

Theme

Law and Justice in Globalized Era

Title of the Paper

**Induction of National Court Management Authority in
Indian Judicial System : Need of the Hour**



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- : Paper Submitted by :-

Dr. Jayant T Desai

Dean, Faculty of Law, VNSGU, Surat
Mob. 94271 68810, E-mail: shahkmlaw@gmail.com

Kalpeshkumar L Gupta

Academic Associate – IIM Ahmedabad
Wing 1 A, Indian Institute of Management, Ahmedabad
Mob.99248 97691, Off. 079-66324810
E-mail :- advocatekgupta@gmail.com, klgupta@iimahd.ernet.in

Induction of National Court Management Authority in Indian Judicial System : Need of the Hour

Introduction

“Delays render the common man’s knock on the temple of justice- a frustrating experience. Litigants are not able to lead normal lives being unsure of the verdict in their case.”

- H.E. Pratibha Devisingh Patil, Former President of Indiaⁱ

“Justice delayed is justice denied” this phrase is somehow inherently associated with the functioning of Indian Judiciary system. Being a law graduate I always feel that there is a requirement of focusing on certain important aspects of the application of the law for the society. One thing that strikes my imagination is, piling up of court cases in India and it’s implication of denial of basic human right that is to be expected in democratic society. It is a question of efficiency and effectiveness as the way judicial proceeding takes place in the country. Indian courts has large backlog of cases and according to a Chief Justice of Delhi High Court, it would take 466 years to clear backlog of cases piled in the Delhi HC, if system works with same efficiencyⁱⁱ. Andhra Pradesh High Court judge, Justice V V Rao also emphasized that Indian Judiciary would take 320 years to clear the backlog of 3.2 crore cases pending in various courts including high courts in the country.ⁱⁱⁱ

This paper will discuss present scenario of Indian Judiciary, Causes of pendency of cases in Indian Judiciary and will compare Backlog of cases in other countries of the world. Paper will also focus on the Right to Speedy Trial under the Article 21 of Constitution of India. At the end paper will conclude the issue of pendency of cases in Indian Judiciary and how this issue has connection to social justice in democratic society. We have made recommendations for setting up of the unique authority for better court management in Indian Judicial System.

Present Scenario of Indian Judiciary in India

According to Supreme Court of India, people are losing faith in judiciary in grave sense, creating big threat to constitutional and democratic governance of the country. Courts rebuked government on only talking about fighting the pendency of 2.77 crore cases but doing nothing on the ground.

A bench of Justices A K Ganguly and T S Thakur was unsparing in its comments while candid in acknowledging the woes - large number of vacancies in trial courts, unwillingness of lawyers to become judges, failure of the apex judiciary in filling vacant HC judges posts and the dragging of feet by the Centre in keeping its promises. On the vacancies in HCs, the bench said, "The Allahabad High Court is the largest high court but 50% of judges' posts are lying vacant. It is an area of grave concern. *People are getting more and more awareness of their rights and want speedy justice.* The courts cannot stop filing of cases on the ground that there are vacancies. But the vacancies in the HCs are not getting filled. This is posing grave threat to constitutional and democratic governance system as people are resorting to extra-judicial methods to sort out their disputes."

Looking at the grave problem, UPA -2 Government announced the vision document assuring to appoint 5,000 ad-hoc judges to deal with the pendency of 2.77 crore cases in the trial courts. Three years have passed, except announcement nothing has been done. This scheme is wholly unworkable as lawyers are not interested in joining judiciary and they will not surely take the ad-hoc position to dispense justice on daily wages.

Amicus curiae and senior advocate Gopal Subramaniam, who as Solicitor General had contributed to the drafting of the Vision Document in 2009 when M Veerappa Moily was the law minister, joined the bench in criticizing the government. "When the government says it respects the judiciary and its independence, there is a hidden line in it. The courts are not being given importance that is why the justice dispensation system is in such disarray," he added. However, it wanted to seek answers from the government on amicus curiae's suggestion that *access to justice must be made a constitutional right and consequently the executive must provide necessary infrastructure for ensuring every citizen enjoyed this right.* It also wanted the Centre to detail the work being done by the National Mission for Justice Delivery and Legal Reforms.^{iv}

Outspoken RTI activist-turned-Information Commissioner (IC) Shailesh Gandhi slammed judicial and quasi-judicial authorities for the tardy pace of disposal adding that citizens are not “immortal”. “Judicial and Quasi-judicial authorities don’t think timeliness is important. Cases remain pending for 15-20 years. Citizens and issues are not immortal but no one seems to give importance. Targeting government inefficiency at delivery of services, Gandhi said scathingly, “It is easier to find God than government today.” He added that simple steps like computerization of records would bring down corruption by 30% making it difficult to use excuses like the file is “lost or damaged”.^v

Lack of Judges drives up pendency rates

Lack of judges is one of the causes of judicial backlog. Cases go on and on but no final decision comes out. Senior Lawyers opined that one of the main problem is the insufficient number of judges in proportion to the growing number of cases. Many also misuse the system through the adjournments. Activist points out urgent need to raise ratio of judges per million people current 11 to at least 50. As an example of legal delay, activist Yogacharya Anandji cited his own case, where “documents went missing several times” and “poor police investigation” slowed down the case for years. “My father was killed in an accident in 1980. But the verdict came only in 2007 and we received compensation from the Motor Accident Claims Tribunal in 2009,” he said.

Increase in the courts would not only help to reduce backlog

Looking at the judicial backlog, some of the experts have suggested to increase the no of courts to reduce the judicial backlog. But I am of the opinion that this increase solely will not help to reduce the big no of cases. This is evident from the information required through the Right to Information application filed in Metropolitan Magistrate in the Mumbai City.

Following are the figures of pending cases in Metropolitan Magistrate of Mumbai City

For 6-10 years (Filed from 2002 to 2006)	– 74,123
For 11-20 years (Filed from 1992 to 2001)	– 47,270
For over 20 years (Filed in and before 1991)	– 15,366

Government making lot of effort to increase the number of courts but problem of delayed justice continues to plague the city's legal system. Figures accessed through RTI reveal that 15,366 cases that are 21 years or older were pending before metropolitan magistrate's courts in the city as on March 31, 2012. Legal experts and activist blamed the high pendency rate on several reasons.

As per the 230th Law Commission's Report submitted on August 5, 2009 under the Chairmanship of Dr. Justice A R Lakshmanan, Pendency is a normal feature of any system but is assuming great proportions in courts. This will necessitate courts to prescribe time-limits for all cases. To deal with this, there can't be one prescribed limit, but the kinds of cases need to be identified and prioritized. So setting time standards is essential and it will vary for different cases, and also for different courts depending on their disposal-capacity. This will be necessary to assess the performance of the courts and judicial accountability.

Study to find effect of backlog on Judges' minds^{vi}

The Centre has agreed to conduct a study to find how the 14,000-odd trial court Judges have been psychologically impacted by the continuous struggle to fight off 2.77 crore pending cases.

Government announced that they are ready to sanction Rs 35 crore for a five-year study to investigate the impact of pendency pressure on judicial officers and examine whether it adversely impacted the output of trial court Judges. With the High Courts fixing minimum disposal rate for trial court Judges in view of the huge pendency, judicial officers in district courts are under a lot of pressure, given the inadequate infrastructure, to decide the minimum required disposals.

Amicus curiae and senior advocate Gopal Subramaniam, assisting a bench of Justices A K Ganguly and T S Thakur in overall improvement of justice delivery system, had felt that heavy work load for a long period of time could cause psychological pressure on the judicial officers. Among other suggestions to the court for improving efficiency of justice delivery mechanism, he had mooted a psychological study to analyze whether such pressure "ran down the morale of the judge, his efficiency and ability and consequent loss of output"

Following are some data that will help us to understand the present situation of Indian Judiciary in terms of pendency of cases, vacancy of judges, case disposal rate.

Pendency of cases in India

Table 1 :- Pending Cases Data in Supreme Court as on 31-12-2010, High Courts & District, Subordinate courts as on 30-09-2010

Sr. No.	Courts	No. of Pending Cases	Sr. No.	Courts	No. of Pending Cases
A	Supreme Court of India	54562			
B	High Courts				
1	Allahabad	973599	11	Jharkhand	57218
2	Andhra Pradesh	194691	12	Karnataka	209843
3	Bombay	347618	13	Kerala	120764
4	Calcutta	333763	14	Madhya Pradesh	213028
5	Chhattisgarh	56102	15	Madras	444979
6	Delhi	60375	16	Orissa	275052
7	Gauhati	53400	17	Patna	128293
8	Gujarat	98128	18	Punjab & Haryana	237658
9	Himachal Pradesh	46698	19	Rajasthan	282826
10	Jammu & Kashmir	65905	20	Sikkim	52
			21	Uttarakhand	17911
C	District & Subordinate Courts (as on 30-09-2010) 27956070				
Total No. (SC) 54562 + (HCs) 4217903 + (DSCs) 27956070 = 3,22,28,535					

Source :- www.supremecourtindia.nic.in retrieved on January 25, 2012

Vacancies in Indian Courts

Table 2 :- Statement showing the Approved strength, Working Strength and Vacancies of Judges in the Supreme Court and the High Courts of India (As on 01.12.2011)

Sr. No.	Courts	Vacancies (%)
A	Supreme Court of India	13
B	High Courts	
1	Allahabad	50
2	Andhra Pradesh	33
3	Bombay	20
4	Calcutta	33
5	Delhi	25
6	Gujarat	36
7	Karnataka	22
8	Kerala	16
9	Madhya Pradesh	19
10	Madras	18
11	Orissa	27
12	Punjab & Haryana	33
13	Rajasthan	33
--	Overall Vacancy Rate of 21 High Courts	30
C	Overall Vacancies Rate in District and Subordinate Courts (as on 30-09-2010)	20

Source :- www.supremecourtfindia.nic.in retrieved on January 25, 2012

Case Disposal Rate in Indian Judiciary

Table 3 :- Case Disposal Rate in Supreme Court, High Courts, District Courts & Subordinate Courts in India

Sr. No.	Courts	Case Disposal Rate in Year 2005 (%)	Case Disposal Rate in Year 2010 (%)
A	Supreme Court of India	58*	59
B	High Courts		
1	Allahabad	17	7
2	Andhra Pradesh	24	17
3	Bombay	27	10
4	Calcutta	23	5
5	Gujarat	40	18
6	Delhi	37	18
7	Madras	35	15
8	Madhya Pradesh	39	12
9	Orissa	19	23
10	Punjab & Haryana	18	13
11	Rajasthan	23	6
12	Karnataka	23	16
--	Overall Rate for 21 High Courts	27	11
C	District & Subordinate Courts	39	15

Source :- www.supremecourtindia.nic.in accessed on January 15, 2012

* Data is of year 2006, Year 2005 not available

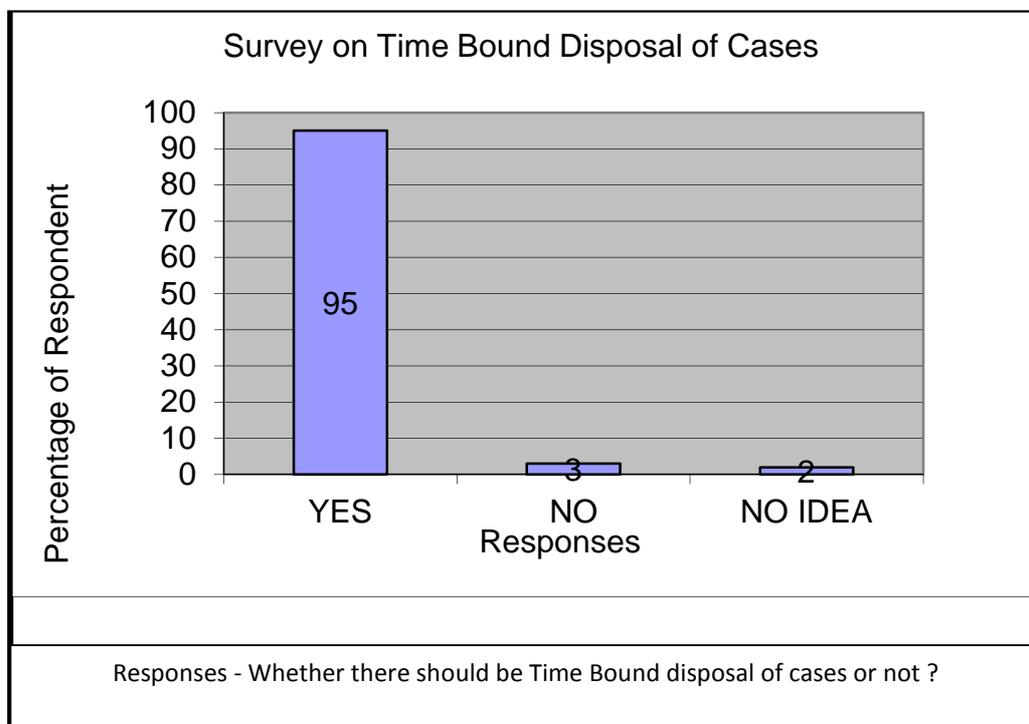
Survey on pendency of cases in Indian Judiciary

Before writing the present paper I conducted a small survey to know the people's view about the present situation of Indian Judiciary. I asked following three questions to 100 citizens of Ahmedabad which helped me to arrive at the following conclusions.

1. Whether there should be time bound disposal of cases in India ? - Yes / No
– Objective Question.
2. What are the reasons of delay in disposal of cases in India ?
– Open ended question.
3. What are the solutions for speedy disposal of cases in India ?
– Open ended question.

Following graph will explain you about the responses received on First question of the survey.

Figure 1 : - Survey on Time Bound Disposal of Cases



Following are the responses received on Second question.

Table 4 :- Reasons for delay in disposal of cases

<i>Reasons for delay in disposal of cases</i>	<i>Responses (%)</i>
Corruption in Judiciary	50 %
Shortage of judges	34 %
More Adjournments	27 %
Shortage of courts	20 %
Others reason like inefficient staff, lengthy procedure, delay in investigation, lack of proper monitoring of case proceedings, lack of training, Differential treatment of cases, NO control on judges and advocates, lack of coordination between advocates and judges, shortage of talented judges etc.	25%

And finally people made following recommendation (against the Third question) to cope up with the backlog of cases which are shown as under,

1. Increase strength of judges
2. Increase no. of courts & staff.
3. Take strict measure against corruption in Judiciary.
4. Timely training for judicial staff.
5. Opening up of Evening Courts.
6. Reduce various types of holiday in Judiciary.
7. Increase accountability of Judges and Advocates along with Investigating authority.
8. Time bound disposal of cases according to various types of cases.
9. Strict law and implementation.

10. Minimal adjournments should be allowed on the merit of the case. Control over adjournments.
11. Encourage Alternative Dispute Resolutions i.e. Arbitration, Mediation
12. Dedicated courts, tribunals for various types of cases.
13. Shorten and simplify the procedure.
14. Introduce the Jury system like in USA.
15. Proper monitoring of the case.(Only 1% of the total respondent gave this suggestion)

Judicial backlog in other countries

In the present chapter we will see the judicial backlog of cases in some of the countries of the world. Looking at the present situation of various judiciaries, I have come to conclusion that the most of the countries' judiciaries are facing the same problem of pendency of large number of cases because of one or other reasons. Some of are having problems like shortage of manpower, lengthy procedure and most important thing is absence of ethics in the entire judicial proceeding, it may be in Judges, Advocates or litigants.

United States of America

American Courts fighting with number of cases pending before the Immigration Courts. It showing all time high rise. To help ease the rising backlog in Immigration Courts, the Obama Administration recently announced that it would aggressively pursue "high priority cases while focusing less on "low priority cases".^{vii}

There are 15 to 20 million civil suits a year, which leads to a huge backlog of cases in all states and even the Supreme Court. One of the most unusual aspects of US law is that lawyers are permitted to work on a contingency fee basis, whereby they accept cases on a 'no-win, no-fee' basis. The contingency-fee system is responsible for the proliferation of litigation cases, which lawyers are happy to pursue because of the absurdly high awards made by US courts.^{viii}

United Kingdom

The delays have long been a source of concern for the judiciary and everyone involved in law enforcement.. Judiciary in UK appointing veteran Justice to deal with significant backlog of

cases. A fourth judge will be sworn in on a two-year contract next week to help clear a backlog of criminal cases. Barrington Black, 79, is a veteran of the UK criminal justice system and will bring a wealth of legal experience to the Gibraltar Court Service. The appointment of Judge Black, coupled to expanded court facilities, will enable administrators at the Gibraltar Court Service to run criminal trials in parallel. That in turn should help reduce delays and clear the list of pending trials.^{ix}

Australia

Australia is also facing the problem of delay in case disposal. The Director of Public Prosecution for the Australian Canberra has told that he feels lawyers are benefiting from the ongoing backlog that is currently present in the system. These same problems can be seen in American courts, as many couples are now trying divorce mediation as a more efficient alternative than a trial.^x

Pakistan

Despite the passage of over two years after the enforcement of National Judicial Policy mainly aimed at clearing heavy backlog, 1.36 million cases of various natures are still pending in courts across the country.^{xi}

Analysing the sizable backlog of cases, the National Judicial (Policy-Making) Committee headed by Chief Justice Iftikhar Muhammad Chaudhry, has asked the judges and lawyers to strive together to meet the expectations of the public and decide their cases at the earliest. The committee directed the chief justices of the high courts to monitor the performance of the district judiciary through *Member Inspection Teams (MITs)*.^{xii}

Egypt

Egypt is also suffering from greater number of litigations. Some of the reasons are The Inconsistency of substantive law, Privatization leads to more complex commercial matters, Population growth and urbanization, Legal consequences of poor civic education., judicial Monopoly on dispute resolution. No encouragement to Arbitration. *Lack of judicial control.* Egyptian judges are not able in practice to exercise the power allocated to them in theory. *Case & Docket management.* The Egyptian civil process is more discontinuous than its US counterpart. Many legal opinion leaders estimate that an average civil litigation in Egypt

requires thirty to forty appearances before the first instance court. Indeed, many judges perceive the enforcement of deadlines to be futile, because even if deadlines could be enforced, the judges would not have sufficient time to respond to cases ready for adjudication. Lack of commercial law experience judges are not able to handle commercial litigation. Lawyer's abuse of procedural rights taking many adjournments.^{xiii}

Europe

The European Court of Human Rights (EHCR) is about to embark on a seven-week holiday, leaving a backlog of some 60,000 cases awaiting consideration.

British lawyers claim the court is at risk of breaching its own convention with the average wait for cases to go before judges now topping five years. Under Article 6 of the European Convention of Human Rights, undue and lengthy delays in legal proceedings are a breach of human rights.

"It is unacceptable to make people wait for five years for a judgment." said a spokesman for Stonewall, a Gay rights organization which has a number of cases before the court. The organization Advice and Individual Rights in Europe (AIRE) has 45 cases pending before the court. "Justice delayed is justice denied," AIRE Director Nula Mole said.^{xiv}

Kenya

President Kibaki said that there was need to recruit more judges and expressed optimism that out of a large pool of qualified legal professionals in the country, more judicial staff would be hired to ensure appropriate staffing levels in the judiciary. The President encouraged young legal practitioners to apply for the jobs once they are advertised Congratulating the newly appointed judges, President Kibaki urged them to focus on efficient and timely dispensation of justice assuring them of any support needed in the execution of their mandate.^{xv}

Turkey

Turky has a chronic problem of lengthy jail terms for people who are under arrest pending trial without a conviction, but instead of introducing limits to the duration of arrest periods for people who have yet to be convicted, decreasing the judicial backlog to accelerate the

legal process is what needs to be done, Justice Minister Sadullah Ergin said during budget talk in December, 2011. Ergin said the judiciary lacked the human resources base it needed.^{xvi}

Right to Speedy Trial under Article 21 of Constitution of India

Article 21 of Constitution of India talks about “Right to personal life & liberty”. This right is the most significant and useful right given in our constitution. Indian Judiciary many times acted actively for welfare of the society interpreting this article in broader terms. In other term we can say Judicial Activism of Indian Judiciary. With the passage of the time and growing need of the society, Judiciary goes beyond the provisions given in law and makes the broad interpretation of law through the Judicial Activism. This way Judiciary play crucial role in protecting fundamental rights of the citizens when Legislative and Executive failed to do their duties.

Woodrow Wilson (USA) said that the “Constitution is not mere a lawyers’ documents, It is the vehicle of nation”. The Indian Supreme Court has created major reforms in the protection of human rights. Taking a judicial activist role, the Court has put itself in a unique position to intervene when it sees violations of these fundamental rights. In India the guardian of democracy is not the legislative wisdom but the wisdom of the highest court of land. The court has acted as protector of workers and at time played the role of legislator where labour legislation is silent or vague.^{xvii}

‘Right to life’ and ‘personal liberty’ is the modern name for what have been traditionally known as ‘natural right.’ It is the primordial rights necessary for the development of human personality. It is the moral right which every human being everywhere at all times ought to have simply because of the fact that in contrast with other beings, he is rational and moral. It is the fundamental right which enables a man to chalk out his own life in the manner he likes best. Right to life and personal liberty is one of the rights of the people of India preserved by the Constitution of India, 1950 and enforced by the High Courts and Supreme Court under article 226 and 32 respectively

Article 21 of the Constitution of India, 1950 provides that, “No person shall be deprived of his life or personal liberty except according to procedure established by law.” ‘Life’ in

Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc. Right to life is fundamental to our very existence without which we cannot live as human being and includes all those aspects of life which go to make a man's life meaningful, complete and worth living. It is the only article in the Constitution which has received the widest possible interpretation. Under the canopy of Article 21 so many rights have found shelter, growth and nourishment.

The right to life and personal liberty has been interpreted widely to include the right to livelihood, health, education, environment and all those matters which contributed to life with dignity. Under this doctrine the Court will not just examine whether the procedure itself is reasonable, fair and just, but also whether it has been operated in a fair, just and reasonable manner. This has meant, for example the right to speedy trial and legal aid is part of any reasonable, fair and just procedure. Further, when there is inordinate delay in the investigation – it affects the right of the accused, as he is kept in tenterhooks and suspense about the outcome of the case. If the investigating authority pursues the investigation as per the provisions of the Code, there can be no cause of action. But, if the case is kept alive without any progress in any investigation, then the provisions of Article 21 are attracted and the right is not only against actual proceedings in court but also against police investigation.

Hussainara Khatoon v/s. Home Secretary, State of Bihar (AIR 1979 SC 1360)

The Supreme Court held in this case that speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in art. 21 of the Constitution and any accused who is denied this right of speedy trial is entitled to approach Supreme Court under art. 32 for the purpose of enforcing such right and this Court in discharge of its constitutional obligation has the power to give necessary directions to the State Governments and other appropriate authorities for securing this right to the accused. Supreme Court, therefore, in order to exercise this power and make this fundamental right meaningful to the prisoners in the State of Bihar request the High Court to inform as to how many Sessions Judges, Additional Sessions Judges and Assistant Sessions Judges are there in each district in State of Bihar and what is the number of cases year wise pending before each of them. The High Court will also

supply information to this Court as to whether having regard to the pending files before the Sessions Judges, Additional Sessions Judges and Assistant Sessions Judges and the norms of disposal fixed by the High Court there is need for any Additional Courts in any of the districts and if there is such need whether steps have been taken by the High Court for establishing such Additional Courts. If no steps have been taken so far, the High Court may immediately address a communication to the State Government stressing the need for creation of Additional Courts and requesting the State Government to take necessary action for setting up such Courts and appointing Judges to man such Courts and the State Government, Court is sure, will take the necessary steps for this purpose.

Reaffirming as well as paving way for the implementation of Article 14, clause (3) (c) of the International Covenant on Civil and Political Rights (ICCPR) which lays down that everyone is entitled “to be tried without delay” and Article 16 of the Draft Principles on Equality in the Administration of Justice which provides that everyone shall be guaranteed the right to prompt and speedy hearing the Court directed the release of all those under trials against whom the police had not filed charge sheets within the prescribed period of limitation.^{xviii} Such persons were directed to be released forthwith as any further detention of such under trials would be according to the court, a clear violation of Article 21.

Conclusion & Recommendation

Conclusion

In this paper we have seen the present scenario of Indian Judiciary, what are the causes of delay in disposal of cases, what can be the solutions for reducing the backlog of cases. Marathon like cases really violating the person’s Right of personal life and liberty enshrined in the Article 21 of Constitution of India. Now the time has arrived when people are asking for speedy trial of cases. They do not want their next generation to get the verdict of cases which they instituted.

There may be tussle between the two school of thought one is “*Justice Delayed is Justice Denied*” and other one is “*Justice Hurried is Justice Buried*”. Former says that there is no meaning of judgment coming after the decades having no importance at that time and later says that if justice is done hurriedly, no proper justice can be done if there are not sufficient evidences on the records to arrive at the right decision. But as we seen previously that the case disposal rate has gone down compared to past and to the other end more and more no of

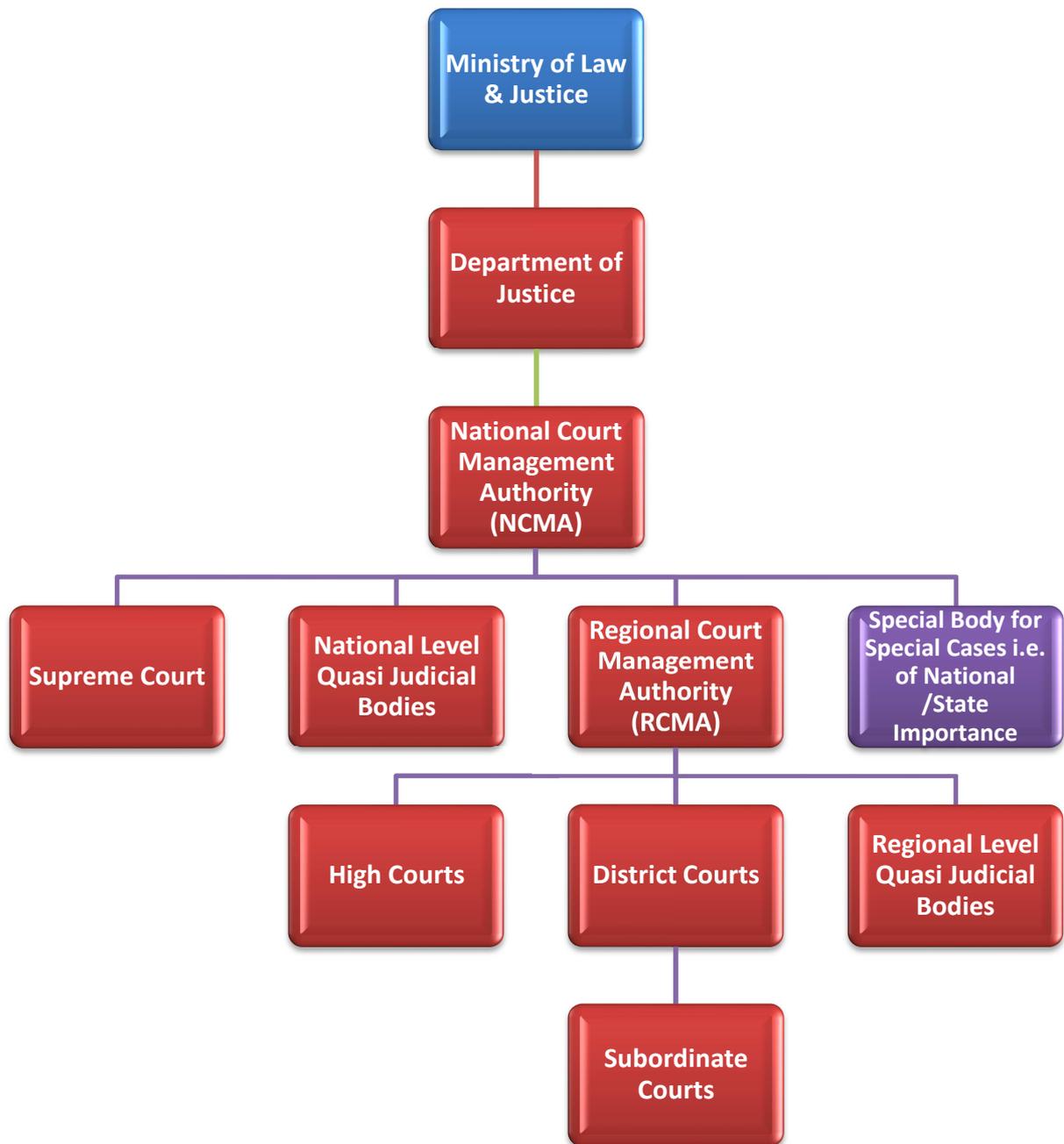
cases coming up in the courts, forums, tribunals etc. It seems clearly that present Judicial Administration is not capable enough to cope up with the *Explosion of Litigation*.

Recommendation

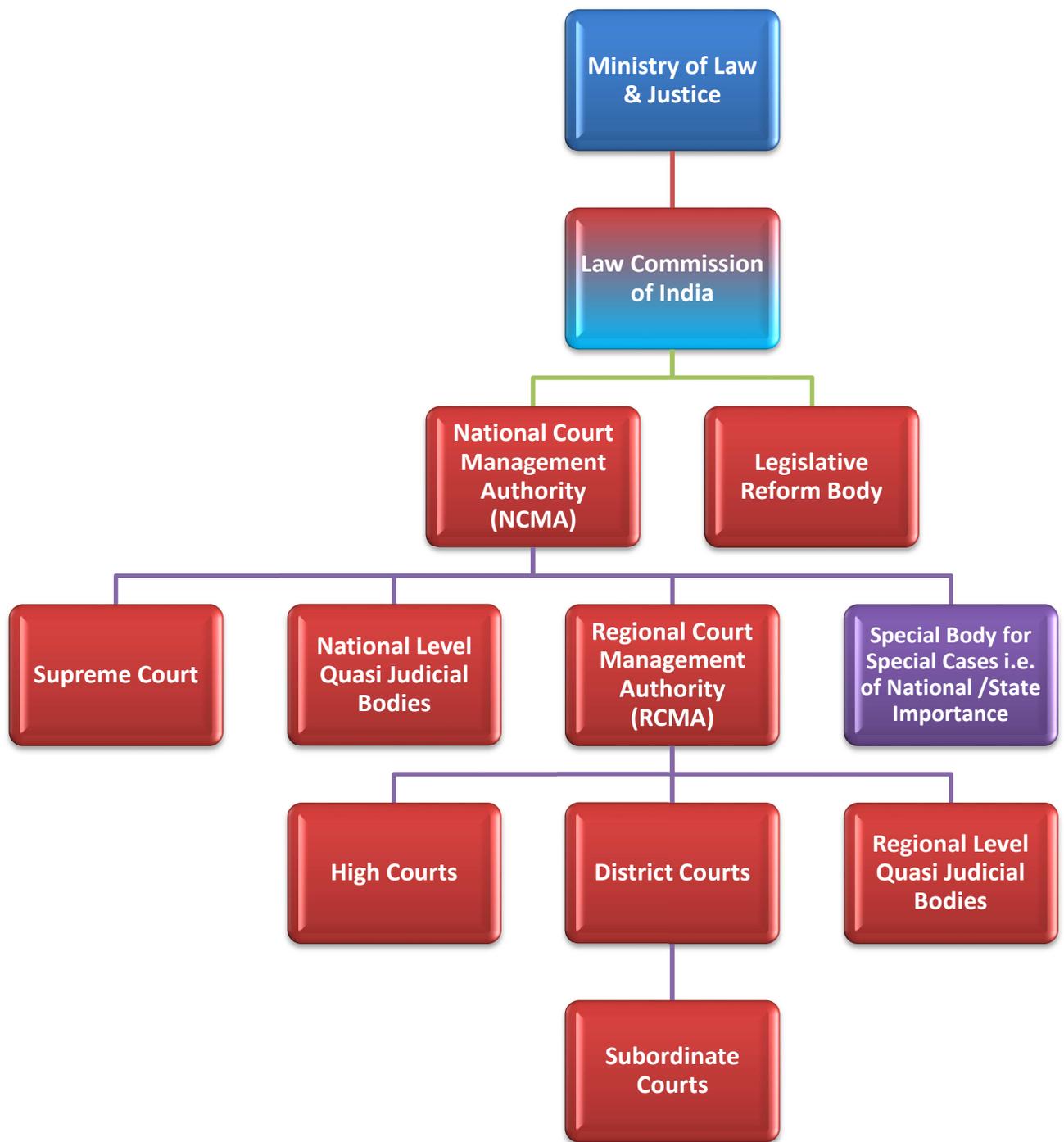
As we saw about the lethargic justice delivery system in India, millions of cases are pending because of one and other reasons and millions of citizens are waiting for justice to be done. Looking at this scenario we have made small attempt to highlight lethargic condition of Indian Judiciary in two papers presented at the National and International Conferences. In the beginning of year 2012, paper on '*Delayed Justice – Denial of Fundamental Rights*' at the Gujarat State Level Conference organized by Gujarat National Law University, Gandhinagar, India, a model for setting up of a ***National Case Monitoring Authority*** which will deal with the monitoring of the cases since its institution to implementation of verdict of the case was proposed. Another paper was on '*Transparency in Governance is Ultimate Key to Reforms*' in the International Conference on Transparency and Accountability in Governance : Issues and Challenges organized by National Law University, Delhi in October 2010. Two enhanced models for setting up of a ***National Case Management Authority*** were proposed. This authority will deal with the proper case management in the judiciary.

Before coming to the conclusion for setting up of NCMA, some Right to Information (RTI) Applications in Supreme Court of India, High Court of Gujarat, Office of the Chief Minister, Gujarat, Department of Justice (Ministry of Law), Department of Expenditure (Ministry of Finance) were made to get an idea about the case monitoring and management system in Indian Judiciary.

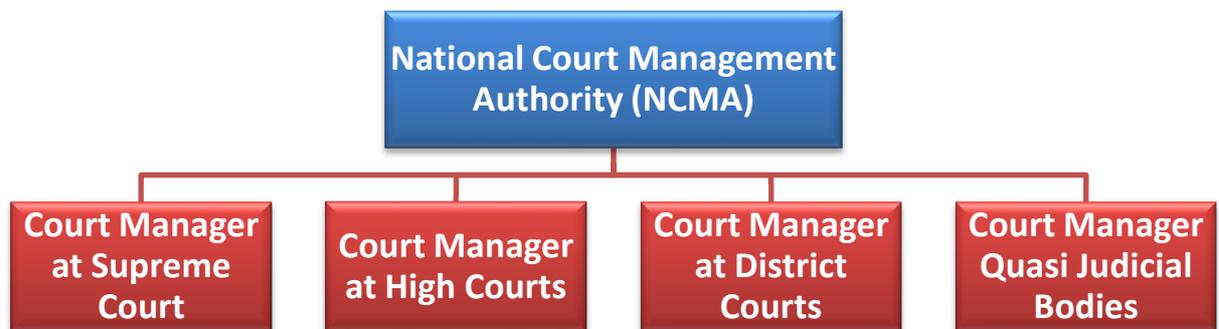
Finally two improved models for establishment of ***National Court Management Authority (NCMA)*** duly assisted by Court Managers appointed by High Courts under the guidelines issued in September 2010 by 13th Finance Commission in the Indian Judiciary were proposed. Following are the models, functions, composition, and terms of the NCMA.



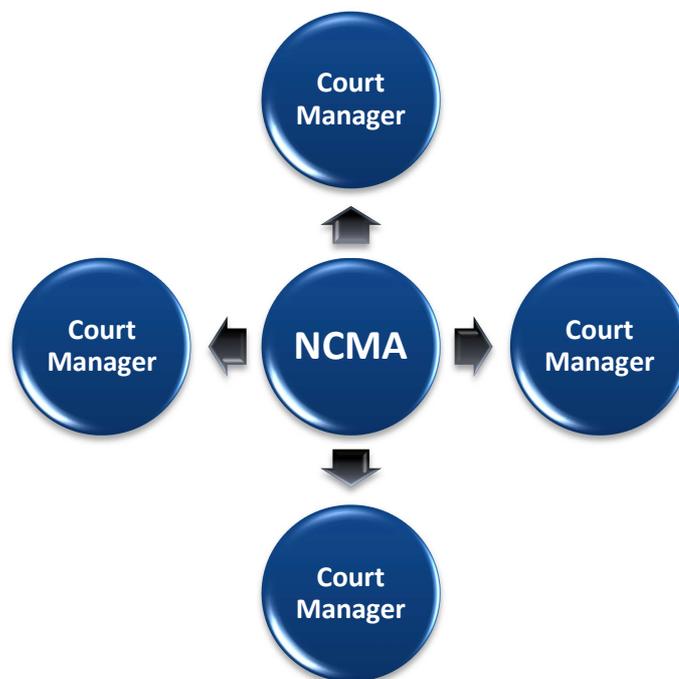
MODEL 1 – National Court Management Authority



MODEL 2 - National Court Management Authority



Appointment of Court Manager under National Court Management Authority



Functions of the National Court Management Authority (NCMA)

1. Monitoring the working of Judicial and Quasi-Judicial Bodies in India. It is more like of administrative, management part of the judicial system.
2. Study overall aspects of Indian Judicial System and do comprehensive analysis of it. At the end submit report to Department Justice/Law Commission of India with certain recommendations.
3. NCMA will play crucial role in monitoring of cases from its institution till its implementation. Consequently it will help to reduce backlog of cases lying in Indian Judiciary.
4. NCMA will mainly coordinate with Regional Case Management Authorities (RCMAs) and Court Managers of the Judicial and Quasi-Judicial Bodies.
 - a. RCMA will mainly co-ordinate with Court Managers appointed in High Courts, Districts Courts and Regional Level Quasi-Judicial Bodies
5. Conduct training and development programme for Court Managers.

Composition of the National Court Management Authority (NCMA)

1. The Authority shall consist of a Chairperson and not less than six and not more than ten members to be appointed by the Central Government.
 - a. At the Regional Court Management Authority (RCMA) there will be a Chairperson and not less than two and not more than four members.
2. Chairperson must have sound knowledge of Management and Law more than 15 years of experience. He will be a person of ability, integrity and standing. Special knowledge in other domain area will be an added advantage.
3. Every members shall be a person of ability, integrity and standing and who has special knowledge of and such professional experience of not less than 15 years in management, it, human resource, public affairs or any other qualification which in the opinion of the Central Government may be useful to the Authority.
4. The Chairperson and other Members shall be whole time Members.
5. Half of the member will be of age between 35-50 and rest of between 51-70 years. So that there will be a good combination of middle and old age members. In some cases maximum two members can be appointed as independent members between the age of 25-35 having innovative and feasible ideas in management.

Selection Committee for Chairperson and Member of Authority

The Chairperson and other members of the authority shall be appointed by the Central Government from a panel of names recommended by the Selection Committee consisting of-

- a. The Retired Judge of Supreme Court of India.....Chairperson
- b. The Secretary in the Ministry of Law & Justice.....Member
- c. The Secretary of Information & Broadcasting..... Member
- d. Two to Four experts of repute who have special knowledge of and professional experience in management, law, economics, human resource, informational technology, public affairs.....Members

Term of office of Chairperson & other Members

1. The Chairperson and every other member shall hold office as such for a term of 5 years from the date on which he enters upon his office and shall be eligible for re-appointment.

Provided that the Chairperson or other Members shall not held office as such after he has attained the age of 70 years.

2. In the event of occurrence of a vacancy in the office of the Chairperson by reason of his death, resignation and otherwise, the senior most member shall act as the Chairperson, until the date on which a new Chairperson appointed.

Following are the guidelines issued by 13th Finance Commission for Improvement in Justice Delivery in India.

Guidelines of 13th Finance Commission for Improvement in Justice Delivery ((No. F 32(30) FCD/2010, September 20, 2010).^{xix}(Grant of Rs. 300 crore for appointment of Court Managers)

Suggested functions, Responsibilities & Qualifications of Court Managers :-

1. Policies and Standards

- a. Based on applicable directives of superior courts, establish the performance standards applicable to the court (including on timeliness, efficiency, quality of court performance, infrastructure and human resources, access to justice as well as for system for court management and case management).
- b. Carry out an evaluation of the compliance of the court with such standards, identify deficiencies and deviations, identify steps required to achieve compliance, maintain such an evaluation on a current basis through annual update.

2. Planning

- a. In consultation with the stakeholder of a court (including Bar, ministerial staff, executive agencies supporting judicial functions such as prosecutor / police / process serving agencies and court users), prepare and update annually a 5 year court-wise Court Development Plan (CDP).
- b. Monitor the implementation of the CDP and report to superior authorities on progress.

3. Information and Statistics

- a. Ensure that statistics on all aspects of the functioning of the court are compiled and reported accurately and promptly in accordance with system established by the High Court.
- b. Ensure that reports on statistics are duly completed and provided as required.

4. Court Management

- a. Ensure that the processes and procedures of the court (including for filing, scheduling, conduct of adjudication, access to information and documents and grievance redressal) are fully compliant with the policies and standards established by the High Court for court management and they safeguard
- b. Quality, ensure efficiency and timeliness and minimize costs to litigants and to the state, and enhance access to justice. (Note : Standard System for court management should be developed at the High Court Level)

5. Case Management

- a. Ensure that case management system are fully compliant with policies and standards established by the High Court for Case Management and that they address the legitimate needs of each individual litigants in terms of quality, efficiency and timeliness, costs to litigants and to the state. (Note : Standard systems for case management should be developed at the High Court Level)

6. Responsiveness Management : Access to Justice, Legal Aid and User Friendliness

- a. Ensure that the court meets standard established by the High Court on access to justice, legal aid and user friendliness.

7. Quality Management

- a. Ensure that the court meets quality of adjudication standards established by the High Court.

8. Human Resource Management

- a. Ensure that Human Resource Management of Ministerial Staff in the court comply with Human Resource Management standards established by the High Court.

9. Core System of Management

- a. Ensure that the core system of the court are established and functions effectively (documentation management, utilities management, infrastructure

and facilities management, financial system management (audits, accounts, payments)

10. IT System Management

- a. Ensure that the IT system of the court complies with standard established by the High Court and are fully functional.
- b. Feed the proposed National Arrears Grid to be set up to monitor the disposal of cases in all the courts, as and when it is set up.

11. Qualification

Court Managers may have the following minimum qualifications:

- a. A degree or advanced diploma in general management;
- b. 5 years' experience/training in system and process management;
- c. 5 years' experience/training in IT system management, HR management, financial system management;
- d. Excellent people skill;
- e. Excellent communication skill;
- f. Excellent computer application skill.

Some recent Advertisements for the Post of Court Managers

1. High Court of Madras

- a. Total no of Post 33^{xx}

2. High Court of Allahabad

- a. Total no of Post 75^{xxi}

3. High Court of Mumbai

- a. Total no of Post 45, General Manager(4), Senior Court Manager(6), Court Manager(35)^{xxii}

4. High Court of Rajasthan

- a. Total no Post 38, Court Manager HC (4), Court Manager District Courts (34)^{xxiii}

5. High Court of Madhya Pradesh

- a. Total no Post 54^{xxiv}

6. High Court of Ranchi

- a. Total no of Post 24, High Court(2), District Court(22)^{xxv}

7. High Court of Punjab and Haryana

- a. Total no of Post 34, Subordinate Courts of Haryana (18), Subordinate Courts of Punjab (16)^{xxvi}

8. High Court of Gujarat

- a. Total no of Post 27, High Court of Gujarat (2), Subordinate Courts of Gujarat (25)^{xxvii}

Following is the allocation of Grants for Appointment of Court Managers (in Cr)

Sr. No.	State	No of Sanctioned Courts	No of Judicial Districts	Court Managers
1	Andhra Pradesh	926	23	12.50
2	Arunachal Pradesh	339	0	0.00
3	Assam	289	21	11.41
4	Bihar	1367	30	16.30
5	Chhatisgarh	348	16	8.70
6	Goa	49	2	1.09
7	Gujarat	1028	26	14.13
8	Haryana	393	18	9.78
9	Himachal Pradesh	126	11	5.98
10	Jammu & Kashmir	208	22	11.96
11	Jharkhand	527	22	11.96
12	Karnataka	872	29	15.76
13	Kerala	430	14	7.61
14	Madhya Pradesh	1307	49	26.63
15	Maharashtra	1898	49	26.63
16	Manipur	34	2	1.09
17	Meghalaya	10	1	0.54
18	Mizoram	40	2	1.09
19	Nagaland	27	0	0.00
20	Orissa	531	30	16.30
21	Punjab	346	14	7.61
22	Rajasthan	825	34	18.48
23	Sikkim	13	2	1.09
24	Tamil Nadu	788	30	16.30
25	Tripura	80	3	1.63
26	Uttar Pradesh	2174	70	38.04
27	Uttarakhand	273	13	7.07
28	West Bengal	698	19	10.33
Total	--	15946	552	300

NCMA - No threat to Independence of Judiciary

‘National Case Monitoring Authority will cause harm to independence of the judiciary’ - This was the comment which I received on my model proposed in paper *Delayed Justice – Denial of Fundamental Rights*’ but that is not the objective of that. Initially I was much concerned about the case monitoring but now I have felt that judiciary needs a sound court management which will help it in better justice delivery. National Court Management Authority will be a facilitator for Indian Judicial System rather than being a strict authority controlling judiciary.

ⁱ “President tells judiciary to clear backlog of cases”, *Deccan Herald*, New Delhi, July 31, 2011 retrieved from <http://www.deccanherald.com/content/85283/president-tells-judiciary-clear-backlog.html> on January 15, 2012

ⁱⁱ “It would take Delhi HC 466 years to clear backlog : CJ”, *The Indian Express*, New Delhi, February 13, 2009 retrieved from at <http://www.indianexpress.com/news/it-would-take-delhi-hc-466-yrs-to-clear-backlog-cj/423127/0> on January 20, 2012

ⁱⁱⁱ *ibid*

^{iv} Dhananjay Mahapatra, “Supreme Court chides itself, govt. for judicial backlog”, *The Times of India*, retrieved from <http://timesofindia.indiatimes.com/articleshow/11456652.cms?intenttarget=no> on January 15, 2012

^v Himanshi Dhawan, “It’s easier to find God than Govt : Shailesh Gandhi”, *The Times of India*, July 7, 2012, retrieved from at http://articles.timesofindia.indiatimes.com/2012-07-07/india/32576785_1_cic-and-state-commissions-activist-turned-information-shailesh-gandhi on July 15, 2012

^{vi} Dhananjay Mahapatra, “Rs. 35 crore study to find effect of backlog on judges’ minds” *Times of India*, January 11, 2012 retrieved from <http://timesofindia.indiatimes.com/articleshow/11443666.cms?intenttarget=no> on January 15, 2012

^{vii} Herbert A. Igbano, “United States : Immigration Court backlog Rises : Obama Administration Instructs DHS to focus on Terrorists, Serious Criminals and National Security Threats”, November 14, 2011 retrieved from <http://www.mondaq.com/unitedstates/x/150324/Government+Relations/Immigration+Court+Backlog+Rises+Obama+Administration+Instructs+DHS+To+Focus+On+Terrorists+Serious+Criminals+And+National+Security+Threats> on January 20, 2012

^{viii} *Ibid*

^{ix} Brian Reyes, “Judge Black set to help clear court backlog”, retrieved from http://www.chronicle.gi/headlines_details.php?id=23669 on January 20, 2012

^x “Concern arise in Australia about lawyers relying on court delays”, November 30, 2012 retrieved from <http://clearviewdivorce.com/divorce-news/divorce-process/concerns-arise-in-australia-about-lawyers-relying-on-court-delays/> on January 20, 2012

^{xi} “Backlog of over 1.35m cases ‘haunts’ the judiciary”, *Pakistan Today*, August 8, 2011 retrieved from <http://www.pakistantoday.com.pk/2011/08/backlog-of-over-1-35m-cases-%E2%80%98haunts%E2%80%99-the-judiciary/> on January 20, 2012

^{xii} *ibid*

^{xiii} <http://www.isdls.org/attachf.html> on January 20, 2012

^{xiv} Robert Verkaik, “Human Rights court takes holiday with huge backlog”, *The Independent*, June 28, 1999 retrieved from at <http://www.independent.co.uk/news/human-rights-court-takes-holiday-with-huge-backlog-1102959.html> on January 20, 2012

^{xv} <http://www.kassfm.co.ke/news/2032-kibaki-urge-for-judiciary-to-clear-backlog> retrieved on January 20, 2012

^{xvi} Ali Aslan Kilic, “Justice Minister Ergin : Judicial Backlog root of lengthy jail terms”, *Today’s Zaman*, December 12, 2011 retrieved from at <http://www.todayszaman.com/news-265503-justice-minister-ergin-judicial-backlog-root-of-lengthy-jail-terms.html> on January 20, 2012

^{xvii} “Judicial Interpretation of Article 21 of the Indian Constitution” available at <http://legal-articles.deysot.com/constitutional-law/judicial-interpretation-of-article-21-of-the-indian-constitution.html> on January 20, 2012

^{xviii} International Covenant on Civil & Political Rights, Office of the United Nations High Commissioner for Human Rights retrieved from at <http://www2.ohchr.org/english/law/ccpr.htm> on January 25, 2012

^{xix} Ministry of Finance, Govt. of India Guidelines retrieved from <http://finmin.nic.in/TFC/Guidelines%20for%20Improvement%20in%20Justice%20Delivery.pdf> on October 10, 2012

^{xx} High Court of Madras Notification dated February 1, 2012 for the post of Court Manager retrieved from <http://www.hcmadras.tn.nic.in/notif18of2012.pdf> on October 28, 2012

^{xxi} High Court of Allahabad Notification dated May 10, 2011 for the post of Court Manager retrieved from http://www.allahabadhighcourt.in/event/Advertisement_for_Court_Manager.pdf on October 28, 2012

^{xxii} High Court of Bombay Notification dated October 9, 2012 for the post of Court Manager retrieved from <http://bombayhighcourt.nic.in/recruitment/PDF/recruitbom20121009104800.pdf> on October 28, 2012

^{xxiii} High Court of Rajasthan Notification dated February 5, 2012 for the post of Court Manager retrieved from <http://hcraj.nic.in/notificationcourtmanager.pdf> on October 28, 2012

^{xxiv} High Court of Madhya Pradesh Notification dated February 2012 for the post of Court Manager retrieved from <http://www.mphighcourt.nic.in/court%20manager.pdf> on October 28, 2012

^{xxv} High Court of Ranchi, Notification dated September 3, 2011 for the post of Court Manager retrieved from http://jharkhandhighcourt.nic.in/recruitment/co_advert_14_09_11.pdf on October 28, 2012

^{xxvi} High Court of Punjab & Haryana, Notification dated January 20, 2011 for the post of Court Manager retrieved from http://highcourtchd.gov.in/right_menu/recruitmernts/recruitment_files/employment%20notice%20of%20CoM%2021.01.2011.pdf on October 28, 2012

^{xxvii} High Court of Gujarat, Notification dated February 25, 2013 for the post of Court Manager retrieved from http://gujarathighcourt.nic.in/detailed_advt_cm_11372.pdf on March 1, 2013