliction of duty on the part of officer or officers and appropriate departmental proceedings shall be initiated. Section 42 makes non-registration an offence with punishment of imprisonment which may extend to one year or a fine of not less than one lakh rupees or both.

## **8. Utilization of Grant sanctioned by 14<sup>th</sup> Finance Commission under different Heads-A Strategy**

The 14<sup>th</sup> Finance Commission endorsed the proposals contained in the Memorandum submitted by Department of Justice, which were guided by the need to ensure easy access to court services, and enhancing public confidence in the court system. These proposals are in addition to the normal servicing of the needs of the justice sector in the State.

Briefly, the proposals include:

- a) setting up of Additional Courts, Fast Track Courts and Family Courts for reducing pendency,
- b) re-designing existing Courts to make them more litigant friendly,
- c) providing technical manpower and scanning and digitization of case records to enhance ICT environment of Courts,
- d) setting up of ADR Centers and judicial academies to supplement efforts to improve judicial infrastructure,
- e) enhancing access to justice by:
  - i) supporting Law School based Legal Aid Clinics with focus on undertrials
  - ii) organizing Lok Adalats, and
  - iii) incentive to mediators/conciliators to encourage mediation/conciliation
- f) training and capacity building activities for judges, public prosecutors, mediators and lawyers

The Commission urged State Governments to use the additional fiscal space provided by the Commission in the tax devolution to meet such requirements. Now, each High Court needs to examine which of these items need to be taken up on priority and include the same in their budget proposals to the State Governments. Many State Governments are already providing for these activities in their existing budgets. The gaps need to be identified and if there are issues, they can be sorted out in a meeting between the Chief Minister and the Chief Justice.

## **9. Review of the quality legal education Programme(s) in the States: Trends and Challenges.**

India today has the largest legal profession in the world (approx. 1.6 million lawyers), though not all of them are in legal practice in the conventional sense (i.e. litigation-oriented practice). Though the legal profession has been the monopoly of the male gender in the past, women are now joining legal practice in increasing numbers and are finding their places in the judiciary as well. The steady influx of people from the lower socio-economic strata to legal careers is changing the composition of the profession, and strengthens democracy and rule of law in the country. Legal practitioners are finding lucrative ways to practice outside courts and litigation, compelling reforms in organization, management and disciplinary control of the profession.

On the negative side, one must mention the paucity of competent teachers even in the best of law schools to guide the growing body of motivated students. There are vacant positions in every law school. Bright law graduates do not join post-graduate studies in Indian law schools nor they are attracted to teaching and research positions in them. Many of them migrate to U.S. and U.K. law schools for LL.M. education and either do not return to India or agree to take up teaching positions in India. This situation has led policy planners to consider restructuring post-graduate legal studies (the LL.M. degree is still a pre-requisite for teaching position in law schools) making it a one-year programme geared to teaching, research and specialization (the proposal is under consideration of the University Grants Commission which regulates post-graduate programmes in law). The Bar Association of India and Society of Indian Law Firms have come forward to address the shortage of teachers, offering to send senior advocates to act as adjunct faculty in selected law schools. Some law schools have started recruiting teachers from outside India, paying them attractive service conditions distinct from the rest. Others are entering into exchange arrangements under which students and teachers are provided opportunities to learn in different environments under credit transfer arrangements. Everyone now realizes that unless the faculty position is improved, the future of legal education is bleak and students with financial capacities will migrate to other jurisdictions for their education.

The standard of legal education in India has not reached the heights and prestige associated with the same abroad. These can be broadly classified into problems related to infrastructure, curricula, faculty and students themselves. The issues plaguing legal education are:

a) Lack of Infrastructure: - Many of the Law Colleges (Private and Public both) lack proper infrastructure, such as Class Rooms, Library, etc. The Bar Council of India in the year 2010 has taken a decision that all the permanent and deemed status law colleges to be inspected by the BCI because these law colleges were running without proper infrastructure and faculties etc. then, the Council has requested these colleges to apply to the Bar Council of India for extension of approval of affiliation beyond the academic year 2010-2011. The Hon'ble High Court of Madras, Madurai Bench vide its order dated 06.10.2015 in CrI. O.P. (MD) No. 14573 of 2014 in the matter of S.M. Anantha Murugan Vs. the Bar Council of India and Ors. Opined that students are getting admission in law colleges and obtaining law degrees without insistence of basic qualification, without attendance and age restriction for admission from Letter Pad Colleges for Rs. 50,000/- to 3,00,000/- or similar sums is another important reason, as the Bar Council liberally granted approval to many Letter Pad Colleges, without any man power policy, to do business by selling law degrees.

b) Ease of entry: - As per the Rules of Legal Education, 2008 framed by the Bar Council of India the minimum percentage of marks for obtaining admission in Law Degree Course is 45% for General Category (40% for SC/ST Category). Most students are getting admission in Law Colleges by just fulfilling the criteria laid down by the Bar Council of India. The National Law Schools, Central Universities and some of the Eminent Universities/Colleges conducts the entrance exams for admission into law courses. Whereas, no such entrance exam is conducted by other Law Colleges for admission in Law Courses. There is no uniform admission criterion in the country. Due to this the CrI. O.P. (MD) No. 14573 of 2014 was filed for blocking the entry of criminal elements, who do not possess basic qualifications and purchase law degrees which generously sold for a song by letter pad law colleges located in other States especially in neighbouring States of Tamil Nadu except Kerala. In this matter the Hon'ble High Court has opined that admission of these criminal elements into law colleges have to be prevented by getting antecedent certificate.

c) Lack of faculty: - Many law colleges at the time of inspection by the Legal Education Committee of the Bar Council of India fulfill all the criteria including the teaching staff. Later on the teaching staff decreases in the law colleges. The Legal Education Committee of the Bar Council of India from time to time had pointed out the issue of shortage of faculty in the Government Colleges and the Government Universities. The Legal Education Committee had also issued show-cause notices to the said Government Institutions to fill up the vacancies as early as

possible. The BCI also received letters from those institutes that the State Government/UGC is not taking keen interest to fill up the vacancies. Recently, the Bar Council of India has discontinued the affiliation of Law Centre-I and Law Centre-II of the Delhi University because of lack of permanent teaching staff. Most of the faculties in these law centres are working on contract basis.

d) Attendance of Students: - The Hon'ble High Court of Madras in CrI. O.P. (MD) No. 14573 of 2014 opined that many persons employed in Government and private service are attending their work and simultaneously studying 3 year Law Course from Law Colleges which are located more than 100 kilometers away from their work place and it only proves that these people undergo course by proxy which is prohibited.

There are some means by which the quality of education can be given a drastic facelift:

1. Currently, the inspection is confined to the infrastructure and other facilities. In addition, the commitment of the owner to the cause of education also ought to be kept in mind while granting permission. Thus, entry into the area must be made more difficult.
2. A series of conferences and workshops on teaching technologies and methods must be organized regularly for teachers by the UGC and the Bar Councils.
3. The Universities and Law colleges must incorporate student exchange programmes and encourage teachers to visit other premier legal institutions.
4. The selection of law teachers must rely solely on marks obtained in the LLM. The procedure must be unfettered and transparent and include a demo lecture before recruitment.
5. The examination must test the qualities required for moot courts, problem solving and drafting.
6. Strict standards must be followed in recognizing and granting affiliations to law colleges.
7. Law colleges and University departments should be closely connected and integrated with Courts and Advocates. Part time teachers from the Bar and court visits must be adopted.

The Bar Council of India is of the view that centres of legal education should be opened in a State only after due public notice is issued so that the interested parties can come forward with their best proposals for opening a new law institute.

The Bar Council of India has already resolved to constitute a high level committee to be headed by a former Judge of the Supreme Court of India for suggesting ways and means of improving the legal education and legal profession in the country. This committee would be consisting of one or two sitting chief justice of high court in India, prof. Dr. Madhava Menon, Prof.



Dr. N.L. Mitra, Prof. Ranbir Singh, Prof. Dr. Venkata Rao, Prof. B.N. Pandey and Dr. V. Laxminath would also be members of this committee.

### **Lawyers Academies and Training Programmes/ Advisory Committee**

The Bar Council of India has undertaken to establish through State Bar Councils, the Lawyers Academies in almost all the States within a period of 12 months. Such academies for training of young lawyers has already been established in the State of Kerala by the Bar Council of India and the State Bar Council in the name of M. K. Nambyar Lawyers Academy. The Hon'ble Chief Justice of India and Hon'bel Union Law Minister inaugurated the said academy and it has already started functioning. The Second such lawyer's academy is going to be inaugurated and established in the State of Jharkhand on 16-17 July, 2016. The Hon'ble Chief Justice of India has already consented to lay down the foundation stone of the academy. Similarly, in the states of Bihar, Uttar Pradesh and some other States, the matter of selection of the land and other things is at almost on final stage.

The Council has an Advisory Committee for streamlining such academies and also for suggesting the ways and means for proper implementation of the scheme of online education for all the law students of the country. This Committee is to be headed by a sitting Hon'ble Judge of the Supreme Court of India and it consists of sitting Judges of High Courts and the noted academicians including Prof. (Dr.) N. R. Madhav Menon and 3 Vice-Chancellors of National Law Universities.

All India Reports Pvt. Ltd. Has undertaken to impart the online education to all the law students and the provision of online teaching in the class rooms throughout the country on a no-profit no-loss basis. This scheme is to be monitored by the aforementioned Advisory Committee.

After the superannuation of Hon'ble Mr. Justice M. Y. Eqbal (who was heading the committee), the Council has already written to Hon'ble Chief Justice of India for nominating a sitting Hon'ble Judge of Supreme Court of India to chair this Committee. This is in the interest of the Leal Education and Legal Profession of the country.

The Bar council of India had opened a new chapter in quality education in India by conceiving and materializing the establishment of National Law School of India University, Bengaluru, Karnataka (NLSIU). It has been a very successful and path breaking innovation. On this pattern, various national law schools have been established in different states and some of them have earned great name and reputation at international level in imparting quality legal education. National Academy of Legal Studies and Research University, Hyderabad (NALSAR), The West Bengal National University of Juridical Sciences and National Law School University, Delhi are few prominent

ones amongst such national law schools. The Bar Council of India is of the view that such national law schools should be established in all the different states in the country where they have not yet been established. The concerned state Governments should take appropriate and prompt steps in this regard.

The Bar Council of India has come across numerous number of cases in which it has been discovered that the centres of legal education being run and managed by the State Governments and state Universities are facing acute shortage of faculty and infrastructure. These centres of the Legal Education are being run by engaging by part time and guest faculty which is not permissible under legal education rules — 2008. The response of the Government in removing these deficiencies has been very cold. The posts of lectures have not been filled up in almost in all the states. Repeated reminders have fallen on deaf ears. The Chief secretaries of Government of Rajasthan and of Madhya Pradesh have requested the Bar Council of India to give some time to sanction the posts of law teachers and to improve the infrastructure of law colleges in the year 2013 but nothing concrete has been done till date. The unfortunate part is that breach of the statutory legal education rules is being done by state Governments setting wrong an example for private players in the field of legal education.

## **10. Establishment of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts**

### **A. Background**

As per the World Bank's Doing Business Report 2016 (**2016 Report**), India is ranked 178 out of 189 countries on the indicator for 'Enforcing Contracts.' This makes it India's second worst performing indicator after 'Dealing with Construction Permits.' According to the 2016 Report, it currently takes 1,420 days and 39.6% of the claim value to resolve a dispute, which is higher than South Asia's regional averages as well as that of OECD countries.

The Government of India is committed to easing investor concerns regarding the delays in enforcing contracts. As a step in that direction '*The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015*' (**Commercial Courts Act**) has been enacted by the Parliament.

### **B Reforms introduced in the Commercial Courts Act**

The Commercial Courts Act has made amendments to the Code of Civil Procedure, 1908. The amendments pertain to imposition of costs, disclosure and inspection norms, case management hearing and other provisions for time bound disposal of commercial cases.

Some of the salient features of the proposed amendment are as follows:

#### **(i) Case Management Hearing**

- A new Order on Case Management Hearing has been introduced. The Court is required to hold the first case management hearing not later than 4 weeks from the date of filing the affidavit of admission or denial of documents by all parties to the suit.
- The Court shall 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 6 months from the date of the first case management hearing.
- No adjournment shall be granted for the sole reason that the advocate is not present. However, if the court is satisfied that there is a genuine reason for the absence of the advocate, then it may adjourn the hearing on another date. If an adjournment is sought in advance, then the court may adjourn the hearing upon the payment of such costs as the court may deem fit.
- If the defendant fails to file the written statement within the stipulated period of 30 days, then the Court may at its discretion and for reasons to be recorded in writing and on payment of costs, grant an extension to the defendant to file the written statement, **subject to the written statement being filed within 120 days from the date of service of summons**. Upon expiry of the 120 days, the defendant will forfeit the right to file the written statement and the court will not have the discretion to allow the written statement to be filed.
- In case a party fails to comply with the order of the court passed in a court management hearing, then the court shall have the power 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.

- A party shall within 4 weeks prior to the commencement of oral arguments submit written arguments to the court and such written arguments shall form part of the record. 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.
- The Commercial Court, Commercial Division or Commercial Appellate Division, as the case may be shall within 90 days of the conclusion of the arguments, pronounce judgment and copies thereof shall be issued to all parties to the dispute through e-mail or otherwise.

(ii) **Summary Judgment**

- A new Order has been introduced by which the Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.
- The Court may grant summary judgment against the plaintiff or the defendant if it considers that the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim.

(iii) **Disclosure, Discovery and Inspection of Documents in Suits Before the Commercial Division of a High Court or a Commercial Court**

- A new Order on Disclosure, Discovery and Inspection of Documents has been introduced which prescribes a detailed and stringent procedure for disclosure, inspection and discovery of documents in cases of commercial disputes.
- It specifies that all parties shall complete the inspection of documents disclosed within 30 days of the filing of the written statement. The court may extend this time limit, subject to maximum of 30 days.
- The court has also been granted the power to impose exemplary cost on a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to the suit, or where a court believes that inspection of the documents had been wrongfully or unreasonably withheld or refused.

**C Other measures to improve the Ease of Doing Business in India**

(a) *Legislative measures*

In addition to the enactment of the Commercial Courts Act, the Arbitration and Conciliation Act, 1996 (**Arbitration Act**) has also been amended to streamline the arbitration process and ensure that the arbitration proceedings are completed within a period of twelve months from the date the arbitral tribunal enters upon the reference. Provision has been made for payment of additional fees, as the parties may agree, if the award is made within a period of six months. At the same time, if the arbitration proceedings are delayed beyond eighteen months, the extension of further time can

only be granted by the Court and if the Court finds that proceedings have been delayed for the reasons attributable to the arbitral tribunal it may order reduction of fees of arbitrator (s) by not exceeding 5%, for each month of such delay. Parties to the dispute have also been given an option to agree to adopt a fast track procedure under which the award shall be made within a period of six months from the date the arbitral tribunal enters upon the reference. Further, the amended Act seeks to reduce the intervention of the courts in the arbitration proceedings by clarifying and reducing the grounds of judicial interference especially in cases of interim relief as well as in seeking the enforcement of the arbitral award.

The Companies Act, 2013 had provided for the setting up of The National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT). The NCLT is a specialised tribunal for adjudication of disputes arising of the Companies Act. Further all the cases pending before the Company Law Board, cases before High Courts such as those pertaining to mergers and amalgamations and cases which are currently being heard by the Board of Industrial and Financial Reconstruction shall be transferred to the NCLT. The provisions regarding the constitution of the NCLT as well as the NCLAT was challenged before the Supreme Court and the matter was decided by the Court in May 2015. The process of setting up of these bodies has been initiated and draft rules in this regard have been formulated and disseminated for public comments. It is also pertinent to note that as per the draft rules; the NCLT may seek the assistance of *amicus curiae* to assist it in specific matters. This would ensure that specialised help is available to the NCLT and therefore the question of lack of specialisation may not arise.

(b) ***Increased use of electronic case management and filing systems***

Adoption of electronic case management systems, automation of court proceedings and introduction of electronic case filings are important tools for achieving the timely enforcement of contracts. Accordingly, significant efforts are being made towards adoption of information and communication technology in district and subordinate courts under the eCourts Integrated Mission Mode Project.

As part of its strategic initiative to re-engineer court procedures, the Government has been examining the possibility of reducing delays in the service of summons. Specific emphasis is being placed on the use of ICT tools to increase the efficiency of the serving process. The objective is to make the process of service completely automated, thereby significantly reducing the time taken to adjudicate a dispute.

At the level of the High Court, both Delhi and Bombay High Courts have already adopted the system of e-filings. In case of filings before Delhi High Court the court fees can be paid by purchase of electronic court fee using the online facility provided for this purpose. Bombay High Court has also introduced a system of online payment of court fees through e-payment. In addition, these High Courts have adopted mail/ SMS alert services for advocates and litigants.

*(c) Policy and administrative measures*

The Government has increased the sanctioned strength of the High Court judges and the state governments have also increased the sanctioned strength of the district and subordinate court judges. To reduce the burden of cases on courts all state governments have formulated State Litigation Policies. The National Litigation Policy is on the anvil. The Central Government is also giving financial assistance to the state government to develop the infrastructure facilities for the judiciary in the states.

The Government and the judiciary are also undertaking other measures to improve contract enforcement such as (i) re-engineering of court processes; (ii) stringent implementations of existing procedural laws that are aimed at expeditious disposal of cases, such as limiting the number of adjournments, imposition of costs and delays; (iii) weeding of obsolete laws; and (iv) training of judges on commercial laws.

**D Conclusion**

Subsequent to the enactment of the Commercial Courts Act, the Government has requested the High Courts to expedite the process of establishing commercial courts/commercial divisions. In this regard, Bombay High Court has constituted one Commercial Division and one Commercial Appellate Division and has also constituted a committee to set up one commercial court in each district of the state of Maharashtra. Similarly Delhi High Court has also established a Commercial Division and a Commercial Appellate Division in the High Court as well as Commercial Courts in the districts of Delhi.

The High Courts are also requested to expedite the implementation of their Action Plans for overall reduction of pendency in courts in order to improve the investment climate for both domestic and foreign investors

**11. Any other item with the permission of the Chair.**

**GOVERNMENT OF INDIA**  
**DEPARTMENT OF JUSTICE**

**Subject: Action Taken Report on decisions taken in the Conference of Chief Ministers and Chief Justices of High Courts held on 5 April 2015**

SI No	Agenda	Decision	Action Taken
1	Progress made in development of the infrastructure of subordinate courts.	The discussions indicated that the Central Government has been providing funds for infrastructure of subordinate courts in the ratio of 75:25 (90:10 for North-Eastern States). However, with the additional devolution of funds by the 14 <sup>th</sup> Finance Commission to States from the year 2015-16 onwards, the responsibility of States will increase. There was unanimity during the discussion that the Chief Justices of High Courts and Chief Ministers of corresponding States shall institute a mechanism for regular interaction to resolve issues	Action is required at the level of the State Governments. Hon'ble Minister of Law and Justice has written to the Chief Ministers of States on 3rd June, 2015 requesting them to take early action on the decisions taken during the Conference of Chief Ministers and Chief Justices of the High Courts held in April, 2015. As per information received from the High Courts and the State Governments, 15,558 court halls are available for Subordinate Judiciary against the working strength of 15,360 judicial officers. Further, 2679 court halls are under construction to take care of future requirements.

		relating to infrastructure.	
2	Undertaking judicial reforms through National Court Management System (NCMS):	The contribution of NCMS to judicial reforms was recognized {It has been resolved in the Chief Justices 'Conference, 2015 that the State Court Management System Committees shall endeavour to evolve workable solution for clearance of arrears including establishment of additional courts and for laying down standards for infrastructure of courts and residential accommodation for Judges of the High Courts and Judicial Officers. These will in turn hold NCMS Committee to evolve uniform standards at the macro level for speedy and cost effective elimination and arrears in a mission mode}	National Court Management System has been constituted by the Supreme Court. Necessary information about the progress on the issues pertaining to the National Court Management System may be obtained from the Additional Registrar and Member Secretary, National Court Management System, Supreme Court.
3	Progress in the ICT	It was noted that 95% of the targeted	Under the Phase I of the eCourts Mission Mode Project, 95% of the targeted



enablement of Courts.	<p>computerization of District and Subordinate Courts under Phase-I and the eCourts Project has been completed by March 2015. The Central Government is in the process of approving Phase-II of the Project at a cost of Rs.1670 crore to ensure universal computerization and enhancement of ICT enablement of courts. It was noted, however, that the responsibility for replacement and maintenance of computer hardware and technical manpower remains with the State Governments. In accordance with the recommendations of the 14<sup>th</sup> Finance Commission, funds for provision of technical manpower in courts and for scanning and digitization of case records will also be provided by the State Government from the additional</p>	<p>District and Subordinate Courts were computerised within the project duration.</p> <p>Envisaging further ICT enhancement through universal computerisation of all the courts, use of cloud computing and enhanced availability of e-services to lawyers and litigants through e-filing, e-payment gateways and mobile applications etc., the Government approved Phase II of the eCourts MMP on 16<sup>th</sup> July, 2015 to be implemented in four years, at the cost of Rs.1670 crore. The project would function in line with the Digital India program of the Government of India.</p> <p>Phase II of the Project aims to create ICT infrastructure at all courts and the ownership of such infrastructure shall be with respective State Government/High Courts. The maintenance and upkeep of such infrastructure shall be responsibility of the State Governments. A tripartite Memorandum of Understanding among the Government of India, High Courts and State Governments will mandate the State Governments to ensure maintenance and upkeep of the equipment provided under the Project.</p> <p>Access to the National Judicial Data Grid (NJDG) was opened to general public on 19<sup>th</sup> September, 2015. The information on NJDG will help to improve the administration of justice delivery as well as judicial management and monitoring. The portal provides online services to litigants such as details of case registration, cause list, case status, daily orders, and final judgments. Currently, litigants can</p>
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	<p>devolution of funds to States. State Governments must, therefore, budget for adequate funds so that benefits of eCourts Project such as online availability of cause lists, case status and judgements are released for all courts in the country. {The Chief Justices' Conference, 2015 also resolved that the State Government must be impressed upon to provide financial assistance for replacement of hardware, including having adequate technical manpower}.</p> <p>The National Judicial Data Grid (NJDG) receives case data for more than 13,000 courts already. Efforts are now required to make available case data of all balance courts on NJDG, particularly from the States of Delhi, Gujarat and Madhya Pradesh where data migration is</p>	<p>access case status information in respect of over 5 crore pending and decided cases and more than 2 crore orders/judgments pertaining to district and subordinate Courts. Case data in respect of district courts in Gujarat and one district of Delhi have been migrated to the NJDG; efforts are on to migrate other Courts of Delhi and Courts of MP.</p> <p>To have uniformity of case type-wise case data mentioning the case stages, case sub-stages, the Act and Section invoked, uniformity of nomenclature of case type is a pre-requisite. A letter in this regard has been addressed by Hon'ble Minister of Law and Justice to Hon'ble CJI discussing about the use of NJDG once statistics of different types of cases pending in courts are made available. Also, National Court Management System Committee and eCommittee of the Supreme Court of India are working towards Process Re-engineering in order to, inter alia, lead to uniformity of nomenclature of cases.</p>
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		<p>underway. For policy purposes, efforts are required to have a uniform nomenclature of cases across the country for better monitoring of areas more susceptible to litigation and monitoring of arrears of cases of different types for efforts aimed at pendency reduction.</p>	
4	<p>Steps required for reduction of arrears and ensuring speedy trial:</p>	<p>Steps required to reduce pendency of cases was discussed at length, including suggestion that the provisions of law (CPC, CrPC) requiring expeditious disposal of matters and limiting the number of adjournments should be scrupulously followed by the courts. It was observed that arrears can be reduced only if adequate infrastructure and manpower is available and steps are taken to identify areas prone to excessive</p>	<p>National Mission for Justice Delivery and Legal Reforms had prepared a note on Legislative, Policy and Judicial initiatives taken in the recent past for timely delivery of justice. The note inter-alia contained details of legislative changes made in the procedural laws which can bring down time and cost of dispute settlement Arbitration and Conciliation Act and Negotiable Instruments Act. It also contained details of judicial pronouncements which have laid down broad guidelines for the trial courts to effectively deal with the problems of delays in judicial processes. High Courts had been earlier provided a copy of this note for circulation among the judicial officers. High Courts have been requested to establish Arrears Committees and make available real time data on pendency of various categories of cases on the website of the High Courts and District and Subordinate Courts. As per available information, Arrears Committees have been set up in the High Courts of Bombay, Calcutta, Chhattisgarh, Delhi, Himachal</p>

		<p>litigation. For example, the proposed amendments to the Negotiable Instruments Act, 1881, the Motor Vehicles Act, 1988 and the Arbitration and Conciliation Act, 1996 will facilitate reduction of arrears, as would the Process Re-engineering exercise being undertaken by the High Courts and the eCommittee of the Supreme Court to simplify rules and procedures used in courts. {The Chief Justices' Conference, 2015 has resolved that each High Court shall establish Arrears Committee and prepare an action plan to clear backlog of cases pending for more than five years, and will endeavour to evolve a uniform nomenclature for all categories of cases in coordination with the eCommittee for the entire country. For statistical</p>	<p>Pradesh, Jammu &amp; Kashmir, Kerala, Madhya Pradesh, Manipur, Meghalaya, Orissa, Punjab &amp; Haryana, Sikkim, Uttarakhand, Allahabad, Jharkhand, Karnataka, Madras, Patna and Tripura.</p> <p>Arrears of cases have come down as per information given by some High Courts. For example, the Karnataka High Court has informed that “ <i>The Joint Meeting of Administrative Committee No.1 and Arrears Committee constituted by the Hon’ble Chief Justice of India held on 19.01.2016 to consider the matter with regard to the recommendation made by the Hon’ble Chief Justice of India, for formulation of guidelines by the Arrears committee of High Court and to fix targets for disposal of old cases etc. has resolved to request the Arrears Committee of High Court to formulate the guidelines, if necessary, in consultation with other Hon’ble Judges. After the report is submitted, the Joint meeting of Administrative Committee No. 1 and Arrears Committee shall be convened.</i></p> <p><i>The matter regarding pendency and disposal of 5+, 7+ and 10+ was discussed and reviewed in the Meeting of the State Court Management System Committee (SCMS).</i></p> <p><i>The High Court has formed Watch Committee to monitor more than 5 years old cases pending in the Subordinate Courts and High Court and to make appropriate recommendations to fast track their disposal”</i></p>
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		<p>purposes, the High Court will count the main cases only towards pendency and arrears. Interlocutory applications will continue to be separately numbered in original proceeding before the High Court exercising original jurisdiction}.</p>	<p>A committee is also constituted to monitor the progress of cases filed under the Prevention of Corruption Act involving Politicians, Gazetted Officers, Public Officers, Inspectors/Officers of Municipal and Local Bodies of Managers of Bank/Public Sector Enterprises and also the cases involving rape and sexual harassment of women, pending before the trial court in the State.</p>
5	Ease of doing business:	<p>As mentioned by the Minister of Law &amp; Justice, establishment of commercial courts is inherent in the powers of the High Courts. The recommendations made by Law Commission of India for enactment of a Commercial Division and Commercial Appellate Division of High Courts and Commercial Courts Bill, 2015 are being examined by the Central Government in consultation with the State Governments. State Governments were requested to provide their views urgently. Sensitization of</p>	<p>Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act 2015 has come into force w.e.f. 23.10.2015. The Arbitration and Conciliation (Amendment) Act 2015 has also come into force w.e.f. 23.10.2015.</p> <p>Under the eCourts MMP, apart from provisioning of basic ICT infrastructure in the District and Subordinate Courts of the country, the following activities have been carried out in order to contribute to the ease of doing business:</p> <ul style="list-style-type: none"> <li>(i) ICT infrastructure of the Supreme Court and High Courts has been upgraded.</li> <li>(ii) Judicial Service Centre (JSC) have established at all computerised courts.</li> <li>(iii) Over 14,000 Judicial Officers have been trained in the use of UBUNTU-Linux OS and over 4000 court staff have been trained in CIS software.</li> </ul>

		<p>Judges through training programmes will enable the justice sector to increase its contribution to the ease of doing business. ICT enablement of courts will also help in further transparency and access to case data, thereby improving the ease of doing business.</p>	<p>(iv) Process Re-engineering has been initiated in all High Courts to study and suggest simplification in existing rules, processes, procedures and forms.</p> <p>(v) Video Conferencing between 500 courts and corresponding jails: Equipment or Video Conferencing has been delivered at 667 locations.</p> <p>Further, the national e-Courts portal (<a href="http://www.ecourts.gov.in">http://www.ecourts.gov.in</a>) providing online services to litigants such as details of case registration, cause list, case status, daily orders, and final judgments has become operational. Currently, litigants can access case status information in respect of over 5 crore pending and decided cases and more than 2 crore orders/judgments pertaining to district and subordinate Courts.</p>
6	Recommendations of the 14 <sup>th</sup> Finance Commission:	<p>The 14<sup>th</sup> Finance Commission has endorsed the proposal of the Department of Justice for support to the justice sector and urged the State Governments to use the additional devolution of funds by the Commission to implement the recommendations. Category-wise, State-wise details of the activities required to be implemented are attached at Annex-2. Although</p>	<p>The Prime Minister of India in his letter to all Chief Ministers on 23<sup>rd</sup> April urged them to allocate the funds required for the activities recommended by the 14<sup>th</sup> Finance Commission in their State budgets from 2015-16 onwards. The Minister for Law and Justice wrote on 3<sup>rd</sup> June 2015 to all the Chief Ministers of States and Chief Justices of High Courts to implement the resolution of the Chief Ministers and Chief Justices Conference held on 5<sup>th</sup> April 2015 to institute a regular mechanism for regular interaction among themselves to resolve all issues, particularly those relating to infrastructure and manpower needs and facilities for the judiciary. The Department of Justice forwarded the Memorandum submitted to and endorsed by the 14<sup>th</sup> Finance Commission to Law Secretaries of all States for guidance regarding the activities to be undertaken for improving the justice</p>

		<p>Chief Ministers of some States raised doubts about the effective increase in devolution of funds from the divisible pool, all State Governments were urged to allocate funds for these activities in the justice sector which are necessary to reduce pendency as well as make courts more litigant friendly.</p>	<p>delivery in the country.</p> <p>Some states are already providing some of the support required. For example UP has provided support for digitization of case records and Tamil Nadu has provided technical manpower on contract at District Courts and created regular posts for the Madras High Court.</p> <p>The Chief Ministers of States and the Chief Justices of High Courts may like to discuss the action taken based on the institutional mechanism to implement the activities during the last one year.</p>
7	<p>Increase in strength and filling up of vacancies in the High Courts:</p>	<p>Some of the Chief Justices discussed the difficulties in getting adequate infrastructure in the form of court rooms and chambers for the increased Judges' strength in High Courts as well as increasing the sanctioned strength and filling up of vacancies of Judicial Officers. Therefore, it was unanimously decided that the proposed mechanism for regular interaction between Chief Justices and Chief Ministers shall also include issues</p>	<p>During the Joint Conference of Chief Justices and Chief Ministers held on 7.4.2013, it was inter alia resolved to increase the sanctioned strength of judges of High Courts by 25%. The sanctioned strength of Judges of the High Courts of Delhi, Himachal Pradesh, Jammu &amp; Kashmir, Madhya Pradesh, Punjab &amp; Haryana, Jharkhand, Karnataka, Orissa, Rajasthan, Uttarakhand, Chhattisgarh, Gujarat, Bombay, Patna, Manipur, Meghalaya and Madras has been increased, and the total strength of Judges of the High Courts has gone up from 906 in 01.04.2015 to 1056 (as on 01.03.2016).</p> <p><u>Issues raised by the Chief Minister of Haryana during the Joint Conference of Chief Ministers of the States and Chief Justices of High Courts held on 05.04.2015</u></p> <p>(i) <u>Setting up of separate High Court for Haryana at Chandigarh:</u></p>

		<p>relating to manpower needs and facilities for the judiciary.</p>	<p>The Government of Punjab is not agreeable to the demand made by the Haryana Government. However, the Government of Punjab has no objection, if the Government of Haryana has its own High Court within the State of Haryana. The issue needs to be resolved through proper dialogue and consensus between both the State Governments.</p> <p>(ii) <u>Equal representation of Haryana in the deputation posts and in the Punjab &amp; Haryana High Court; and</u></p> <p>(iii) <u>Establishment of separate Bench of the Punjab &amp; Haryana High Court in South Western Haryana</u></p> <p>The request made by the Chief Minister of Haryana for establishment of separate Bench of the Punjab &amp; Haryana High Court in South western Haryana has been forwarded to the Chief Justice of Punjab &amp; Haryana High Court for his views. Response from the High Court is awaited. Further action in the matter will be taken by the Central Government after receipt of response from the High Court.</p> <p>Views of the High Court and Chief Minister of Punjab have also been sought on the proposal for equal representation of Haryana with Punjab in the deputation posts and for the posts of Judges in the Punjab &amp; Haryana High Court. Response from the High Court and the Chief Minister of Punjab are awaited. Further action in the matter will be taken by the Central Government after receipt of response from the High Court and the Government of Punjab.</p>
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8	Strengthening of legal aid services:	<p>There was unanimity in the Conference that the system of Lok Adalats has functioned well in the efforts to reduce pendency and should be encouraged so that the number of cases in the courts as well as litigation is reduced. Consensus merged that these efforts should continue with increased vigour at all levels and courts should cater to all subject matters of litigation. Section 6 of the Legal Services Authority Act, 1987 states that in the discharge of its functions under the Act, the National Legal Service Authority shall wherever appropriate act in coordination with other governmental and non-governmental agencies, universities and others engaged in the work of promoting the cause of legal services to the poor.</p>	<p>A number of steps have been taken to Strengthen Legal Aid Services.</p> <p>The following schemes have been launched by NALSA at the Central Authority meeting held on 17.09.2015:</p> <ol style="list-style-type: none"> <li>1. NALSA Scheme for the Victims of Commercial Sexual Exploitation,2015</li> <li>2. NALSA Scheme for the Workers in the Unorganised Sector, 2015</li> <li>3. NALSA Scheme for Child Friendly Legal Services to Children and Their Protection, 2015</li> <li>4. NALSA Scheme for Legal Services to the Mentally Ill and Mentally Disabled People, 2015</li> <li>5. NALSA Scheme for Access to Poverty Alleviation Programmes, 2015</li> <li>6. NALSA Scheme for Tribal People, 2015</li> <li>7. NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015.</li> </ol> <p>Website of NALSA is being renovating and a Web-enabled Case Management System of Legal Services Authorities is also under process. NALSA has been requested to make provision for linking/incorporation of complaints/receipts/applications being received by the Government also in this System, so that this data can also be captured and monitored.</p>
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9	Strengthening of Juvenile Justice	Some of the Chief Ministers and the Law Ministers of the States	The Juvenile Justice (Care and Protection of Children) Act, 2000 had been in operation for more than a decade. During the course of its implementation,

	System:	<p>highlighted the different steps taken by their respective Governments in strengthening of juvenile justice system.</p> <p>Thus, during discussion it was revealed that considerable progress has been made by different States in strengthening juvenile justice system. However, it was reiterated that more concerted efforts need to be taken in this direction. {In the Chief Justices' Conference, 2015, it was resolved that the High Courts shall continue to take all steps necessary, including evolving ways to ensure greater sensitivity, to effectively deal with cases in the field to Juvenile Justice in their respective States. The High Courts should ensure that constitution of Juvenile Justice Boards and Child Welfare Committees are in place,</p>	<p>various issues had arisen, which were hampering its effective implementation such as lack of clarity in roles of statutory bodies, high pendency of cases, delays in adoption, inadequate provisions to counter offences against children, etc. In order to address these issues, the Ministry of Women and Child Development adopted a consultative process for drafting the Juvenile Justice (Care and Protection of Children) Act, 2015 involving all stakeholders such as State Governments, Ministries concerned, experts, academia, civil society organizations, etc. Several provisions from Model JJ Rules, 2007 were included in the JJ Act, 2015 to give the provisions legislative imperative.</p> <p>The Juvenile Justice (Care and Protection of Children) Act, 2015 has come into effect from 15th January, 2016. The Act provides for proper care, protection and treatment of children by catering to their development needs and by adopting child friendly approach in the best interest of the child.</p> <p>In order to ensure greater sensitivity to effectively deal in the field of Juvenile Justice, the new Act includes several new provisions and some provisions have been shifted from Central Model Rules, 2007. These provisions are listed below:</p> <ul style="list-style-type: none"> <li>• Experience and qualification of Juvenile Justice board Members has been listed in section 4 of the Act. No social worker is to be appointed as members of Board unless he has been actively involved in health, education or welfare activities pertaining to children for atleast seven years or a practicing professional with degree in child psychology, psychiatry, sociology and law. Induction training and</li> </ul>
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		<p>that visits are regularly made to the Juvenile Homes, Special Homes, Observation Homes, Shelter Homes and Rescue Centres etc. and that such homes are set up wherever they have not already been set up. It shall also be ensured that the requisite facilities are provided as per the Standards, Rules, Policies and Guidelines in all such Homes/Centres. The assistance of State Legal Services Authorities and District Legal Services Authorities shall also be taken in this regard.}</p>	<p>sensitization of all members including Principal Magistrate has been made mandatory within sixty days from the date of appointment on care, protection, rehabilitation, legal provisions and justice for children.</p> <ul style="list-style-type: none"> <li>• Section 8 states that the Board shall ensure informed participation of child in every step of process; that the child's rights are protected throughout the process of apprehending the child, inquiry, aftercare and rehabilitation; provide interpreter or translator to the child if he fails to understand the language used in proceedings and provide legal aid for the child through legal service institution.</li> <li>• With regard to Child Welfare Committee, Section 27 states that no person shall be a member of the Committee unless such person has been actively involved in health, education or welfare activities pertaining to children for atleast seven years or is practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human development.</li> <li>• Induction training and sensitization of all members has been made mandatory within sixty days from the date of appointment. District Magistrate is to conduct quarterly review of the functioning of the Committee.</li> </ul> <p>With regard to constitution of Juvenile Justice Boards (JJB) and Child Welfare Committees (CWC), the Juvenile Justice (Care and protection of Children) Act, 2015 restates the provisions of the earlier Act that such statutory bodies should be set up by state Government for discharging functions relating to children in</p>
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		<p>conflict with law and children in need of care and protection.</p> <p>The Hon'ble Supreme Court also has raised this issue in WP (C) 473 of 2005 in the matter of Sampurna Behrua vs. Uol &amp; Ors. in order dated 24/7/2015. The Hon'ble Court had directed the Registrar General of all High Courts to take up the matter of constitution of JJBs and CWCs with Hon'ble Chief Justice of the High Court and the Juvenile Justice Committee of the High Court and look into this matter in conjunction with the Executive Chairman of the State Legal Services Authority and the Member Secretary of the State Legal Services Authority and set up an appropriate number of Juvenile Justice Boards, where necessary. As per information received under the Integrated Child Protection Scheme, 647 JJBs and 644 CWCs have been constituted across the country.</p> <p>With regard to regular visits to the Juvenile Homes, Special Homes, Observation Homes, Shelter Homes and Rescue Centres etc. it is to be noted that this was an area of concern in the implementation of the JJ Act, 2000. To ensure inspection of institutions, the JJ Act, 2015 has made several provisions, which are described below:</p> <ul style="list-style-type: none"><li>• Section 8 requires the JJB to conduct at least one inspection visit every month of residential facilities for children in conflict with law and recommend action for improvement in quality of services to the state Government</li><li>• Similarly Section 30 requires that the CWC shall conduct at least two inspection</li></ul>
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			<p>visits per month of residential facilities for children in need of care and protection and recommend action for improvement in quality of services to the State Government.</p> <ul style="list-style-type: none"> <li>• Section 54 provides for appointment of inspection Committees for the State and district for all institutions registered or recognized to be fit under the act. The inspection committees are to mandatorily conduct visits to all facilities housing children in the area allocated, at least once in three months in a team of not less than three members, of whom at least one is to be a woman and one a medical officer, and submit reports of the findings of such visits within a week of their visit to the State Government for further action.</li> <li>• Section 55 provides for independent evaluation of the functioning of all institutions under the Act.</li> </ul> <p>With regard to setting up of Homes and provision of requisite facilities as per the Standards, Rules, Policies and Guidelines, the JJ Act, 2015 includes a detailed list of rehabilitation and reintegration services that are to be provided by institutions registered under the Act such as basic requirements of food and shelter; appropriate education; skill development; occupational therapy and life skill education; mental health interventions; recreational activities including sports and cultural activities; referral services for education, vocational training, de-addiction; etc. further, in order to bring the Homes under the purview of the new Act, Section 41 makes registration of all institutions mandatory housing children</p>
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			in need of care and protection or children in conflict with law within six months from the date of commencement of the Act. The Section also states that application for registration is to be disposed of within six months and in case of non-compliance, it shall be regarded as dereliction of duty on the part of officer or officers and appropriate departmental proceedings shall be initiated. Section 42 makes non-registration an offence with punishment of imprisonment which may extend to one year or a fine of not less than one lakh rupees or both.
10	Strengthening of Judicial Academies:	Although this issue was not discussed in detail, it may be noted that the 14 <sup>th</sup> Finance Commission recommendations include setting up of Judicial Academies in Manipur, Meghalaya and Tripura.	The 14 <sup>th</sup> Finance Commission has urged State Governments to use the additional fiscal space provided by the Commission in the tax devolution to meet such requirements.
11	National Vision and Mission:	The discussions showed a cohesive sense of purpose amongst all the High Courts and State Governments to improve the Justice Delivery System. {The Chief Justices' Conference, 2015 resolved that the National Vision and Mission – Justice for All – 2015-2020	The matter relates to National Court Management System Committee and necessary information may be called for from Additional Registrar, Supreme Court who is Member Secretary of the above Committee.

		<p>presented by the group of Chief Justices be taken up by the High Courts as Guidelines for achievable standards. Each High Court can consider adopting for implementing any item with such modification, including amended parameters, as may be necessary. This would be in addition to any additional aims set up by individual High Courts. The Mission Papers shall also be sent to the National Court Management System Committee and State Court Management System Committees for evaluation and adoption to the extent the same is, in their opinion, feasible for strengthening the Indian Judiciary}.</p>	
12	Salaries and Emoluments of the serving Chief Justices /Judges of the High	This agenda item was not specifically taken up for discussion since the discussion was held State-	The then Chief Justice of India vide letter dated 1 <sup>st</sup> May 2015 had requested the Government to establish a National Judicial Pay Commission for the aforesaid purpose. The request was examined and a reply sent on 22 <sup>nd</sup> June 2015 informing that the convention has been to calibrate the judiciary's pay scales with that of the



	Court:	<p>wise and not agenda-wise.</p> <p>However, in the Chief Justices' Conference, 2015, it has been resolved that {keeping in view constitutional office of the Chief Justices/Judges of the High Courts and the nature of their duties and the observations of Dr. B.R. Ambedkar, Chairman, Drafting Committee, in the Constituent Assembly of India on 12<sup>th</sup> October, 1949, the Hon'ble Chief Justice of India is requested to take up the matter with the Central Government to establish a National Judicial Pay Commission to consider pay, emoluments, perquisites, etc. of the Chief Justices/Judges of the High Courts and of the Supreme Court. }</p>	<p>civil services and constitutional authorities. The 7<sup>th</sup> CPC has submitted its recommendations which are under consideration of the Government. It would be appropriate to wait for the outcome of the same.</p>
13	Augmenting of post retiral benefits of	The Chief Justice of India mentioned that it has been resolved	Pursuant to the Sixth Central Pay Commission, a three Judges Committee, constituted by then CJI, had, inter-alia, made certain recommendations in its

<p>High Court's Chief Justices/Judges:</p>	<p>in the Chief Justices' Conference, 2015 to constitute a Committee for recommending grant of minimum post retiral benefits to retired Chief Justices/Judges of the High Courts on a uniform basis.</p>	<p>report on retiral benefits like medical facilities, secretarial assistance and telephone facility for retired High Court Judges. The report was examined in consultation with the Ministry of Finance, which did not support introduction of such facilities stating that there are no justifications. However, most of the State Governments have extended various post retiral benefits like domestic help allowance, medical allowance, residential orderly/sewaks etc. to retired Judges and retired Chief Justices of their respective High Court without consulting the nodal Department i.e. Department of Justice.</p> <p>The Hon'ble Supreme Court in its judgment dated 31.03.2014 in W.P.(C) No. 521 of 2002 – Justice (retd.) P. Ramakrishnam Raju inter-alia, directed the States to provide a consolidated amount of <i>Rs.14,000/- p.m.to the retired Chief Justices and Rs.12,000/- p.m. to the retired Judges of High Courts for defraying the services of an orderly, driver, security guard etc. and for meeting expenses incurred towards secretarial assistance on contract basis and a residential telephone free of cost with number of free calls to the extent of 1500 per month over and above the number of free calls per month allowed by the telephone authorities to both the retired Chief Justices and Judges of the High Courts.</i></p> <p>The Supreme Court is presently monitoring the implementation of the aforesaid directions with the States which have not framed any such Scheme in a contempt petition No.425-426 of 2015 in the writ petition referred above filed by a retired judge.</p>
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			The High Court and the Supreme Court Judges (Salaries and Conditions of Service Amendment Bill, 2016 which proposes amendments in the High Court Judges (Salaries and Conditions of Service) Act, 1954 and Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 was considered and passed by the Parliament. It will be notified after assent of the President is received.
14	Posting of District Judges as Law Secretary, Legal Remembrance and Secretary, Legal Service Authority:	During discussion it was revealed that problems regarding manning of these posts by District Judges instead of IAS officer are perhaps limited to the State of Jammu & Kashmir and the Union Territory of Andaman & Nicobar Islands. It was felt that the respective State and Union Territory should urgently find a solution to the issue. This issue can also be referred to the proposed new mechanism between the Chief Ministers and Chief Justices.	Action is to be taken by the respective State Governments and High Courts.
15	Service Conditions for Judicial Officers:	Some States mentioned the urgent need of facilities and security for Judicial Officers and courts. It was	As per information made available by the Ministry of Home Affairs (MHA), so far as security at the court premises is concerned the state governments and local police are primarily responsible. In the year 2007 Ministry of Home Affairs

		<p>felt that these issues must be urgently resolved and may be discussed in the proposed new mechanism between Chief Justices and Chief Ministers.</p>	<p>issued general guidelines to State Police forces, regarding maintenance of security of High Courts and District/Sub-ordinate Courts in the State. Taking cognizance of the disturbance arising out of agitating Advocates in the Court premises, Madras High Court had issued direction to Central/State to deploy Central Industrial Security Force (CISF) for the security of Madras High Court in suo-motu writ petition No.29197/2015, and CISF has been deployed there.</p> <p>The salaries and service conditions of judicial officers are also within the domain of the State Governments and High Courts. This is a state matter and needs to be addressed by the State Governments and High Courts.</p>
16	Financial Autonomy for the Indian Judiciary:	<p>This issue was discussed by various Chief Justices in terms of the need for availability of funds and flexibility to the High Courts to re-appropriate funds. {The Chief Justices' Conference, 2015 resolved that it be impressed upon the State Governments that the funds allocated to the respective State Govt. should be made available to the High Courts expeditiously; and the High Courts be given financial</p>	<p>Action to be taken by the State Governments.</p>

		autonomy and the Chief Justices empowered to re-appropriate the funds allocated to their respective High Courts.	
17	Rental of CTO Building Mumbai to provide space required for extension of Bombay High Court.	Letter from Hon'ble Minister of Law & Justice to Hon'ble Minister of Communication & Information Technology for Space required in the building of the Central Telegraph Office, Mumbai for extension of Bombay High Court.	18957.61 Sq. Ft. Carpet area at Ground Floor of CTO Building Mumbai has been provided to Bombay High Court. The License agreement has also been executed on 23.12.2015.