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Justice Without Delay: Recommendations for Legal and Institutional Reforms in the Indian Courts

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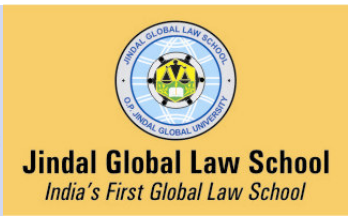

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JUSTICE WITHOUT DELAY

RECOMMENDATIONS FOR LEGAL AND INSTITUTIONAL REFORM

Prepared by
Centre on Public Law & Jurisprudence

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Professor Balakrishnan Rajagopal
Director, MIT Program on Human Rights & Justice
Massachusetts Institute of Technology, U.S.A.

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Foreword

The Jindal Global Law School (JGLS) of O.P. Jindal Global University (JGU) is committed to engage in rigorous research to contribute to the creation of knowledge and promote academic excellence. Even as India is commended for its vibrant democracy and progressive constitutional order, it has not fully become a Rule of Law society. The courts and tribunals ordinary Indians rely upon are beset with massive problems of delay, cost and ineffectiveness. Access to justice in India requires reforms that would enable ordinary people to regain confidence in the legal system and to enable them to invoke the remedies and protection of law.

The Chancellor of O.P. Jindal Global University, Mr. Naveen Jindal spearheaded the effort to seek the right to fly the national flag for the Indian citizenry. The Supreme Court of India upheld the right to fly the national flag, subject to reasonable restrictions. However, it took nearly ten years for the court process to be completed. Under the leadership of Chancellor Naveen Jindal, JGU has set among its highest institutional priorities the coordination and realization of ambitious research efforts and effective policy outcomes on a number of areas.

The question of delays in the Indian legal system has been the subject of a number of research initiatives. Yet the justice delivery system in India faces problems relating to access and delay writ large. It is in this context that the Centre on Public Law and Jurisprudence of Jindal Global Law School organised a seminar on access to justice in February 2010. These recommendations come from the faculty members of JGLS and the participants of the seminar. Thus, the publication of this report marks the beginning of a sustained engagement by the legal academy in what is arguably the most important structural issue not adequately taught or researched in the law schools. Academics and researchers must recognise that the doctrine, theory, and promise of the law taught in textbooks and lectures too often fail to be realised in practice because of these very problems. We must prepare our students to face these realities so that as they become legal professionals, they also become responsible agents of change and instruments of social engineering.

I wish to compliment the Centre on Public Law and Jurisprudence and its Assistant Director, Professor Vivek (Vik) Kanwar for his contribution to this research. I am particularly pleased that this study is published in a booklet form for widest possible dissemination among the concerned government departments, the Law Commission of India, the Ministry of Law and Justice, Members of Parliament, law schools across India, NGOs, media and the general public. I sincerely hope that it will prove useful for all those who are striving to improve access to justice and through that process establish a rule of law society in India.

Professor C. Raj Kumar
Vice Chancellor
O.P. Jindal Global University

Preface

The most challenging problem facing the administration of justice in India is the backlog and resulting delay in criminal and civil cases at every level, from the lower courts to the Supreme Court. This problem has been the subject of numerous reform efforts and proposals focusing on increasing judicial strength (e.g., centralism, increased numbers or improved technology), changes in procedure (e.g., plea bargaining, eliminating amended complaints), and experiments in informal justice (alternative dispute resolution, the Lok Adalat movement, village arbitration). The goals of these proposals and efforts have been framed as:

(1) *"Increasing access by reducing delay and arrears in the system."*

(2) *"Enhancing accountability through structural changes and setting performance standards and capacities." (Moily 2009).*

Some might argue that "*increasing* access" is a paradoxical goal for a system already clogged with cases, and that what are needed are more restrictive rules for coming to court in the first place. However, as Marc Galanter (2009) has written, the idea that India is a litigious society is demonstrably false. The problem is not that there are too many cases going into the courts, it is that there are too few coming out. Moreover, as a normative matter, courts should do what courts must do: provide justice. (P. Baxi 2007). The challenge of court congestion is not one of efficient waste disposal, but of delivering timely and meaningful justice through functioning courts. *Increasing access* includes tackling the continuing delays (demand and supply-side), as well as reducing the backlog that weighs down the system. *Enhancing accountability* includes examining rules as well as informal norms of judicial procedure, augmenting the positive feature of the same, and improving the efficiency of the judicial system by eliminating practices leading to unjustified delay. In the context of a growing population and economy, to serve the rule of law, and to ameliorate basic social problems, these remain the most pressing matters being pursued under the general heading of "judicial reform." In the words of Dr. M. Veerappa Moily (2009) the Union Minister for Law and Justice:

> *Ultimately, an efficient legal and judicial system which delivers prompt and quality justice reinforces the confidence of people in the rule of law, facilitates investment and production of wealth, enables better distributive justice, promotes basic human rights and enhances accountability and democratic governance.*

This Report follows up on discussions that took place at the Seminar on Delays in the Indian Legal System: Legal, Judicial and Institutional Reforms held on 19 February 2010 at Jindal Global Law School in Sonipat, Haryana. The legal luminaries who contributed to this seminar, and later this report, need no introduction to those familiar with legal reform in India, but rarely has such a group been assembled for the purposes of prioritising the needs in this area. To be sure, these suggestions and many others date back decades, some even before 1947. Rather than either reinventing the wheel, or surveying everything under the sun, this Report aims to prioritise certain recommendations over others, and substantiate these choices with the exchange of ideas among thoughtful non-partisan experts. Significantly, it draws upon decades of findings and experiences from those within the judiciary. This Report includes contributions from academic specialists and legal practitioners but is written in a manner accessible to laypersons, providing them a point of entry into these difficult topics. There are also signs of a reawakening of the political commitment needed to tackle these issues. The government has unveiled a road-map for judicial reform. At the last Conference of Chief Justices and Chief Ministers, both the Prime Minister and the Chief Justice of India promoted reforms to ensure speedy justice. The government has assembled a Task Force on Judicial Impact Assessment. As evidenced by the recent National Consultation on Toward Reducing Pendency and Delays, (New Delhi, October 2009), virtually all sectors of stakeholders and participants in the system have now recognised that it is time to take forward the serious business of overcoming pendency and delays. The discussion below will not be limited to the Vision Statement presented at the National Consultation and its ambitious plan to reduce the average pendency of cases from 15 years to 3 years. To build on this momentum— while still asking the hardest questions about causes, consequence, and solutions— academics and policymakers must leave no reasonable option unexplored. Let us begin *without delay*.

Professor Vivek (Vik) Kanwar
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Executive Summary

This Report follows up on discussions that took place at the Seminar on Delays in the Indian Legal System: Legal, Judicial and Institutional Reforms held on 19 February 2010 at Jindal Global Law School in Sonipat, Haryana. The Report provides the following:

I. A Literature Review surveying key historical and contemporary perspectives relating to addressing delays in the Indian legal system. It will provide a summary of the constitutional and statutory pre-commitments relating to access to justice, and draw attention to the diagnoses of the causes of delays provided by various committees, commissions, judgments by courts and other academic writings. "It includes major initiatives by the state and central governments, as well as by the judiciary in addressing delays."

II. The proceedings of the Seminar on Delays in the Indian Legal System: Legal, Judicial and Institutional Reforms, highlighting the advice of judges, practitioners, politicians, economists, and social scientists who are sensitive to the intricacies of these problems, and the likely impact of proposed solutions.

III. The Targeted Recommendations of its authors, a committee of Indian and international legal scholars. These are:

1. **Empirical research and data collection to be conducted on the functioning of lower courts, the regional and disaggregated data, and performance of various courts;**
2. **Clarification of, and easy access to, precedents and laws;**
3. **Provision of ADR measures and pre-trial counselling/ dispute resolution measures;**
4. **Restructuring Incentives and Sanctions on various stakeholders, introducing penalties and costs on parties that contribute to delay after a prescribed time frame;**
5. **Targeted Amendments to Legislation and Codes;**
6. **Introduction of a case management system, provision of adequate training in a decentralised manner, conducting of periodic assessment, administrative support and development;**

7. **Recruitment of more judges, an increase in resources to attract a competent judiciary at a greater strength and their distribution in a targeted manner to areas of the country with the highest arrears;**

8. **Introduction of Internet technology in reduction of paper work along the lines of the model of e-courts in New Delhi;**

9. **Introduction of specialised, as well as fast track courts; and**

10. **Implementation of a National Litigation Policy and Implementation of a National Arrears Grid.**

PART I

Literature Review

The Imperative

In this section, we summarize the key sources of constitutional, statutory and judicially-sanctioned pre-commitments to provide access to justice, as well as review the Government's initiatives to reduce delays and the work of various committees and scholarship surrounding this issue. This section demonstrates the necessary connection between this area of reform and a normative commitment to increasing access to justice.

Constitutional, Statutory, and Judicially-Sanctioned Pre-Commitments

There exist certain constitutional, statutory and judicially-sanctioned pre-commitments to the Indian populace that oblige the Indian state and legal system to provide timely justice and to tackle existing delays, the most important of which are discussed below.

The Constitutional Mandate for Timely Justice

The constitutional mandate for the timely dispensation of justice is undeniable. Justice, including the timely dispensation of justice, is a constitutional and fundamental right of the citizens of India that is meant to be guaranteed by the Indian State under Articles 14, 19, 21, 32, 226, and the Preamble of the Constitution of India. The timely dispensation of justice is also a constitutional obligation of the Indian State in light of the Directive Principles of State Policy articulated in Articles 38(1), 39 and 39A of the Constitution of India and on account of India's international legal obligations to guarantee timely justice delivery.

The Preamble of the Constitution enjoins the state to secure social, economic and political justice to all its citizens. The Directive Principles of State Policy declare that the state should strive for a social order in which such justice shall inform all the institutions of national life (Article 38 (1)). While interpreting this provision in *Babu* v. *Raghunathji* (AIR 1976 SC 1734), the Supreme Court has held that "*social justice would include 'legal justice' which means that the system of administration of justice must provide a cheap, expeditious and effective instrument for realization of justice by all section of the people irrespective of their social or economic position or their financial resources.*" Article 39 mandates the State to provide legal aid. The constitutional mandate for justice is strengthened by Article 39A which states that "[t]he State shall secure that the operation of the legal system promotes justice…..to ensure that

opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."

The constitutional pre-commitment to speedy justice flowing from the composite code of Articles 14, 19, and 21 of the Constitution of India is well established in Indian constitutional jurisprudence, and has been powerfully articulated by a Constitution Bench of the Supreme Court of India in *P. Ramachandra Rao v. State of Karnataka* [(2002) 4 SCC 578] where the court states:

> "*It is the constitutional obligation of the State to dispense speedy justice, more so in the field of criminal law, and paucity of funds or resources is no defence to denial of right to justice emanating from Articles 21, 19 and 14 and the preamble of the Constitution as also from the directive principles of State policy. It is high time that the Union of India and the various States realize their constitutional obligation and do something concrete in the direction of strengthening the justice delivery system. We need to remind all concerned of what was said by this Court in Hussainara Khatoon (IV) 9: 'The State cannot be permitted to deny the constitutional right of speedy trial to the accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to ensuring speedy trial. The State may have its financial constraints and its priorities in expenditure, but, 'the law does not permit any Government to deprive its citizens of constitutional rights on a plea of poverty', or administrative inability. (para 10)*""

The right to speedy trial (and timely justice) has been enshrined in several international charters and conventions relevant to India, most notably the International Convention on Civil and Political Rights (ICCPR), which India ratified on 10 April 1979. The relevance of international law and treaty obligations in strengthening and effectuating fundamental rights has been well addressed by Indian constitutional jurisprudence, most notably in cases such as *People's Union for Civil Liberties* v. *Union of India* [1997 (3) SCC 433], *Vishaka and Others* v. *State of Rajasthan and Others* [1997 (6) SCC 241], *Nilabati Behera* v. *State of Orissa* [1993 (2) SCC 746]. The obligation flowing from Article 51(c) of the Constitution of India to foster respect for international law and treaty obligations (along with the power conferred on the Indian state by Article 73 (1) (b) of the Constitution of India), further strengthens the Indian State's constitutional pre-commitment to timely justice.

It is apposite to highlight a few other provisions and features of the Constitution of India here. The Supreme Court of India has the power and duty under Articles

141, 142, 144 and 145(1)(c) to pass directions to render justice and enforce fundamental rights, and the Indian State is obliged to ensure compliance of such orders under Article 256 of the Constitution of India. Article 247 of the Constitution enables the Union Government to establish additional courts for better administration of laws made by Parliament, or of any existing law with respect to a matter enumerated in the Union List.

The Constitution has been amended at least once in order to ensure speedy disposal of cases. The Forty Second Amendment to the Constitution in 1976 allowed the creation of a number of specialized tribunals to take up different types of cases in India.

Sensitivity towards the Timely Delivery of Justice in Procedural Codes

The legislative sensitivity towards providing timely and efficacious justice is reflected by the fact that most statutes have a number of detailed provisions explicitly devoted to timely adjudication, decision-making and justice delivery. Such provisions either stipulate a maximum time-limit or envision an orderly time-frame for the contemplated state action. It is useful here to briefly highlight some of the relevant provisions in the civil and criminal procedural codes in force in India.

The Code of Civil Procedure, 1908 ("CPC")

Section 89 of the CPC which deals with the settlement of disputes outside the court, provides that where it appears to the court that there exist elements, which may be acceptable to the parties, the court may formulate the terms of a possible settlement and refer the same for arbitration, conciliation, mediation or judicial settlement. Further, Order 27 Rule 5B (as amended) of the CPC casts a duty on the court in suits against the Government or public officers to assist in arriving at a settlement in the first instance. Rule 1, Order XVII of the CPC deals with adjournments and the power of the court to postpone hearings. Other examples of provisions that refer to time-frames and/or facilitate timely delivery of justice include Section 80, Order 5 Rules 19 and 20, Orders 8 and 10 Rule 1, Orders 11 and 12, Order 17 Rules 1 and 2, Order 20 Rule 1, etc.

The Code of Criminal Procedure, 1973 ("CrPC")

The CrPC contains provisions in Sections 167, 258, 309, 311 and 468 to expedite the disposal of cases and to enable timely delivery of justice. The CrPC provides a statutory time limit to complete an investigation, and Section 167 further provides that a failure to complete investigation within the statutory timeframe shall lead to release of the accused in custody on bail. Further, the CrPC Amendment Act, 2005, has enacted Section 436 A, which stipulates

that the maximum period for which undertrial prisoners can be detained is half of the maximum period of imprisonment specified for that offence under that law (excluding offences for which the punishment of death has been specified as one of the punishments under that law). Since the absence or non-attendance of parties at various stages of investigation and trial contributes to the overall delay in justice delivery, it is relevant to briefly highlight the provisions in the CrPC that address absence/non-attendance. These include Section 267 (express provision granting criminal courts the power to require attendance), Section 270 (officer in charge of prison shall cause the person requiring attendance under Section 267 to be present in court) and Section 271 (power to issue commission for examination of witness in prison), etc. Sections 284-287 empower the courts to summon witnesses or issue commissions for the examination of witnesses. Sections 61-69, CrPC provide for the service of summons, where Section 62 (3) requires signature of receipt by the person to whom the summons are served and Section 69(2) provides that summons have been duly served on witnesses refusing to take delivery of the summons. Section 309 of the CrPC deals with adjournments and the power of courts to postpone hearings. Recent amendments introduced in CrPC to check delays [Section 21 of the Code of Criminal Procedure (Amendment) Act, 2008 (5 of 2009)] are particularly noteworthy:

21. Amendment of section 309. — In section 309 of the principal Act,

(a) in sub-section (1), the following proviso shall be inserted, namely:

"Provided that when the inquiry or trial relates to an offence under sections 376 to 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses.";

(b) in sub-section (2), after the third proviso and before Explanation 1, the following proviso shall be inserted, namely:

"Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing

with the examination-in-chief or cross-examination of the witness, as the case may be."

Unfortunately section 309(2), which seems to address directly the problem of delay due to adjournment for non-attendance, has not yet come into force.

The Supreme Court of India has passed directions in *Salem Advocate Bar Association, Tamil Nadu* v. *Union of India* [(2005) 6 SCC 344]; *P.Ramachandra Rao case* [(2002) 4 SCC 578]; *Shambhu Nath case* [(2001) 4 SCC 667], the *Hussainara Khatoon case* [(1980) 1 SCC 93], etc. to the effect that the procedural laws laid down in the CPC and the CrPC must be strictly adhered to in order to ensure the effective and timely disposal of both civil and criminal matters.

Judicial Decisions relating to Timely Justice

The Supreme Court and the High Courts of India have time and again reiterated the importance of the timely delivery of justice. Some of these decisions have already been mentioned in the preceding sections. We briefly highlight a few of the important cases below.

The Supreme Court of India made it clear more than three decades ago that "speedy trial is of essence to criminal justice and there can be no doubt that the delay in trial by itself constitutes denial of justice" (*Hussainara Khatoon* v. *State of Bihar* AIR 1979 SC 1364).

In *Maneka Gandhi* v. *Union of India* (AIR 1978 SC 597), the Supreme Court added that "[t]here can, therefore, be no doubt that speedy trial, and by speedy trial we mean a reasonably expeditious trial, is an integral and essential part of fundamental right to life and liberty enshrined in Art 21."

In *State of UP* v. *Shambhu Nath Singh* [(2001) 4 SCC 667], the Supreme Court laid emphasis on the mandatory nature of the provisions against adjournments under Section 309, CrPC.

In *Anil Rai v. State of Bihar* [(2001) 7 SCC 318], the Supreme Court attempted to lay down guidelines for the timely delivery of judgments.

In *P. Ramachandra Rao* v. *State of Karnataka* [(2002) 4 SCC 578], a Constitution Bench of the Supreme Court emphasized that Sections 258, 309, 311, etc. of the CrPC need to be implemented by the criminal courts and the High Court and reaffirmed the adage that 'justice delayed is justice denied'

In *All India Judge's Association* v. *Union of India* [(2002) 4 SCC 247], the Supreme Court passed specific directions on increasing judge strength from 10.5 judges per 10 lakh population to 50 judges per 10 lakh population in 5 years; on filling up vacancies in 1 year; and on appointing necessary ad hoc judges to clear up the backlog of cases along with commensurate infrastructure

with due cognizance to the 120th Law Commission Report, 1987 and the 85th Parliamentary Standing Committee Report, 2001.

In *Salem Advocate Bar Association, Tamil Nadu* v. *Union of India* [(2005) 6 SCC 344], the Supreme Court stressed that various procedural norms in the CPC (for example, the provisions on adjournments, the provisions on the government replying to notices in a timely and proper manner, etc) must be followed.

Article 21 of the Indian Constitution is the broad cornerstone of the right to life, liberty and due process. For this reason, it should not be surprising that this same provision that has given meaning to fair trial and timely justice would also pose some restraints on legal reform. Thus, it should be noted that *P. Ramachandra Rao* v. *State of Karnataka* [(2002) 4 SCC 601-602], the same bench that reaffirmed the observation that "justice delayed is justice denied" warned that prescribing a time limit for trials would be an overbroad interpretation of Article 21, and indeed would amount to an impermissible form of legislation by the court. Thus, at least in the context of criminal trials, the imperative of "speedy justice" cannot include arbitrary termination of cases. Questions remain on whether civil procedure can be reformed in such a manner, and counter-models of foreign jurisdictions adopting mandatory "milestones' and time limits will be discussed in the "Comparative Assessment" section below.

The Size of the Problem

The number of pending cases across Indian Courts has been increasing. As of July 2009, 53,000 cases are pending with the Supreme Court, 40 lakh with High Courts and 2.7 crore with lower courts. This is an increase of 139% for the Supreme Court, 46% for High Courts and 32% for lower courts from their pendency numbers in January 2000.1 In 2003, 25% of pending cases with High Courts had remained unresolved for more than 10 years. In 2006, 70% of all prisoners in Indian Jails were undertrials.

Fresh cases do outnumber those being resolved. There is a shortfall in delivery of justice. There is also the weight of the backlog of older cases dragging down efficiency and creeping upward every year. The shortfall in deciding as many cases as are filed in a year is dwarfed by the weight added by pending cases. Since fresh cases exceed the number of cases getting resolved, this leads to an increase in pendency. Interestingly, the number of cases that are resolved each year has increased substantially over the last decade. However, this has not kept pace with the increase in fresh filings. The table below amply illustrates this point.

	SUPREME COURT	HIGH COURTS	LOWER COURTS
Pending at end of 2007	46,926	3,743,060	25,418,165
Cases filed in 2008	70,352	1,668,706	16,410,217
Cases resolved in 2008	67,459	1,531,921	15,385,389
Pending at end of 2008	49,819	3,874,090	26,409,011

If we imagine that the Supreme Court takes no fresh cases and there is no increase in judge strength, a dedicated period of 9 months of fulltime judicial attention would be needed to clear the backlog. On average, High Courts would need about 2 years and 7 months, and Lower Courts about 1 year and 9 months. This figure would vary quite a bit among various High Courts and Lower Courts. Allahabad HC, for example, would need about 6 years to clear its backlog while Sikkim HC would need 1 year and 2 months.[1] A common solution suggested across these situations is to take these calculations and hire enough judges to clear the backlog even as efficiency is increased through other means.

The Supreme Court, unlike the lower courts, has more discretion in taking cases, and can probably turn some of them away. However, despite having a lower backlog than most of the High Courts, the Supreme Court might still be taking more cases than it should. Nick Robinson (2009) argues that the Supreme Court should focus on more strictly filtering the cases it hears instead of adding more judges. Currently, many of these cases involve routine matters and are brought largely by the middle class or government employees who have the resources to access the Court, but they do not raise larger issues of constitutional or national importance. What is needed at the Supreme Court is not more judges to decide cases, but better filtering.

Findings of Committees over 85 Years

Numerous committees have been constituted and various attempts have been made in this area. But nothing has had a significant impact in reducing the backlog and substantially speeding up the judicial process. The first committee to examine the problem of delay was set up in 1924 under Justice Rankin. Since then, several committees have put forth recommendations but little progress has been made on the implementation front. These include the

1 PRS Legislative Research, Pendency of Cases in India Courts

Justice S.R. Das High Court Arrears Committee (1949), the Trevor Harris Committee in West Bengal (1949), the Wanchoo Committee in Uttar Pradesh (1950), Justice J.C. Shah Committee (1972), Satish Chandra Committee (1986) and the first Mallimath Committee (1990). Apart from these, the Law Commission has addressed this issue in several reports since 1955: the 14th, 79th, 80th, 120th, 121st and 124th reports. More recently, other reports on this issue such as 221st, 222nd and especially the 229th, touched dealt with issues of delay, pendency and arrears.[2] The second Malimath Committee submitted recommendations in 2003. At the last Conference of Chief Justices and Chief Ministers, both the Prime Minister and the Chief Justice of India promoted reforms to ensure speedy justice. Most recently, on October 24-25, 2009, members of the Supreme Court and High Courts, Ministry of Law and Justice, the Bar Council, and faculty of the Indian Law Institute and other academic institutions gathered for a "National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays." (Moily 2009). The discussion below will not be limited to the Vision Statement presented at the National Consultation and its ambitious plan to reduce the average pendency of cases from 15 years to 3 years. As evidenced by the National Consultation virtually all sectors of stakeholders and participants in the system have now recognized it is time to take forward the serious business of overcoming pendency and delays

Causes for Delay Identified

These are the causes for delay, identified by past commissions and studies, most comprehensively in the Satish Chandra Committee, categorized across various locations in state and society (Debroy and Aditya Singh 2009):

Societal causes

- litigation explosion
- population explosion
- radical changes in the pattern of litigation
- increase in legislative activity
- loopholes in the law itself

Inefficiency

- inefficient police investigation methods
- redundant and voluminous paperwork

2 Law Commission of India's Report No. 221; Law Commission's Report No. 222 on 'Need for Justice dispensation through ADR etc.' released in April 2009. Law Commission of India's Report No. 230.

Lack of Resources

- lack of infrastructure at various levels
- inadequacy of judge strength
- delays in filling vacancies in high courts
- inadequacy of staff attached to high courts
- Inadequate overall budget

Obstacles to Speedy Adjudication

- unclear law
- unavailability of precedents on the spot
- increased specialization of law
- increase in legislative activity

Particular bottlenecks in procedure

- service of process
- adjournments3
- interlocutory orders
- non-appearance of witnesses and accused

Burdens on Judicial Officers

- additional burden on account of election petitions
- accumulation of first appeals
- continuance of ordinary original civil jurisdiction in some high courts
- inadequacy of accommodation
- failure to provide adequate forms of appeal against quasi-judicial orders

Advocates

- speculative appeals used as pressure tactic lack of priority for disposal of old cases
- failure to utilize grouping of cases and those covered by rulings; granting of unnecessary adjournments
- inordinate delay in supply of certified copies of judgments and orders
- failure to take advantage of ADR[4]

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3 Section 309 of Code of Criminal Procedure (CrPC) and Rule 1, Order XVII of Code of Civil Procedure (CPC) deals with the adjournments and power of the court to postpone the hearing.

4 The 77th law commission report conceived this recommendation, and the 129th report introduced the concept of neighbourhood justice centres. The same has been developed and partially implemented now and then.

Appointing Authorities

- unsatisfactory appointment of judges; unsatisfactory selection of government counsel
- plurality of appeals and hearing by division benches

Government

- indiscriminate closure of courts
- appointment of sitting judges on commissions of inquiry
- government as a compulsive litigant
- hasty and imperfect legislation
- legislation creating new causes of action without budgeting for increased need

What Has Been Proposed?

Here, in addition to various reports of the Law Commission and Judicial Impact Assessments,[5] we critically canvass scholarly recommendations on remedying access problems. Though diagnosis of the problem requires a more systematic approach using current, disaggregated data, some of these academic articles have added to the ideas for tackling the problem.

Stemming "Litigiousness"

First, there is an issue of how to characterize the problem. It turns out, for example, to be simplistic and even wrong to assume that India is a particularly "litigious society." This "myth of litigiousness" was convincingly documented in a 1998 study of litigation rates in Maharashtra by Christian Wollschläger and also suggested in articles by Moog (1993) and Galanter (2009).) As Jayanth Krishnan commented at the Seminar on Delays in the Indian Legal System at Jindal Global Law School, "the problem is not with too many cases coming in; it's with too few coming out." At present judge strength, both aspects are problems. Fresh cases outnumber those being resolved. Since fresh cases exceed the number of cases getting resolved, this leads to an increase in pendency. Even in those courts where the number of cases that are resolved each year has increased substantially over the last decade, productivity has not kept pace with the increase in fresh filings. This would suggest that bottlenecks and inefficiencies within the system be addressed.

5 Judicial Impact Assessment: Report I and II Law Commission of India's Report No. 221 Law Commission of India's Report No. 230

Judicial Procedure

The subject of judicial procedure dominates Arun Mohan's massive three-volume work *Justice, Courts, and Delays* (2009). He surveys the civil and criminal systems in their entirety and finds particular procedural bottlenecks which, if overcome, could improve efficiency. This kind of anecdotal, qualitative work by an experienced practitioner is certainly valuable, but gives little idea of the contribution each reform would make in tackling the overall problem. Nor does the work give us an idea of regional differences. A more critical perspective on judicial procedure, including the imposition of uncertainty on weaker parties, is provided by Amir Ullah Khan in his article "Costs and Glorious Uncertainty: How Judicial Procedure Hurts the Poor."[6] Further careful scholarly work can also help illuminate how reforms in judicial procedure impact particular groups and generalized interests, so that policy-makers can understand choices in cost-allocation and benefit-sharing.

Alternative Dispute Resolution[7]

Appointment of Critical Mass of Ad Hoc Judges to Dispose of Arrears [8]

Division of Supreme Court into four regional courts[9]

Raising Retirement Age of Judges[10]

Providing Modern Case Management Techniques[11]

Penalties for Filing of "Frivolous Cases"[12]

Government Litigation

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6 Amir Ullah Khan, Delays, Costs and Glorious Uncertainty: How Judicial Procedure Hurts the Poor.

7 Law Commission's Report No. 222 on 'Need for Justice dispensation through ADR etc.' released in April 2009; S.B. Sinha, ADR and Access to Justice: Issues and Perspectives.

8 Please refer to (a) the Vision Document released during the October National Consultation

9 Please refer to Law Commission's Report No. 229 on the 'Need for division of the Supreme Court into a Constitution Bench at Delhi and Cassation Benches in four regions at Delhi, Chennai/Hyderabad, Kolkata and Mumbai'

10 See Law Commission's Report No. 232 on Retirement Age.

11 In addition to the Vision Document, please see Madan B. Lokur, Case Management and Court Administration.

12 Suggestions are made below (42-45) on the sanction of frivolous cases, and this is also connected to the National Litigation Policy. The issue of frivolity of particular cases should not be confused with the general stereotype of "litigiousness" which has been dispelled in the scholarly literature.

It is worthwhile to consider cases which involve the state as a litigant and the time spent on these matters. In particular, we must consider issues relating to sanction of prosecution, PILs against state bodies, tax appeals and regulatory appeals. This would go beyond statutory reform proposals and perhaps engage with some substantive policy questions as well. The role of the state as a litigant (given the volume it generates) should perhaps be tackled systematically. Empirical research is needed on the precise volume of government litigation generated at the HC/SC levels as appeals from the feeder tribunals come in, or PILs are filed.

Prof. Galanter and Prof. Debroy addressed a recent figure that 60% of civil litigation has the government as one party or the other, sometimes both sides. Along with this, 100% of criminal cases involve the government. Prof. Galanter clarified that this includes cases brought by the government as well as against the government. A great number of these cases are appeals, the sheer volume of which is often a result of the law itself. For example, under the Prevention of Corruption Act, ("POCA"), a decision *to appeal* is taken when approved at the *lowest* office, while a decision *not to appeal* can be taken when approved only at the *highest* office. Prof. Debroy has suggested that a simple solution would be to reverse this appeal procedure, thus cutting down on needless government appeals.

Public Interest Litigation (PIL)

Since the early 1980s, India has fostered a distinctive culture of Public interest Litigation (PIL). This has involved (a) a relaxation of the requirements of standing; (b) appointment of investigative commissions; (c) appointment of lawyers as representatives of client groups; and (d) judges exerting 'epistolary jurisdiction' responding proactively to grievances brought to attention by third parties through letters, newspaper accounts, etc.

However, while PIL has undoubtedly promoted important social changes, raised public awareness on many issues, energized citizen action, increased government accountability, and enhanced the legitimacy of the judiciary, it has been criticized for taking up too much of the Supreme Court's limited time, and hence compounding the problem of delays. However, PIL is accepted less frequently for regular hearing than most other types of litigation, and only represents about 1% of the Court's regular hearing decisions.[13] (Robinson 2009). These cases might take longer than others for the Court to hear, administer, and decide, but they are certainly not the bulk or even necessarily the largest share of the Court's workload.

13 Nick Robinson, Too Many Cases, Frontline, Jan. 3-16, 2009

What Has Been Tried? Following Through With Critical Reflection

Some positive measures that have been taken in the past have already started showing results and are significantly contributing in increasing disposal in subordinate and High Courts. A few such measures are: setting up of Fast Track Courts of Sessions Judges, introduction of shift system in subordinate courts, setting up of mobile courts, Lok Adalats, ADR system, insertion of Chapter XXI-A, and setting up of e-committee, etc.

Plea Bargaining

With the insertion of new Chapter XXI-A in the Code of Criminal Procedure 1973, by Act 2 of 2006, the concept of "Plea Bargaining" became a reality and part of India's criminal jurisprudence. The practice of plea-bargaining is prevalent in western countries, particularly the United States, the United Kingdom and Australia. In the United States, plea-bargaining has gained very high popularity, whereas it is applied only in a restricted sense in the other two countries. In theory, plea-bargaining benefits both the State and the offender; while the State saves time, money and effort in prosecuting the suspects, the latter gets a lenient punishment by pleading guilty. It has long been hypothesized that one of the merits of this system is that it helps the court to manage its load of work and hence it would result in reduction of backlog of cases. The extent of its success in this respect has not yet been documented.[14]

With plea-bargaining, as with any informal alternative to trial, the Bar has resisted their introduction. Caution is warranted not because trials are fair and efficient, but because of the possibility of further erosion of the rights of the accused. In transplantation of the institution in India, one will have to consider the effect caste, religion, socio-economic disadvantages and both functional and legal illiteracy will have on this system. While the system does exist in the books, it cannot be recommended whole-heartedly without acknowledging the problems of justice, which may arise in its implementation. Now that it has been introduced, the workings of the system must become a part of legal literacy. Therefore, while issuing summons to an accused, he should be informed of his rights as well the provisions of plea bargaining contained in Chapter XXI-A of the Code of Criminal Procedure, 1973.

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14 For scholarly critiques, see Singh (2009) and Aggarwal (2006). Among cases, see Thippaswamy v. State of Karnataka, 1976 CrLJ 1527; Bhagwati J. observed "It would be clearly violative of Article 21, of the Constitution to induce or lead an accused to plead guilty under a promise or assurance that he would be let off lightly" 24. Madan Lal Ram Chandra Daga v. State of Maharashtra, (1968) 3 SCR 34; Harbhajan Singh v. State of Uttar Pradesh, (2002) 9 SCC 407; State of Uttar Pradesh v. Chandrika, AIR 2000 SC 164; Murlidhar Meghraj Loya v. State of Maharashtra, (1976) 3 SCC 684; Kachhia Patel Shantilal Koderlal v. State of Gujarat, AIR 1980 SC 854.

Efforts to computerize Indian Courts and increased use of IT

Computerization of Case Law and Files[15]

Setting up of Specialized Tribunals

The Forty Second Amendment to the Constitution of India was passed in 1976 to allow the creation of tribunals to try number of different types of cases in India and to ensure speedy disposal of cases. Barring the judicial review power under Articles 226 and 227 of the Constitution, under the Amendment, almost all jurisdictions exercised by the High Courts with regard to company matters would now be transferred to the proposed Tribunal and the Appellate Tribunal.

Often arbitration clauses in international business contracts specifically divert disputes away from the Indian system, though there seems to be more trust in tribunals. Efforts by the Supreme Court of India to exert jurisdiction over these disputes has rendered the meaning of the Indian Arbitration and Conciliation Act, 1996, much more complex and uncertain. Another argument in favor the "tribunalization of justice" into specialized courts is the increasing specialization of technical areas of law. Some participants in the seminar on delays supported limiting jurisdiction of the general courts (e.g. through amendment in the Arbitration and Conciliation Act, 1996) to enable tribunals to settle matters without too much interference from the courts. Safeguards should balance the rights of litigants with their interest in finality.

Alternative Dispute Resolution: Arbitration, Mediation and Conciliation

Encouraging ADR measures and pre-trial counseling/ dispute resolution measures can ease the pressures on the court system. Courts may also take resort to Section 89A of the Civil Procedure Code, 1908 in order to ensure that litigants first exhaust all modes of alternative dispute resolution. This will not only decrease the pendency of cases before courts, but would also substantially reduce litigation costs and ensure timely and amicable resolution of disputes.

Access to "Informal" Justice

Since Independence, there has been a tension between the formal system of justice and alternatives that were claimed to be "indigenous" though today they are more often regarded as parallel "informal" systems. The Indian National Congress viewed the legal system inherited from the British to be unsuitable to a reconstructed India. This view, in parallel with the project of constitutionalisation, led to various proposals to replace the modern legal system

15 On the role of ICT in courts and the potential for online dispute resolution, see Agarwal (2006); Debroy and Singh (2009).

with 'traditional panchayats. In the late 1950s, judicial or nyaya panchayats were established with jurisdiction over specific category of petty cases. They applied statutory law; made decisions by majority rule; and chose members by popular election. However, the panchayats encountered several problems. For example, they never attracted significant support from the villagers for whom they were established. Within a decade nyay panchayats withered away. But the idea of having panchayats lingered on in the minds of legal intellectuals such as Justice Krishna Iyer, Justice P.N. Bhagwati, Justice S.N. Aggarwal among others. Lok Adalat is the most salient alternative that has emerged from such deliberations. (Galanter and Krishnan 2004). Alternatives to lower court proceedings include:

- Lok Adalats,
- Fast Track Courts,
- Family Courts,
- Mobile Panchayats,
- Nyaya Panchayats and
- Gram Nyayalayas

Beyond these, in some regions, criminal cases and family disputes, both petty and extraordinary, are dealt with through the "swift justice" of extra-legal mechanisms including Maoist "kangaroo courts" and traditional Khap Panchayats, which enjoy local social legitimacy but are at best, extra-Constitutional, and at worst hold the law in contempt. Even regarding the "recognized" mechanisms of informal justice (e.g., Nyaya Panchayats and Gram Nyayalayas) issues of social hierarchy arise in justice delivery. Objectivity is much harder to maintain in this "traditional" setting. The key issue here is whether the trade-off between due process rights and the gains in time and substantive justice made by the system, and the litigants generally support moving resources and cases into informal systems.

Nyay Panchayats Vis A Vis Gram Panchayats

NYAY (JUSTICE) PANCHAYATS	GRAM (VILLAGE) PANCHAYATS
Represented by: popular elected people from territorial constituencies	Village elderly/ leading men of a caste
Applied: statutory law	Indigenous norms
Made decisions by majority rule	Unanimous decisions
Moribund	VERY Active even today

LOK ADALAT	TRADITIONAL PANCHAYAT
Operates in shadow of legal courts	Operates at village level independently
Staffed by official appointees	Headed by Community leaders
Governed by diluted version of state law	Local or caste customs
Delivers justice through compromises instead of penalties or imposing fines	Extra-legal imposition of punishments, fines other penalties

Lok Adalats

Galanter and Krishnan (2004) provide an overview, as well as critical appraisal of the Lok Adalat system. The first Lok Adalat took place in 1982. By November 2001, 110,600 Lok Adalats have been held, and 13,141,938 cases have been settled (119 cases per Lok Adalat). Cases on the docket of local courts, with the consent of one or both the parties, are transferred to Lok Adalats, and at a one day camp typically on a weekend day, and the cases are called upon that are attended by mediators, retired judges or senior advocates. In terms of workload, there has been a continuous drop from 440 cases per Lok Adalat in 1996 to 119 in 2001. Possible reasons for this drop might be:

- too many Lok Adalats
- too few cases
- they are successfully meeting the demand
- less successful than other informal mediation
- small number of mediators
- more difficult or complex cases
- more cases are ending up in court

Lok Adalats may be conducted by: voluntary groups as well as by the courts. Examples of groups that have sought Lok Adalat status include law schools, NGOs, and khap panchyats. The Lok Adalats themselves are staffed by retired judges, social activists, senior advocates and volunteers. In a few Lok Adalats, there are preliminary conferences in which parties approach the legal aid team and discuss the pros and cons of their case.

Types of Lok Adalats:

- *general* (high level of family esp. matrimonial matters and petty cases),
- *pension* (handles cases brought by retired civil servants),
- *"public utility services"* including transport services for the carriage of passengers or goods by air, road or water; postal, telegraph or telephone

services; insurance service, as also services in hospital or dispensary, supply of power, light or water to the public, besides systems of public conservancy or sanitation.

- *permanent and women* (petty criminal cases, related to women and family matter),

LEGAL SERVICES AUTHORITIES ACT OF 1987(as amended by Act No. 37 of 2002): Section 20(4) highlights that the Lok Adalats are instructed to 'arrive at a compromise or settlement'. Through the 1994 Amendment such compromise a was made final, and no appeal could lie to any court against the award (reiterated in Section 22E through 2002 amendment of the said Act). This Act further broadens the jurisdiction of the Lok Adalats from petty matters to 'any matter'.

CIVIL PROCEDURE CODE: Under Section 89, the Indian courts now have the power to steer cases into Lok Adalats accompanied by the judge's formulation of a resolution, even if the parties do not share this opinion or consent to transfer the case.

There is reason to be critical of the process of diversion of cases to Lok Adalats. According to Galanter and Krishnan (2004) Lok Adalats' dockets are made up of cases that have already been brought to another forum (courts) and do not provide new facilities. A Lok Adalat's major function is to provide a truncated process for some of those few who do attempt to utilize the courts. A few major drawbacks are:

1. How genuine is the consent? Pressure on officials to produce large number of cases which would benefit them with career incentives and recommendation by their superiors.
2. Quality: Are the merits of the cases effectively presented? Is outcome reasonably consistent with one another? How regularly decisions enforced?
3. General effects: Does diversion diminish the deterrent effect? Does it encourage or discourage preventive measures?
4. No systematic approach to assessment
5. Inadequate damages: It somehow promotes the claimants to secure a portion of their entitlements (yield up discounts), claimants are entitled not to discounted future value of the claims, but to full present value. Since the sums awarded by the courts fall far short of fully compensating the injured, the injured are triply under-

compensated: 1) inadequate level of compensation; 2) high transaction cost; 3) yield to avoid infliction of these costs. Governments lack of preparedness for the Lok Adalats and their active inclination towards seeking postponements to avoid acting on them. Also involvement of police in few matters ends up in suppressing the claimant (example in electricity cases).

6. Level of hostility by judges and lawyers Criticism: By Indian Bar Council for allowing Lok Adalats through Sec. 22D to rule now on the merits of the case without the agreement of the parties; Indian lawyers worry that claimants seeking justice in regular state court might seek to get them transferred to Lok Adalats, and once there is a judgment it would be 'final and binding' with 'no appeal'.

7. An important feature of this amendment is that after an application is made to the Permanent Lok Adalat, no party to that application can invoke jurisdiction of any court in the same dispute.

8. Permanent Lok Adalat shall be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice without being bound by the Code of Civil Procedure and the Indian Evidence Act.

Lok Adalats were created to restore access to remedies and protections and alleviate the institutional burden of the millions of petty cases clogging the regular courts. It offers the aggrieved claimant whose case would otherwise sit in the regular courts for decades, at least some compensation now. The presiding judge of a Lok Adalat is an experienced adjudicator with a documented record of public service and has legal acumen. In which ways do Lok Adalats conserve or consume scare resources of money, personnel, attention, and energy? Might these resources be better employed to address the fundamental problems facing the courts in India?

Critical Thinking about Informal Justice

Important work has been done by Krishnan and Galanter (2007), as well as Baxi (2007), and Guruswamy and Singh (2010) indicating that a targeted and regional assessment should be made before viewing Lok Adalats and Gram Nyayalas as critical institutions in reducing pendency and delays.

This leads to a larger question of whether resources being diverted to informal justice experiments should be directed towards the mainstream justice system, but in a targeted and regionally sensitive manner. (P. Baxi, 2007); (Galanter and Krishnan 2004); (Gram Nyayalayas Act 2008).

Critical Thinking: Justice vs. Efficiency, Access vs. Filtering

In the holistic terms of access to justice concerns, "focus is on the full panoply of institutions and devices, personnel and procedures, used to process, and even prevent, disputes in modern society.' (Cappelletti and Garth 1978: 223). "When justice can be traded for efficiency there is always a potential for abuse." Any reform should also consider the incentives of the litigants who actually make use of the judicial system. Who is not using the courts, and why? As Cappelletti and Garth concluded in their classic study of access to justice, "a real understanding of access to justice … cannot avoid some political perspective" (Cappelletti and Garth 1981: xvi). On the Indian side, sme scholars and activists have been vigilant about safeguarding a substantive notion of justice, against (1) truncated process (Pratiksha Baxi: "The values of speed, competency, efficiency and cost by themselves do not assure justice.") as well as informal dispute resolution (P. Baxi: "Nor is the ideology of compromise or harmony in itself just.")[16]

But the Canadian experience with restorative justice and other experiments might lead us to recognize that such processes may be captured or co-opted as measures to relieve courts and court congestion – without making justice more inaccessible.

Cogent arguments have been made in favor of filtering process for the Supreme Court in India. Unlike the lower courts, the Supreme Court has more discretion in taking cases, and can probably turn some of them away. But would the introduction of a triage system result in a denial of justice for certain under-represented groups? What about the countervailing "public interest" factors include the administrative difficulties flowing from court congestion?

Critical Thinking: Comparative Assessment

Though we know that other systems, notably the European Court of Human Rights, are also facing major backlog crises both in applications and delayed cases (Woolf 2005), there is a gap in the comparative literature. Justice B.N. Agrawal (2007) has stated "[j]udicial institutions in most of the developing countries in the world are currently confronted with serious crisis, mainly on account of delay in the resolution of the disputes and we are no exception." From a policy point of view, it makes little difference whether India is alone or unexceptional in its problems, but a comparative assessment would at

16 See Part II below. At the Seminar, comments supporting this view were heard from Menaka Guruswamy, Aditya Singh, and Pritam Baruah.

least point to solutions. For example, foreign studies could be replicated to see if increases in staffing are significant in lower courts as much as higher courts, in simple cases as much as complex cases. (Mitsopoulos and Pelagidi 2007).

Emphasis on comparative experience can also show the limits of more extreme experiments in justice. Without drawing conclusions, we can see a spectrum of options and different definitions of success based on delivering substantive justice versus pure procedural reform. From a preliminary literature review, it seems that Canada has a rich experience with the "access to justice" in a full sense including (1) an ongoing tension between substantive goals and improved efficiency, (2) occasional skepticism toward diversion of cases into informal options, and (3) a concern for distributional effects of reforms.

For example, the Canadian Law Commission recently concluded that the use of extra-judicial restorative justice programmes may reduce court congestion and decrease the numbers of criminal offenders who are incarcerated, thereby reducing costs. (Law Commission of Canada 1999). Yet, while these features are consequences of restorative justice for its proponents, "for governments these consequences become goals" (Young and Wall, eds. 1996: 343); Trubek in Hutchinson, ed. 1990: 127); (Hughes and Mossman: 2001).

We noted above that *P. Ramachandra Rao* v. *State of Karnataka* [(2002) 4 SCC 601-602], the same bench that reaffirmed the observation that "justice delayed is justice denied" warned that prescribing a time limit for trials would be an overbroad interpretation of Article 21, and indeed would amount to an impermissible form of legislation by the court. Thus, at least in the context of criminal trials, Questions remain on whether civil procedure can be reformed in such a manner, and counter-models of foreign jurisdictions adopting mandatory "milestones' and time limits

The recent UK, Singaporean and Hong Kong (which had its Civil Justice Reforms last year) experiences tell us that case management measures in itself does not solve the problem of delays. Neither would cost sanctions alone be sufficient. Stringent striking out of cases of parties who failed to comply with peremptory orders coupled with real likelihood of cost of sanctions or negligence action against the legal representatives is essential.

The regime is found in the new Hong Kong Rules of High Court, Order 25 (RHC, O.25). The main idea of the scheme is to anchor in realistic dates for the trial as early as possible, then enforce compliance then them strictly. The Milestone Dates regime of Hong Kong lays down key dates in the litigation

schedule which cannot be changed other than in highly unusual situations, with a list of reasons that would NOT be accepted such situations.[17]

Case management measures had met with little success in the UK in reducing delays and costs due to the attitudes of the judges to do substantive justice in cases and not allow cases to be struck out for procedural grounds other than in the nearly impossible three limbs under *Birkett* v. *James* [1978] AC 297. The test is as follows: (at 318)

> The power [to strike out a case] should be exercised only where the court is satisfied either (1) that the default has been intentional and contumelious, eg disobedience to a peremptory order of the court or conduct amounting to an abuse of the process of the court; or (2)(a) that there has

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17 The decision in *Fortune Asset Development Ltd v De Monsa Investment Ltd,* HCA 167/2009 (17 April 2009), handed down a little more than two weeks after the commencement date of the CJR, is one of the earliest ones after the CJR had been implemented. Registrar Au-Yeung began with stating the principles under the new regime:

…Time laid down by legislation, court order or practice directions should be complied with. Before a timetable is to be laid down by a court, the parties should give realistic estimates of time. If a party permits time (however laid down) to lapse without doing anything, the case/application simply moves on to the next step. Although the innocent party is at liberty to apply for e.g. an unless order with appropriate sanctions, it is incumbent upon the party in default to take the necessary steps to seek any needed extension of time.

The Court has power to extend time even if an application for extension is made after the time for compliance has expired: Order 1B, rule 1(2)(a). In exercising this power, the court will take into account all the circumstances including but not limited to the following matters:

(i) What was the original time allowed and when has it expired? The more the original time allowed, the more difficult it is to justify an extension.

(ii) Was the original time laid down by consent or at the suggestion of the applicant? Under the Civil Justice Reform, a party is held more to his own bargain.

(iii) Why was the original time not adhered to?

(iv) When was the application for extension of time taken out? The greater the delay, the more difficult it is to obtain an extension.

(v) Has the applicant used his best endeavours to secure the attendance of a witness to take instructions and impressed upon that witness the importance of attending on a certain date to affirm?

(vi) Is a witness's availability within the "control" of the applicant? For example, if the witness is an unwilling ex-employee, the court may have more sympathy with the applicant.

(vii) That a client or witness has to travel frequently out of the jurisdiction is not a good reason in itself given the advanced means of communication these days by email, fax and telephone conference. It is incumbent upon the applicant to obtain the instructions for drafting the affirmation in good time and to impress upon the witness the need to turn up on a designated date to affirm.

(viii) If the witness is an expert, has the expert been informed of the time laid down by legislation, PD or the court, and committed himself to provide a report by that time? If he had not so committed himself, why was that particular expert still engaged?

(ix) What realistically is the further time needed to complete and file the affirmation? An applicant should not just casually pick a multiple of 7 days without regard to its adequacy for completing the affirmation.

(x) Was there any de facto extension of time already enjoyed by the applicant, whether by way of consent, or in waiting for his time summons to be heard?

(xi) Will the extension of time sought have impact on any hearing date or milestone date?

been inordinate and inexcusable delay on the part of the plaintiff or his lawyers, and (b) that such delay will give rise to a substantial risk that it is not possible to have a fair trial of the issues in the action or is such as is likely to cause or have caused serious prejudice to the defendant either as between themselves and the plaintiff or between each other or between them and a third party.

Birkett thus imposes very high thresholds to those seeking to rely on it, resulting in none of the limbs of the decision being practically provable in practice.

In contrast, Singapore has taken an extremely strict approach to these same questions, and (at the cost of some of the values expressed in the UK jurisprudence) has effectively eliminated backlog of cases in the Singaporean Supreme Court within one or two years after adopting a new case management regime. Singaporean system is detail-oriented, including having judicial clerks constantly following up on cases and making telephone calls to legal representatives demanding reports on the progress of the case.[18]

A balance must be struck. A system with no enforcement measures against such non-compliance is plainly unjust and unworkable. There is thus a true need for the courts to enforce compliance to such time limits. Yet, on the other hand, if such measures become excessive, the system would be also unjust and unworkable. It is unimaginable that any civilized system would throw a case out of court merely for the reason of any procedural breach, however minor.

Just like time and justice need not be opposed, those who put first the concern for substantive justice and those who are primarily concerned with efficiency of the system can be united in common concerns. Among these are: the negative impact of delays on the poor and evidence that a weak judiciary is the strongest predictor of underdevelopment and economic stagnation. (North 1990); (Koehling 2006).

Availability of Data

Available data will increase with the creation of an arrears grid (See Appendix B). The purpose of the National Arrears Grid is to ascertain and analyze the exact number of arrears in every court in the country. The National Arrears System will be directed towards fulfilling these needs judiciary must generate accurate judicial statistics on a daily basis.

In line with the focus on access to justice:

18 On the elimination of all backlog in the Supreme Court, see: Supreme Court of Singapore, Annual Report 2007. On the efficiency of the lower courts, see: Subordinate Courts of Singapore, Enhancing the Public Value of Justice - Subordinate Courts Annual Report 2008.

> "The Grid, with the help of sociologists, members of the civil society and the voluntary sector, will also specifically identify action areas / geographical areas concerning the poor and the underprivileged vis-à-vis access to justice. It will pay particular attention to ensure that confidence building takes place in the dispensation of justice in these areas."

Available data will increase with the creation of an arrears grid (See Appendix B). The purpose of the National Arrears Grid is to ascertain and analyze the exact number of arrears in every court in the country. The National Arrears System will be directed towards fulfilling the following needs :

- judiciary must generate accurate judicial statistics on a daily basis
- disaggregated data collection from various courts
- to identify specific needs by case type
- to identify areas of the country with the highest arrears

This data will require academic expertise, and also foster research on a new scale. Finally, follow-through on measures currently being taken is important. Within the first 3-5 years of the introduction of a program, it should be assessed and reviewed.

PART II

Summary Of The Proceedings: National Seminar Delays In The Indian Legal System: Legal And Institutional Reforms

The theme of the Seminar was to address the increasing number of pending cases in India and discuss how to respond effectively to the problem of judicial delays. The Seminar also sought to evolve new and innovative research strategies and to consider the strengths and weaknesses of existing proposals for promoting the speedy and just resolution of cases.

A. Inaugural Session

Prof. C. Raj Kumar, Vice-Chancellor of the O.P. Jindal Global University and Dean of the Law School, introduced the conference topic during the inaugural session. He highlighted the importance of robust dialogue between the law school classroom and the courtroom, and emphasized the role of academicians and practitioners alike in working to bridge the gap between the law in action and the law on the books. He set out three challenges for engaging in this project of public service: (1) a *theoretical challenge* concerning the enforcement of the rule of law, a normative framework which lacks enforcement or implementation in many places. The task of mapping this terrain is itself a contribution to the respect for law, the predictability nondiscrimination, in time inculcate a law-abiding society (2) *an institutional challenge*, to understand access to justice in light of the development of formal and informal mechanisms: the judiciary on one hand but also independent human rights institutions and other mechanisms for anti-corruption and transparency. In light of de facto legal pluralism, we must look at the level of instutionalisation of Lok Adalats, caste panchayats, and tribunals among others and investigate the scope of the linkages between these. These too are linked to questions of pendency. (3) Finally, there is the *challenge for legal education* and creating in academia a culture of research, which could be applied usefully to questions on the administration of justice.

A number of legal and political luminaries participated in the inaugural session. Justice A.P. Mishra, Chairman of the Education Committee, Bar Council of India, pointed out the importance of quality of judges as well as lawyers in the dispensation of justice. He also noted that—although the ordinary wisdom tells us that "justice delayed is justice denied"—we must also remain mindful of the fact that "justice hurried is justice buried." Thus,

a proper balance must be maintained to ensure speedy justice without sacrificing the quality of justice. Justice Mishra encouraged lawyers and future lawyers to remain committed to seeking and presenting the truth, and that truthfulness in itself is a practice that would reduce frivolity and pendency.

H.R. Bharadwaj, Governor of Karnataka and former Law Minister, encouraged the Jindal Global Law School to impart broad-based knowledge in various emerging areas of legal education so as to meet the demands posed by globalisation. He lauded the creation of a strong judiciary by the founding generation of India, and noted that it was because so many of the leaders of the freedom struggle—e.g., Gandhi, Nehru, Patel—were lawyers that they ensured that judicial review became a pillar of the Constitution. A re-commitment to the legal profession would ennoble the institutions.

The next speaker was Prof. Marc Galanter, of the University of Wisconsin Law School, who suggested that the reasons for the long delays in the Indian judicial system are twofold. First, there are structural factors like budgetary limitations and poor facilities that contribute to the ailments in the system. Second, the strategies employed by the lawyers and litigants also contribute to lengthy delays. Common litigation tactics, such as filing for repeated continuances and interlocutory appeals, are a major impediment to the speedy disposal of cases at the lower rung of the judicial system.

Prof. Jayanth Krishnan, of the Indiana University-Bloomington Maurer School of Law started with a warning. There is a need for serious empirical research into the functioning of the lower courts. He emphasized that the majority of legal research and writings have confined their focus to elite law firms, higher courts and the Supreme Court. This has led to a palpable neglect of the lowest courts in India, and the common practicing lawyer resulting in a lack of available data on the functioning of these courts.[19] In this connection, he discussed the role that Jindal Global Law School can play in such an endeavour. JGLS students and faculty can play a critical role in enhancing our understanding of these courts by conducting research projects, both in Haryana and nationwide. The most important feature of this endeavour is that it can lead to the creation of a detailed database with comprehensive information about the functioning of trial courts in India. This can be a very effective tool for understanding delays in the legal system as well as other incidental problems with the justice system.

19 A few studies have been conducted in the lower courts: Hazra and Micevska (2007); Moog (1992-1994); Rajan and Khan 1982).

Prof. Peter Schuck introduced a project initiated at the Law School as a Lok Adalat. This would have the dual purpose of clearing away arrears from the lower courts of Sonipat, and putting academics at JGLS in touch with the concrete problems of access to justice. Prof. Vivek (Vik) Kanwar of the Centre on Public Law and Jurisprudence at Jindal Global Law School divided the remaining sessions of the conference into "causes and consequences" and "recommended solutions," the latter of which crucially includes the "role of the academy." Kanwar directed his address to the law students in the audience and emphasized the generational shift that the students will begin engaging with institutional developments from the start. He noted the importance of bringing this discussion to the law schools, unprecedented and sustained engagement by the legal academy in "what is arguably the most important structural issue not taught in the law schools." Academics and researchers must recognize that the doctrine, theory, and promise of the law taught in textbooks and lectures too often fail to be realized in practice because of these very problems. A note of thanks and welcome to the day's proceedings was given by Prof. D.K. Srivastava, Pro-Vice Chancellor of O.P. Jindal Global University.

B. Second Thematic Session: Causes And Consequences Of Delays

Prof. Bibek Debroy, from the Centre for Policy Research in New Delhi, spoke about the ideology behind Lok Adalats and their role in access to justice. The problem today is not only of delays in courts but also inadequate support from the public. We have hardly seen active participation of people in alternative dispute resolution measures. The reasons for this may include a paucity of awareness or the low esteem with which the judiciary is held in India. So, a widespread embrace of the courts will only be possible when the judiciary will be widely perceived as responsible and legitimate.

Dr. Francis Julian talked about the current figures of pendency of cases in the Indian courts and emphasized the need to spread awareness amongst the masses regarding the availability of forums for alternative dispute resolution. In Dr. Julian's view, these alternative dispute resolution mechanisms offer the best tool to satisfactorily resolve those disputes that have carried on through generations.

Mr. Siddharth Raja observed that one of the reasons for the explosion in pendency of litigation is the complexity of laws. He discussed the "Three C's"—Consistency, Clarity, and Certainty—and how the Indian legal system is not conducive to any of these. As an example, Mr. Raja

referred to arbitration clauses in international business contracts and argued that efforts by the Supreme Court of India to exert jurisdiction over these disputes has rendered the meaning of the Indian Arbitration and Conciliation Act, 1996, much more complex and uncertain. He emphasized that it is an anomaly that all sides to a dispute, including Indian companies, would rather take a dispute to another jurisdiction. For all parties involved a sense of security lies anywhere other than in the Indian courts.

Mr. Ritin Rai suggested that judges should introduce penalties and costs on lawyers and parties who slow down litigation beyond a prescribed time frame. He also addressed the ideology of 'commercial division of High Courts' and cautioned that reform efforts need to be more thoughtful regarding why certain specialized set-ups are being adopted. Unless there is a broad consensus regarding the purpose that new divisions are intended to serve and their expected results, the whole exercise will be futile. In responding to a question from the floor, Mr. Rai made clear his view that the "tribunalisation of justice" into specialized courts is both unavoidable and desirable. The day is coming when a lawyer can no longer be a generalist, and many judges will have to become specialists as well. It is not possible to know so many areas of law in depth. The problem, as he sees it, is if general courts then take jurisdiction to review the decisions of these courts working with very special knowledge. He supported limiting jurisdiction of the general courts, since these could only add to pendency as well as to bad decisions.

Prof. Pritam Baruah, from the National University of Juridical Sciences in Kolkata, talked about the conception of the trade-off between 'time and justice.' The two are often seen as opposed, and that the image of the trade off is implied when we seek a balance between speedy justice without sacrificing the quality of justice. Prof. Baruah claimed that it is possible to view this differently if the resources of justice and time are not simply opposed but the time of a single litigant to the time of all others, and justice for a single litigant to all others. He discussed the major causes of delay and suggested that we need to encourage reforms prior to courts and should try and reduce the chances of disputes to arise. He pressed upon the need for decentralization and flexibility in operation through adequate training, conducting periodic assessment, administrative support and developing a case management system.

C. Third Thematic Session: Reforms To Ensure Timely Delivery Of Justice

Prof. Dr. N. R. Madhava Menon advocated the setting of criteria for an average time within which the courts shall decide a case and the factors on which such a time frame could be based. He suggested that hiring more judges would reduce the pendency. He also pointed out that technology can help speed up the judicial process and suggested that the court staff should be trained in file management, proper documentation, and filing and numbering of matters using basic tools of information technology. He also emphasized the need to invest in the quality and capability of judges. He discussed the possibility of holding an All India Judicial Service national level exam for judges on a pattern similar to the Indian Civil Service exams and proposed a standard retirement age for judges of High Courts and Supreme Court.

Prof. Ghanshyam Singh spoke about promoting conciliation and other arbitration methods to aid pendency of cases. He observed that if courts are given the authority to decide whether parties should go for alternative methods of dispute resolution then the analysis mechanism itself shall take a long time and the very purpose of speedy justice would stand defeated. Prof. Singh expressed concern over the fairness of Pre Litigation Conciliation as given under Chapter 6A of the Civil Procedure Code, particularly questioning the impartiality of a forum that would act as a court after failing to reach agreement as a conciliator.

Mr. Arnab Hazra focused on judicial impact analysis and proposed a simple economic framework of demand and supply; if demand for justice is higher, then we need to increase the supply. This can only be done by either getting more productivity out of the current judicial system or by adding greater capacity to the judicial system. To accomplish this, there is a pressing need to train judges for productive enhancement, train the back office, improve case management, and promote methods of alternative dispute resolution.

Ms. Menaka Guruswamy made a few observations regarding who actually accesses justice and the unevenness between urban and rural settings. She argued that the effort to push rural litigants into informal options like Gram Nyalalas is misguided because the problem of pendency is primarily an urban phenomenon. She also expressed her disapproval towards eroding due process rights through a recourse to informal justice as well as legal reforms such as plea bargaining, which she viewed as inconsistent with the constitutional right against self-incrimination.

Mr. Aditya Singh drew attention to the barriers of delay in delivering justice and noted poverty and illiteracy as the basic indicators of delay and also touched upon regional unevenness in resort to the judiciary. As a corollary to the conventional logic that hiring more judges would reduce the pendency, Singh suggested that without sensitivity to the arrears and capacity of courts by region, it would be a limited solution.

Several of the speakers mentioned that the most common defendant in the Indian judicial system is the government. Suggestions for reducing government involvement in frivolous appeals ranged from the implementation of a National Litigation Policy to an amendment of the Prevention of Corruption Act. These suggestions have been incorporated elsewhere in this report.

D. Concluding Session

In the concluding session, the panelists sought to tie together some of the suggestions that had been made throughout the conference, and indentify areas of agreement and areas needing further consideration.

Prof. Marc Galanter emphasized the problem of efficiency and the dire need for optimal use of the resources already allocated to courts. He further highlighted the gravity of the situation and also the need for further research and deeper fact-finding rather than piling up recommendations without detailed knowledge of the actual situation.

Prof. Jayanth Krishnan commended the vision of Prof. C. Raj Kumar in developing JGLS and shared his faith in it becoming a centre for excellence in research, teaching and welcoming foreign students and researchers. He discussed a few of the recommendations presented in the third session, such as (1) recruiting more judges, (2) providing IT networking to courts, (3) developing a system to bypass regular courts, (4) encouraging the check and balance process, and (5) need for knowledge based systematic research. He concluded that the problem is not how many cases are going to the courts but how few are coming out. What we need today is to work beyond just proposing reform but actually doing something substantive.

Prof. Peter H. Schuck suggested division of the problem into several frames; first, the size of the problem; second, the sources of the problem; third, how serious it is; and finally, how to solve it. He remarked that the backlogs are uneven and so a uniform approach might not be appropriate; there is a need for a more specific approach to each of the different categories of cases. He commended the efforts of the Law School for organizing the seminar

and stated that such seminars are necessary to raise public awareness of the issues.

Prof. Vik Kanwar thanked the participants for highlighting the urgent issues and pointed to the emerging role of academia in spurring and supporting desirable change in the judiciary. He drew attention to the consensus building around state-based solutions to the problem, and viewed the conference as a parallel mobilization of the knowledge sector, including research universities.[20] Many in the conference recognized the need for further research. Kanwar following up on need for more detailed research and specificity of region and categories of cases, pointed particularly to the setting up of the National Arrears Grid, a project of great sophistication and ambition which would require the expertise drawn from academia in fields as diverse as sociology, law, computing and management. Among the possibilities in this regard are the intellectual resources provided by the ten research centres at JGLS, each of which is equipped to take a slightly different disciplinary approach to the problem. The Centre on Public Law and Jurisprudence (CPLJ) has been investigating delays and also informal justice mechanisms that have emerged in the failure of formal ones. The Centre for International Trade and Economic Laws (CITEL) has been asked to look at the recourse to arbitration and special tribunals, domestic and international. (The present document includes contributions from no less than five research centres). Finally, Kanwar pointed to a project initiated by Prof. Peter Schuck of Yale and the head of JGLS Clinical Programmes Prof. Ajay Pandey: the creation of a "small claims court" in Sonipat District, which would be organized as a Lok Adalat.

In a closing address, Justice Bhandari reiterated how monumental the problem is by providing the volume of pending cases as on 30th September 2009: High Courts 40,49,649 and Sub-Divisional Courts- 2,72,38,782. Around 70,332 cases were pending in the Supreme Court and 67,459 were resolved in the same year bringing the resolution percentage to 95.8%. He lamented the fact that despite the best of efforts by the judiciary, they have not been able to find effective ways and means to address the chronic problem of pendency.

The seminar concluded with the compilation of various recommendations; a selected few, chosen by the post-conference drafting committee, are highlighted for discussion in Part III below.

20 In addition to the various efforts at JGLS, a parallel effort can be noted at the Gujarat National Law University (GNLU), which unveiled (Patel and Singh 2010) a "Blue Print for Reducing the Backlog of Cases in the Subordinate Courts of the State of Gujarat" presented to the Chief Minster and the Chief Justice of Gujarat on March 28, 2010.

PART III

Recommendations Toward The Timely Delivery Of Justice: Legal And Institutional Reforms

The seminar concluded with various recommendations and the major ones are discussed below. The recommendations are as follows:

Targeted Recommendations

1. Empirical research and data collection to be conducted on the functioning of lower courts, the regional and disaggregated data, and performance of various courts.
2. Restatement Project: Clarification of Precedents and Laws.
3. Encourage ADR measures and pre-trial counseling/ dispute resolution measures.
4. Restructuring Incentives and imposing sanctions on various stakeholders, introducing penalties and costs on parties that contribute to delay after a prescribed time frame.
5. Targeted Amendments to Legislation and Codes. An amendment to be made in the Arbitration and Conciliation Act, 1996 to better ensure the quality of justice and finality delivered by tribunals.
6. Introduction of a case management system, provision of adequate training in a decentralized manner, conducting of periodic assessment, administrative support and development.
7. Recruitment of more judges, an increase in resources to attract a competent judiciary at a greater strength and their distribution in a targeted manner to areas of the country with the highest arrears.
8. Introduction of Internet technology in reduction of paper work on the model of e-courts in New Delhi.
9. Introduction of specialised as well as fast track courts.
10. Implementation of a National Litigation Policy and implementation of a National Arrears Grid.

ANALYSIS

The fairness and efficiency of the administration of justice depends on a reliable and effective judicial system, and the judicial system is the product of the behavior of a diverse array of participants. The cumulative effects of

choices made by advocates, litigants, and judges result in either a judicial system that is providing access to justice for those who need it, or a system that fails in this basic task. Unfortunately, it is possible for each participant in the system to behave rationally based on his or her own interests, but to still have the overall effect of these actions result in gridlock, delay, and waste. This can occur when the incentives of each participant in the system, and the information available to that participant, are not in line with the overall goal of making the judicial system work well for everyone. It is critical to identify and implement reforms that will address the core problem of judicial delays. To be effective, such reforms must seek to ensure that advocates, litigants, and judges have appropriate incentives, and access to appropriate information, to make decisions that are both in their interest, and in the interest of the overall functioning of the system. This section seeks to address the problem of poor incentives and poor information by presenting ideas for reforms that will provide better incentives and information to the various actors in the judicial system. Many of these ideas were presented at the recent Jindal Global Law School conference on delays in the judicial system.

A second overall goal is that "extensive efforts should be made toward improving the image of the judiciary in public eyes." We hope that this will be one of the results of implementing the other suggestions. Improving the image of the judiciary should be concurrent with improving its functioning. The encounter with the court system should be friendlier, and the ease of filing and tracking one's own case might lead litigants to feel more control over their cases, and recognize the difficult but valuable service being rendered. The involvement of court personnel in ADR activities should reinforce trust while not diverting resources from the needs of litigation. Image and public perception matter greatly in the administration of justice. It has long been a maxim in the law that "justice must not only be done, but also be seen to be done."

Even if in "Impossible India" we cannot immediately change hearts and habits, we can at least change incentive and rules. Developing these recommendations into workable models will require action by all the decision makers and stakeholders in the system.

1. **Empirical research and data collection to be conducted on the functioning of lower courts.**

   If we do not fully understand the problem, then we will not be able to propose effective solutions to the problem, nor will we have accurate information regarding the extent to which proposed reforms are working. Careful scholarly work can also help policy makers optimize cost-allocation

and benefit-sharing. Because of this, conducting empirical research and collecting data relating to functioning of the lower courts should take the highest priority in promoting the timely delivery of justice.

Scholars who have studied the courts for decades such as Prof. Marc Galanter and Prof. Jayanth Krishnan must be taken seriously when they admit that "we do not know enough" about the state of pendency, particularly at the level of the lower courts.

Disaggregated data collection from various courts will enable policy makers to identify specific needs. The National Arrears Grid System (see Recommendation 10 below) will be directed towards this task. This should be done in a targeted manner to areas of the country with the highest arrears. Fast Track procedures may then be evolved to deal with the cases that are earmarked by the research as causing bottlenecks.

Basic research is needed on Lok Adalats, tribunals, and informal justice mechanisms. Anecdotal evidence suggests that though various tribunals have been formed such as the Motor Accidents Claim Tribunal (MACT) or the Debt Recovery Tribunal, many cases are being registered with and are being resolved by the Lok Adalats and not addressed to their respective tribunals.

2. Clarification of Precedents and Laws.

One of the critical problems confronting advocates and judges is a lack of clarity about what the law actually is. Research contributing to Restatements of Law will provide better public information about the likely results of litigation, as well as assisting judges to make decisions more consistently and efficiently (see below).

At the Jindal Global Law School conference, Prof. Marc Galanter noted that for many legal questions in India, it is possible to identify judicial precedents on both sides of the question. This makes it very difficult for judges to resolve contested issues of law. Many of the proposals for judicial reform have centered on providing better technology to judges: computers, internet connections, and other tools to facilitate dialogue among judges as well as more effective legal research and delivery of judgments. These proposals are sound, and will be extremely useful to judges if implemented. But providing better technology to judges is not enough. There is also a need for a more systematic attempt to identify and promulgate clear information about the state of the law in a number of areas. Restatements of Law, as well as case law precedents, should

be available to judges electronically so that needless adjournments are avoided.

This proposal is to initiate a project to provide clear expositions of the law in a number of substantive areas, beginning with the areas that provide the largest amount of litigation. These expositions would be produced by committees of judges, practitioners, and academicians and they would provide information about the actual state of the law based on the weight of judicial precedents in India. The expositions would not be a binding legal authority, but they would provide valuable information about the weight of legal authority on any given legal question. They could acknowledge areas where there are conflicting precedents, but provide opinions about which side is supported by the weight of authority and the best reasoning. This proposal is inspired by the successful example of the Restatements of Law that have been promulgated in the United States by the American Law Institute, a network of judges, academicians, and practitioners. These Restatements were motivated by similar concerns in the United States about the law being unclear and providing poor information to judges and practitioners. And the Restatements have proven invaluable in the process of making the law more systematic, predictable and fair, providing better information to judges to make more sound legal decisions.

Research contributing to Restatements of Law will provide better public information about the likely results of litigation, as well as assisting judges to make decisions more consistently and efficiently. JGLS welcomes the public announcement of a committee to develop Restatements of Law in India, proposed by the Chief Justice of India in 2009. This is an important development that should receive the full support of academicians, practitioners, and others. JGLS is developing a South Asian Law Institute (SALI) to fill the gap in research, creating an institution along the lines originally conceived for the Indian Law Institute (ILI). As Krishnan (2005) remarked in his historical study of the origins of the ILI, while it remains a hub of academic activity, the ILI strayed quite early from the mission that had defined the ALI, which was established to cure:

> [t]wo chief defects in American law, its uncertainty and its complexity, [which] had produced a general dissatisfaction with the administration of justice." The ALI had earned the reputation as a leading center focused on the study and improvement of law. (Krishnan 2005).

As Krishnan's Article documents, however, U.S. efforts to create in the ILI an Indian counterpart the ALI, a hub where academics and practitioners

could clarify outstanding questions of Indian law, flagged and then faded amid series of institutional identity crises. As a matter separate from what the the ILI of today ought to include in its own agenda, or whether the SALI being established at JGLS will effectively take up a role in commissioning Restatements of Indian Law, it remains a pressing task to create a durable and reliable source for clarifying the law for judges, as well as for lawyers and litigants.

3. Encourage ADR measures and pre-trial counseling/ dispute resolution measures.

The involvement of court personnel in ADR activities should reinforce trust while not diverting resources from the needs of litigation. Encouraging ADR measures and pre-trial counselling/ dispute resolution measures can ease the pressures on the court system. Courts may also take resort to Section 89A of the Civil Procedure Code, 1908 in order to ensure that litigants first exhaust all modes of alternative dispute resolution. This will not only decrease the pendency of cases before courts, but would also substantially reduce litigation costs and ensure timely and amicable resolution of disputes. The 77th law commission report conceived this recommendation, and the 129th report came with the concept of neighbourhood justice centres. The same has been developed and partially implemented now and then.

4. Structuring Incentives: penalties and costs on parties that contribute to delay after a prescribed time frame.

Insofar as the judicial system is the product of the behavior of a diverse array of participants— judges, advocates, and litigants— and failures in the judicial system result from how these participants are currently motivated to act, a re-structuring of incentives and penalties would be appropriate if targeted in a rational manner.

Judges

Judges are not merely the ultimate decision-makers in litigated cases, but they are also the chief administrative officers who are responsible for the functioning of the system of justice. It is therefore especially important that judges be equipped to make sound decisions and that they have the proper incentives to address the problems of delays and arrears. In this area, there is a need for significant reforms. First, there should be serious attention paid to the problem of unclear and even contradictory interpretations and applications of the law. This problem leads to

unnecessary difficulty for judges in reaching correct decisions, and a general uncertainty of results that may encourage attempts by advocates and litigants to delay. Second, there has long been recognition of the need to centralize the administration of the judicial service in India; this would greatly facilitate evaluation both of individual judges and of overall sources of bottlenecks and delays in the system.

Advocates

Judges should introduce penalties and costs on parties that contribute to delay after a prescribed time frame: The Law Commission's Reports have not touched upon this aspect to date. Reformers have long identified advocates as a primary source of delays in the administration of justice. Some of the complaints include a perception that advocates seek unwarranted continuances to delay litigation, and that there are also a never-ending parade of procedural tactics that make the resolution of cases grind to a halt, such as motions for interim orders and interlocutory appeals. There have been attempts to reform the system by amending the Code of Civil Procedure to limit the use of such delaying tactics, but these limits have been ferociously opposed by the practicing bar. However, there is room for reform in another direction, by altering the incentives of advocates rather than limiting the range of procedural motions that are available to them. This report offers a carrot-and-stick approach, with contingency fees serving as the carrot and sanctions serving as the stick. Serious consideration should be given to permitting contingency fee arrangements in order to give advocates a financial stake in the outcome of their cases. In addition, there should be a greater emphasis on legal sanctions and fines on advocates when a court determines that an advocate has made a frivolous motion or appeal in a case, causing unnecessary delay.

Contingency Fees

One promising avenue for reform would be recognition of contingent fee arrangements for advocates. Under a contingent fee arrangement, the advocate works for a percentage of the damages awarded to the client, rather than for a fixed fee determined by the number of hours or court appearances made by the advocate. If an advocate is working for a contingent fee, then the advocate's financial incentive is to achieve the best result for his or her client as timely as possible. While these fees are generally used only by the attorney on the plaintiff's side, this would ensure that at least one of the advocates in the case will have an incentive to expedite proceedings. Currently, an advocate representing a

plaintiff may have little reason to object to the use of delaying tactics by the defendant's counsel, because the plaintiff's advocate may also benefit from increasing fees caused by delays and further court appearances. Under a contingent fee system, the plaintiff's advocate would object more strenuously to attempted delays.

As an additional benefit, the availability of contingent fee agreements would increase the availability of legal representation to the poor. Advocates would be more likely to take on a meritorious claim from an indigent client if the client could agree to pay the advocate's fee out of the ultimate award of damages from the case.

Sanctions for Frivolous Delay Tactics

While contingency fee agreements would provide a carrot to many advocates to move their cases toward resolution, sanctions would serve as a stick to prod advocates away from using frivolous delay tactics. In the past, there have been attempts to amend the Civil Procedure Code to limit the availability of delay tactics, but these have met fierce opposition from the practicing bar. One of the problems with the previously proposed amendments was that they adopted an overly blunt approach, seeking to cut off certain types of motions and appeals altogether, regardless of the merits of the particular motion. A more promising approach would be to empower judges to impose severe sanctions on lawyers for filing frivolous motions and appeals. Currently, there are some legal provisions for cost sanctions, but these are *de minimis* and provide little or no disincentive to frivolous motions.

The proposal for sanctions makes sense from the perspective of economics. When an advocate files a frivolous motion or interlocutory appeal, that advocate is imposing an administrative cost on the overall system and on all other litigants whose cases are delayed because of overuse of these motions. When a court finds that the motion was frivolous and caused unnecessary delay, the court should require the advocate to internalize the costs imposed on the system. Appropriate sanctions should be in an amount that is sufficient to deter an advocate from making needless motions solely for the purpose of delay. To prevent abuse, sanctions should not be imposed every time an advocate makes an unsuccessful motion or interlocutory appeal. Rather, the court should determine whether the motion had any plausible legal merit. If not, then the advocate should be sanctioned.

Litigants

Any reform should also consider the incentives of the litigants who actually make use of the judicial system. In many cases, litigants—especially defendants—deliberately seek to delay the resolution of cases through a variety of aggressive litigation strategies. Due to high interest rates, and the uncertainty of future conditions, the present value of an award of damages is greatly reduced the longer the final judgment is delayed. This also reduces a defendant's willingness to settle a case by making a reasonable offer to the plaintiff. This reluctance to settle is further reduced by imperfect information about the relative strength of the litigant's case. Because of a lack of clear communication about the disputed areas of fact and law in a given case, all parties have difficulty predicting their likelihood of success. This encourages parties to pour resources into protracted litigation rather than coming to a mutually agreeable resolution of the case. Reforms should focus on increasing the use of pre-judgment interest on damages awards, and to facilitate effective case management that increases the information available to litigants about the merits of their cases.

Pre-Judgment Interest on Damages Awards

The most direct way to get a defendant to internalize the costs of delay is to ensure that damages awards include a provision for pre-judgment interest. Damages should start with the amount of harm actually suffered by the plaintiff, but this amount should then be increased by the prevailing market rate of interest from the date of the plaintiff's injury to the date of final judgment. To go even further, if the court determines that the defendant has engaged in frivolous or unwarranted delaying tactics, the court should be empowered to increase the interest rate above prevailing market rates to provide a further disincentive for such tactics. India already has some law regarding this subject. Section 34 of the Civil Procedure Code allows for damages awards to include pre-judgment interest at the discretion of the court. But there is little information about whether the majority of judgments actually include a provision for such interest, and whether courts are equipped to make accurate determinations regarding the rate of interest and the appropriate increase in the damages award.

Reform should be aimed both at revising Section 34 of the Civil Procedure Code and at training courts to make more effective use of their power. Section 34 should be revised to indicate a strong presumption in favor of including pre-judgment interest in a damages award, and perhaps even

to allow a plaintiff to appeal if the final judgment does not adequately compensate the plaintiff for the waiting period between the injury and the ultimate award of damages. Section 34 could also provide for judges to award a higher rate of interest than the market rate in the event of a finding that the defendant has engaged in unwarranted delaying tactics. Even without a formal change to the Civil Procedure Code, however, training and information programmes could be adopted to encourage judges to include pre-judgment interest in final judgments. Attempts to raise awareness about this power should be supplemented with the distribution of tools to enable judges to identify the appropriate market rate of interest and include it in a damages award.

5. Suggested Amendments to Legislation and Codes.

Right from the 14th Law Commission report there has been strong recommendation regarding scrapping of old and outdated laws and revisiting them critically. [21] Among the Amendments that were highlighted at the Seminar on delays were:

An amendment in the Arbitration and Conciliation Act, 1996 to enable tribunals to settle matters without too much interference from the courts. Safeguards should balance the rights of litigants with their interest in finality.

6. Development of a case management system to separate and allocate time to simple or complex cases. Case Management to Facilitate Settlement of Claims Decentralization and provision of adequate training, conducting of periodic assessment, administrative support.

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21 Most recently, the 221st] Law Commission took up the study suo motu and recommended the following amendments:
1. Amendment of section 80 and Order V of CPC and also the concerned Court's Rules - In order to shorten delay, it is necessary that provisions parallel to section 80 CPC be introduced for all kinds of civil suits and cases proposed to be filed by a litigant .
2. Amendment of sections 378, 397 and 401 CrPC
In complaint cases also, appeal against an order of acquittal passed by a Magistrate to the Sessions Court be provided, of course, subject to the grant of special leave by it.
Where the District Magistrate or the State does not direct the Public Prosecutor to prefer appeal against an order of acquittal, the aggrieved person or the informant should have the right to prefer appeal, though with the leave of the Appellate Court.
There should be only one forum for filing revisions against orders passed by Magistrates, that is, the Sessions Court, instead of two alternative forums as now provided.
The Legislature should specifically categorize revisable orders, instead of leaving the matter to confusion caused by various interpretations of the expression "interlocutory order".
Amendment of Transfer of Property Act 1882 – It should be made mandatory that the consideration for every sale shall be paid through Bank Draft .

Case management involves the management of the flow of cases as well as the management of each individual case. The systematic and proper management of time in respect of each case will go a long way in reducing delays. A judge must determine the general complexity of a case so that the progress of a case can be effectively managed. Case management models have been developed in foreign jurisdictions (Singapore and Hong Kong have been especially successful), as well as by management experts at the IIMs and elsewhere.

It is also important to ensure that litigants are provided with sufficient information to evaluate their likelihood of succeeding on their claims. This can be accomplished by the adoption of sound case management techniques by judges. Judges should involve themselves early in the process and require that litigants submit information about the case, the relevant issues of fact and law, and the evidence on which they are relying. This information should be submitted to the court and to the opposing party. The court should then hold a case management hearing to require the parties to prepare a mutual statement of the facts of the case, including stipulated facts on which both parties agree and the facts that are in dispute, as well as any disagreements about the applicable law.

Such a statement will enable both parties to more accurately evaluate the strengths and weaknesses of their case, and the likely outcome of a prospective trial. The parties will then be more likely to be able to reach agreement on the terms of a settlement. Such a settlement could be accomplished informally through negotiation between the counsel for each side, or more formally through a judge-administered mediation or an alternative form of mediation recommended by the judge. If there is a clear likelihood that one side or the other will ultimately prevail, then the parties should be able to reach a settlement fairly early in the process, without the waste of judicial resources and the consequent effects on judicial delays and arrears.

Ideas along these lines were first introduced in the 54th Law Commission Report, 58th Report, 77th Report, and the Arrears Committee Report 1989-90. They have also recommended by the Prime Minister and the President of India in various conferences and inauguration programmes such as at the Conference of Chief Ministers and Chief Justices of High Courts, March 31, 2006 and at the first anniversary celebration of Bangalore Mediation Centre February 1, 2008. They should go hand in hand with the following recommendations, involving better training and oversight of judges.

7. Recruitment of more judges and increase in resources to attract a competent judiciary at a greater strength and their distribution in a targeted manner to areas of the country with the highest arrears. Recruiting more judges while still strategizing retention of judges would be concurrent due to the size of the problem.

a. *Establishment of more courts.* Participants talked not only about more courts, but also radically restructuring the trial courts at the grassroots level. The Seminar on Delays gave this problem a more regional character than what has been suggested in the past.[22]

b. *Establishment of All India Judicial Services (with the same pay scale as IAS)* -Centralized Judicial Administration. There have long been calls for the creation of a more effective judicial administration in India. Under Article 312 of the Constitution of India, Parliament is empowered to establish an All India Judicial Service, and a number of Law Commission Reports and other reports have advocated this. The creation of an All India Judicial Service would be extremely useful in addressing the problem of arrears in the judicial system. Such a service could provide information and evaluation of individual judges, and report on how individual judges are performing in addressing delays and arrears. The service would also be able to provide better regulation of appointments and move the most effective judges to the areas where there is most need. The service could also consider other ways to incentivize more efficient judicial performance, such as official recognition of judges who have taken creative steps to resolve delays, and promulgation of best practices guides based on accumulated experience of judges. There is strong reason to support the creation of an All India Judicial Service. This was first recommended in the 77th Report and addressed also in the 120th Report and 121st Report. This will require a significant investment of resources, but it promises great gains in efficiency. A centralized academy will also ensure parallel training all over India.

c. *Recruiting more judges, strategizing retention, and revising the salary structure*[23] Both recruitment and retention involve the issue of salary

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22 This recommendation was first made in the 77th report and found mention in the 124th report as well. These prior reports have talked not only about more courts, but also radically restructuring the trial courts at the grassroots level. The same was also recommended in the arrears committee report 1989-90. The same has been very actively backed through various literature works as well as throughout various legal platforms, and yet major action has still not been forthcoming.

23 This recommendation was first made in the 27th report of the law commission of India, again in

structure for judicial officers. The budget allocation for administration of justice in India is below 1%. We have already mentioned the strategic use of resources targeting different regions and increasing manpower according to urgency. In any case, the salary structure for law enforcement officers in India is very low. Especially, the lower judiciary in India is characterized by inadequate infrastructure and low pay scale. At the National Seminar at JGLS, Prof. Mahdav Menon Justice encouraged law students to take up the judiciary as a career path, and claimed that with government benefits such as housing allocations, the pay differential between the judiciary and corporate law firms is not as significant as is often claimed. Following the Seminar, the Report Committee undertook some independent research on the realities of judicial pay, and found that while Prof. Menon's claims are far too optimistic at present, significant reforms may be imminent.

Following recommendations for an increase in judicial salaries. The budget allocation for administration of justice in India is below 1%. Resultantly, the salary structure for judicial officers in India is very low. Especially, the lower judiciary in India is characterized by inadequate infrastructure and a low pay scale.

Justice Janganath Shetty Commission was constituted on March 21, 1996 to recommend a salary hike, if required, for judicial officers in India.[24] After three years, the Commission had recommended a salary increase that entitled a civil judge (junior division) a starting salary of RS 11,775, civil judge (senior division) Rs 15,200, District Judge (entry level) Rs 20,800 and District Judge (super time scale) Rs 23,850.[25] However, this recommendation was made in view of the salary of High Court and Supreme Court judges, which was as low as Rs.33, 000 for the Chief Justice of India. Therefore, the Commission had recommended simultaneous increase in the salary of all the judicial officers in India, irrespective of hierarchy.

The salary structure of the higher judiciary was altered in 2009 with a three-fold increase in their salaries. The Supreme Court judge's salary was

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the 77th report, 80th report, 120th and 121st commission report. The same was also proposed by the Arrears Committee (1989-90), Malimath Committee, Task Force on Judicial Impact Assessment and in various Chief Justices Conferences.

24 Justice E. Padmanabhan , Determination of Salaries, Pensions, etc to Judicial Officers and Pensioners, 29th July,2009 (a report submitted to the Supreme Court).

25 Judicial Pay Commission: Padmanabhan Committee Submits Report, Three Fold Pay Hike For Trial Court Judges, Indian Express, July 29th, 2009. Available at http://www.indianexpress.com/news/judges-salary-hike-sc-seeks-states-response/495433/

increased to Rs.90, 000 and Chief Justice of India to about Rs.1, 00,000. However, there was no such concomitant increase for the lower judiciary.

Consequently, a writ petition was filed in the Supreme Court of India seeking increase in the salary of lower judiciary. The Chief Justice of India, K.G Balakrishnan not only entertained the petition but also set up a second pay Commission headed by ex-Justice E. Padmanabhan in April, 2009.[26] The Second Commission submitted its report before the Supreme Court on 17th July 2009, recommending a three-fold increase in the salaries of the judges. The Supreme Court had asked the state governments to respond to the recommendations. The hearing was adjourned last year and the case is coming up before the Supreme Court within this week (May, 2010).

Currently, Class I Group A judicial officers in Delhi receive approximately Rs.6,00,000 per annum (including benefits). This figure is a result of the sixth pay commission salary hike. This hike is derisory and insufficient to meet a respectable standard of living in an expensive metropolitan city like Delhi. It is imperative to amplify their salary up to Rs.1, 00,000 per month in order to have a proficient and corruption free judiciary.

Such financial security will not only ensure efficiency in administration of justice but also more competent law students taking up Judicial Examinations to serve as judicial officers.[27]

8. Introduction of Internet technology in reduction of paper work.

Introducing Internet technology in reducing paper work along the model of e-courts in New Delhi.[28] Existing e-courts involve at minimum the filing of all documents through a paperless online system. Drawing upon this experience, Justice Lokur, former judge of the Delhi High court has suggested some improvements which could also be transposed elsewhere. These suggestions are reproduced in full below:

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26 SC Constitutes new pay commission for 14,00 trial judges, Times of India, 29th April, 2009. Available at: http://timesofindia.indiatimes.com/india/SC-constitutes-new-pay-commission-for-14000-trial-court-judges/articleshow/4460533.cms

27 See, e.g., http://timesofindia.indiatimes.com/india/Hike-trial-court-judges salaries/articleshow/5891308.cms

28 First recommended in 120th, 121st report task force on judicial impact assessment. Also recommended by the President of India Mrs. Patil at various occasions the most recent being inauguration of Maharashtra Judicial Academy 27th June, 2009

- A filing pro forma [would be filled] when a case is filed. The form contains essential data ready for scanning. A case-by-case database is built up, which can be drawn upon for planning effective Court management procedures.
- Categorization of cases so that cases raising similar issues can be dealt with in one group. This is particularly helpful in mass litigation such as land acquisition cases or repetitive litigation such as income tax cases.
- Creation of a website, enabling those having access to Internet to obtain necessary information anytime.
- Online availability of essential judicial orders so that time is not spent in inspecting a file for obtaining a copy of an order. With the help of a digital signature, it is now possible to provide a certified copy of any judicial order.
- Daily generation of information through computers indicating report of service, documents under objections in the filing counter etc.
- Setting up a Facilitation Centre to function as a Reception and Information Counter. An IVR system can function from this centre.
- Video linkages, initially between the jail and the Court for routine matters. This is estimated to annually save crores of rupees in Delhi alone. This facility can be broad-based later on for recording testimony.

9. Introduction of specialised as well as fast-track courts.[29]

Special Court Rooms, additional buildings and other infrastructure must be provided for the above purpose. Increased infrastructural support must be considered on a war-footing.

Setting up a time table for the reduction of bottleneck arrears, with the arrears as on 1.1.2009 to be liquidated by 31.12.2012 or a similar time period based on date of commencement.

Timetables should be established for every contested case and monitored through a computerized signaling system (NJA has developed and piloted such a model).

Cases related to dishonor of a cheque usually end up in some kind of amicable settlement soon after the presence of the accused is secured. The Delhi High Court suggests putting in place a shift system to deal with cases under Section 138 of the Negotiable Instruments Act thereby allowing more judicial manpower to be deployed within the constraints of limited infrastructure.

29 Introduced in 129th law commission report with the suggestion about 'conciliation court'. Again recommended in the arrears committee report 1989-90, Malimath Committee.

Commercial and arbitration cases have to be put on a separate track. Though a system of alternative dispute resolution / specialized dispute resolution aims at reducing (and in some cases, eliminating) time spent in court, the existing position does not reflect this. Judges, who are well versed with commercial laws and practices, as well as specialist arbitration judges, should be requested to put such cases on fast track.

It is also possible under their own rules for Special Courts to process cases on a non-stop, day-to-day, basis with no adjournments except in rare circumstances.

10. Implementation of a National Litigation Policy and National Arrears Grid.

In addition to the above problems, there is the special problem of Government as a compulsive litigant. Considering that close to 60 per cent of all cases involve the Government, it is useful to look at the proposed National Litigation Policy and other steps to transform the government "from a compulsive to a responsible litigant". As of 2009-2010, The Centre has formulated a National Legal Mission to reduce average pendency time from 15 years to 3 years. Two key proposals that would cure many of the defects of the system, and document future improvements deserve consideration:

(a) National Litigation Policy, and

(b) National Arrears Grid

NATIONAL LITIGATION POLICY

Whereas at the National Consultation for Strengthening the Judiciary toward Reducing Pendency and Delays held on the 24th and 25th October, 2009 the Union Minister for Law and Justice, presented resolutions which were adopted by the entire Conference unanimously. And Wherein the said Resolution acknowledged the initiative undertaken by the Government of India to frame a National Litigation Policy with a view to ensure conduct of responsible litigation by the Central Government and urges every State Government to evolve similar policies. The National Litigation Policy is as follows: "The National Litigation Policy is based on the recognition that Government and its various agencies are the pre-dominant litigants in courts and Tribunals in the country. Its aim is to transform Government into an Efficient and Responsible litigant. This policy is also based on the recognition that it is the responsibility of the Government to protect the rights of citizens; to respect fundamental rights and those in charge of the conduct of Government litigation should never forget this basic principle.

NATIONAL ARREARS GRID

The purpose of the National Arrears Grid is to ascertain and analyze the exact number of arrears in every court in the country. The National Arrears System will be directed towards fulfilling the following needs judiciary must generate accurate judicial statistics on a daily basis…The Grid will have a map which will show the location and manning of every Court in the country including the name of the Presiding Officer, the arrears before him, as well as the facilities available. The Grid, by a process of mutual and quick consultation, will offer mobility so that, wherever required, strengthening is afforded to the Courts. The Grid will efficiently monitor the systemic bottlenecks. Four key bottlenecks causing delays in civil and criminal process (Service of process, Adjournments, Interlocutory Orders, Appearance of witnesses and accused) will be monitored through the Grid and attention will be provided through a special cell at the High Court and District Court level to resolve issues in coordination with Executive Agencies. The Grid, with the help of sociologists, members of the civil society and the voluntary sector, will also specifically identify action areas / geographical areas concerning the poor and the underprivileged vis-à-vis access to justice. It will pay particular attention to ensure that confidence building takes place in the dispensation of justice in these areas.

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Annexure - I

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O.P. Jindal Global University is a non-profit global university established by the Haryana Private Universities (Second Amendment) Act, 2009. JGU is established in memory of the Late Mr. O.P. Jindal as a philanthropic initiative of Mr. Naveen Jindal, the Founding Chancellor. The University Grants Commission has accorded its recognition to O.P. Jindal Global University. The vision of JGU is to promote global courses, global programmes, global curriculum, global research, global collaborations, and global interaction through a global faculty. JGU's this vision will in some measure enable the State of Haryana and India to become a provider of international education and a leader in the transnational knowledge economy. JGU is situated on a 60-acre state of the art residential campus. JGU is one of the few universities in India that maintains a 1:15 faculty-student ratio and appoints faculty members from different parts of the world with outstanding academic qualifications and experience. The international educational background and experience of our faculty members augurs well for our inter-disciplinary approach towards higher education. JGU's global vision and global orientation are its unique characteristics. JGU's global vision is also recognised by many institutions worldwide and has enabled JGU to develop international collaborations with the United Nations University, Harvard University, Yale University, University of Michigan, Cornell University, New York University, King's College London, University of Cambridge, and many other reputed universities and educational institutions worldwide. These collaborations position India to situate itself within global networks of academic excellence and assume a leadership role in the field of higher education. The vision of JGU is to establish four schools: a Law School, a Business School, a School of Government and Public Policy and a School of International Affairs. Each school will aspire to promote innovative programmes and initiate cutting edge research that would have profound impact in India and the world at large. JGU has already established two schools, Jindal Global Law School (JGLS) and Jindal Global Business School (JGBS).

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India's First Global Law School

In 2009, JGU began its first academic session with the establishment of India's first global law school, JGLS. JGLS is recognised by the Bar Council of India and offers a three-year LL.B. programme, a five-year B.A. LL.B. (Hons.) programme and an LL.M. programme. JGLS has established several research centres in a variety of fields including on issues relating to: Global Corporate and Financial Law and Policy; Women, Law, and Social Change; Penology, Criminal Justice and Police Studies; Human Rights Studies; International Trade and Economic Laws; Global Governance and Policy; Health

Law, Ethics, and Technology; Intellectual Property Rights Studies; Public Law and Jurisprudence; Environment and Climate Change Studies; South Asian Legal Studies, and Clinical Legal Programmes. JGLS has also entered into collaborations, student exchange programmes, research partnerships and other forms of engagement and interaction with elite universities and institutions across the globe. JGLS is committed to providing world-class legal education. JGLS has established a Career Development and Placement Division with a view to providing career opportunities to students and graduates of JGLS. JGLS has signed Memoranda of Understandings (MoUs) with five reputed Indian law firms, Amarchand & Mangaldas & Suresh A Shroff & Co, AZB & Partners, FoxMandal Little, Luthra & Luthra Law Offices, and Nishith Desai Associates to develop knowledge based partnerships and interaction with law firms and to facilitate internships and placements for JGLS students and graduates. JGLS has a network of lawyers engaged in international legal practice abroad. The JGLS Committee of International Lawyers (J-CIL) is a New York-based association of practising lawyers from leading law firms worldwide committed to providing global perspectives on emerging legal issues. J-CIL provides insights into global legal profession and offers advice on career counselling to JGLS students and graduates.

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