सत्यमेव जयते

Government of India

Ministry of Law and Justice

(Department of Justice)

Performance Indicators for Subordinate Courts and Suggestive Policy / Procedural Changes for Reducing Civil Case Pendency

IIM KASHIPUR

Center of Excellence in Public Policy and Government

Indian Institute of Management Kashipur

Kashipur 244713 Uttarakhand

December 2017

About this report

This report is the outcome of a research project funded by Department of Justice, Ministry of Law and Justice, Government of India under the Plan Scheme for Action Research and Studies on Judicial Reforms to promote research and studies on the issues related to the National Mission for Justice Delivery and Legal Reforms.

About the Action Research and Studies on Judicial Reforms

Under the Scheme for Action Research and Studies on Judicial Reforms, financial assistance is provided for undertaking action research (evaluation / monitoring studies, organizing seminars conferences / workshops, capacity building for research and monitoring activities, publication of report/material promotion of innovative programmes / activities in the areas el Justice Delivery, Legal Research and Judicial Reforms. The objectives of the scheme are to promote research and studies on the issues related to the National Mission for Justice Delivery and Legal Reforms being implemented by the Department of Justice.

Principal Investigator

Dr K M Baharul Islam
Professor & Chair,
Center of Excellence in Public Policy and Government,
Indian Institute of Management Kashipur
Bazpur Road, Kashipur 244713 (Uttarakhand)
Tel +91 5947 262211 / 262177 Cell: +91 83928-11111
Email: bislam@iimkashipur.ac.in

Assistant Principal Investigator
Dr Smarak Samarjeet
Asstt. Professor of Communications, IIM Kashipur

Research Associates
Ankit Kumar Srivasatav, Senior Research fellow
Dr Asif Khan, Academic Associate
Ajay Sharma, Senior Research Fellow
Debolina Paul, Field Researcher

Cover Photo: High Court of Judicature at Allahabad (Source: Wikipedia)

Performance Indicators for Subordinate Courts and Suggestive Policy/Procedural Changes for Reducing Civil Case Pendency

PROJECT REPORT SUBMITTED TO:

Government of India
Ministry of Law and Justice
(Department of Justice)

(Under the Scheme for Action Research and Studies on Judicial Reforms)

Centre of Excellence in Public Policy and Government
Indian Institute of Management Kashipur
Kashipur 244713 Uttarakhand

December 2017

Disclaimer

This study has been prepared for the Department of Justice, Ministry of Law and Justice, Government of India, by the Centre of Excellence on Public Policy and Government, Indian Institute of Management Kashipur. The generous funding support provided by the Department of Justice, Ministry of Law and Justice, Government of India is gratefully acknowledged.

IIM KASHIPUR

भारतीय प्रबंध संस्थान काशीपुर
INDIAN INSTITUTE OF MANAGEMENT
KASHIPUR
T: 05947 262175, 262211 Fax: 05947 262178
Email: director@iimkashipur.ac.in
Kundeswari, Kashipur, Dist Udham Singh Nagar 244713
Uttarakhand, INDIA

FOREWORD

One the fundamental duties of the government is to provide its citizens access to justice through a system of fair and impartial courts. In order to fulfil this duty, the government must create and maintain an efficient and effective judiciary. The recent developments in management studies has enabled more efficient monitoring of institutions and their performance across all the spheres of public and private activities across the world. The justice delivery systems are no exception to this emerging trend of performance evaluation in terms of both inputs or outputs delivered and overall goals and objectives of the institutions. While measuring performance of institutions like the courts and judges is important, it is a challenging task for any country as it also demands institutional, legal and procedural changes.

I am happy that the *Centre of Excellence in Public Policy and Government* at Indian Institute of Management Kashipur, with funding from Department of Justice, Ministry of Law and Justice, Government of India, could undertake an in-depth research project to develop a benchmarking tool with a set of performance indicators for subordinate courts in India and also suggest some important policy and procedural changes for reducing civil case pendency.

We sincerely express our gratitude towards the Department of Justice, Ministry of Law and Justice, Government of India and its officials for giving us this opportunity to work on this important national project. The outcome of this study, I am sure, will provide all concerned with crucial insights into performance evaluation processes in judiciary.

I would like to thank Prof K M Baharul Islam, Principal Investigator and his team for their commitment and dedication to this project.

Prof Gautam Sinha
Director, IIM Kashipur

PREFACE

Efficient judiciaries and speedy justice delivery systems are said to be the cornerstones of modern democracies. Drawing from existing bodies of knowledge on approaches to measure the performance of organisational systems and functioning of institutions in other sectors, we can try to create benchmarks for judicial performance, and investigate how factors like trial length, infrastructural support and individual capacities of the judicial officers can play a vital role in evaluating performance of our courts. Quality monitoring and continuous emphasis on the efficiency of the courts can lead to lower litigation and decrease pendency of cases, which in turn can shorten the burden on our judiciary in general.

As emphasised by a large number of past studies, well-functioning judiciaries are a crucial determinant of a country's development. Slow trial processes and lengthy procedures for execution of the decrees and judgement may cause serious impacts on the citizens' confidence in our courts, especially with respect to civil cases. Besides being a lengthy process, judicial decisions sometimes create more confusions which prompt litigants to embark on an even more lengthier process of appeal before the higher courts. To reverse such a scenario, we need to ensure that our judges and court staff perform efficiently, and our lawyers provide quality professional service to the clients.

This report, therefore, is a humble attempt to set forth some indicative parameters to measure the performance of subordinate courts in India. Some tentative policy recommendations for reforms in procedures related to civil cases are also inferred from the analysis of the feedback received from the respondents who participated in this study. This study also draws from past work on performance evaluation of judiciary by other international institutions and performance indicators that have been used in various parts of world.

This report provides a set of tentative performance measurement indicators which can possibly be useful for decision-makers in designing and assessing judicial institutions - a field that is plagued by scarcity of country wide reliable data. At the same time, remaining flaws in the available data and their cross-sectional nature imposed constraints on the type of analysis that could be carried out to the best our abilities. Therefore, caution should be applied in the interpretation of the suggestions made in the report.

Dr K M Baharul Islam
(Principal Investigator)
Professor and Chair,
Centre of Excellence in Public Policy and Government,
Indian Institute of Management Kashipur

CONTENTS

ANNEXURES 79

LIST OF TABLES

LIST OF FIGURES

ACKNOWLEDGEMENTS

It was indeed a learning experience for us to work on this project with benevolent support from the Department of Justice, Ministry of Law and Justice, Government of India. We would like to extend our sincere gratitude and appreciation to all the officials of the ministry for providing us an opportunity to conduct this study.

We would like to convey our sincere gratitude to Prof Gautam Sinha, the esteemed Director of Indian Institute of Management Kashipur, for providing us all the facilities to carry out the project work satisfactorily. We are extremely thankful to Prof Somnath Ghosh, former Dean (Academics) at IIM Kashipur for assisting us in all possible ways to carry out the project smoothly.

We are grateful to faculty members of the Center of Excellence in Public Policy and Government (COE-PPG) for their guidance, support and appreciative concern for the project. We are thankful especially to two of our colleagues - Dr Nitin Singh and Dr Nandita Roy - for their kind suggestions and participation at various stages of the project.

We are indebted to Shri Virendra Maheswari, former Registrar General, Uttarakhand High Court, who has prepared the initial draft of the suggestions for procedural changes. The project team has been drawn a lot from his wise counsel in preparing this section of the report. We also indebted to Dr G K Sharma, District Judge, Almora, for his invaluable insight.

We are grateful to all the District Bar Association who allowed/ helped us to organise the Consultative Workshops across Uttar Pradesh and Uttarakhand. Special thanks to Dr Chandrasekhar Joshi, Director, Vasudev College of Law, Haldwani, Adv Ashish Multani of Pachwadoon Bar Association, Dehradun, Adv. Mani Kant Pandey of District Bar Association, Allahabad, Adv Mohammed Junaid of the Bar and Library Association, Moradabad and Adv Amrit Brahmesh, Secretary, Kashipur Bar Association.

We are thankful to Dr Asif Khan, Academic Associate, IIM Kashipur for his help and advice at various stages this project. Thanks are also due to Mr. Ajay Kumar Sharma, who has earlier worked as Senior Research Fellow in this project and setup the initial partnerships for rolling out the workshops at various locations.

Last but not the least, we are thankful to Mr Sanjay Basu, Financial Adviser cum Chief Accounts Officer of IIM Kashipur and his team for their help in managing the project fund and maintaining the accounts.

ABBREVIATIONS

ACR	Annual Confidential Report
ADR	Alternate Dispute Resolution
CEPEJ	The Council of Europe have established The European Commission for the Efficiency of Justice
CPC	Civil Procedure Code,1908
IFCE	International framework for court excellence
NCMS	National Court Management System
NCSC	National Centre for State Courts
NFCE	National Framework of Court Excellence
NJD	National Judicial Grid

EXECUTIVE SUMMARY

1. The efficiency and effectiveness of judicial systems have become one of the main points of interest in public administration, due to the beneficial effects of an efficient judicial system on economic growth. It is rightly said that 'Justice delayed is justice denied' and hence it is expected that the judiciary in any country should provide efficient and timely relief to the people who come to its courts.

2. One of the major issues connected to the pendency of cases is the efficiency and performance of the judges which has been debated in the past in various platforms. Some judges were criticised because of the abysmally small number of judgments delivered by them whereas, many others were of the view that the crude figure of judgments delivered by a judge alone cannot be a yardstick of his or her competence.

3. The issue of performance with respect to judiciary has also been studied at a global level. According to a World Bank study, performance indicators and evaluation for judges and courts are not about ranking the judiciaries, but to develop a measurement tool which can be used in terms of performance evaluation and to identify weaknesses in the system. A similar idea on performance index for lower judiciary was proposed by Niti Ayog in its draft three-year action agenda (2017-18 to 2019-20).

4. Indian Institute of Management Kashipur (IIM Kashipur) conducted this study during 2015-2017 to develop possible performance measurement indicators for Subordinate Courts in the form of action based research and to suggest policy and procedural changes for necessary reduction of case pendency.

5. The study employed a mixed approach using both qualitative and quantitative research methods. The overall research design follows action research that views an immediate problem and undertakes a process of progressive problem solving as perceived by a "community of practice" (Lawyers, Judges and Academicians) to mitigate the given challenge. Two states namely Uttar Pradesh and Uttarakhand were covered with focus on seven subordinate courts that were selected randomly (Four from Uttarakhand and three from Uttar Pradesh) for in-depth case study, consultative meetings, workshops and data collection. Detailed field investigations and data collection exercises were carried out to develop a framework for performance measurement from each subordinate court and understand issues concerning delay in disposal of civil cases. The field work at each court location involved surveys, semi-structured interviews and structured discussions, workshops with stakeholders (lawyers, judges, researchers and academics) at the district level. Finally, the observations of each of the selected subordinate groups in the sample were analysed in order to propose a framework for performance measurement for subordinate courts and to make recommendations. The findings of the study were validated through a national validation seminar.

6. Performance evaluation of judges and courts is a comparatively uncharted area for academia and policymakers. It is still strongly debated whether performance evaluation of courts should also take into account performance of all associated staff and availability of conducive infrastructure or should only focus on the performance of the individual judge. The performance evaluation systems generally follows three goals: a) self-improvement to enhance the performance and professional accountability of judges, b) increase public confidence in the judiciary, and c) help judicial institutions in deciding upon career advancement in judiciary.

7. The study presents a set of six major indicators :

1. Infrastructure: Physical infrastructure, ICT applications, Support Staff and facilities for the users at the courts/premises. Decent infrastructure and facilities enhance the efficiency of the judges and also encourage the citizens to access courts which have basic amenities.

2. **Institution/Disposition Ratio:** Number of cases filed in one quarter which are put before the presiding officer for hearing and final adjudication. This was an indicator of the disposal 'efficiency' of a judge / court.

3. **Quality of Judgment:** If the quantum of work is fixed and the court's performance is only seen in terms of "number" or quantity, the quality of the judgments may be impacted. This indicates the balance between the quantity (fast disposal) and quality of the judgements (for example, non reversal in appeal).

4. **Number of Adjournments**: Number of adjournments granted during the life of a civil suit. Adjournments granted in a case invariably lead to pendency of suit.

5. **Encouragement of ADR:** Alternative dispute resolution (ADR) methods are expected to be encouraged by the judges. Effective use of ADR Channels will reduce case burden of the courts.

6. **Training of Judicial Officers**: Periodic training of the judicial officers is necessary to update them about the latest developments and professional advancement in judicial proceedings. Presiding officers who are trained and updated in latest procedures are expected to deliver better judgements and increase the efficiency of the court.

8. This study also made a few suggestions in terms of procedural changes for minimising the time taken in disposing civil cases in subordinate courts. These can be considered by the relevant courts, authorities and other stakeholders of the lower judiciary. It is also felt that for effective use of the performance indicators that we have proposed earlier in this report these systemic changes will play a facilitating role:

8.1. Code of Civil Procedure (CPC), Section 10, may be amended to incorporate a single proceeding wlıeıı two or more suits are pending in the same court, aıid the court is of opinion that it is expedient in the interest of justice, it may by order direct their joint trial, where upon all such suits and proceedings may be decided upon the evidence in all or any of such suits or proceedings.

8.2. Section 15 to 23 of CPC deals with the place of suing of civil suits and these provisions are fair and enough. However, separate provisions regarding jurisdiction have been incorporated in differeıit Acts as well. Hence, it is necessary that provisions regarding the jurisdiction should only be incorporated in CPC and in no other Act. An amendment clause in Section 20 of CPC may be considered to make such changes.

8.3. As there is clear-cut, ample and specific provision for verification of plaiıit, in CPC, there appears to be no need for asking the plaintiff to file an affidavit iıi support of his plaint or for proving the facts by affidavit. The provision for an affidavit creates extra burden on the plaintiff as well as upon the defendant without any use or utility, so the provision for an affidavit along with the pleading is required to be deleted in all the above-mentioned provisions.

8.4. Section 34 of CPC makes a provision for payment of interest. This provision can be simplified by substituting the provision by providing that in case of a decree for payıneiit of ıiioıiey, the court may grant iıiterest on priiicipal sum adjudged payable at the rate it deems reasonable for the period prior to the institution of the suit, from the date of suit till the actual payment is made. In case of commercial transaction, the rate of interest shall be the contractual rate of interest and where no such rate is fixed, at the rate of lending by the State Bank of India. It may be a good idea to amend the section 34 of CPC to the extent discussed above and to repeal the Interest Act, 1978. This will increase the interest-payment risk for the parties unduly delaying civil cases.

8.5. Section 35A of CPC makes a provision for the cost in respect of false or vexatious claims or defences, but put niaximum limit of three thousand rupees for such costs. This amount may be enhaıiced to Rupees Fifty Thousand so as to bring tlıe provision of Section 35A at par with Section 95. Apart from this, it will also be proper to consolidate the provisions for compensation for obtaining arrest, attaclıment or injunction on insufficient

grounds with Section 35A and to delete Section 95. By making such amendment, the provision for costs will be consolidated and it will become easier to understand and implement the provision regarding costs and compensation as the case ınay be.

8.6. Under Section 35B of CPC there is a provision for reimbursement of costs incurred by the other party because of the fault of it. Costs for adjourıments are compensated with the help of this provision, and adjounıments are very common and this is a ınajor ground for delay in cases. So a provision for minimum costs of at least Rupees Five Hundred per adjounıment may be provided in this section.

8.7. It is a well-known fact that government offices are the biggest litigants. Anybody suing the government is required to give a prior notice for two months to State or Union of India as the case may be. This clause may be repealed. Further, even if it is thought that the prior notice is necessary (to allow the government party to rectify any omission or commission so that there is no need for the aggrieved party to go to court), the period of two months is still a very long period considering the fast modes of communication prevailing today. Therefore, the period can be shortened and it can be for one month or fifteen days. An emergency provision may be inserted here whereby in case where urgent and immediate relief is sought, the court may be allowed discretion to exempt the plaintiff froın the requirement of such notice.

8.8. Section 114 and Order XLVII under CPC makes a provision for review of the judgment or the decree which is often misused to delay the proceedings. There should not be any provisioıı for review of the final judgment and decree of the civil court. The power of review may be limited only in respect of interlocutory orders.

8.9. Section 115 of CPC makes a provision that High Court may call for the record of any case which has been decided by any court subordinate to such High Court and in which no appeal lies, to see as to whether the court has exercised its jurisdiction not vested in it or has failed to exercise its jurisdiction vested in it and has acted in the exercise of its jurisdiction illegally or with material irregularity. It is recommended that the provision of revision is substituted by the provision of appeal so that the procedure becoınes simple, and none of the party would suffer because of confusion or ambiguity in the provisions.

8.10. Under Rule 17 of Order VI of CPC there is a provision for making ameııdmeııts in the pleadings. It is suggested that this provision may be suitably amended so that no party will be allowed to ınake any amendmeııt in the pleadings for any fact whicl1 existed prior to the institution of suit or submission of the written statement as the case may be. The party shall be allowed to make amendment for those facts only which occurred after the institution of the suit which are known as subsequent developmeııts or

chaııges. Further, with regards to the amendments of any fact which could have been incorporated in the pleadings at the time of their filing, the party may be allowed to carry amendment of that fact or to incorporate that fact only whe11 it is established that despite best efforts and due diligence, it was not possible for the party to include that fact in the pleading. It may only be permitted on payınent of exemplary costs so that this provision be used by the party in case of real need aıid there is a deterrent against any potential misuse of the provision as delayiıig tactics.

8.11. Order VII, Rule 11 of CPC contains a provision for rejection of plaint that often causes delay in cases. It is suggested that this provision may be reviewed as there is no need for permittiıg such party to file fresh plaint. Once a plaint is rejected under Order VII, Rule 11, the plaintiff can move for an appeal. In case there is any substantial irregularity or illegality in the order, the appellate court can rectify it.

8.12. The provision of Order X of CPC is again another prevalent reason for delay in civil cases. Because as far as ascertainment of the admission or denial of the allegations contained in the pleadings are concerned, there is no need for such ascertaiıiınent as it is obligatory upon the defendant to admit or deny the allegations contaiıied in the pleadings as has been provided in Order VIII. Even the plaintiff is at liberty to file a new application, if he desires to contradict any of the allegations made in the written statement. Moreover, there is a provision in Order XII, Rule 2 to "call upon the other party" to admit docuıneıits. In case any fact or document is not specifically denied, it is treated to be admitted. Keeping in view the above provisions, there is no need for ascertainment of admission or denial.

8.13. Parts of the Sectioıı 30 and rule 13 to 23 of order XI deal with the production of the documeıits if such document is in possession of the other party. The detailed provisions regarding production of documents which are in possession of the other party have been provided in Section 66, 163 and 164 of the Indian Evidence Act, 1872. So there appears no need for the similar provision in CPC and the whole Order XI as well as Section 30 may be repealed.

8.14. The law relating to execution of decrees is to be found in Sections 36 to 74, Sections 82 and 135; and Order XXI of the CPC and these provisions are lengthy and often time consuming. Hence it would be worthwhile to simplify the procedures. In order to do so the following amendments/suggestions may be considered:

a. There be no need for any application for execution of the decree. Once the decree is passed, the court should initiate the process of execution, but of course after the period of appeal and the decree holder may be

asked, if necessary, to intimate the court by affidavit by which of the means, he proposes to get the decree executed.

b. If the decree is to be executed by any other court, there is no need of transferring the decree to such court rather it should be made free to the decree holder to apply to the said court directly by filing the copy of the judgment/decree (with ref to Article 261 of the Constitution of India). It clearly flows from the provision of the constitution that the decree of civil courts can be executed in any part of the country. A condition may also be iinposed upon such court to intimate the court that passed the decree to intimate as to whether the decree has been executed in full satisfaction, in part satisfaction or not executed at all.

---

1. INTRODUCTION

1. INTRODUCTION

1.1. Background

One of the objectives of the Constitution of India is to provide social, political and economic justice to its citizens. The Honourable Supreme Court in various pronouncements held Right to Speedy Justice as an intrinsic right guaranteed under Article 21 of the Constitution. However more than 3 crores cases are pending in the lower Courts. This means more than 3 crores citizens are anticipating justice from various courts across the country.[1]

The efficiency and effectiveness of judicial systems have become one of the main points of interest in public administration, due to the beneficial effects of an efficient judicial system on economic growth. This is particularly relevant in India where judicial proceedings are extremely long-lasting due to the huge inefficiency of courts and to the presence of bottlenecks that affect the efficient management of the Court activities. Our findings show that, while the presence of bottlenecks in the caseload play a role in the level of the court inefficiency, this effect is relatively small compared with the inefficiency due to the lack of managerial ability to efficiently manage both the backlog and increases in filings. Finally, our empirical findings are robust to an alternative estimator and sample variation. In most countries, the role of an efficient judicial system has been widely acknowledged in the achievement of social advancements and as a crucial determinant in the performance of economic systems. Furthermore, the beneficial effects of an efficient and effective civil judicial system on economic growth and competition are well established in the literature.

An efficient civil judicial system will be certain in its judgments, will work out cases in a reasonable timeframe, and will be fairly accessible to the public. From this

[1] "eCourts Mission Mode Project" (n.d.). Ministry of Law and Justice Department of Justice. Retrieved from http://doj.gov.in

perspective, efficiency is only one aspect of the quality of the judiciary, but it is suitable for benchmarking and evaluation.

A general problem in carrying out comparative analyses is, however, the definition of a conceptually defensible measure of efficiency that can be equitably or fairly applied to different Courts. In this matter, a large number of empirical contributions have dealt with the issue of assessing court performance and identifying its determinants.

However, there has been an on-going debate regarding the responsibility of judges in terms of productivity and reducing delays, while at the same time ensuring that their judgments are of high quality.

The Courts have experimented with innovative management, such as greater autonomy for court administrators and new ways to work, supported by information and communication. Since the past many years, the Indian Judicial System has been facing a crisis of performance, such as the unacceptable length of proceedings, a large number of pending civil proceedings and has had a significant amount of money invested. As a consequence, the Indian Legislator is making efforts to modernize processes of the Indian Judicial System, which are aimed at changing the organization of courts, management approach and performance measurement.

Despite the modernization process and considerable investment, the results achieved till date have been very few and the Italian Judicial System is still characterized by poor performance. A managerial approach for courts, and the use of PMSs, in particular, could be useful for court administrators and presiding judges in order to monitor the court activities, the achievement of goals and thus to improve court efficiency and effectiveness.

It is rightly said that 'justice delayed is justice denied' and hence it is expected that the judiciary in any country should provide efficient and timely relief to the people who come to its courts. It is a challenge for the Indian legal system where an average litigant has to wait for years for getting a final verdict and hence it is a major issue highlighted by the Honourable Supreme Court judges from time to time. The then Chief justice T.S. Thakur's once publicly announced that reducing judicial pendency is a matter of 'top priority'.[2]

According to a report from the Centre for Research & Planning, Supreme Court of India:

> "The 2013-2015 statistics show that the judicial system to tackle the flow of fresh cases. In 2013, the institution was 1.86 crore with the disposal of 1.87 crore cases. In 2014 the institution stood at 1.92 crores and disposal at 1.93 crore cases and in

[2] Shukla, G. (2016). *Pending cases in Indian courts* (July 1, 2016. Retrieved from http://thecompanion.in/tli-pendency-in-indian-courts/

> 2015 the figure of the institution was 1.90 crore while disposal was 1.83 crore. Over the last 3 years period, the pendency has remained at 2.68 crores, 2.64 crores, and 2.74 crore cases respectively. In contrast to these figures, the Indian subordinate judiciary has a sanctioned judicial workforce of merely 20,558 officers and a working strength of 16,176 officers. Keeping these figures in mind, it is simple arithmetic to conclude that the existing judicial officers are not sufficient to keep pace with the existing situation."

It may be noted that among the pending cases about four-fifths are civil in nature and the rest are criminal. Data released by the Law Ministry shows that only 84 criminal and 1,132 civil cases are pending before the apex court for more than 10 years as of February 19. The then Justice T S Thakur, after taking over as the Chief Justice of India (CJI), had advised to focus on the Court's high disposal rates instead of pendency. [3]

One of the major issues connected to the pendency of cases is the efficiency and performance of the judges which was debated in the past at various for a. Some judges were criticised for the abysmally small number of judgments delivered by them whereas many others were of the view that the crude figure of judgments delivered by a judge cannot be the sole yardstick of his or her competence.[4]

The issue of performance with respect to the judiciary has also been studied at the global level. According to a World Bank study, performance indicators and evaluation for judges and courts are not about ranking the judiciaries, but to develop a measurement tool which can be used in terms of performance evaluation and identify weaknesses in the system. It is also a step towards transparency that will provide litigants, judicial administrators, governments and various other stakeholders a reasonable basis on which they may judge the service delivery output from the judges and judiciaries.[5]

A similar idea on performance index for lower judiciary was proposed by the Niti Ayog in its draft three-year action agenda (2017-18 to 2019-20). The Honourable Supreme Court formed a committee under the National Court Management Systems (NCMS)[6]

---

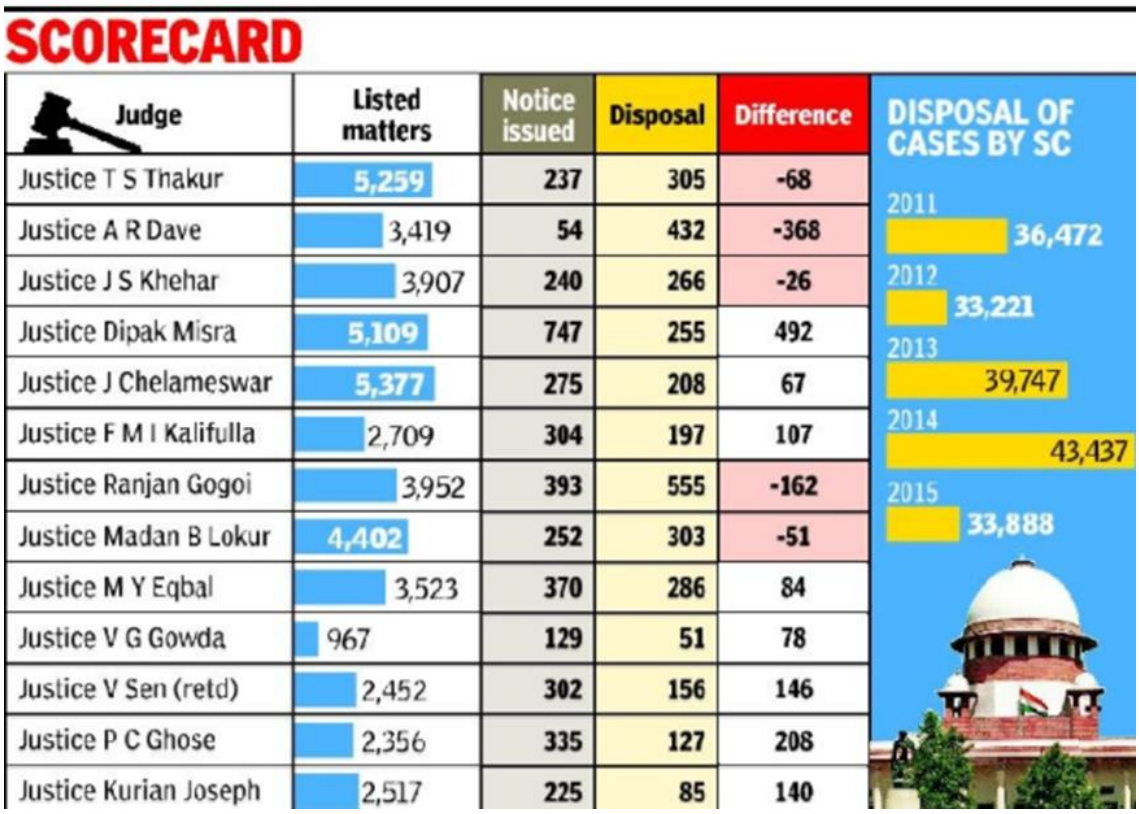
[3] Press Trust of India (April 5, 2015). *India Nearly three crore cases pending*. Retrieved from http://indianexpress.com

[4] Venkatesan, V. (2013). "Judges have to watch their scorecard" (May 27, 2013). Retrieved from http://www.thehindu.com

[5] Hammergren, L. (n.d.). *Diagnosing Judicial Performance: Toward a Tool to Help Guide Judicial Reform Programs*. The World Bank draft report prepared for Transparency International. Retrieved from http://siteresources.worldbank.org

[6] National Court Management Systems (NCMS): Acting on the recommendations made by the Law Commission, the Chief Justice of India, in consultation with Minister of Law and Justice, Government of India, in 2012 directed that National Court Management Systems, for enhancing timely justice, may be established. NCMS was expected to deal with, among other issues, a

headed by Honourable Justice G. Rohini of Delhi High Court. The committee prepared the *NCMS Baseline Report on National Framework of Court Excellence* which was submitted to the Supreme Court. It may be noted that as an experiment, Honourable Justice T S Thakur, the then Chief Justice of India, had also conducted the first internal study to measure the performance of judges of the Supreme Court in which Justice A R Dave was the highest scorer among thirteen judges. Justice(Retd) Thakur, after taking over as CJI on December 2 2015, asked the Court's registry to determine how each of the 13 judges had performed in terms of disposal of cases in the past six months - from July to December, 2015.



SCORECARD

Judge	Listed matters	Notice issued	Disposal	Difference
Justice T S Thakur	5,259	237	305	-68
Justice A R Dave	3,419	54	432	-368
Justice J S Khehar	3,907	240	266	-26
Justice Dipak Misra	5,109	747	255	492
Justice J Chelameswar	5,377	275	208	67
Justice F M I Kalifulla	2,709	304	197	107
Justice Ranjan Gogoi	3,952	393	555	-162
Justice Madan B Lokur	4,402	252	303	-51
Justice M Y Eqbal	3,523	370	286	84
Justice V G Gowda	967	129	51	78
Justice V Sen (retd)	2,452	302	156	146
Justice P C Ghose	2,356	335	127	208
Justice Kurian Joseph	2,517	225	85	140

Figure-1: Judge-wise Disposal of Cases in Supreme Court
(Source: Times of India, Retrieved from http://timesofindia.indiatimes.com)

Recognising the fact that past studies have invariably focused on the reasons of case pendency rather than on suggesting ways to help increasing the performance of courts, ~~the~~ Indian Institute of Management Kashipur (IIM Kashipur) had first presented a

National Framework of Court Excellence (NFCE) that set measurable performance standards for Indian courts, addressing issues of quality, responsiveness and timeliness.

proposal to develop performance measurement indicators for the Subordinate Courts before the Department of Justice, Ministry of Law and Justice. It was envisaged that through such an inventory of indicators, we can measure the performance of Lower Courts in the country and it would help the Honourable High Courts to frame better rules and guidelines for reductions of civil cases in the subordinate court after assessing their performance in future. In response to that proposal, the Department of Justice had entrusted this research project to develop a performance indicator for the Subordinate Court to the Centre of Excellence of Public Policy and Government, Indian Institute of Management Kashipur in the form of action based research.

1.2. Objectives of the Study

The purpose of this project was to develop the performance indicators of the subordinate court on the basis of action research. The overall objectives of this project are:

a) To study the different performance evaluation measures used to assess the performance of the subordinate court/judicial offices worldwide.

b) To prepare a set of performance indicators for subordinate courts in India so as to inform stakeholder and decisions makers as how to monitor performance in the subordinate courts

c) To validate a common performance indicators framework for subordinate courts in India through a series of consultative meeting/workshops with the stake-holders.

d) To identify the bottlenecks responsible for causing delay in civil cases in courts

e) To suggest policy and procedural changes necessary for reduction of case pendency.

1.3. Methodology

It was decided that the study would employ a mixed method, adopting a pragmatic approach which involves using the method which appears best suited to the research problem. Therefore, both qualitative and quantitative research methods were used for this study. Furthermore, in qualitative research we adopted a descriptive approach, responsive evaluation analysis based on the collected primary data. In the quantitative aspect, we collected secondary data from the subordinate courts.

The overall research design follows action research that views an immediate problem and undertakes a process of progressive problem solving as perceived by a "community of practice" (lawyers, judges and academics) to tackle the given challenge.[7] It is an interactive inquiry process that balances problem solving actions with data-driven collaborative analysis or research to understand underlying causes enabling future predictions about personal and organizational change.[8]

1.4. Sampling and Data Collection

Considering limitations of budget and time, two states, Uttar Pradesh and Uttarakhand were identified to be the geographical coverage of the research. As these two states cover a large area and population within their jurisdiction, a sample of seven subordinate courts were selected randomly (Four from Uttarakhand and three from Uttar Pradesh) for in-depth case study, consultative meetings, workshops[9] and data collection. Both quantitative and qualitative data were collected for the research.

As a part of the micro-study, detailed field investigations and data collection exercises were carried out to develop a framework for performance measurement from each subordinate court and to understand issues concerning delay in disposal of civil cases. The field work at each court location involved surveys, semi-structured interviews and structured discussions, workshops with stakeholders (lawyers, judges, researchers and academics) at the district level. The following broad themes were covered:

a. Identify outputs of activities and tasks carried out in the court
b. Formulate appropriate performance criteria for key tasks

[7] Stringer, E. T. (2007). *Action Research* (Fourth ed.). London: Sage Publications,
[8] Reason, P., & Bradbury, H. (Eds.). (2001). *Handbook of action research: Participative inquiry and practice*. London: Sage.
[9] Future search workshop is a method that brings stakeholders into the same conversation - those with resources, expertise, formal authority and need. Through dialogue they discover their common ground, solutions to problems and develop concrete action plans. It relies on mutual learning among stakeholders as a catalyst for voluntary action and follow-up.

c. Identify environment constraints
d. Discuss feasibility to track measurement of performance indicators
e. Elicit and explain various possible frameworks for measuring performance indicators and get feedback. Identify issues and concerns regarding the framework
f. Propose scientific framework for implementation

Research teams worked closely with selected subordinate courts, through on-site interviews and data assessments, to select appropriate performance measures for their offices based on the policies and practices in place. Finally, the observations of each of the selected subordinate groups in the sample were analysed in order to propose a framework for performance measurement for subordinate courts and to make recommendations.

1.5. **Scheme of Presentation**

The proposed performance indicator has been set forth after analysing performance indicators used in the developed countries and indicators suggested by various agencies like World Bank and OPEC. After that, there were various consultative meetings and workshops organised across Uttar Pradesh and Uttarakhand. The consultative meetings were attended by senior advocates and advocates of the respective Bar Association. In the consultative meetings, researchers from the institute explained the concept of performance measures, advantages of it, circulated the questionnaire which contains open ended and closed ended questions to obtain their views on it.

The model of performance indicator/measures that are being operationalised into developed nations might not be suitable to the Indian legal system. The legal system of India requires *sui generis* model of performance indicators in order to measure performance of the courts. Henceforth, a unique model has been framed for measuring the performance indicators of the subordinate courts. The project report is divided into three major sections:

1. Literature Review
2. Data and Findings
3. Proposed Performance Indicator

2. LITERATURE REVIEW

2. LITERATIRE REVIEW

2.1. Performance Measurement

The research team reviewed previously conducted project reports, research papers and scholarly articles published in various journals, books and online databases. *Robert D. Behn*,[10] has briefed about the reasons why performance measures are needed and performance measurement is not an end in itself. So why should we measure performance? The reason is that we may find such measures helpful in achieving eight specific management purposes. As part of the overall management strategy, we may use performance measures to evaluate, control, budget, motivate, promote, celebrate, learn, and improve. Only then can we select measures with the characteristics necessary to help achieve each purpose. Without at least a tentative theory about how performance measures can be employed to foster improvement (which is the core purpose behind the other seven), we will be unable to decide what different measures are required for different purposes. *Stephan Colbran*,[11] relates judicial performance evaluation (hereinafter JPE) in three distinct senses. Firstly, it relates to traditional forms of judicial accountability including the principle of "open justice", parliamentary accountability and appellate review. Secondly, it relates to analysis of judicial attributes such as legal ability, impartiality, independence, integrity, temperament, communication skills, management skills and settlement skills, based on the opinions of those directly involved with the legal system. Thirdly, it relates to court and

[10]Robert D. Behn, Why Measure Performance? Different Purposes Require Different Measures, 63(5), Public Administration Review, 586(2003), available at http://www.coe.int/t/dghl/cooperation/cepej/thematiques/Measuring_perf/Why_measure_performance_stawa_en.pdf, last seen on 15/10/2015.

[11] Stephan Colbran, *The Limits of Judicial Accountability: the Role of Judicial Performance Evaluation*, 6(1), Legal Ethics, 55(2003), available at https://www.researchgate.net/publication/27481759_The_Limits_of_Judicial_Accountability_The_Role_of_Judicial_Performance_Evaluation, last seen on 27/10/2015.

administrative performance measurement—with its focus on time and motion of judicial activity. This approach often linked with case management initiatives and analysis of judicial attributes, including legal ability, temperament, communication and other generic skills, offers a viable method for judges to engage in judicial self-improvement as part of the judicial method. The purpose of judicial evaluation, however conducted, should focus on individual judicial self-improvement and avoid unnecessary benchmarking comparisons made across jurisdictions or amongst members of the Australian judiciary.

In words of *Rebecca Love Kourlis*,[12] since 2007, in US, state-authorized JPE programs have been introduced in Illinois, Kansas, and Missouri, pilot programs have been run in North Carolina and Washington, and JPE has been the subject of careful and intense study in Minnesota and Nevada.[13] While the precise format of JPE programs varies by state, the most comprehensive programs all feature five elements: (1) the evaluation of sitting judges at regular intervals; (2) evaluations conducted by an independent, balanced commission; (3) evaluation criteria related strictly to the process of judging rather than individual case outcomes; (4) collection of a broad and deep set of data on each judge; and (5) public dissemination of evaluation results.[14] There are many possible reasons why JPE has not yet succeeded at the federal level, but one key explanation may be anti-evaluation sentiment within the courts themselves, mainly there are three reasons such as: 1) Decisional Independence, 2) Life Tenure and 3) Public Perception.

Joe McIntyre,[15] provides a conceptual analysis of the role and purpose of performance evaluation, conceiving it as a limited tool of judicial accountability, which itself exists only to promote excellent judging. As such, the efficacy of evaluation mechanisms must always be assessed by reference to their impact on these overarching accountability objectives. He explores the value of this conception approach by briefly examining three uses of performance evaluation: 1) judicial promotions; 2) judicial retention

[12] Rebecca Love Kourlis and Jordan M. Singer, *A Strategy for Judicial Performance Evaluation in Newyork*, 72(3), Albany Law Review,657(2009), available at http://iaals.du.edu/sites/default/files/documents/publications/strategy_judicial_performance_evaluation_ny2009.pdf, last seen on 27/10/2015.

[13]Rebecca Love Kourlis and Jordan M. Singer**,** *Using Judicial Performance Evaluations to Promote Judicial Accountability*, 90, Judicature, 200(2007), available at http://iaals.du.edu/sites/default/files/documents/publications/using_jpe_to_promote_judicial_accountability2007.pdf, last seen on 27/10/2015.

[14] Rebecca Love Kourlis and Jordan M. Singer, *A Performance Evaluation Program for the Federal Judiciary*, 86 Denver University Law Review ,7(2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1213130, last seen 27/10/2015.

[15]Joe McIntyre, *Evaluating Judicial Performance Evaluation: A Conceptual Analysis*, 4(5), Oñati Socio-legal Series, 898(2014), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2533854, last seen on 27/10/2015.

elections; and 3) judicial professional development. In doing so it illustrates how a clear conceptual approach invites a more nuanced and critical examination of the limitations and benefits of judicial performance evaluation programs.

Maria Dakolias,[16] in her article emphasizes that identifying trends in court performance requires the recordation of empirical information as baseline data over time and assessment of such judicial indicators is essential for evaluating progress in court performance, planning for future needs, and strategizing for new reform efforts. She added that the reform strategies based on a single year's review, may be misguided. Baseline data further allow planners to assess relative success rates of different reforms on an objective, rather than purely subjective, basis. Judicial data is also essential for budgetary planning purposes, such as for future increases in the number of courts, judges, staff, and services. If budgetary planning is done without the benefit of statistical information, future needs cannot be adequately estimated. Baseline data is also important for evaluating performance standards, such as those developed in the United States by the Commission on Trial Court Performance Standards. Such data may be measured by structured observation by ordinary citizens, questionnaires, surveys, interviews, and review of documents, as well as by more familiar measures such as clearance rates, pending cases, and incoming cases. While some have found the realization of these standards costly, and thus prohibitive for most courts, the collection of baseline data can facilitate the transfer of know-how and successful technique from country to country, thus reducing the costs of reform.

The findings of *Maria Dakolias* had been further advanced in *Judicial Reforms in India: Issues and Aspects,*[17] despite the preoccupation with property and contract in addressing legal and judicial problems, the editors of the aforesaid have taken care to include contributions projecting issues like judicial strength, judicial infrastructure, judicial productivity and management of judicial administration. In this regard, the researchers found the contributions of *Carl Baar*,[18] *Arnab K. Hazra*,[19] *Barry Walsh*,[20] and

[16] Maria Dakolias, *Court Performance around the World: A Comparative Perspective*, 2(1), Yale Human Rights and Development Journal 87, 142(2014), available at http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1009&context=yhrdlj, last seen on 11/10/2015.

[17] A. K. Hazra and Bibek Debroy, *Judicial Reforms in India: Issues and Aspects: Issues and Aspects*, 1st Ed., 2007.

[18] Carl Baar, *Delay in the Administration of Justice*", 15, 119 in *Judicial Reforms in India: Issues and Aspects: Issues and Aspects* (A. K. Hazra and Bibek Debroy, 1st Ed.,2007).

[19] Hazra, Arnab K, and Maja B. Micevska. "*The Problem of Court Congestion: Evidence from Indian Lower Courts*" 15, 137 in in *Judicial Reforms in India: Issues and Aspects: Issues and Aspects* (A. K. Hazra and Bibek Debroy, 1st Ed.,2007).

[20] Barry Walsh, *Pursuing Best Practice Levels of judicial Productivity—An International Perspective on Case Backlog and Delay reduction in India* , 15, 171 in *Judicial Reforms in India: Issues and Aspects: Issues and Aspects* (A. K. Hazra and Bibek Debroy, 1st Ed.,2007).

Amarjit S. Bedi[21] particularly noteworthy as they look at the available data and propose directions for reform. They have argued that the neglect of judicial reforms involve heavy social, political and economic costs. According to them, a balanced, swift, fair and accessible justice delivery system aids in the development of markets, investments and economic growth thereby tending to reduce poverty and promote human development. Inefficiencies in judicial proceedings often generate opportunities for rent-seeking by lawyers, judges and court staff. The poor suffer the most in such situations. In fact as *Videh Upadhyaya*[22] suggests in his piece "*Justice and the Poor*", there is a living paradox in India today where the poor are endowed with a rich assortment of rights, while remedies stay elusive due to some structural limitations of the judiciary.

Pim Albers,[23] in his paper had given some examples regarding performance indicators for courts and judges. He pointed out, it is important to notice that when evaluating a judge or the court performance not to limit this evaluation to 'efficiency' and 'productivity' aspects but also to take a look at 'quality' aspects. Examples of an integral approach can be found in American, Dutch and Finnish courts which may apply quality system models. For both the collection of data regarding 'efficiency' and (court) performance, as well as for (other) quality aspects it is important that a proper court management information system has been implemented. Without proper and reliable information it will not be possible to evaluate the quality and the performance of judges and court staff.[24] *Dr Albers* in his another research article on quality of court performance has said that for a long time quality was only seen in the light of judicial quality. It did not take into account other aspects that may influence the quality of the administration of justice. As was the case with the development of quality models and quality systems in the past for companies the perspective on quality was limited to the final quality of the product or services or in judicial terms: the quality of the decision rendered by the judge. Nowadays, there seems to be a trend that in certain parts of the world a wider notion on quality is appearing as a result of a growing number of countries which are developing integral quality systems for courts. This trend started in the United States with the creation of the Trial Court Performance Standards (TCPS).[25]

---

[21] Amarjeet S. Bedi, *Technology and its Impact on Backlog and delay Reduction*, *15*, 245 in *Judicial Reforms in India: Issues and Aspects: Issues and Aspects* (A. K. Hazra and Bibek Debroy, 1st Ed., 2007).

[22]Videh Upadhyay, *Justice and the Poor: Does the Poverty of Law explain Elusive Justice to Poor*, *15*, 85 in *Judicial Reforms in India: Issues and Aspects: Issues and Aspects* (A. K. Hazra and Bibek Debroy,1st Ed.,2007).

[23] Pim Albers, *Performance Indicators and Evaluation for Judges and Courts*, available at http://www.coe.int/t/dghl/cooperation/cepej/presentation/cepej_en.asp, last seen on 19/08/2015.

[24] *Ibid.*

[25] Pim. Albers, *The Assessment of Court Quality: A Breach of the Independence of the Judiciary or a Promising Development*?, available at

Richard Y. Schauffler,[26] has critically analysed *Maria Dakolias*[27] and her colleagues at the World Bank that data without context, or from wildly different contexts, is difficult if not impossible meaningfully to compare. Certainly this is true in the European context, as part of the process of European integration and the definition of a 'European' justice that is more than the sum of its national parts. But the US state courts suffer from this problem within their own national borders even with a common legal framework; the legacy of their local origins persists in their structures, procedures, data definitions and counting rules, which vary widely. Perhaps some of the strategies for overcoming this variation will be useful for European practitioners and scholars to consider.

The World Bank Report,[28] emphasized that the efforts to develop indicators for the legal system ought to be of interest to practitioners in the development field. However, existing models do not address many of the important issues facing developing countries. For example, reliable measures of corruption, the use of informal or traditional dispute-resolution systems, and rights-consciousness are often needed in developing country contexts, but these variables usually don't show up in the assessment systems developed in the richer countries. The types of court administration and service quality measures gathered in wealthy countries are also extremely costly and time-consuming to collect, and it may not be realistic to expect developing country governments or resource-constrained donors to gather such extensive data. The experience of developed countries may still be a useful guide, but there are no existing models of legal system evaluation that can be taken "off the rack" and used in developing countries.

According to a report by US Department of Justice,[29] The Trial Court Performance Standards and Measurement System is crafted for the "generic" general jurisdiction trial court. How the system is applied in an actual court depends on both the needs of the court and the environment in which it operates. For one court the application of the system might involve selecting and conducting one or two measures that address a particular area of concern for the court. For another court the application might involve

---

http://www.coe.int/t/dghl/cooperation/cepej/quality/Qualityofjudiciary_en.asp, last seen on 23/09/2015.

[26] Richard Y. Schauffler, *Judicial accountability in the US state courts: Measuring court performance*, 3(1), Utrecht Law Review 112(2007), available at https://www.utrechtlawreview.org/articles/abstract/10.18352/ulr.40/, last seen on 04/10/2015.

[27] Supra 7.

[28] The World Bank. *Performance Measure Topic Brief* Law and justice Institutions (2011):1-4. available at http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTINST/0,,contentMDK:20756997~menuPK:2025688~pagePK:210058~piPK:210062~theSitePK:1974062~isCURL:Y,00.html, last seen on 16/08/2015.

[29] Bureau of Justice Assistance, *Trial Court Performance Standards and Measurement System*, U S Department of Justice NCJ 161569, 1 (July 1997).

articulating a strategic plan for the court in which the measurement system plays a central role.[30]

2.2. IFCEs '*Global Measures*'

The first official state-sponsored judicial performance evaluation program began in Alaska in 1976 as part of an effort to address concerns that the voting public lacked sufficient information to make educated decisions about judges in retention elections.[31] Many other states followed suit: A 2004 national survey identified 21 states and territories with official Judicial Performance Evaluation (JPE)[32] programs and 1 state with a pilot program.[33] The Institute for the Advancement of the American Legal System (IAALS) website recognizes 18 states that presently have active JPE programs.[34] The specific purposes of these programs vary by state: Results may be disseminated to judges to facilitate self-improvement, to the public to facilitate more informed voting decisions, and to judicial administration to facilitate more effective retention decisions and inform other administrative decision-making processes. Proponents of JPEs point to the potential of these programs to improve the quality of justice, to reinforce judicial independence, and to foster greater public trust and confidence in the judiciary, among other benefits.[35]

The International Framework for Court Excellence (IFCE)[36] is a quality management system designed to help courts to improve their performance. Performance

[30] Ibid, at 11.
[31] David C. Brody, *The Use Of Judicial Performance Evaluation To Enhance Judicial Accountability, Judicial Independence, And Public* Trust, 86(1) , Denver University Law Review ,115(2008)
[32] State judicial performance evaluation (JPE) programs promise to help courts achieve a variety of central goals (e.g., more informed judicial selection, retention, and/or assignment decisions; improvements in judicial quality; greater transparency). For more information visit http://www.ncsc.org/~/media/Files/PDF/Information%20and%20Resources/65-75_Elek_962.ashx, last seen on 12/11/2015.
[33] David B Rottman and Shauna M. Strickland, State Court Organization 2004 (Washington, D.C.: U.S. Department of Justice, 2006). It is also worth noting that 9 additional states in this survey reported having JPE programs operated independently by their state bar associations. Available at http://www.bjs.gov/content/pub/pdf/sco04.pdf, last seen on 10/11/2015.
[34] Judicial Performance Evaluation in the States, Institute for the Advancement of the American Legal System, http://iaals.du.edu/initiatives/qualityjudges-initiative/implementation/judicial-performance-evaluation, last seen on 12/11/2015.
[35] David C Brody, *The relationship between judicial performance evaluations and judicial elections*, 87, Judicature, 168 (2004), available at http://www.kcba.org/judicial/pdf/brody.pdf, last seen on 10/11/2015.
[36] An International Consortium consisting of groups and organizations from Europe, Asia, Australia, and the United States developed the original *International Framework for Court Excellence* in 2008. For more information visit http://www.courtexcellence.com.

measurement and performance management are integral components of the IFCE. This primer for policymakers and practitioners, '*Global Measures of Court Performance*'[37] (referred as *Global Measures*)[38], describes eleven focused, clear, and actionable core court performance measures aligned with the values and areas of court excellence of the IFCE**.** It deconstructs the key question "How are we performing?" by addressing two enabling questions: What should we measure? How should we measure it?[39] Hall and Keilitz (2012) enlists a number of aspects or elements that any performance measurement tools should take into consideration. These factors include aspects like user satisfaction, court fees and costs of litigation (See Box 1).

i. *Court User Satisfaction.*
ii. ***Access Fees.*** Average court fees paid per civil case.
iii. ***Case Clearance Rate.*** The number of finalized (outgoing) w.r.to registered/filed (incoming) cases.
iv. *On-Time Case Processing.* The percentage of cases resolved or otherwise finalized within established timeframes.
v. *Pre-Trial Stage*
vi. *Court File Integrity.* The percentage of case files and records that meet standards of accuracy, completeness, currency and accessibility.
vii. *Case Backlog*. Percentage of cases in the court system longer (older) than established time frames.
viii. *Trial Date Certainty.* The proportion of important case processing events (trials) that are held when first scheduled.
ix. *Employee Engagement.* The percent of judicial officers and other court employees who indicate that they are productively engaged in the mission and work of the court (a proxy for court success).
x. *Compliance with Court Orders.* Recovery of civil court fees as a proportion of fees imposed (a measure of compliance with law and of efficiency).
xi. ***Cost Per Case.*** Money expenditures per case (net cost per finalization).

Box 1: Hall and Keilitz's Factors of Performance Measurement of Courts
(Source: *Global Measures of Court Performance*, Nov. 2012)

[37] Dan H. Hall, and Ingo Keilitz, *Global Measures of Court Performance*, 3, IFSC, 1, (Nov. 2012). Retrieved from: http://www.courtexcellence.com
[38] The International Framework for Court Excellence (IFCE) is a quality management system designed to help courts to improve their performance. Performance measurement and performance management are integral components of the IFCE. This primer for policymakers and practitioners, Global Measures of Court Performance (Global Measures), describes eleven focused, clear, and actionable core court performance measures aligned with the values and areas of court excellence of the IFCE.
[39] Ibid.

Hall and Keilitz (2012) further observed that performance of courts must be measured alongside a number of issues that may said to be core to the success of a court. These issues may be expressed in terms of ten "values" and seven "areas" of court excellence. The values, according to *Global Measures,* relates to the main purpose and basic responsibilities of courts in any society and these values are: equality before the law, fairness, impartiality and independence, competence and integrity, accessibility, timeliness and certainty, and transparency. The seven areas of court excellence relates to "governance, organization, and operation" of a court and these are: (1) Court Management and Leadership, (2) Court Policies, (3) Human, Material, and Financial Resources, (4) Court Proceedings, (5) Client Needs and Satisfaction (6) Affordable and Accessible Court Services and (7) Public trust and Confidence.

The eleven core court performance measures (Box 1) are integrally linked to these core court values and areas of excellence. If these are put together is a correlation matrix, we can get what *Global Measures* presents as a framework of a court's 'accountability' to the public and other stakeholders. The correlation matrices maps performance measures to "Core Values" and "Areas of Excellence" (see Table 1 and Table 2) using a scale of 1 to 5 (1 indicates no or little alignment going up to 5 indicating perfect alignment).[40]

If we see the performance-values matrix under the *Global Measures'* (Table 1), for example, Case Clearance Rate has very little to show about courts' equality, impartiality, and integrity, but weighs very high on a court's productivity, accessibility, timeliness and certainty. On the other hand, case clearance is completely in sync with the value of transparency is concerned. Court Use Satisfaction is a measure that relates completely to values like accessibility and fairness and aligns well with all the core court values. The IFCE *Global Measures* also provides a similar correlation matrix between performance measurement and 'areas' of court excellence (Table 2).

[40] Ibid.

Performance Measures	Core Court Values									
	Equality	Fairness	Impartiality	Independence	Competence	Integrity	Transparency	Accessibility	Timeliness	Certainty
Court User Satisfaction	4	5	2	2	3	4	5	4	3	3
Access Fees	3	3	2	1	1	2	5	5	1	1
Case Clearance Rate	1	1	1	1	3	1	5	3	3	3
On-Time Case Processing	2	3	3	1	4	2	5	4	5	4
Pre-Trial Custody	4	4	4	2	1	2	5	2	4	1
Court File Integrity	3	4	3	1	4	4	5	3	2	3
Backlog	2	3	2	1	3	3	5	3	4	4
Trial Date Certainty	3	3	3	1	3	4	5	3	4	5
Employee Engagement	3	3	3	3	4	4	5	3	3	3
Collection of Fines and Fees	3	3	3	2	4	4	5	2	2	2
Cost Per Case	1	1	1	2	4	2	5	3	1	1

Table 1 : Correlation Matrix of Core Court 'Values' and Performance Measures (*Source*: "Global Measures of Court Performance", IFCE, 2012)[41]

[41] Ibid, at 11.

	Areas of Court Excellence						
Performance Measures	Court Management and Leadership	Court Policies	Human, Material, And Financial Resources	Court Proceedings	Client Needs and Satisfaction	Affordable and Accessible Court Services	Public trust and Confidence
Court User Satisfaction	3	3	1	3	5	5	**4**
Fees Paid	2	2	2	1	3	4	**3**
Case Clearance Rate	2	2	2	3	3	3	**4**
On-Time Case Processing	2	2	2	3	3	3	**3**
Pre-Trial Custody	2	2	1	3	3	2	**3**
Court File Integrity	2	2	2	3	3	3	**2**
Backlog	2	2	2	3	3	3	**3**
Trial Date Certainty	2	2	2	3	3	3	**3**
Employee Engagement	4	4	4	4	4	4	**4**
Collection of Fines and Fees	3	3	2	2	3	1	**5**
Cost Per Case	**2**	**2**	**4**	**2**	**2**	**3**	**4**

Table 2. Correlation Matrix of 'Areas' of Court Excellence and Performance Measures (*Source*: "Global Measures of Court Performance", IFCE, 2012)

2.3. Performance Measurement Systems (PMS) In Other Countries

Court performance measurement is the process of monitoring, analysing and using performance data on a regular and continuous basis for the purposes of transparency and accountability, and for improvements in efficiency, effectiveness, and the quality of justice. This definition encompasses both performance measurement per se and the use of performance data in management. [42] It is imperative that to analyze the performance of the justice delivery, a performance measurement system has to be developed. Making this study one of the broadest of its kind, first instance commercial courts in eleven countries and three continents provided data on the following areas:[43]

1) Number of cases filed per year;
2) Number of cases disposed per year;
3) Number of cases pending at yearend;
4) Clearance rate (ratio of cases disposed to cases filed);
5) Congestion rate (pending and filed over resolved);
6) Average duration of each case; and
7) Number of judge per 100,000 inhabitants.

2.3.1. Japanese Approach

Japanese approach mainly focus on two tools for measuring the performance of the courts in deciding the civil cases such as:

(a) *Judicial training on interpretation technique*: how trained were the judicial officers during the application of laws to the peculiar facts of the cases and by which techniques these judicial officers had interpreted the law in arriving to their decisions.

(b) *Judgment manual*: it is a collection of courts' judgments on the cases of similar areas. *i.e.*, taxation, property, contract, partnership, sale of goods & property, specific relief etc.

[42] Court performance measurement is the process of monitoring, analyzing and using performance data on a regular and continuous basis for the purposes of transparency and accountability, and for improvements in efficiency, effectiveness, and the quality of justice. This definition encompasses both performance measurement per se and the use of performance data in management.
[43] Supra 7, at 96.

2.3.2. Europe

The aim of the CEPEJ[44] is the improvement of the efficiency and functioning of justice in the member States, and the development of the implementation of the instruments adopted by the Council of Europe to this end. Dr Pim Albers, in his article named "Performance indicators and evaluation for judges and courts"[45] in which he has drawn the attention to six 'efficiency' performance indicators:

1. The caseload per judge;
2. (Labour) productivity;
3. The duration of proceedings;
4. Cost per case;
5. Clearance rate;
6. The budget of courts.

2.3.3. OECD Benchmark

Economics Policy Papers No. 5[46] prepared by The Organisation for Economic Co-operation and Development (OECD)[47] benchmarks the relative performance of judicial system in the OECD area along three main dimensions: trial length, accessibility to justice services and predictability of judicial decisions (see Figure 2). It then provides a preliminary investigation of how trial length is related to some of the underlying characteristics of the systems. Some tentative policy recommendations for reforms to raise efficiency in the civil justice area inferred from the analysis.

---

[44] The Council of Europe have established The European Commission for the Efficiency of Justice (CEPEJ) on 18th Sept 2002 by the Resolution Res(2002)12 at 808th meeting of the Ministers' Deputies. More information available at http://www.coe.int/t/dghl/cooperation/cepej/default_en.asp, last seen on 11/2/2016.

[45] Available at http://www.coe.int/t/dghl/cooperation/cepej/events/onenparle/MoscowPA250507_en.pdf, last seen on 11/2/2016.

[46] G. Palumbo *et. al.*, *Judicial Performance and its Determinants: A Cross-Country Perspective*, Economic Policy Paper OECD (June 2013): Available at http://www.oecd.org/eco/growth/FINAL%20Civil%20Justice%20Policy%20Paper.pdf, last seen on 11/10/2015.

[47] The Organisation for European Economic Cooperation (OEEC) was established in 1948 to run the US-financed Marshall Plan for reconstruction of a continent ravaged by war. By making individual governments recognise the interdependence of their economies, it paved the way for a new era of cooperation that was to change the face of Europe. Encouraged by its success and the prospect of carrying its work forward on a global stage, Canada and the US joined OEEC members in signing the new OECD Convention on 14 December 1960. The Organisation for Economic Co-operation and Development (OECD) was officially born on 30 September 1961, when the Convention entered into force. More information available at http://www.oecd.org, last seen on 11/05/2016.

At a conceptual level, the measurement of efficient and quality justice requires attention to three elements:

a) Substantive law, i.e., the legal norms that government is expected to enforce;
b) Judicial decision making. i.e., the manner in which courts find facts and apply substantive law to those facts; and
c) Judicial administration, the process and procedures by which courts take cognizance of disputes and present them to judicial decision makers for disposition.

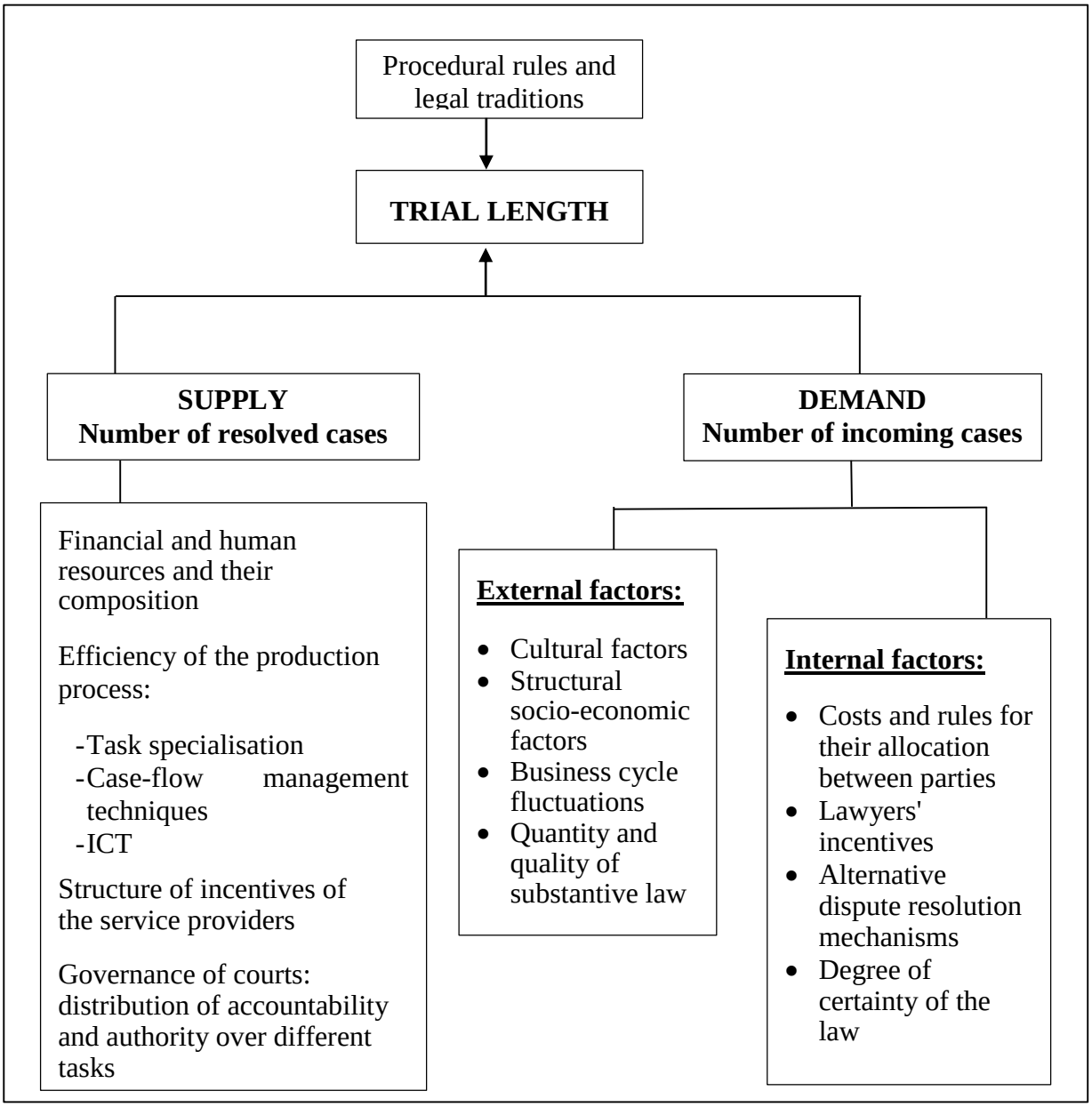


Figure 2: Factors acting in the market for justice

(Source: OECD Economic Policy Paper No. 5, 2013)

2.3.4. The Netherlands

Similarly in 2008, The Netherlands Council for the Judiciary,[48] have published the "Quality of the judicial system in the Netherland"[49] and identified the following areas for the judicial performance measurement system:

a) Impartiality and Integrity
b) Expertise
c) Treatment of Litigants and Defendants
d) Legal Unity
e) Speed and Promptness

To measure aforesaid, they have identified the following measurement instruments: 'Court-wide position study', 'Customer evaluation survey', 'Staff satisfaction survey', 'Visitation' and the last but not least 'Audit'.

2.3.5. The United States of America

In the United States, National Centre for State Courts (NCSC)[50] have developed Court Tools and also prepared "High Performance Court Framework: A Road Map for Improving Court Management"[51] in which they came out with the four measurable performance areas i.e. Effectiveness, Procedural Satisfaction, Efficiency, and Productivity. For each measurable area e.g. Effectiveness must be determined by the following factors; Trial Date Certainty, Enforcement of penalties and Juror usage. , with respect to procedural fairness must be limited to Access and Fairness transaction time,

[48] The Council is the coordinating administrative body for the Judiciary, which in turn consists of the eleven district courts, the four courts of appeal, the Central Board of Appeal and the Trade and Industry Appeals Tribunal. The Council promotes the quality and unity of the Judiciary, manages and controls the budget, acts as a regulatory and supervisory authority and supports the management of the courts. See: https://www.rechtspraak.nl, last seen on 12/10/2015.

[49] Netherlands Council for the Judiciary report, *Quality of the Judicial System in the Netherlands*, 8 (March 2008) Also available online at: https://www.rechtspraak.nl/SiteCollectionDocuments/Quality-of-the-judicial-system-in-the-Netherlands.pdf, last seen on 12/10/2015.

[50] NCSC is the organization courts turn to for authoritative knowledge and information, because its efforts are directed by collaborative work with the Conference of Chief Justices, the Conference of State Court Administrators, and other associations of judicial leaders. See http://www.ncsc.org/About-us.aspx, last seen on 11/10/2016.

[51] Available at http://ncsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/2040, last seen on 11/10/2015.

while for Efficiency: Clearance rate, Age of pending caseload and case file integrity and for the productivity: cost per case and time to disposition of work load.[52]

2.4. Problems with Performance Measurement

Perhaps the biggest conceptual challenge in the design of performance indicators for the legal system is choosing what to measure. In legal reform, there is no clear "bottom line", analogous to profitability in the private sector, toward which efforts are ultimately directed. [53] Indeed, as scholars of public administration have long stressed, the "ends" or "outputs" of government agencies in general are diffuse, hard to measure, and at times are even contradictory.[54] This is perhaps especially true in the case of the legal system, which ideally is supposed to provide, among other things, a predictable framework of rules for commercial and social interaction, an efficient, accessible, and just dispute-resolution mechanism, the preservation of public order, and the protection of individual rights - all at a publicly acceptable cost. While most people would agree with most of these goals in principle, they would prioritize different ones. And, many if not most, of these ends are at least somewhat subjective. Who is to say what is "just", after all? What level of cost is "acceptable"? Because of the variety and subjectivity of goals, designing performance indicators to assess the "performance" of the legal system as a whole is both methodologically tricky and politically sensitive.

[52] Court Tools enables courts to collect and present evidence of their success in meeting the needs and expectations of customers. Basic indicators of court performance are a necessary ingredient of accountability in the administration of justice and effective governance of the third branch. Moreover, performance measures provide a structured means for courts to communicate this message to their partners in government. Court Tools should appeal to judges and administrators interested in setting the agenda of policy discussions and evaluations of institutional performance. Designed to demonstrate the quality of service delivery, Court Tools fosters consensus on what courts should strive to achieve and their success in meeting objectives in a world of limited resources. Retrieved from http://www.courtools.org/ [Accessed on 19/10/2015]

[53] The World Bank, *Economic Development and the Quality of Legal Institutions*, Law and Justice Institutions. Retrieved from http://web.worldbank.org [Accessed on 10/10/2015]

[54] John J. DiIulio, *Measuring Performance When There Is No Bottom Line*, Performance Measures for the Criminal Justice System , 143 (U.S. Department of Justice, Bureau of Justice Statistics, 1993), and J. Q. Wilson, *The Problem of Defining Agency Success*, Performance Measures for the Criminal Justice System 155 (U.S. Department of Justice, Bureau of Justice Statistics, 1993).

3. FINDINGS OF THE STUDY

3. FINDINGS OF THE STUDY

This study incorporates inputs from several consultative workshops, informal meetings and personal interviews as well as data collected through a targeted survey among the state level judicial officers on various aspects of a potential performance indicator framework for the lower judiciary. The findings of the study further integrates recommendations from the national validation seminar held at University of Lucknow in November, 2017. More than 400 lawyers, judges, academics, invited experts, resource persons and legal researchers (collectively called 'stakeholders') across Uttar Pradesh and Uttarakhand responded to our call and enthusiastically participated on different occasions. Based on these initial contributions from the participants, we developed a draft list of performance indicators. Key changes made in the draft in response to further consultations to include more consistent and reasonable terms of monitoring, evaluation and reviewing the performance of lower courts.

The development of the performance indicators for lower judiciary took more than two years of continuous field work, desk research and consultative processes since August 2015. The first draft list of indicators underwent a ten month long phase of broad-based consultation from January to October, 2017, during which hundreds of stakeholders submitted detailed comments. A revised working draft was made available for a finalisation exercise at the National Validation Seminar. The subsequent work on the indicators further enhanced the outcome of this study.

3.1. Consultative Workshops

Primary Data were collected through, among other approaches, a series of consultative workshops with stakeholders of the subordinate courts at various locations. Personal interviews with subordinate courts' stakeholders enriched the study in terms of understanding the contours of developing a scientific framework for measuring the performance based on some important parameters of the court and judicial system.

In this action based project, the main reason of conducting such consultative workshops was that this method has emerged as a popular way to address evolving problems and also to seek information from stakeholders. In order to elicit more in-depth information on perceptions, insights, attitudes, experiences, or beliefs, focus groups meetings were held which were useful for gathering subjective perspectives from key stakeholders. Further, to gather additional information as an adjunct to quantitative data collection methods, these focus groups were used as a tool to reach

proper interpretations of data collected through quantitative method (questionnaire). Seven such consultative workshops were held at various locations in both the states (Table 4). A detailed list of participants at the consultative workshops, pilot questionnaire and final questionnaire are placed at Annexure: 1, 2 and 3 respectively.

Sl	Date	Venue	Participants
1	14 Feb 2016	IIM Kashipur, Kashipur District U S Nagar Uttarakhand	100
2	29 April 2016	District Legal Service Authority Aligrah, District Aligarh Uttar Pradesh	70
3	22 August 2016	District Legal Service Authority Almora, District Almora Uttarakhand	40
4	19 September 2016	Bar Bhawan, Panchwadoon Bar Association, Vikas Nagar District Dehradoon Uttarakhand	100
5	29 September 2016	The Bar Association and Library, Moradabad District Moradabad Uttar Pradesh	80
6	7 December 2016	District Bar Association, Allahabad	70
7	12 April 2017	Haldwani Bar Association , Haldwani District Nainitall Uttarakhand	50

Table No. 4: List of Consultative workshops Organised

During these workshops, more than 800 bilingual questionnaires which contain questions pertaining to performance measures and indicators were circulated among the members, mainly advocates, of the various District Bar Associations of Uttar Pradesh and Uttarakhand to seek their views on the introduction of performance indicators. 400 responses were received. The questions were open ended as well as closed ended. A similar questionnaire was circulated to the members of lower judiciary of Uttar Pradesh through the office of the Registrar General of Allahabad High Court. 36ix responses were received from all over Uttar Pradesh. Highlights from these workshops are as follows:

i. **The First Consultative Workshop** with the Advocates of Kashipur, sub division of Udham Singh Nagar district, was organized on Feb 14, 2016 at the Centre of Excellence in Public Policy & Government, IIM Kashipur. The participants specifically focused on various tools of professional court management and performance evaluation methods which will help in better administration of justice in local civil courts. The participants observed that the

litigants also play a role in swift or delayed delivery of justice at the first instance courts.

ii. **The Second Consultative Workshop** was held at District Legal Service Authority, Aligarh (U.P.) which was inaugurated by the Shri Mohammad Jahiruddin, District Judge *in-charge,* on 30th April 2016. The participants highlighted the core issues involved in the process to measure performance of judges of subordinate courts because the facilities and working environment varies from one court to another. Mr Sanjay Chaudhary (PCS-J), Secretary District Legal Service Authority, Aligarh, had said that the time has come when performance of judges should also be evaluated on certain well defined parameters. Resource person from IIM Kashipur, Prof. Nitin Singh, led a focus group discussion that brought to the table various aspects of performance measurements used by other organisations and professions. Participants specially cited the example of points system against each performance indicator which has to be calculated annually and must be included in the Annual Confidential Report (ACR).

iii. **The Third Consultative Workshop** was held on 22nd August 2016 at District Legal Service Authority, Almora (Uttarakhand). It was inaugurated by Dr G K Sharma, District Session and Judge, Almora and attended by other judicial officers and advocates. Additional inputs were provided by Mr Prakash Chandra, Chief Development Officer, Almora and Mr K.S. Nagnyal, Senior Superintendent Police, Almora, who highlighted the role of police procedures in pendency of cases. Advocates specially mentioned the use of Section 80 of Civil Procedure Code (CPC) wherein notices are ignored or delayed invariably by government officials.

iv. **The Fourth Consultative Workshop** was organised on September 19, 2016 at Pachwadoon Bar Association, Vikasnagar, Dehradun, Uttarakhand, which was attended by the members of Pachwadoon Bar Assocation. The workshop was inaugurated by the President of Pachwadoon Bar Association. During the workshop, participants mooted the idea that a number of "Adjournments" granted by judges can also be reflected as a performance indicator. Many participants observed that adjournments are often requested from courts as litigants don't turn up on the date of hearing or due to huge number of cases listed on a particular day. As often it is found that it would not be possible for the presiding officer to hear all the matter, adjournments are sought as a "necessary evil" which often lead to pendency of cases.

v. **The Fifth Consultative Workshop** was organised on September 29, 2016 at the meeting hall of The Bar Association and Library, Moradabad (U.P). The

workshop was inaugurated by the President of Bar Association. The workshop was attended by more than seventy advocates and other office bearers of the Bar Association. Here, the issue of shortage of judges, lack of infrastructure and supporting staff at lower courts were raised.

vi. **The Sixth Consultative Workshop** was organised at Allahabad district of Uttar Pradesh on December 7, 2016. The workshop was conducted in association with District Bar Association Allahabad. In this workshop, the issue of quality versus quantity of judgements delivered was raised as to link this aspect to the performance indicators for judges. Many participants were apprehensive of any 'rush' in delivering judgements which are not good in law but in any case delivered in order to 'improve' performance by any court.

vii. **The Seventh Consultative Workshop** was organised at Haldwani district of Uttarakhand on 12th April, 2017. Here, the participants brought in the issue of time line in disposing a case in civil matters. Unlike some criminal cases, there is no time line as to bring a civil case to a conclusion and as such stakeholders are genuinely worried about the lengthy process of getting justice in these matters. The participants observed that when every system have very well defined performance indicators to measure the work of its officers, it is conspicuous by its absence in lower judicial system.

3.2. Judicial Officers' Survey

In order to gather input from the lower judiciary, specially the judges, Hon'ble High Court of Judicature at Allahabad was requested to allow the officers to participate in the project's survey and respond to the questionnaire (Annexure:4). The Hon'ble High Court circulated the questionnaire among the subordinate judges in Uttar Pradesh to respond the questionnaire (Annexure 5). Several Subordinate Judges of district courts sent in their responses to through filled up questionnaire (List of respondents at Annexure:6).

3.3. Major Findings

1. In response to the question on pendency of civil suits, 40% of the respondents indicated lack of proper infrastructure and support staff in courts to be the main reason behind such pendency. Another 33% cited lack of judges in subordinate courts to have impacted the timely disposal of cases. However, a small portion of the respondents, 10%, also indicated that litigants themselves are responsible for such delays in deciding a case with in a reasonable period.

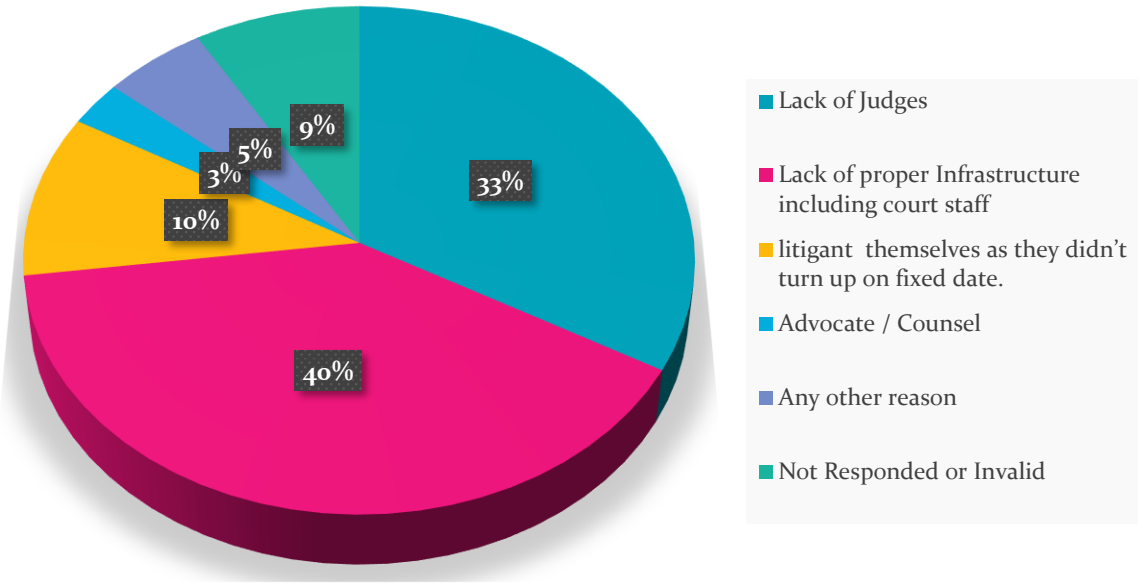


Figure 3: Reasons behind pendency

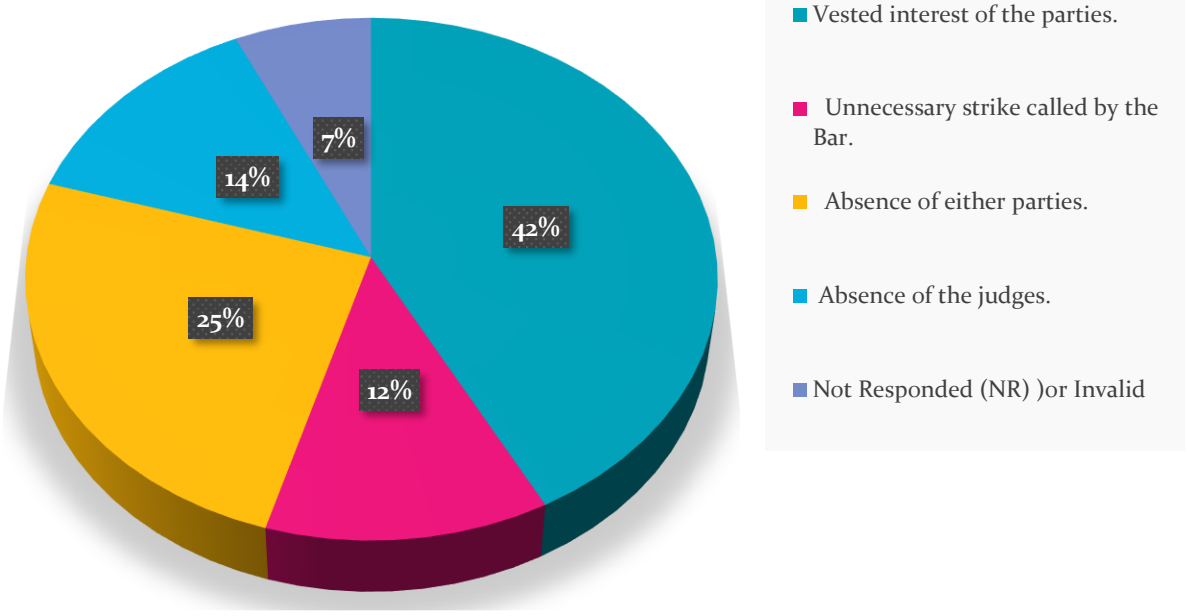


Figure 4: Major reason behind the Adjournment

Adjournment taken during a case often leads to pendency of the cases. In response to prima facie reasons behind the adjournment, 42% of the respondents stated that vested interest of the parties slow down the process of adjournment, 12% viewed that unnecessary strikes called by the Bar attracts adjournment, 25% opined that absence of either parties when the case was being heard in the court accounted for adjournment, while 14% reiterated that absence of the judges was the reason. 7% respondents did not extend any response in this regard.

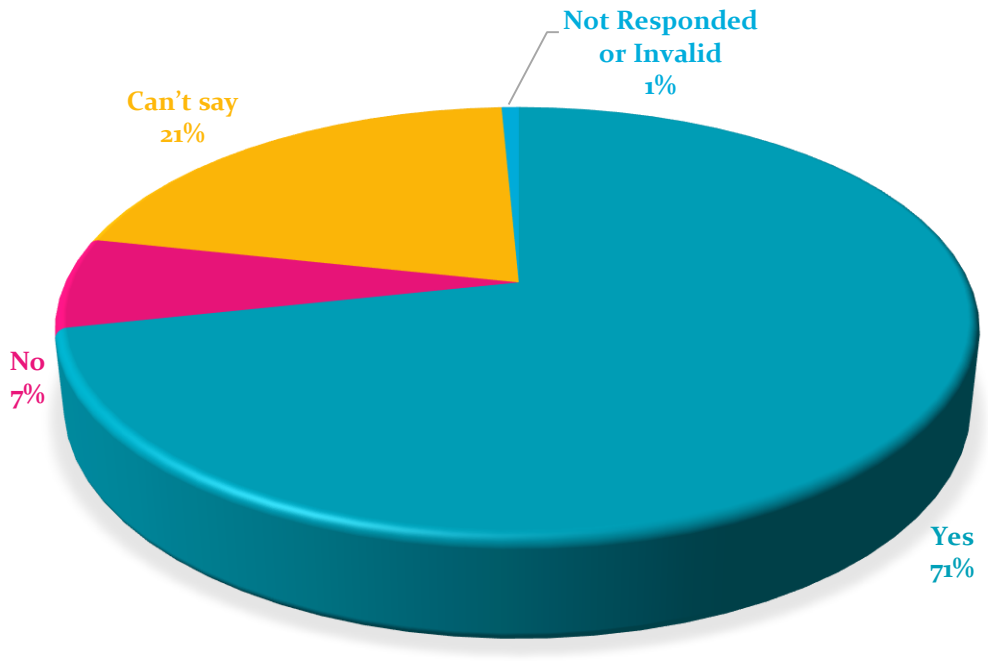


Figure 5: Judges' Efficiency Linked To Performance Indicators

In response to how the efficiency of Judges is linked with performance indicators, 71% agreed with the statement and reiterated that the judges' efficiency is linked with performance indicator. Only 7% were of the opposite view and negated the statement, whereas 21% did not choose either side. There were miniscule 1% respondents who did not provide any response in this regard.

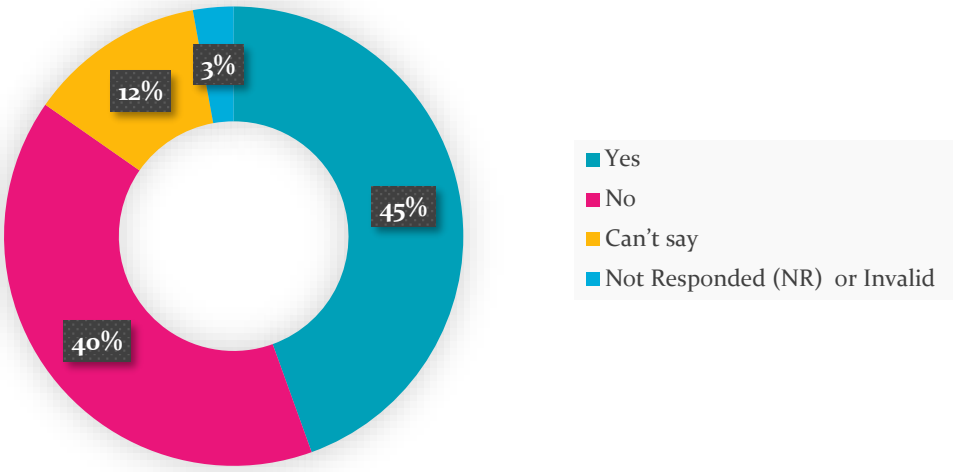


Figure 6: Effect of Performance Indicator on the Quality of Judgment

In response to how the quality of judgements affect performance indicators, a majority of the respondents, i.e. 45%, were of the view that it does affect, whereas, almost similar percentage, 40%, of the respondents were of the opposite view. 12% of the respondents were not in a position to go either way and 3% did not provide any answer in this regard.

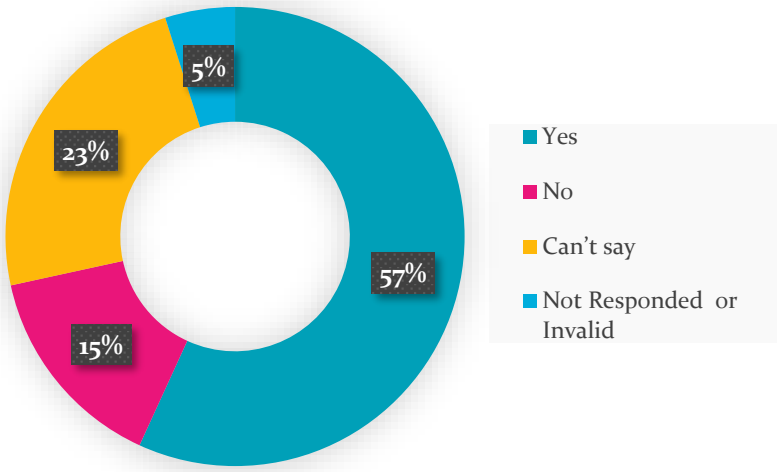


Figure 7 : ADR as a tool for the reduction of pendency

In response to the role of Alternate Dispute Resolution (ADR), which could reduce the pendency of the cases, the majority of the respondents, 57%, agreed with the statement,

whereas, 15% did not agree. 23% of the respondents did not extend any answer, whereas, 5% respondents did not provide any response in this regard.

In final analysis of the overall response received from the stakeholders, it is found that the subordinate Court in the district were not established in accordance with the population of the district. The highlights of major findings from the survey and consultative discussions at various workshops may be listed as follows:

1. The major reasons behind the huge pendency of the civil case are shortages of judges and supporting staff, and adjournment taken during the case.
2. The main reason behind why advocates take adjournment is the party themselves, as they don't turn up on fixed date.
3. Majority of the respondents had said that Performance Indicator will increase the efficiency of the Judges.
4. Majority of the respondents were of the view that ADR can be used as a tool for reduction of pendency.

4. PROPOSED PERFORMANCE INDICATORS

4.1 Introduction
4.2 Proposed Performance Indicator
4.2 Benefits of Proposed Performance Indicators

4.1. Introduction

Over the last few years tremendous amount of effort and emphasis was given to ensuring good governance practices across the world that invariably asked for systemic performance evaluation of public services including justice delivery mechanisms. Drawing from these new approaches, methods and techniques of measuring efficiency in areas of management and information technologies, performance evaluation of courts was also discussed in various national and international for a, in tandem with an emerging trend in accountable public spending and service delivery by public offices. Performance evaluation of judges and courts, however, is a comparatively uncharted area for academia and policymakers. It is still strongly debated whether performance evaluation of courts should also take into account performance of all associated staff, availability of conducive infrastructure or whether it should only focus on the performance of an individual judge. The standards, norms and systems for performance evaluation of the judges have already been developed in United States of America and European countries like Belgium, France, Netherlands, Italy, Spain, Austria and Germany which have statutes permitting such evaluation.[55] The performance evaluation systems generally follows three goals: a) self-improvement to enhance the performance and professional accountability of judges, b) increase public confidence in the judiciary, and c) help judicial institutions in deciding upon career advancement in judiciary.[56]

Recognising the international trends in the performance evaluation as a tool to strengthen capacity and professionalism in any sector and the importance of transparency and accountability for good governance in general, an attempt has been made in this study to propose a set of indicators which has been developed through a participatory process of consultation and validation. Evaluation of individual judges' performance is, however, still a debatable issue as it is entangled with other critical issues like separation of power and independence of judges. In proposing these indicators we are very much aware of these complexities and therefore utmost care should be taken by all concerned in implementing these indicators by maintaining the

[55] "Assessment of the Performance Evaluation of Judges in Moldova" (27 June 2014), Office for Democratic Institutions and Human Rights, Organisation for Security and Cooperation in Europe. Retrieved from http://www.osce.org
[56] Ibid.

crucial balance between objectives of a performance evaluation tool and protecting the independence of the individual judge and the judiciary.

4.2. Proposed Performance Indicators for Subordinate Courts

In the following section, we present a set of indicators with discussion on their evaluation criteria and indicators, as well as the sources of verification and indicative weightage for its various components. This chapter will analyse in more detail those indicators that raise specific issues related to the functions of judiciary and roles of a judge. The initial draft performance indicators were placed at a validation seminar at University of Lucknow on 12 November 2017, where each of these indicators were examined, discussed and validated by a group of judges, advocates, legal researchers and law faculty (Annexure 6). The final list of indicators presented here incorporated all the suggestions and modifications received from the participants at the validation seminar.

1. Infrastructure

The first pillar of proposed performance indicator for measuring the performance of the subordinate court is "Infrastructure"[57]. The Court is a place where the judges, litigants and advocates come together for hearing and disposing the cases for the justice seekers. Therefore, a decent infrastructure enhances the efficiency of the judges which eventually assists them to dispose more cases in comparison to a situation when judges faced with shortage of required infrastructure at their workplaces. It will also encourage the citizens to access courts which have basic amenities and facilities required in the course of interaction with the courts. The same shall also assist the courts to ensure the access of its infrastructure to the people with special needs (e.g., disabled, women).

1.1 Physical Infrastructure

The physical infrastructure of the court is developed through the Centre Sponsored scheme since 1993. Presently, the Centre and State Governments provide funds for the infrastructural development in the ratio of 75:25. As per information collected from the High Courts on December 31, 2015, 16,513 court halls/court rooms are available for the District and Subordinate Courts.

[57] Infrastructure, as one of the aspects of Performance Indicators stands for physical infrastructure which includes (Information, Communication and Technology (ICT), the Presiding Officer and needed manpower like Stenographers, Clerks and IT Staff.

1.2. Information, Communication and Technology

The Government of India is implementing the e-Courts Mission Mode Project[58] for Information and Communication Technology enablement of Indian Judiciary to achieve the scheme of Digital India in judiciary. The National Judicial data grid[59] was created on September 2015. Currently litigants can access case status information in respect of over 7 crore pending and decided cases and more than 4 crore orders/judgements pertaining to the computerised district and subordinate courts.

1.3. Support Staff for the Court

Efficient judicial systems across the world have dedicated personnel for court administration who monitor various aspects like court management, daily cause list management and case management. This shows how infrastructure plays a vital role in the outcome of court proceedings. In order to see a surge in the functioning of a particular court, the Presiding officer requires supporting staff which consists of a Stenographer, Clerk and peon. According *to "Subordinate Courts of India: A Report on Access to Justice 2016"*[60] conducted by the Centre for Research & Planning, Supreme Court of India, the staff positions for Subordinate Courts are not sufficient as 41,775 positions are lying vacant. Thus, it further hinders in the functioning of the Courts.

2. Case Filing and Disposition Ratio

Case filing and Disposition Ratio has been proposed as the second pillar of performance indicators to evaluate the performance of the court. This measure

[58] Key features of the Project include provisioning of basic digital infrastructure for IC T enablement consisting of various modules, such as computer hardware, Local Area Network (LAN), internet connectivity and installation of standard application software at each court complex. Under the Phase-ll of the Project (2015-2019), the Government has released Rs. 799.14 crores so far. Additional features of the Project include delivery of the services, inter alia, case registration, cause lists, daily case status, and final order/judgment.

[59]National Judicial Grid is an online platform provides information relating to judicial proceedings/decisions of computerised district and subordinate courts of the country. The portal also provides online information to litigants such as details of case registration, cause list, case status, daily orders, and final judgments

[60] Available http://supremecourtofindia.nic.in/pdf/AccesstoJustice/Subordinate%20Court%20of%20India.pdf. Last visited on September 15,2017.

is used in almost every developed country. For the sake of clarity, the terms are define as follows:

2.1. Filing of the case

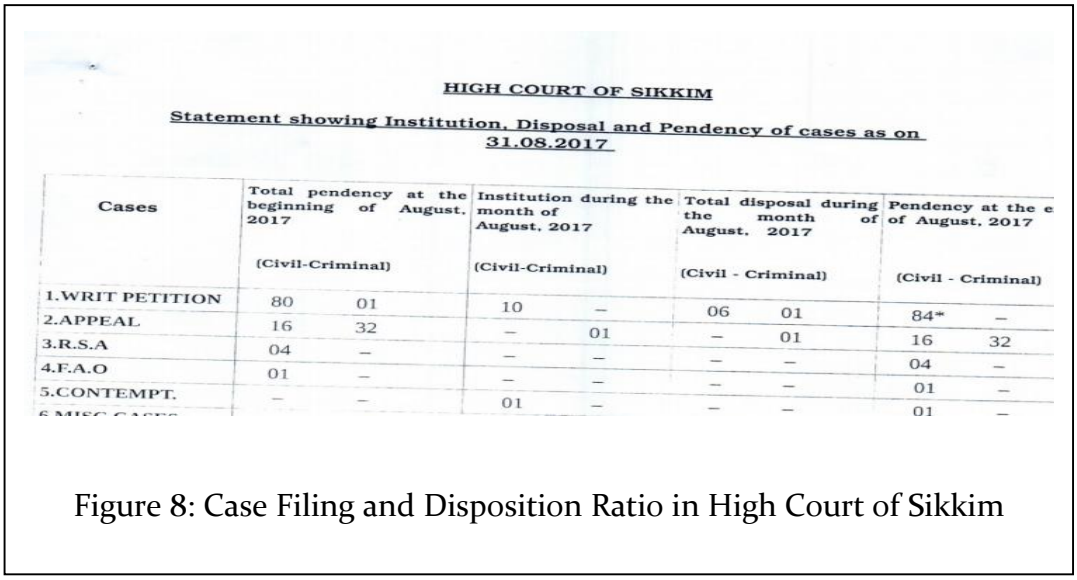
Number of cases filed in one quarter which is put before the presiding officer for hearing and final adjudication excluded those cases which are filed and registered. However, due to defective filing i, many cases could not be presented before the presiding officer.

2.2. Disposition of the case

When the case is heard and finally adjudicated by the presiding officer from which decree followed in one quarter.

2.3. Case Filing and Disposition Ratio

Number of disposed cases divided by the number of instituted case. An example from Sikkim Hugh Court is seen at Figure 8 where a similar performance indicator has been adopted.



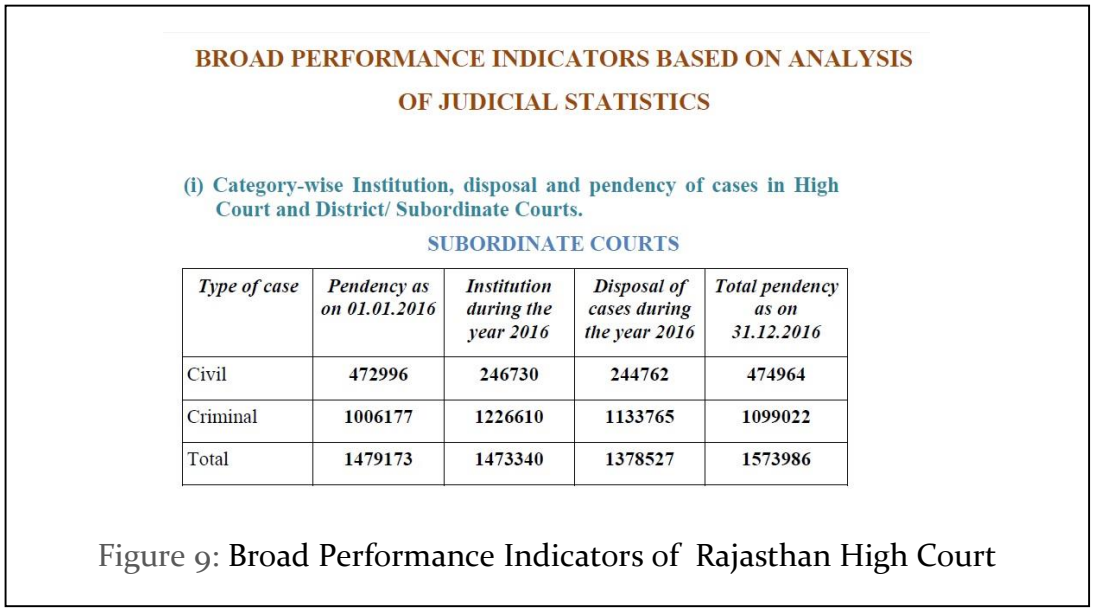
HIGH COURT OF SIKKIM

Statement showing Institution, Disposal and Pendency of cases as on 31.08.2017

Cases	Total pendency at the beginning of August, 2017 (Civil-Criminal)		Institution during the month of August, 2017 (Civil-Criminal)		Total disposal during the month of August, 2017 (Civil - Criminal)		Pendency at the e of August, 2017 (Civil - Criminal)	
1.WRIT PETITION	80	01	10	–	06	01	84*	–
2.APPEAL	16	32	–	01	–	01	16	32
3.R.S.A	04	–	–	–	–	–	04	–
4.F.A.O	01	–	–	–	–	–	01	–
5.CONTEMPT.	–	–	01	–	–	–	01	–

Figure 8: Case Filing and Disposition Ratio in High Court of Sikkim

A similar comparison of filing and disposition of cases has also been included as "broad performance indicators" by the Rajasthan High Court based on analysis of judicial statistics and reported in their Annual Report 2016 (Figure 9).



BROAD PERFORMANCE INDICATORS BASED ON ANALYSIS OF JUDICIAL STATISTICS

(i) Category-wise Institution, disposal and pendency of cases in High Court and District/ Subordinate Courts.

SUBORDINATE COURTS

Type of case	*Pendency as on 01.01.2016*	*Institution during the year 2016*	*Disposal of cases during the year 2016*	*Total pendency as on 31.12.2016*
Civil	**472996**	**246730**	**244762**	**474964**
Criminal	**1006177**	**1226610**	**1133765**	**1099022**
Total	**1479173**	**1473340**	**1378527**	**1573986**

Figure 9: Broad Performance Indicators of Rajasthan High Court

It is interesting to note that the High Court of Judicature at Allahabad has quantified civil cases in terms of work-days and prescribed "minimum standard of work" for the judicial officers of the Uttar Pradesh (Table 5).[61]

1	Suits Valued up to Rs 25,000/- and Petitions, Hindu Marriage Act	2 ½ days per contested cases after full trial
2	Suits above Rs 25000/-	3 ½ days per contested suit after full trial
3	Cases decided ex- parte (except the cases dismissed in default)	8 cases per day

Table 5: Quantum of Works for Regular Suits (Allahabad High Court)

3. Quality of Judgments

The "*Quality of Judgment*" is the third performance indicator to evaluate the performance of the court. It will work as a check and balance for the presiding officer. The quantum of work is fixed and their performance can be seen on the website of *e-courts*. A possible fallout of this is the possibility that the presiding officer will be giving judgments/orders in haste in order to meet the monthly work load. Thus, the quantity will degrade the quality of the judgment. In order to ensure the quality of judgment, it is selected as one of the performance indicators. The Hon'ble High Court in the General Letter No. 1/IV-h-14/2016 clearly mentioned that the merit of an officer will be judged by the quality of his work. The officers, therefore, in no circumstances, will compromise quality for

[61] General Letter No. 1/IV-h-14/2016 dated 18.02.2016 which is effective from 01.04.2016.

the sake of quantity.[62] The quantity and quality of justice delivered is, however, to be balanced.[63]

iii) Number of adjournments being granted on an average in various categories of Civil and Criminal Cases during the life cycle of a case (1st January, 2015 to 31st October, 2015)

Category-wise	Average adjournments granted
Hindu Marriage Act, 1955	6
Guardianship	0
Civil Exe. Case	3
Civil Misc. Case	2
Petition US 125 of Cr.P.C, 1973	5
Petition US 127 of Cr.P.C, 1973	4

Figure 10: Adjournments granted in a Family Court, East Sikkim, Gangtok

4. Adjournment

As discussed earlier, it is clear that "*Adjournment*" is one of the reasons behind the pendency of the cases. Order 17 of the Civil Procedure Code contains provisions for the adjournment of suits. The court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties and may from time to time adjourn the hearing of the suit for the reason to be recorded in writing. Provided that no such adjournment shall be granted more than three times to a party during hearing of the suit. When a suit is listed before a Court and any party seeks adjournment, the party seeking such adjournment shall pay appropriate costs to the other parties including the expenses of producing witnesses before the Court, if any. Even though litigants are filing the applications for the adjournment time and again, the Courts keep on granting the adjournment more than the prescribed limit. Therefore, on mere request from the parties, any tendency to grant adjournment has to be discouraged. Hence, in order to discourage the practice of granting needless adjournment by the presiding officer, the number of adjournments has been selected as one of the performance indicators. An example may be seen in Figure 10 which

[62] Clause 6of Schedule 'D' – General, General Letter No. 1/IV-h-14/2016.(Refer Annexure No. ...., pg 8)

[63] See you in court http://www.livelaw.in/see-court-see-court-burdened-judicial-system-can-adr-system-answer-part/

indicates that similar performance indicator has been adopted by the High Court of Sikkim. [64]

5. Encouragement of Alternate Disputes Resolution

The encouragement for alternative dispute resolution (ADR) has been identified as one of the performance indicators. While collecting the data in various workshops, it was observed that there were trivial matters which do not require court intervention, but arestill pending before the court. However, such cases can otherwise be sent to ADR instead of regular trials. In order to reduce the burden on the court and to encourage ADR, Section 89 of the CPC was introduced. The mentioned section makes it obligatory for the courts to explore the possibility of resolving the dispute by making reference to one of the several ADR mechanisms provided therein.[65] After recording the admissions and denials, the Court shall direct the parties to the suit to opt either mode of settlement outside the Court as specified in sub-section (1) of section 89. On the option of the parties, the Court shall fix the date of appearance before such forum or authority as may be opted by the parties.[66]

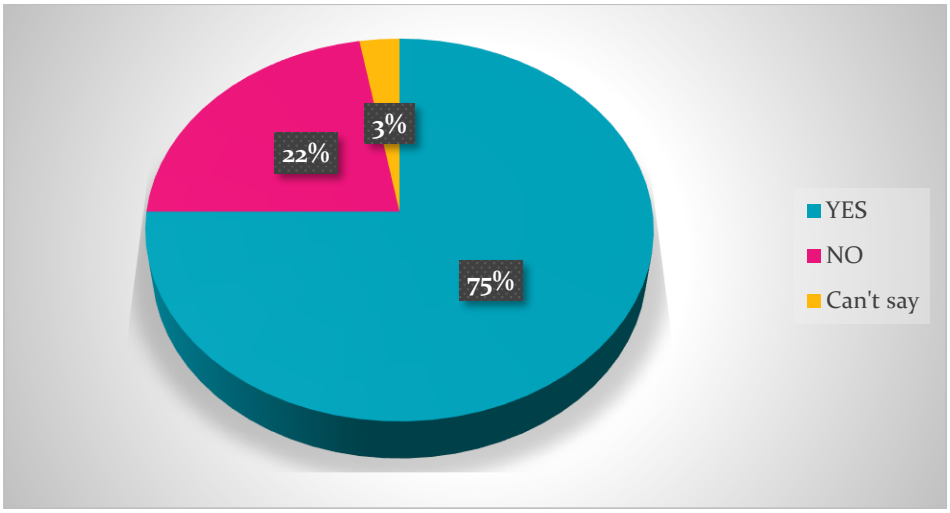


Figure 11: Cases Referred for ADR by Judges

[64] Available at http://highcourtofsikkim.nic.in/drupal/sites/default/files/AnnualReport/subordinatecourts_21122015.pdf. Las visited on September 18,2017.

[65] A.M. Khanwilkar, "Need to Revitalise ADR Mechanism", available at: http:// bombayhigh court.nic.in/mediation/Mediation_ Concept_and_Articles/need to revitalis.pdf. Last visited on September 19,2017.

[66] Rule 1 A of Order 10, CPC,1908

In Afcon's case[67], the Supreme Court of India has observed that the following categories of cases, in regard to their nature, are suitable for ADR processes:

a) All cases related to trade, commerce and contracts (including all kind of money)
b) All cases arising from strained or soured relationships,
c) All cases where there is a need for continuation of the pre-existing relationship in spite of the disputes.
d) All cases relating to tortious liability, including claims for compensation in motor accidents/other accidents.
e) All consumer disputes,

The Supreme Court has further observed that the above list of "suitable" categorization of cases are illustrative and not exhaustive. As per the judicial survey conducted among the judges of subordinate courts for this project, 75% of the respondents have transferred the matter for the ADR (Figure 11).

6. Training of the Judges

Training of judges has been selected as the last performance Indicator of the Subordinate Court. It plays a vital role in adjudicating the matter. As the law is changing very rapidly, either in the form of Acts or judgment rendered by the Honourable Supreme Court and High Courts, updated and trained judges would enhance the efficacy of their courts.

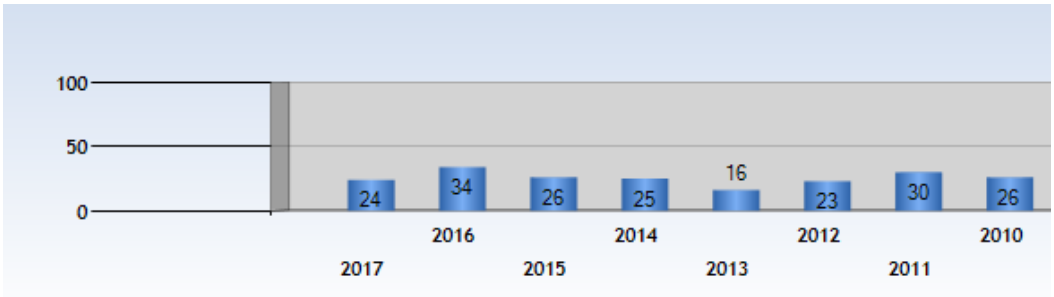


Figure 12: Number of new laws enacted or amended by the Parliameent
(Source: http://indialegislation.in)

[67] M/S. Afcons Infra. Ltd. & Anr vs M/S Cherian Varkey Constn , on 26 July, 2010

It is, therefore, necessary for judges to be updated with newly enacted legislations (Figure 12) and also from the rulings of the Hon'ble Supreme Court and the High Court. This will empower judges to adjudicate matters effectively without referring to the High Court. For example, in Uttar Pradesh, Judicial Training & Research Institute was established with the main aim to provide induction training and in-service training to the Judicial Officers of U.P., so as to make the subordinate judiciary more skilled, sensitive and responsible.

4.3. Benefits of the Proposed Performance Indicators

Speedy delivery of justice and the quality of decisions have been two issues that were raised time and again by all the stakeholders. Justice demands that due processes are followed and everybody is provided with equal protection of the law without compromising 'quality of case proceedings'. Performance indicators suggested above, that emerged from this study, are therefore expected to promote well-performing subordinate courts and help them pass tests in terms of both timeliness and quality. Besides this underlying objective, the proposed performance indicators (See the Matrix in Table 6) are also envisaged to bring the following benefits to the existing system:

1. **Transparency**

   The proposed performance indicators aim to bring transparency to the existing system. As stated earlier, it shall be displayed on the e-court website of the respective district courts. Any common man, who wishes to check the performance of a court, can do so by simply visiting the e-court website of the concerned court and can have a fair idea of the performance of the court.

2. **Accountability**

   Since their performance will be displayed on the websites, judges will be more accountable. Henceforth, they will try to dispose cases within the stipulated time period**.** This will rebuild the trust of the common man in the judicial system of the country.

3. **Preparation of Annual Confidential Reports**

   The proposed performance indicator will not only measure the performance of the court but will also measure the performance of the presiding officer of the subordinate court. The indicators will be linked to the National Judicial Grid (NJD) and will be displayed at the e-court website of the respective district. This will enable the presiding officer to generate the data from the NJD. This will reduce the time taken by the presiding officer for preparing his/ her ACRs and will increase his/her judicial productivity.

4. Motivation and Recognition for the Judges

If the judges come to know about how they are performing in their duties, they will certainly look forward to enhance their performance. Further, the indicators shall also motivate them to keep a pace in their working pattern.

5. Roadmap for future

These proposed performance indicators will not only help the judges to improve their individual performance but shall also support the High Court in formulating better policies in future for increasing efficiency of and better management of subordinate judiciary.

PERFORMANCE INDICATORS MATRIX		
Performance Indicator	**What is it**	**Implications / Impacts**
1. Infrastructure	Physical infrastructure, ICT applications, Support Staff and facilities for the users at the courts/premises.	Decent infrastructure and facilities enhance the efficiency of the judges and also encourage the citizens to access courts which have basic amenities.
2. Institution/Disposition Ratio	Number of case filed in one quarter which are put before the presiding officer for hearing and final adjudication.	Given an indication of the disposal 'efficiency' of a judge / court.
3. Quality of Judgment	If the quantum of work is fixed and the court's performance is only seen in terms of "number" or quantity the quality of the judgments may be impacted.	Indicates the balance between the quantity (fast disposal) and quality of the judgements (say, not reversed in appeal).
4. Number of Adjournment	Number of adjournments granted during the life of a civil suit	Adjournments granted in a case invariably lead to pendency of suit.
5. Encouragement of ADR	Alternative dispute resolution (ADR) methods are expected to be encouraged by the judges.	Effective use of ADR Channels will reduce case burden of the courts.
6. Training of Judicial Officers	Periodic training of the judicial officers is necessary to update them about the latest developments and professional advancement in judicial proceedings.	Presiding officer who are trained and updated in latest procedures are expected to deliver better judgements and therefore, increase the efficiency of the court.

Table 6: Performance Indicators Matrix

5. SUGGESTIONS

SUGGESTIONS FOR PRICEDURAL CHANGES

A fundamental ideal in justice delivery system is to provide speedy trial. The pace of the legal process, especially in civil matters, often finds itself facing other ideal principles of justice such as due process, equality before law, natural justice, and so forth. Marinating this 'judicious' balance is a complex task that involves more actors other than the judges themselves. Therefore, increasingly, judges and courts are faced with an inherent dilemma in this regard as to whether a speedy disposal of cases can be detrimental to the principles of law and quality of judgements delivered. Drawing from the deliberations with the stakeholders during the period of this study, this issue of quantity versus quality of court decision came up very prominently. Whether slow or fast tracked, complex and intriguing civil cases would invariably take more time to reach a conclusion whereas some less complicated cases could perhaps be disposed of more speedily. It is therefore often suggested that the subordinate courts adopt a reasonable scheme of 'proportionality' attached to cases based on their relative complexities. However, the bottom lines remains to be the perception that in the more expeditious courts, cases can be resolved within a time frame without compromising any legal requirements.

This study, therefore, identified a few suggestions in terms of procedural changes for minimising the time taken in disposing civil cases in subordinate courts.[68] These can be considered by the relevant courts, authorities and other stakeholders of the lower judiciary. It is also felt that for effective use of the performance indicators that we have proposed earlier in this report, these systemic changes will play a facilitating role.

While suggesting some procedural changes for reducing civil case pendency in lower courts, it may be noted that there are some statutes that might require major amendments or modification. It is felt that mere cosmetic changes will be a futile exercise in these case. These are some broad indicative changes that are being suggested here and may need further detailed consultations to consider their full

[68] The project team is immensely indebted to Sri Virendra Maheswari, former Registrar General of Nainital High Court who has prepared the initial draft of the suggestions for procedural changes. The project team has been drawn a lot from his wise counsel in preparing this section of the report.

ramifications from all relevant perspectives. We are in a way just highlighting the issues and changes that might help reducing the pendency of cases in lower civil courts. The suggested changes are discussed in the following section against some identified statues.

5.1. Code of Civil Procedure, 1908

(1) The main cause of delay in disposal of civil suits is the procedure of the trial, which is contained in Code of Civil Procedure, 1908 (CPC). The Code is more than a century old. It contains very lengthy and exhaustive provisions. Because of the length of time allowed under many provisions, the parties interested in delaying a suit often use them to their benefit. Therefore, shortening various time frames provided in the CPC may be one of the major exercise that can be carried out for ensuring speedy trial. The length of the CPC itself is a daunting one and it contains two portions: one in the forn1 of Sections and other in the form of Orders and Rules.

(2) Under Section 10 of CPC for staying of suits, the matter in dispute is directly or substantially an issue in consideration under any other suit pending before any competent court and this provision many a times becomes the cause of delay. Once any suit is stayed under Section 10, it might take decades to restart its proceedings. It is kept pending till the earlier suit and its appeal (if any) are disposed of finally. In case, any suit is filed during the pendency of any other suit on the same issue, then both such suits may be consolidated and tried together or both these suits may be tried as cross cases as the case may be. It is pertinent to me11tion that a very good provision has been incorporated by the State of Uttar Pradesh regarding the Consolidation Cases, which is contained under Order IV(A) of the code as follows:

"Order IV(A): - Wl1e11 two or more suits or proceedings are pending in the same court, a11d the court is of opinion that it is expedient that it is in the interest justice, it may by order direct their joint trial, where upon all such suits and proceedings may be decided upon the evidence in all or any of such suits or proceedings."

This provision may be taken as an exa1nple and can be incorporated in the Code. Once it is done, there will be no need to stay the proceeding of any suit for indefi1nite period and thus there will be 110 need for Section 10, which 1nay be deleted.

(3) Elaborate provisions are in place under Section 15 to 23 of CPC regarding the place of suing of civil suits and these provisions are just, fair and enough.

Moreover, in case, any other provision is required to be incorporated regarding jurisdiction of any kind of suit of civil nature, it would have been better to bring out about the change i11 this Code. However, of late, separate provisions regarding jurisdiction have been incorporated in differe11t Acts which creates confusion and ambiguity. Separate provisions regarding jurisdiction have been incorporated mai11ly in the following Acts:

- Hindu Marriage Act, 1955 (Section 19)
- Special Marriage Act, 1954 (Section 31 and 32)
- Family Court Act, 1984(Section 7and 8)
- The Divorce Act, 1869

So, for consolidation of the procedure, it seems necessary that provisions regarding the jurisdiction should only be incorporated in this code and in no other Act. It will not be out of place to mention that the provisions of the CPC are applicable to the above mentioned Acts and it does not appear proper to have separate provisio11s for jurisdiction purposes. It may be said that matrimonial disputes are of different kind and nature, and therefore require distinct provisions regarding the jurisdiction if it is so, even then if the following clause is added in Section 20 of CPC, the provisions contained in the aforesaid Acts will no n10re be required.

"(d) In matrimonial cases for every kind of relief, a suit may be instituted before any court under whose jurisdiction, the marriage was solemnized, or, The respondent, at the time of presentatio11of petition resides The parties to the marriage last resided together, or If the wife is the petitioner, where she is residing at the time of suing."

(4) Institution of Suit

There are two provisions regarding the institution of suits, which are contained in Section 26 and order IV of the CPC. By way of amendment in 2002, a provision for an affidavit by the plaintiff to prove the content of the plaint by an affidavit has been added i11 section 26 of this code. A separate provision has been incorporated i11 Order IV of the code requiri11g the plaintiff to file the plaint in duplicate. A further provision has been added in Order VII Rule 1 1 of the code that in case the plaint is not filed in duplicate, the court may reject the plaint. The amended provisions are found by many to be unnecessary and harsh in nature. These provisions are reproduced below:

Sc. 26. Institution of suits:

(1) Every suit shall be instituted by the presentation of a plaiıt or iı such other manner as may be prescribed.
(2) In every plaiıt, facts shall be proved by affidavit.

Order IV. Institution of the suits:-

1. *Suit to be commenced by plaint: (1) Every suit shall be instituted by presenting a plaint in duplicate to the court or such officer as it appoints in this behalf.*
2. *Every plaint shall comply with the rules contained in Order VI and VII so far as they are applicable.*
3. *The plaint shall not be deemed to be duly instituted unless it complies with the requiremeıts specified in sub rule (I) and (2).*

As there is clear-cut, ample and specific provision for verification of plaint, there appears to be no need for asking the plaintiff to file an affidavit in support his plaint or for proving the facts by affidavit. Needless to mention that it is not part of evidence. It is not clear as to what purpose is solved by filiiıg this affidavit. Suppose, any party makes false or wrong averments of the facts in his pleading, action can be brought against him oıı the basis of the above-mentioned verification. The provision for an affidavit creates extra burden upon the plaintiff as well as upon the defendant without any use or utility, so the provision for an affidavit along with the pleading is required to be deleted in all the above-mentioned provisions.

As regards submission of the plaint in duplicate is concerned, it also solves no purpose. It is to be kept in mind that the copy of the plaint is sent to each and every defendant with the summons. It is also to be kept in mind that oıily the main plaint can be read and taken into account by the court. Why the plaintiff is asked to file the plaint in duplicate is not clear. Therefore, it is necessary to delete such provisions about affidavit with the pleadings aıid for filing the plaiıt in duplicate as coıitained in Order IV.

(5) Section 34 of CPC makes a provision for payment of interest. The reading of the provision makes it clear that court is coınpetent to grant interest for the following periods:
   (i) For the period before the institution of suit,
   (ii) For the period during the pendency of suit,
   (iii) For the period froın the date of decree till the date of actual payment,

Section 34 empowers to the court to grant interest at reasonable rates for the period prior to institution of suit and during the pendency of the suit, but puts a rider of maximum rate of 6% for the period from the date of decree till the date of actual payment. The court is empowered to grant the interest at the

contractual rate or at the rate of bank in the case of commercial transactions. It does not become clear that as to why a maximum limit of 6% has been put only for one of abovementioned period and for non-commercial transactions. As the court is empowered to grant interest at reasonable rates for the period prior institutioıı of suit and for tlıe period of pendency of suit, there appears no justification for puttıng a maximum limit of 6% for only one period of time i.e. froın the date of decree to date of payment. Therefore it needs change. This provision can be simplified by substituting the provision by this one:

> *"Interest: In case of a decree for payınent of money, the court may grant interest on principal sum adjudged payable at the rate it deems reasonable for the period prior to the institution of the suit, from the date of suit till the actual payment is made. In case of commercial transaction, the rate of interest shall be the contractual rate of interest and where no such rate is fixed, at the rate of lending by the State Bank of India."*

It is also important to mention that there is one separate Act for interest known as "The Interest Act, 1978". In this Act, there is a provision for payment of interest in any proceedings for recovery of a debt or damages. In fact, there is no need for a separate Act for the payment of interest and a sıınple provision in Section 34 CPC can solve the object of that Act. If it is added in Section 34 of Code of civil Procedure that in any proceed ıı1g for recovery of debt of daınage not based on any written instrument, the interest shall only be payable from the date of notice of the demand for payment of such debt of damage. Therefore it may be a good idea to amend the section 34 of CPC to the extent discussed above and to repeal the Interest Act, 1978. This will increase the interest-payment risk for the parties unduly delaying civil cases.

(6) Section 35A of CPC makes a provision for the cost in respect of false or vexatious claims or defences, but puts nıaximum limit of three thousand rupees for such costs. This amount was increased to three thousand in 1976. However, this amouııt of three thousand is a very meagre amount now a days and hardly discourages any person from making false or vexatious claims or making false defences.

There is another provision in the same Code for compensation up to Rupees Fifty Thousand in case of arrest, attachment, or injunction on insufficient grounds. In fact, these two provisions are not consistent with each other. So, the amount of Rupees three thousand may be enhaııced to Rupees Fifty Thousand so as to bring tlıe provision of Section 35A at par Section 95. Apart from this, it will also be proper to consolidate the provisions for compensation for obtaining arrest, attaclıment or injunction on insufficient grounds with Section 35A and to delete Section 95. By making such amendment, the provision for costs will be

consolidated and it will become easier to understand and implement the provision regarding costs and compensation as the case ınay be.

(7) Under Section 35B on CPC there is a provision for reimbursement of costs incurred by the other party because of the fault of it. As costs for adjourıments are compensated with the help of this provision, and adjounıments are very common and this is a ınajor ground for delay in cases. So, a provision for minimum costs of at least Rupees Five Hundred per adjounıment may be provided this section.

(8) It is a well-known fact that Union of India and the States are the biggest litigants. In case any party wants to file a civil suit against the Union of India or against any State including State of Jammu & Kashmir, such party is required to give a prior notice for two months to such State or Union of India as the case may be. If any person is aggrieved by any action on tlıe part of the Union of India or of any State, why should he be not permitted to bring action without giving such notice? It is ıınportant to mention that no such notice is required in case of a private party. Any of the Govenıment is a litigant at par with other litigaıts. So there should be no need of such notice. One may say that such notice is necessary to make the Govenıınent aware, so that such Government may redress grievance without suit and it may save public money and resources. This argument does not carry any weight. It is to be seen how in many cases the Government has responded and the number of such cases is negligible. So there appears no need for such notice. In fact, it only causes delay rather to solve any purpose.

Further, even if it is thought that the prior notice is necessary (to allow the government party to rectify any omission or commission so that there is no need for the aggrieved party to go to court), the period of two months is still a very long period considering the fast modes of communication prevailing today. So the period can be shortened and it can be for one month or fifteen days

Finally, there may be an emergency provision inserted here whereby in case where urgent and immediate relief is sought, the court may be allowed discretion to exempt the plaintiff froın the requirement of such notice. If such provision is provided in lower court stage, many litigants will not take the ‘writ petition route’ (and increase case at another level).

(9) Section 114 and Order XLVII under CPC makes a provision for review of the judgment or the decree as follows:

"114. Review:

Subject as aforesaid, any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Court, or

(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit."

This provision empowers the court that passed the judgment to review to its own judgment, decree and orders though on a very limited ground like apparent error on the face of record. In this regard, I would like to mention Section 152 and 153 also empower the court to rectify any clerical, arithmetical or accidental slips occurred in the order/decree either *suo moto* or on the application of any party. In fact, the review of judgment and correction of any error or mistake have different implication and extent as review requires the re-appreciation of evidence and it does not seems proper to the court to re-appreciate the same evidence and it is not permitted even. In most of the time, the provisions for review has been contained in Section 114 and Order 47 are misused for the purpose of delay in proceedings. There should be no provision for review of the final judgment and decree of the civil court. The power of review may be limited only in respect of interlocutory orders as no appeal lies against such orders. As the appeal lies against the final judgment and decree, so the aggrieved party may redress his grievances in appeal and there are no chances of any adverse effect on the rights of any party. It is also to be kept in mind that even the court fee has be to paid for review though half, but it puts extra burden on the litigant. It is to be kept in mind that review is a good option where there is no provision of appeal. Therefore, the scope of review may be limited to the interlocutory orders only.

(10) Section 115 CPC makes a provision that High Court may call for the record of any case which has been decided by any court subordinate to such High Court and in which no appeal lies, to see as to whether the court has exercised its jurisdiction not vested in it or have failed to exercise its jurisdiction vested in it and have acted in the exercise of its jurisdiction illegally or with material irregularity. The section 115 reads as under:

"115. Revision - (1) The High Court may call for the record of any case which has been decided by any court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears-

(a) to have exercised a jurisdiction not vested in it by law, or
(b) to have failed to exercise a jurisdiction so vested, or
(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.

(2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.
(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.

Different States have made different amendments in the provision of revision and District Judges have also been empowered to hear the revision. But the provisions of revision has always been the matter of controversy because the revision can be preferred against those orders which are not appealable. It is also pertinent to mention that the powers of the revisional court are not as wide as are of the appellate court. In other words it can be said that the revisional court has limited powers.

It is also important to mention that so1ne of the orders are appealable and provisions for appeal against those orders, have been provided under Sectio11 104 and 105 and Order XLIII which read as under:

"104. Orders from which appeal lies:
(1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders:-
(ff) an order under section 35A;
(ffa) an order under section 91 or section 92 refusing leave to institute a suit of the nature referred to in section 91 or section 92, as the case may be;
(g) an order under section 95;

(h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person except where such arrest or detention is in execution of a decree;
(i) any order made under rules from which an appeal is expressly allowed by rules;

Provided that not appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made.
(2) No appeal shall lie from any order passed in appeal under this section."

"105. Other orders:
(1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction; but where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as ground of objection in the memorandum of appeal.
(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness."

"Order XLIII:
1. Appeal from orders- An appeal shall be from the following orders under the provisions of section 104, namely-

(a) an order under rule 10 of Order VII returning a plaint to be presented to the proper Court 31[except where the procedure specified in rule 10 A of Order VII has been followed;
(b) ...
(c) an order under rule 9 of Order IX rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;
(d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed ex parte;
(e) ...
(f) an order under rule 21 of Order XI;
(g) ...
(h) ...
(i) an order under rule 34 of Order XXI on an objection to the draft of a document or of an endorsement;

(j) an order under rule 72 or rule 92 of Order XXI setting aside or refusing to set aside a sale;

(ja) an order rejecting an application made under sub-rule (1) of rule 106 of Order XXI, provided that an order on the original application, that is to say, the application referred to in sub-rule (1) of rule 105 of that Order is appealable.

(k) an order under rule 9 of Order XXII refusing to set aside the abatement or dismissal of a suit;

(l) an order under rule 10 of Order XXII giving or refusing to give leave;

(m) ...

(n) an order under rule 2 of Order XXV rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;

(na) an order under rule 5 or rule 7 of Order XXXIII rejecting an application for permission to sue as an indigent person;]

(o) ....

(p) orders in interpleader-suits under rule 3, rule 4 or rule 6 of Order XXXV;

(q) an order under rule 2, rule 3 or rule 6 of Order XXXVIII;

(r) an order under rule 1, rule [rule 2A], rule 4 or rule 10 of Order XXXIX;

(s) an order under rule 1 or rule 4 of Order XL;

(t) an order of refusal under rule 19 of Order XLI to re-admit, or under rule 21 of Order XLI to re-hear, an appeal;

(u) an order under rule 23 31[or rule 23A] of Order XLI remanding a case, where an appeal would lie from the decree of the Appellate court;

(v) ....

(w) an order under rule 4 of Order XLVII granting an application for review."

It can be gathered fro1n above provisions that some orders are appealable while so1ne are revisable and some are neither appealable nor revisable and most of the time a situation of confusion is created as to whether appeal would lie against a particular order or revision. It is also matter of co11fusion as to what extent the revisional court can look in to the matter in controversy. It is also a matter of dispute as to whether the court of revisio11 can appreciate the evidence or can look i11to the factual aspect. It is a matter of common knowledge that the revisional court does not have vested powers as wide as the appellate court. A11y order, which is wro11g, and the aggrieved party should 11ot suffer because there is 110 remedy or the superior court is not competent to look in to the matter. In case, the provision of revision is substituted by the provision of appeal, all the

controversy and confusion would come to an end. The procedure will beco1ne simple, and none of the parties would suffer because of confusion or ambiguity in the provisions. It will not be out of place to mention that in some cases a petition of revision may be treated as an appeal. In the above circumstances, it may be suggested that there should be no provision for revision rather every order should be appealable.

(11) Under Rule 17 of Order VI of CPC there is a provision for making ame11dme11ts in the pleadings which is explained as under:

> *"The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties;*
>
> *Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial."*

This provision enables parties to make suitable a111endı1ent in their pleadings. But at times, it is found that this provision has also become a cause of delay in civil litigation. Therefore, this provision was debated for a long ti1ne and by way of Amendment Act, 46 of 1999, this provision was deleted. However, it has been again restored by way of Ame11dment Act 22 of 2002, but with a proviso which puts a restriction of application for amendment after the co1nmencement of the trial. This provision also came into consideration before the Hon'ble Supreme Court in *Salem Advocate Bar Association Tamil Nadu Vs. Union of India, (AIR) 2005 SCC, 3353*. The object of the above Rule was again considered by the Hon'ble Supreme Court in *Rajesh Kumar Agarwal Vs. K K Modi, (AIR) 2006 SC, 1647*. Keeping in mind these developments, and case law on these provisions, it is still considered to be one of the grounds by which a party may cause delays in the proceedings. On the other hand, it is also necessary to enable the parties to make suitable amendn1ent in the pleadings so that substantial justice n1ay be dispensed with and no injustice is caused to any of the party of litigation. Hence. In order to maintain a balance between these two concerns, following provision may perhaps be suggested here that may be suitably incorporated in CPC:

> No will be allowed to make any amendme11t i1n the pleadings for any fact whicl1 existed prior to the institution of suit or submission of the written statement as the case may be. The party shall be allowed to make

amendment for those facts only which occurred after the institution the suit which are known as subsequent developmeıits or chaıiges.

Further, with regards to the amendments of any fact which could have incorporated in the pleadings at the time of their filing, the party be allowed to carry amendment of that fact or to incorporate that fact only whe11 it is established that despite best efforts and due diligence, it was not possible for the party to include that fact in the pleading. It may only be permitted on payınent of exemplary costs so that this provision be used by the party in case of real need a11d there is a deterrent against any potential misuse of the provision as delayi11g tactics.

(12) The Order VII, Rule 11 of CPC contains a provision for rejection of plaint on any of the ground mentioned therein and this Rule reads as under:

(a) where it does not disclose a cause of action;
(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
(d) where the suit appears from the statement in the plaint to be barred by any law;
(e) where it is not filed in duplicate;
(f) where the plaintiff fails to comply sub-rule (2) of rule 9.[69]

It is interesting to note that the provision of Order 7, Rule 13 provides that the rejection of plaint on any of the grounds mentioned above shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the saıne cause of action. It can be seen here that this provision is not only a cause for delay, but may be termed as unnecessary also because once tl1e plaint is rejected after giving opportunity of hearing and reasonable tiıne for removing the deficiency. Therefore, perhaps, there is no need for permitting such party to file fresh plaint, rather if we consider such rejectio11 of plaint u11der Rule 11, the plaintiff can move for an appeal. In case there is any substantial irregularity or illegality in the order, the appellate court can rectify it. Even after confirmation

[69] Rule 9: "Procedure on admitting plaint: Where the Court orders that the summons be served on the defendants in the manner provided in rule 9 of Order V, it will direct the plaintiff to present as many copies of the plaint on plain paper as there are defendants within seven days from the date of such order along with requisite fee for service of summons on the defendants."

of the order by the appellate court, it does not seem justified to give further opportunity to the plaintiff to file fresh plaint on the same grounds. The provisions of Order VII, Rule 13.[70] ,

It is often seen that the plaintiff sometimes remains confident that even if the plaint is rejected under Order VII, Rule 11 of CPC, he shall be at liberty to file fresh plaiıt and sometimes, this provision makes him utterly careless and negligent. Keeping in miınd this kind of practices, it is reasonable to suggest that in such cases plaintiff should not be permitted to present a fresh plaint and therefore the provision of order VI, Rule 13 may be deleted altogether from CPC.

(13) Order IX of the CPC deals with the absence of the parties and its remedy. In this order, Rule 7 which reads as under has a strange provision which is often found to be a cause for delaying the civil cases:

> *"7. Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance:-*
> *Where the Court has adjourned the hearing of the suit ex parte, and the defendant, **at or before** such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance."*

The words *'at or before hearing*', creates a very intriguing situation. In case the defendant does not appear then the court is authorized to proceed *ex-parte* against such defendant. The defendant also has a remedy to get the *ex-parte* order set aside under the provision of the said Rule. But the said *ex-parte* order can only be set aside if the defendant appears at or before hearing and shows good reasons for his non-appearaıice. But if the defendant appears after hearing of argumeıits and before passing of the judgment, despite his showing good reasons for his non-appearance, the court is not authorized to set aside ex-parte order and such defendant is asked to wait till the judgıneni is passed and then apply for setting aside the *ex-parte* decree under Order IX, Rule 13. It does not appear justified to ask the defendant to wait for passiıig of the judgment and decree and thereupon apply for setting aside the ex-parte decree. This legal position not only puts an extra burden on the defendant, but it also invariably causes delay in such a suit. This also creates an extra burden upon the courts as to first pass the judgment or decree and then set it aside.

[70] Rule 13" "Where rejection of plaint does not preclude presentation of fresh plaint - The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action."

So, it will be logical to suggest that appropriate amendment may be made in the Order IX, Rule 7 to the extent that in case the defendant appears at any stage of the suit and before passing of the judgment and shows or assigns good reasons for his non-appearance, the court should be at liberty to set aside the *ex-parte* order and to permit the defendant to participate in appropriate cases.

(14) Order X of CPC, *inter alia,* makes provision for the following:

> *"Rule 1: Ascertainment whether allegations in pleadings are admitted or denied*
>
> *At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by the necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.*
>
> *...*
>
> *Rule 2. Oral examination of party, or companion of party examination of party, or companion of party examination of party, or companion of party*
>
> *(1) At the first hearing of the suit, the Court-*
>
> > *(a) shall, with a view to elucidating matters in controversy in the suit, examine, orally such of the parties to the suit appearing in person or present in Court, as it deems fit; and*
> >
> > *(b) may orally examine any person, able to answer any material question relating to the suit, by whom any party appearing in person or present in Court or his pleader is accompanied.*
>
> *(2) At any subsequent hearing, the Court may orally examine any party appearing in person or present in Court, or any person, able to answer any material question relating to the suit, by whom such party or his pleader is accompanied.*
>
> *(3) The Court may, if it thinks fit, put in the course of an examination under this rule questions suggested by either party."*

The provisionof Order X is again another prevalent reason for delay in civil cases. Because as far as ascertainment of the admission or denial of the allegations contained in the pleadings are concerned, there is no need for such ascertaiiiinent as it is obligatory upon the defendant to admit or deny the allegations contaiiied in the pleadings as has been provided in Order VIII. Even the plaintiff is at liberty to file a new application, if he desires to contradict any

of the allegations made in the written statement. Moreover, there is a provision in Order XII, Rule 2 to "call upon the other party" to admit to adıuit docuıneuts. In case any fact or document is not specifically denied it is treated to be admitted. Keeping in view the above provisions, there is no need for ascertainment of admission or denial.

Rule 2 quoted above provides for the examination of the parties for elucidating the true issues in dispute between them. Here the examination of parties or their companion before settlement of issues for ascertainment or elucidating the matter in dispute is concerned, it is observed that this provision often creates problems rather than helping the court in adjudicating the matter as some time the party does not remain present, or it remains the question mark as to which of the party to be examined or whether one party should be examined or both the parties be examined. As such this process consumes much of valuable time of the court. It is also found that if the court wishes to ask any question to any party, the court is free to ask any question in accordance with the Section 165 of the Evidence Act. In fact, the court should frame the issues in accordance with the provisions of Order XIV and then proceed to take evidence of the parties in accordance with the provisions of Order XVIII. It is therefore reasonable to think that if Order X is dispensed with it might greatly facilitate speedy disposal of civil matters.

(15) With respect to section 30 and Order XI of CPC dealing with discovery and inspection of documents, it may be noted that the party has to stand on its own footing and such party cannot take the benefit of the weakness of the other party. In case it is assumed that any of the fact is not in the knowledge of a particular party then such party is free to make allegation in his pleadings and other party will bound to accept or rebut that. Most of the time, provision regarding discovery of fact is used as a tactics for causing delay in the civil proceedings.

Other part of the Sectioıı 30 and rule 13 to 23 of order XI deal with the production of the docume11ts if such document is in possession of the other party. The detailed provisions regarding product ion of documents which are in possession of the other party have been provided in Section 66, 163 and 164 of the Indian Evidence Act, 1872. So there appears no need for the similar provision in CPC and the whole Order XI as well as Section 30 may be repealed.

(16) Order XVII of the CPC deals with the adjournments. Rule 1 of this Order provides that court may grant adjournment only if sufficient cause is shown. In order to stop the unnecessary adjournment application, Rule 2 provides for the consequences of the non-attendance or non-appearance of any party. Strict

observance of this rule will reduce the amount of delay of civil suits and also the dispute will resolved within short time frame.

(17) Order XVIII of CPC makes provisio11s for hearing of the suit and examination of witnesses. This is one of the most important stage of a civil suit. An amendment has been incorporated in the year 2002 in the Order XVIII, Rule 4.

"Order XVIII - Rule 4 - Recording the evidence:-

(1) In every case, the examination-in-chief of a witness shall be on affidavit and copies thereof shall be supplied to the opposite party by the party who calls him for evidence:

Provided that where documents are filed and the parties rely upon the documents, the proof and admissibility of such documents which are filed along with affidavit shall be subject to the orders of the Court.

(2) The evidence (cross-examination and re-examination) of the witness in attendance, whose evidence (examination-in-chief) by affidavit has been furnished to the Court shall be taken either by the Court or by the Commissioner appointed by it:

Provided that the Court may, while appointing a commission under this sub-rule, consider taking into account such relevant factors as it thinks fit.

(3) The Court or the Commissioner, as the case may be, shall record evidence either in writing or mechanically in the present of the Judge or of the Commissioner, as the case may be, and where such evidence is recorded by the Commissioner he shall return such evidence together with his report in writing signed by him to the Court appointing him and the evidence taken under it shall form part of the record of the suit.

(4) The Commissioner may record such remarks as it thinks material respecting the demeanour of any witness while under examination:
Provided that any objection raised during the recording of evidence before the Commissioner shall be recorded by him and decided by the Court at the stage of arguments.

(5) The report of the Commissioner shall be submitted to the Court appointing the commission within sixty days from the date of issue of the

commission unless the Court for reasons to be recorded in writing extends the time.
(6) The High Court or the District Judge, as the case may be, shall prepare a panel of Commissioners to record the evidence under this rule.

(7) The Court may by general or special order fix the amount to be paid as remuneration for the services of the Commissioner.

(8) The provisions of rules 16, 16A, 17 and 18 of Order XXVI, in so far as they are applicable, shall apply to the issue, execution and return of such commissions under this rule."

It is evident from the above-mentioned rule that the examination-in-chief of any witness is mandatorily on affidavit and further the copy of such affidavit shall be supplied to the opposite party. It also provides for recording of the evidence through Court Commissioners. In reality, both these provisions have become a cause for delay in disposal of the suits. There are three stages of the civil suits, which are obligatory for the court to follow: (i) framing of issues, (ii) recording of evidence and (iii) passiıng of the judgıment after hearing of the suit. If any of these stages is delegated to some other person, it will mean that the court is not able to perform its functions. It is also observed that irrelevant facts are often inserted in examination-in-chief while it is on affidavit and it makes the cross examination lengthy. It also becomes difficult for the court to evaluate the same. Most of the time hearing of the case needs to be adjourned for cross examination, causing delay. It is also found that the sixty days period given to tlıe court comınissioners for recording the evidence is an obvious reason for delay in disposing a case and this period may be shortened to expedite the case.

(18) The law relating to execution of decrees is to be found in Sections 36 to 74, Sections 82 and 135; and Order XXI of the CPC and these provisions are carefully studied. It is found that these provisions are lengthy and often time consuming. The main factors for execution are as follows:

(i) That the decree holders have to apply by a separate application if he wants to get the decree executed.
(ii) If the decree holder desires to get the decree executed by another court apart from the court, which passed the decree, the decree holder has to apply to the court, wlıich passed the decree aıid has to obtain a transfer certificate for applying to another court at any place in India where he proposes to get the decree executed.
(iii) That most of the decrees are executed as per the directions given in the decree.
(iv) That the money decree can be executed by the following process:

a. By arrest and detention of the judgment debtor,
b. Attachment of the property of the judgment debtor and
c. Sale of property of judgment debtor.

As indicated earlier it can be seen that the aforesaid procedure is very lengthy and a lot of time is spent in the execution of the decree (often more than the time spent in obtaining the decree). Eventuality, the decree holder gets frustrated despite holding a favourable decree. The decree-holder would think that he got nothing even by the decree. Hence it would be worthwhile to simplify the procedures. In order to do so the following amendments/suggestions may be considered:

a. There be no need for any application for execution of the decree. Once the decree is passed, the court should initiate the process of execution but of course after the period of appeal and the decree holder may be asked, if necessary, to intimate the court by affidavit by which of the means, he proposes to get the decree executed.

b. If the decree is to be executed by any other court, there be no need of transferring the decree to such court rather it should be made free to the decree holder to apply to the said court directly by filing the copy of the judgment/decree. As such there should be no illegality or irregularity if the decree holder is permitted to apply before any competent court within India on the basis of the copy of the decree and judgment. At the most, while so applying decree holder may be required to submit a declaration or affidavit to the fact that the decree has not been executed by any other court. In case the decree holder makes any false declaration or files any false affidavit, steps can be made for taking criminal action against him.

   We may refer to the Article 261 of the Constitution of India, which reads as under:

   "261. Public acts, records and judicial proceedings Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State
   (2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament
   (3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law Disputes relating to Waters."

It clearly flows from the aforesaid provision of the constitution that the decree of civil courts can be executed in any part of India and if it is permitted to the decree holder to apply directly without the intervention of the court, which passed the decree, a lot of time, efforts and expenditure can be saved. A condition may also be iinposed upon such court to intimate the court that passed the decree to intimate as to whether the decree has been executed in full satisfaction, in part satisfaction or not executed at all. To effect such a change in procedure it would be necessary to amend Order XXI, Section 39 and 40 accordingly.

Bibliography

A. K. Hazra and Bibek Debroy, Judicial Reforms in India: Issues and Aspects: Issues and Aspects, 1st Ed., 2007.

American Bar Association, Guidelines for the Evaluation of Judicial Performance, [Paper prepared by the Special Committee on Evaluation of Judicial Performance, American Bar Association] (1985).

Australia Steering Committee for the Review of Commonwealth/State Service Provision, Court Administration, Chapter 9 in Report on Government Services, 401-446(2001).

Avrom Sherr, Richard Moorhead and Alan Paterson, Assessing the Quality of Legal Work: Measuring Process, 1(2), Legal Profession (1994):135-158.

Bureau of Justice Assistance, Trial Court Performance Standards and Measurement System, U S Department of Justice NCJ 161569, 1, (July 1997).

Center for Democracy and Governance, Handbook of Democracy and Governance Program Indicators [unpublished draft] (Washington, D.C.: Management Systems International/USAID) (1998).

Christopher Clague, Philip Keefer, Stephen Knack, and Mancur Olson, Property and Contract Rights in Autocracies and Democracies, 1, Journal of Economic Growth, 243-276(1996).

Cross, F. B. and D. C. Donelson, "Creating Quality of Courts" Journal of Empirical legal Studies 7(3) (2010).

D. H. Hall and Ingo Keilitz, Global Measures of Court Performance, 3, IFSC, 1-51(Nov. 2012).

David C Brody, The relationship between judicial performance evaluations and judicial elections, 87, Judicature, 168 (2004), available at http://www.kcba.org/judicial/pdf/brody.pdf.

David C. Brody, The Use Of Judicial Performance Evaluation To Enhance Judicial Accountability, Judicial Independence, And Public Trust, 86(1) , Denver University Law Review ,115(2008)

E. Buscaglia and M. Dakolias, Comparative International Study of Court Performance Indicators, Legal and Judicial Reform Series, World Bank Publications and Research on Law and Justice Institutions, (1999). Available at http://www.worldbank.org/external/default/WDSContentServer/WDSP//ib/2000/08/04/000094946/_00072605391760/Rendered/PDF/multi_page.pdf.

George F. Cole, Performance Measures for the Trial Courts, Prosecution, and Public Defense, in Performance Measures for the Criminal Justice System, U.S. Department of Justice, Bureau of Justice Statistics, 87-108(1993).

Ilan Kapoor, Indicators for Programming in Human Rights and Democratic Development: A Preliminary Study [Paper prepared for the Political and Social Policies Division, Policy Branch, Canadian International Development Agency (CIDA)] (1996).

J. McIntyre, Evaluating Judicial Performance Evaluation: A Conceptual Analysis, 4(5), Oñati Socio-legal Series [online], 898-926(2014). Available at http://ssrn.com/abstract=2533854.

Joe McIntyre, Evaluating Judicial Performance Evaluation: A Conceptual Analysis, 4(5), Oñati Socio-legal Series, 898(2014), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2533854

John J. DiIulio, Measuring Performance When There Is No Bottom Line, in Performance Measures for the Criminal Justice System, U.S. Department of Justice, Bureau of Justice Statistics, 143-156(1993).

Kate Malleson, Judicial Training and Performance Appraisal: The Problem of Judicial Independence, Modern Law Review 60(5) (1997):655-667.

Marc Galanter, News from Nowhere: The Debased Debate on Civil Justice, 71(1), Denver University Law Review, 77-113(1993).

Maria Dakolias, Court Performance around the World: A Comparative Perspective, 2(1), Yale Human Rights and Development Journal 87, 142(2014), available at http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1009&context=yhrdlj

Mark Schacter, Means...Ends...Indicators: Performance Measurement in the Public Sector (Ontario: Institute on Governance Policy Brief No. 3) (1999).

Netherlands Council for the Judiciary report, Quality of the Judicial System in the Netherlands, 8 (March 2008). also available online at: https://www.rechtspraak.nl/SiteCollectionDocuments/Quality-of-the-judicial-system-in-the-Netherlands.pdf.

Pim Albers, Performance Indicators and Evaluation for Judges and Courts, available at http://www.coe.int/t/dghl/cooperation/cepej/presentation/cepej_en.asp

Rebecca Love Kourlis and Jordan M. Singer, A Performance Evaluation Program for the Federal Judiciary, 86 Denver University Law Review ,7(2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=121313

Rebecca Love Kourlis and Jordan M. Singer, A Strategy for Judicial Performance Evaluation in Newyork, 72(3), Albany Law Review,657(2009), available at http://iaals.du.edu/sites/default/files/documents/publications/strategy_judicial_performance_evaluation_ny2009.pdf

Rebecca Love Kourlis and Jordan M. Singer, Using Judicial Performance Evaluations to Promote Judicial Accountability, 90, Judicature, 200(2007), available at http://iaals.du.edu/sites/default/files/documents/publications/using_jpe_to_promote_judicial_accountability2007.pdf

Richard Y. Schauffler, Judicial accountability in the US state courts: Measuring court performance, 3(1), Utrecht Law Review 112(2007), available at https://www.utrechtlawreview.org/articles/abstract/10.18352/ulr.40.

Robert D. Behn, Why Measure Performance? Different Purposes Require Different Measures, 63(5), Public Administration Review, 586(2003), available at http://www.coe.int/t/dghl/cooperation/cepej/thematiques/Measuring_perf/Why_measure_performance_stawa_en.pdf

Robert F. Bordonaro, Performance Measurement for Public Sector Management, [Paper prepared for the World Bank Poverty and Social Policy Department] (1996).

Spanish Judicial Council Measuring the Workload of Courts: The Spanish Approach [translation of Section 3.15.3(F) of the Spanish Judicial Council's 1999 Annual Report, prepared by the World Bank Legal Institutions Thematic Group. Publication information for the original report is: 1, Consejo General de Poder Judicial, Memoria], 257-275(Madrid, 1999).

Stephan Colbran, The Limits of Judicial Accountability: the Role of Judicial Performance Evaluation, 6(1), Legal Ethics, 55(2003), available at https://www.researchgate.net/publication/27481759_The_Limits_of_Judicial_Accountability_The_Role_of_Judicial_Performance_Evaluation

Steven Knack and Nick Manning, A User's Guide to Operationally-Relevant Governance Indicators [unpublished draft] (World Bank, PRMPS) (2000).

Tamara Goriely, Debating the Quality of Legal Services: Differing Models of the Good Lawyer, 1(2), Legal Profession 159-171(1994).

Tamara Goriely, Quality of Legal Services: The Need for Consumer Research, 3(2), Consumer Policy Review 112-116(1993).

U.S. Department of Justice, Bureau of Justice Assistance Trial Court Performance Standards and Measurement System (U.S. Department of Justice, Office of Justice Programs, Program Brief, July 1997).

Voigt, S. and N. El Bialy. Identifying the Determinants of Judicial Performance: Taxpayers' Money Well Spent? Working paper available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2241224.

Wilson, James Q. The Problem of Defining Agency Success, Performance Measures for the Criminal Justice System, U.S. Department of Justice, Bureau of Justice Statistics, 157-165(1993).

***

ANNEXURES

ANNEXURE - 1

List of Participants at Workshops and Seminar

1st Consultative Workshop

14th February 2016 at Kashipur (U S Nagar) Uttarakhand

LIST OF PARTICIPANTS

SI	Name	Enrolment No.
1	Dr Chandra Shekhar Joshi	UA 421/06
2	Bhoopendra Singh Gehlot	UK 2431/04
3	D P Bhatt	UA-362/07
4	Dharmender Singh Yadav	UP05792/08
5	Amrish Agrawal	UA 5426/04
6	Rakesh Kumar Agarwal	UK 280/14
7	Subham Singhal	UK 202/14
8	Ram Chandra Agarwal	UK 198/14
9	Jitendra Singh	UK634/15
10	Devendra Kumar	UK 464/15
11	Rahul Dua	UK 230/13
12	Gulshan Kumar	UK 192/14
13	Neeraj Kumar	UK 666/15
14	Naresh Kumar	UK 26/16
15	Ajeem Khan	UK 242/14
16	Amit Kumar Brahmesh	UA 004/06
17	Anil Kumar Sharma	UK 541/07
18	Mohd. Naved	UK 518/10
19	Dharmender Tuli	UK 11601/93
20	Sunil Kumar	
21	Umesh Chandra Joshi	UA 1621/87
22	Kamal Kishore Joshi	
23	Kamini Srivastava	UK 491/14
24	Sanjay Kumar Sidhwani	UK 191/14
25	Pravin Kumar Singh	UK 3962/04
26	Sanjay Kumar Sharma	UK4438/04

27	Prayag Darshan Singh	UK 3363/04
28	Bhuwan Chandra Nautiyal	UK 715/10
29	Sanjay Kumar	UK 704/10
30	Shamsher Ali	UK 431/12
31	Sanjay Ruhela	UA 5454/04
32	Adarsh Mittal	UK 133/13
33	Rattan Singh	UA 3448/04
34	Sanat Kumar Agarwal	UK 237/08
35	Giriraj	UK 4879/04
36	Mujeeb Ahmad	UK 293/11
37	Anand Swaroop Rastogi	UA 2609/04
38	Nitin Sharma	UA 529/12
39	Mohd. Vakeel Siddiqui	UP 7610/99
40	Gaurav Chauhan	UK 341/15
41	Prince Chauhan	UK 340/15
42	Shariq Khurshid	UK288/15
43	Sarvesh Kumar	UA 3753/04
44	Rohot Chandra Pandey	UK 03/13
45	Vipin Kumar Agrawal	UK 119/10
46	Hukam Singh	UK 380/11
47	Subash Chandra Prajapati	UK 227/10
48	Heera Bangari	UK 306/15

2nd Consultative Workshop

29 April 2016 at Aligarh Uttar Pradesh

LIST OF PARTICIPANTS

SI	Name	Enrolment
1	Sanjay Pathak	UP 985/1994
2	Shiva Pathak	UP 4601/1990
3	Qazi Parvez Akhtar	UP 1628/1994
4	Bhuvnesh Kr. Sharma	UP 4071/1998
5	Om Prakash	UP 6099/1994
6	Jagdish Saraswat	UP 4655/1982
7	Sudha Sharma	UP 5483/2014
8	Pankaj Kumar Saxena	UP 3260/1993
9	Sumanlata Verma	UP 4451/1995
10	Shabanam Fatimi	UP 3750/1997
11	Rajbala Sharma	UP 3182/2001
12	Sanjeev Kumar Sharma	UP 3861/1988
13	Rakesh Pandit	UP 2014/1989
14	Shyam Saraswat	UP 3003/1987
15	Satish Kumar Singh	UP 4776/1983
16	Jugendra Pal Singh	UP 4410/1991
17	Sukhvir Singh Chauhan	UP 961/1998
18	Brajendra Pal Singh VERMA	UP 4925/1983
19	Sarfaraj Ali Khan	UP 2760/2000
20	Jagdev Singh Tomar	UP 2026/1975
21	Ram Pratap Singh	UP 598/1978
22	Rajendra Singh Tomar	UP 4461/1982
23	Amir Khan	UP 3808/1991
24	Poonam Bajaj	UP 57/1990
25	Gopal Shankar Sharma	UP 454/1984
26	Satya Prakash Rana	UP 2415/1976
27	Prem Shankar Sharma	UP 6815/2008
28	Pramod Kumar Varshney	UP 2524/2007
29	Rameshar Dayal Rajput	UP 2655/2007
30	Amol Kumar Gupta	UP 2898/1977
31	Tota Ram Tyagi	UP 3940/2014
32	Kishor Kumar	UP 1935/2010
33	Vinod Kumar Gautam	UP 3519/1998
34	Dinesh Kumar Sharma	UP 3466/1998

SI	Name	Enrolment
35	Yogesh Kumar Saraswat	UP 4690/1998
36	Ravi Kumar	UP 7080/2006
37	Harish Kumar Azad	UP 1435/1998
38	Rakesh Kumar	UP 895/2000
39	Ram Ballabh	UP 2878/1977
40	Ganesh Prasad	UP 6346/2009
41	Rakesh Kumar Shrivastav	UP 3129 1999
42	Subash Chandra	UP2630/1982
43	Vijay Singh Rana	UP 8974/1999
44	Arun Kumar Gupta	UP 762/2009
45	Suresh Kumar Singh	UP 3267/1976
46	Naresh Kumar Kashyap	UP 7414/2000
47	Amit Kumar Gupta	UP 8149/2001
48	Sarnam Singh	UP 5112/2007

3rd Consultative Workshop
22 August 2016 at Almora, Uttarakhand

LIST OF PARTICIPANTS

S I	Name	Desgination
1	Dr Gyanendra Sharma	District Judge. Almora
2	Dharam Singh	Additional District Judge
3	Om Kumar	Additional District Judge
4	K.S Nagpal(IPS)	SSP Almora
5	Dr Shesh Chandra S	Civil Judge (Senior Division)
6	Man Mohan Singh	Chief Judicial Magistrate
7	Nadeem Ahmed	Judicial Magistrate
8	Prakash Chandra	CDO Almora

SL	Name	Enrolment No./Year
1	Bhanu Prakash Tilora	UP2200/94 UK2549/04 UP440/98
2	Puran Singh Kaira	UA3255/04
3	Bhagwati Prasad Pant	UP456/99
4	Dinesh Chandra	UP/2002/2001
5	Gadhar Singh Bisht	UP276/00
6	Pankaj Joshi	UK1018/10
7	Pankaj Latwal	UK4863/04/2002
8	Shekhar Lakhchawa	1996
9	Harish Chandra Lohumi	UP13526/00
10	Mahesh Chandra	UP13247/00
11	Aijaz Ansari	UK1019/10
12	Sunil Kumar	UK177/08
13	Bhupandra Singh Miyah	UA5464/04
14	Mohd.Imroz	UK37/12
15	Akhilesh Tewari	UA5446/04
16	Azad Khan	UA1008/10
17	Mukesh Kona	UA339/06/ UP943/80
18	Prabha Panda	UK765/04
19	Mahaveer Singh Negi	UK746/10
20	Dham Singh Karki	UK2436/04/1993
21	Manoj Singh Brijwal	UK1045/10
22	Deep Chandra Joshi	UK316/11
23	Krishna Chandra	UK100/11
24	Deepak Singh Nagarkoti	UA260/05

SL	Name	Enrolment No./Year
25	Himanshu Mehta	UK262/10
26	Bhashkar Chandra Pandey	UK099/10
27	Arti Aryan	2004
28	Chama Singh Gasiyal	UK100/04
29	GC Phulasa Shooui	UP1697/81/UK2004
30	Dr Hivdesh Deepak	5920/88 / UK4176
31	DS Bisht	
32	PK Chaudhari	
33	JS Bora	
34	TC Pant	
35	Daya Prasad	
36	Kamal Kishor Kandpal	
37	Rajesh Kumar	

4th Consultative Workshop
19 September 2016 at Vikasnagar (Dehradun) Uttarakand

LIST OF PARTICIPANTS

Sl.	Name of the Advocate	Enrolment/Year
1	R.N Lakharuul	UP1118/83/ UA1040/14
2	Anil Kr Sharma	UP1673/87
3	Shashi Kumar	UK542/06
4	Rajesh Kumar	UK3604/04
5	Saltan Singh	UK112/12
6	Surinder	UK5566/04
7	Sandeep	UK3334/04
8	Amit Chauhan	UK484/06
9	Shurvir Singh	UK384/05
10	Prasad	UK343/12
11	Dinesh Gupta	UA205/06
12	Maresh Saini	UA3333/04
13	Manvendra Singh	UK296/10
14	Saurav Chauhan	UK241/10
15	Kulvinder Singh	UK309/10
16	Guru Charan Singh	UK271/09
17	Lokesh Sharma	UK558/13
18	Anurag Sharma	UK675/10
19	Mayank Senwal	UK546/07
20	Yashpal Singh Bhamdar	UA11375/03
21	Vipin Lakharwal	UK451/11
22	Anand Singh	UK228/16
23	Naresh Kumar Chauhan	UK2009
24	Bhagwan Singh Karki	UK360/10
25	Lalit Pandey	UK93/07
26	Rajveer Singh	UK4387/04
27	Subhash Singh	UK886/12
28	Sumit Chauhan	UK473/13
29	Sachin Kumar	UK391/12
30	Vaibhav Tyagi	
31	Anish Tyagi	UA131/05
32	Rajendra Singh Pant	UK272/10
33	Mohit Bisht	UK271/10
34	Bhupal Singh	UK116/10
35	Sumindra Singh Saini	UK134/11

Sl.	Name of the Advocate	Enrolment/Year
36	Mehar Chand	UA4218/04
37	B Isun	UA749/04
38	Bipin Kumar	UK673
39	Rahzad Ali	UK138
40	Anuj Gautam	UK139/13
41	Govind Singh Pandir	UK189/11
42	Amit Agarwal	UA5705/04
43	Ajay Kumar	UK188/11
44	Pankaj Semwal	UK15103/00
45	Jagat Singh Tomar	UK41500/04
46	Ajay Kumar	UK12/09
47	Swadesh Kumar	UP487/90
48	Jagpal Singh	UP6177/03
49	Jaipal Singh	UA4871/04
50	Piyush Sharma	UK388/12
51	Pawan Singh	UK929/99
52	Babita Sharma	UK98/07
53	Sanjeev Negi	UK232/07
54	Nitish Pundir	
55	Ratakat Khan	UP5485/01
56	Anil Kandpal	UA3874/99
57	Sharafat Ali	UA3940/04
58	Trilok Singh	UP87/94 / UA2489/04
59	Rajesh Rajput Chaurasia	4865/94
60	Anil G	
61	Sandeep Kumar	UA601/15
62	Ankit Chaurasia	UK641/15
63	Ajay Kumar	UK500/14
64	Nitin Verma	UK372/07
65	Prince Kumar	UK136/14
66	Kundan Singh Rana	
67	PS Kumar	UK539/10
69	Rahul Gupta	UA460/07/ UK469/15
70	Sita Ram	UA5380/04
71	Z Ahmed	UA3337/04
72	Ravi Kumar	UK549/13
73	Ashish Kumar	UA493/07
74	Vijay Kumar	UP4144 / UA131/06
75	Takir Hussain	441/10
76	Mohar Singh	125/05
77	Daud Ahmed	227/16 / UP5863/09
78	Manoj Kumar	4026/04

Sl.	Name of the Advocate	Enrolment/Year
79	Dinesh Gurung	341/13
80	Vijay Pal Singh	UA2625/04
81	Javed Akhtar	10171/02
82	Adv Domben Budu	170/09
83	KS Saini	817/04
84	Shashank Sharma	UA062/05
85	Sanjeev Gautam	UA07/07
86	Pradyuman Singh	UA07/238/10
87	Gopal Singh	UA017/06
88	Sanjay Kumar	UK0253/13
89	Satpal Singh Rana	UK324/08
90	Hamid Ali	UK8558/07
91	SK Poeni	UA349/11

5th Consultative Workshop

26 September 2016 at Moradabad Uttar Prakash

LIST OF PARTICIPANTS

SI	Name of the Advocate	Enrolment/Year
1	Mr Nitin Kumar	UP 2926/14
2	Saurabh Singh	29-06-2014
3	Mohammad Yaqoob	UP 1332/11
4	Munn Devi	UP 9757/99
5	Waqar Raza	UP 8570/09
6	Arjun Singh	UP 2411/12
7	Sholan Kr Dixit	UP 3222/12
8	Asutosh Sharma	UP 15531/10
9	Dharam Vir Singh	UP 1700/82
10	Abhishek	UP 8574/01
11	R Negi	UP 11914/03
12	RP Verma	UP 3239/94
13	Ashutosh Tyagi	UP 5267/07
14	Vikrant Sharma	UP 6726/03
15	Ankur Rajput	UP 5220/10
16	Anoop Kumar Singh	UP 4507/08
17	Suresh Kumar	UP 1347/08
18	Abhishek Tyagi	UP 5453/12
19	Dilip Porwal	UP 662/73
20	Ajit Kumar	UP 996/80
21	Shiv Kumar Singh	UP 985/85
22	RS Tyagi	UP 4249/84
23	Umesh Kumar Sharma	UP 4472/09
24	Jitendra Kumar Verma	UP 4463/89
25	H Javed Pasha	UP 1344/99
26	M Zunsid Aizaz	UP 3440/83
27	M Saleem Khan	UP 5507/85
28	Hitesh Kumar Tomar	UP 16080/10
29	Abhinav Chhabra	UP 00537/10
30	Prabhat Imphal	UP 2030/98
31	Sharad	UP 3380/96
32	Jitendra Kumar	UP 5586/10
33	Khushpal Seth	UP 594/03
34	Asheesh Upadhyay	UP 7459/95
35	Divya Gupta	UP 4668/05

SI	Name of the Advocate	Enrolment/Year
36	Ram Mohan Srivastav	UP 4117/84
37	Naveen Kumar Gupta	UP 22/2009
38	Mohd Maulaey	UP 2194/10
39	Jafer Ali	UP 4520/10
40	Azhar Abbas Naqvi	
41	CP Singh	UP 3205/77
42	Naresh Arun	UP 2211/10
43	Mahesh Dal Sharma	UP 337/75
44	M P Sharma	UP 1648/77
45	Yogesh Kumar	
46	Jeetendra Saini	UP 4432/09
47	Ankur Sharma	UP 7548/12
48	Vikrant Sonar	
49	Shreyansh Sharma	UP 3837/15
50	Shambhu Singh	UP 02599/10
51	Devendra Singh Rajput	UP 2711/77
52	A Khan	UP 7391/07
53	P K Goel	UP 1121/014
54	Anwar Ali	UP 12676/99
55	Syed Danish Jamal Zaidi	UP 7665/08
56	Pradeep Gupta	UP 340/06
57	Prabhat Gore	UP 1514/86
58	HemPrakash Saini	UP 4530/13
59	Javed Qamar	UP 2228/88
60	B P Singh	UP 09182/13
61	Shakeel Ahmed	UP 267/09
62	Usman Ali	UP 1199/12
63	Mohd Mubeen	UP 161/99
64	F Alam	UP 11586/14
65	Sharad Sinha	UP 2929/04
66	Suresh M	UP 1347/08
67	Adesh Srivastav	UP 944/80
68	Zahid Hussain	UP 8500/00
69	Prateek Goyal	UP 7058/13
70	Anoop Kumar Singh	UP 4507/08
71	Rajesh Kumar	UP 820/92

6th Consultative Workshop

7 December 2016 at Allahabad (Uttar Pradesh

LIST OF PARTICIPANTS

SI	Name	Enrolment
1	Mani Kant Pandey	UP2892/1984
2	Arun Kynar	UP8928/2013
3	Suraj Pandey	UP70221/2015
4	Vijay Shyam Pandey	UP 1931/1987
5	Vinay Kumar Mishra	UP 10407/2000
6	Ram Krishna Dwivedi	UP 5628/2001
7	Sanjay Kumar Upadhyay	UP 8930/2011
8	Sheo Kumar Dwivedi	UP 5393/1984
9	Pramod Kumar Mishra	UP 354/1992
10	Surendra Kumar Sahu	UP 4484/2006
11	M Mishra	UP 85/2009
12	Rahul Tripathi	UP 9558/2012
13	Shailanda Singh Rathore	UP 1398/2001
14	Neeraj Kumar Tripathi	UP 416/02
15	Dhall Singh	UP 3419/2003
16	Satai Lal	UP 4228/1984
17	Santosh Kumar Pandey	UP 5167/85
18	Shiv Prakash Mishra	UP 585/2013
19	Mohd. Akhtar Khan	UP …./1984
20	Bhojwan Prasad	UP 3291/1993
21	Satyendra Kumar Shukla	UP 8231/2014
22	Anil Kumar Arya	UP 748/2007
23	Sandeep Pandey	UP 6042/2009
24	Alok Kumar Shukla	UP 10578/1999
25	Sanjay Kumar	UP 1274/2016
26	Koshlesh Kumar Singh	UP 2422/1994
27	Rakesh Kumar Tiwari	UP 4498/1987
28	Sandeep Mishra	UP 9588/2004
29	Manish Hayaran	UP 10639/2002
30	Anil Kumar Srivastava	UP 382/1989
31	Suresh Narain Dwivedi	UP 10834/2000
32	Ajeet Singh Rathore	UP 0818/2002
33	Krishna Kant Shukla	UP 6893/2007
34	Ragvenar Prasad Mishra	UP 92/1995
35	Jagdish Chandra Rai	UP 3565/2003

SI	Name	Enrolment
36	Shiv Ganesh Singh	UP 1385/1989
37	Vinod Kumar Pandey	UP 2783/2000
38	Om Prakash Ojha	UP 5584/2000
39	Ramesh Kumar Pandey	UP 08421/2013
40	Ashok Kumar Dubey	UP 6880/1992
41	Vidya Kant Pandey	UP 7884/2002
42	Vinay Kumar Tiwari	UP 1495/1993
43	Chandra Bali Yadav	UP 3044/2003
44	Rajesh Chandra Pandey	UP 18781/1999
45	Bholender Mishra	UP 18433/1999
46	Ramesh Kumar Pandey	UP 8286/2003

7th Consultative Workshop

12 April 2017 at Haldwani (Nainital), Uttarakhand

LIST OF PARTICIPANTS

S I	Name	Enrolment/Year
1	MS Butola	UA3418/04
2	Bhawani Singh Bisht	UA677/15
3	Bhuwan Ch. Tripathi	UK367/14
4	Amit Kumar Goyal	UK007/11
5	Kishor Joshi	UK435/14
6	Neeraj Singh Khetwal	UK409/14
7	Neha Pant	UK455/16
8	A.Joshi	UK453/16
9	Jyoti Parihar	UK454/16
10	Devendra Singh	UK474/15
11	Suchitra Belwal	UK522/16
12	Vijay Kumar Pandey	UK325/14
13	Ram Bisht	UK527/14
14	Nandan Singh Bisht	UK571/15
15	Chandan Singh Bora	UK610/15
16	Vinay Joshi	UK450/14
17	Chandra Shekhar Joshi	UK196/05
18	Kuldeep Singh	UK546/12
19	Rohit Chaudhary	UK224/13
20	Amit Chaudhary	UK225/13
21	Rohit Pathak	UK296/15
22	Meenu Chauhan	UK041/16
23	Sheelu Saxena	UK042/16
24	Shagoofu Aliya	
25	ChandraShekhar Dumka	UA281/06
26	Anil Kumar	UA349/06
27	Pradeep Lohari	UA652/16
28	Binit Parihar	UA312/05
29	Rajni Pal	UK237/09
30	Kishor Kumar Pant	
31	Sanjay Kumar Singh	UA287/06
32	Santosh Kumar Negi	UK0449/08
33	Ravindra Singh Bisht	UK1029/10
34	Rajan Singh Mehra	
35	Basant Joshi	UP2173/00/ UA3906/04

S I	Name	Enrolment/Year
36	Abdul	UA642/04
37	Mujahid Hussain Sufi	UK5155/04
38	Kamlesh Kalve	UK396/06
39	Sarfaraz Alam	UK19/11
40	Mohd. Irfan Usmani	UA0275/05
41	Krishna Chand Pandey	UK273/12
42	Meetu Khulke	
43	Sateesh Toshi	UK1080/117
44	Manisha Bohra	UK364/15
45	Kamlesh Panday	UA303/15

NATIONAL VALIDATION SEMINAR

November 12, 2017 at Juris Hall Faculty of Law, University of Lucknow

LIST OF PARTICIPANTS

SI	Name	Enrolment No.
	ADVOCATES	
1.	M K Pandey	UP 4796/ 87
2.	Abhishek Mishra	UP 12725/10
3.	D B Sinha	UP10450/00
4.	Ankita Yadav	UP 4556/07
5.	Pankaj Kumar	UP 11307/12
6.	Satish Chandra	UP 3547/94
7.	Avinash Tiwari	UP 4624/15
8.	Sharadha	UP 6063/16
9.	Vivek Chitranshi	UP 26936/93
10.	Akshay Kalyan	UP 1440/96
11.	Sunil Kumar Dubbey	UP 8536/95
12.	Sanjay Srivastava	UP 10768/03
13.	Sriman Narayan Jha	UP 1267/12
14.	Jay Prajkash	UP 8477/99
15.	Rahul Srivastava	UP 2423/98
16.	Manessh Sachdev	UP 14697/99
17.	Ram Krishna Srivastava	UP 9372/99
18.	Manoj Singh	UP 9975/02
19.	Ravi Kumar Singh	UP 9539/03
20.	Anand Kumar	UP 1783/17
21.	Gaurav Srivastav	UP 2399/09
22.	Manoj Kumar	UP 1783/17
23.	Vivek Joshi	UP 127/08
24.	Dipak Tiwari	UP 14586/10
25.	Brijesh Kumar Saxena	UP 3307/91
26.	Anshuman Awasthi	UP 1066/06
27.	Anuj Singh	UP 05250/10
28.	Anil Kumar	UP 1523/07
29.	Sanjay Kumar	UP 5337/08
30.	Dileep Kumar Diwedi	UP 10337/03
31.	Tajdar Ahmad	UP 0372/15
32.	Omji Srivastava	UP 7101/99
33.	Rajjan lal Mishra	UP 6756/03
34.	Sharfraj Ahmad	UP 5292/02
35.	Dherendra Kumar Shukla	UP 798/99

SI	Name	Enrolment No.
36.	Ashish Shukla	UP 6234/09
37.	Manoj Sharma	UP 11462/00
38.	Jasbir Singh	UP 2359/01
39.	Punit Agnihotri	UP 854/10
40.	Razi Ahmad	UP 03/99
41.	Devender Kumar	UP 2031/91
42.	Sanjay Mishra	UP 8459/ 03
43.	Ajaya Raghav	UP 627 1/17
44.	Vikas Mishra	UP 1763/98
45.	Vivek Mishra	UP 6701/99
46.	Sanjeev Pandey	UP 8855/99
47.	Omkar Nath Singh	UP 403/80
48.	Jitenrdra Kumar Tripathy	UP 3974/ 15
49.	Raj Kumar Singh	UP 0469/08
50.	Radhe Shyam Kushwaha	UP 4256/99
51.	Rajesh Saxena	UP 1191/91
52.	Ravi	UP 9229/91
53.	Mukesh Saxena	UP 894/88
54.	Sudhir Updhayay	UP 5840/95
55.	Jai Prakash Dubey	UP 7051/99
56.	Ankita Srivastava	UP 4477/05
57.	Pratima Laxmi	UP 7208/06
	ACADEMIA & JUDICIARY	
58.	Ambika Mehrotra	
59.	Surita Singh	
60.	Amar Singh	
61.	Gunjan Bhagchandani	
62.	Mr. TP Singh	
63.	Dr. Nand Kishor	
64.	Dr.Kishorlal	
65.	Shubhi Srivastav	
66.	Meraj Ahmed	
67.	Ram Naval	
68.	Amby Prasad Tiwari	
69.	Dr Satya Prakash Mishra	
70.	Dr.Bansi Dhar Singh	
71.	Anuj Kumar	
72.	Ankit Gupta	
73.	Dr. Rohit Prakash Singh	
74.	Rajeev Rai	
75.	Dr.Raj Kumar Singh	
76.	Wiu Sampica Kumar	
77.	Dr Richa Saxena	
78.	Amritanshu Srivastava	
79.	Dr Ashish Kumar Srivastava	

SI	Name	Enrolment No.
80.	PremChandra Singh	
81.	Rita	
82.	Mr.Shatrohan Lal	
83.	Virendra Pratap Singh Yadav	
84.	Uttam Singh	
85.	Sanjay Singh	
86.	Vivek Vikram	
87.	Mahima Tripathi	
88.	Dr Ketki Tara Kumaiyan	
89.	Dr CS Joshi	
90.	Gaurav Joshi	
91.	L.P. Mishra	
92.	Mandeep Mishra	
93.	Radhe Govind Dubey	

ANNEXURE-2

Questionnaire for Pilot Testing for Advocates

SEC A: Basic Information

Name: ……
Affiliation: ……
Adv Enrolment No.……..... Year ……..
Chamber:
…….
Address:
……...
…….
Phone No.……..... Email Id: …….

Do you permit us to use your personal information: **YES** ☐ **NO** ☐

SEC B: ABOUT THE CONSULTATIVE WORKSHOP

This consultative workshop is conducted in connection with the Research Project on "***Performance Indicators for subordinate courts and suggestive policy/procedural changes for reducing civil case pendency***" by Ministry of Law & Justice, Govt. of India at Centre of Excellence in Public Policy & Government, Indian Institute of Management, Kashipur.

The efficiency and effectiveness of judicial systems has become one of the main points of interest in public administration, due to the beneficial effects of an efficient judicial system on economic growth and firm competition. This is particularly relevant in India where judicial proceedings are extremely long-lasting due to the huge (in)efficiency of courts and to the presence of bottlenecks that affect the efficient management of court activity. Our findings show that, while the presence of bottlenecks in the caseload plays a role in the level of court inefficiency, this effect is relatively small compared with the inefficiency due to the lack of managerial ability to efficiently manage both the backlog and increases in filings. Finally, our empirical findings are robust to an alternative estimator and sample variation.

However, there has been an on-going debate regarding the responsibility of judges in terms of productivity and reducing delays, whilst at the same time ensuring that their judgments are of high quality.

Despite the modernization process and the considerable investment, to date the results achieved have been very few and the Italian JS is still characterized by poor performance. A managerial approach for courts, and the use of PMSs, in particular, could be useful for court administrators and presiding judges in order to monitor the court activities, the achievement of goals and thus to improve court efficiency and effectiveness.

Performance Measurement Systems (PMS)

It is imperative that to analyze the performance of the justice delivery, a performance measurement system has to be developed.
Making this study one of the broadest of its kind, first instance commercial courts in eleven countries and three continents provided data on the following areas:

1. Number of cases filed per year;
2. Number of cases disposed per year;
3. Number of cases pending at yearend;
4. Clearance rate (ratio of cases disposed to cases filed);
5. Congestion rate (pending and filed over resolved);
6. Average duration of each case; and
7. Number of judge per **100,000** inhabitants.

OECD Parameters

In the Organisation for Economic Co-operation and Development (OECD) area the average length of civil proceedings is around 240 days in first instance, but in some countries a trial may require almost twice as many days to be resolved. Final disposition of cases may involve a long process of appeal before the higher courts, which in some can average more than 7 years.At a conceptual level, the measurement of efficient and quality justice requires attention to three elements:

a. Substantive law, i.e, the legal norms that government is expected to enforce;
b. Judicial decision making. i.e, the manner in which courts find facts and apply substantive law to those facts; and
c. Judicial administration, the process and procedures by which courts take cognizance of disputes and present them to judicial decision makers for disposition.

SEC C: QUESTIONNAIRE

1. What according to you is the main reason behind the huge pendency of civil suits?
(i) Lack of Judges
(ii) Lack of proper Infrastructure including court staff.
(iii) litigant themselves as they didn't turn up on fixed date
(iv) Advocate / Counsel
(v) Any other reason ……..

2. Have you heard about the Performance measures of the Judges/Court conducted in US or any other parts of the world?
(i) Yes
(ii) No
(iii) Can't say

3. Do you think whether the same Performance Measures can be successful if introduced in our country?
(i) Yes
(ii) No
(iii) Can't say
4. Do you think after introduction of Performance measures, pendency of civil court will reduced in the Country?
(i) Yes
(ii) No
(iii) Can't say

5. Do you think, on the basis of performance measures, Judges must be promoted to next cadre or next level?
(i) Yes
(ii) No
(iii) Can't say

6. Do you think it will increase the efficiency of the Judges to get promotion after performing well in performance measures?
(i) Yes
(ii) No
(iii) Can't say

7. Do you think, after introduction of performance measures, quality of the judgment will degrade as Judges will start giving judgment in haste in order to improve their performances.
(i) Yes
(ii) No
(iii) Can't say.

8. Don't you think that it will have adverse effect on the Judges as Court functioning also depends upon the Advocates and litigants? If they didn't turn up or argue the matter, why Judges should suffer for it?
(i) Yes
(ii) No
(iii) Can't say.

9. Whether the performance measures can be the part of the annual confidential report (ACR) of the Judges and same could be made public?
(i) Yes
(ii) No
(iii) Can't say.

10. In your opinion, the reform in civil judicial system will be beneficial for economic growth and fair competitions
(i) Yes
(ii) No
(iii) Can't say

11. How will you judge the civil judicial system
(i) Certainty in its judgement
(ii) Reasonable time frame disposition
(iii) Fairly accessible to public
(iv) All of the above

12. Whether the performance of the court can be improved besides/without performance indicator
(i) Yes
(ii) No
(iii) Can't say

13. If yes (Refer…. Preceding question) what are those measures
(i) Court Management Training
(ii) Using ICT
(iii) Both (i) & (ii)

14. In your opinion, what is the biggest challenge in choosing performance indicator for judging the Court? (**USE EXTRA BLANK PAGE, IF NECESSARY)**
……
……
……
……
……
……

15. Would you like to suggest any other performance indicator apart from institution of case and disposition ratio, time taken, cost per case and caseload per judge?(**USE EXTRA BLANK PAGE, IF NECESSARY)**
……
……
……
……
……
……

(THANK YOU FOR YOUR COOPERATION)

DATA PROTECTION DECLARATION:
YOUR ANSWERS / OPINION EXPRESSED HERE WILL BE HELD IN STRICT CONFIDENTIALITY AND WILL BE USED ONLY FOR THE PURPOSES OF THIS STUDY. THE RESULTS WILL BE REPORTED IN AGGREGATE FORM ONLY, AND CANNOT BE IDENTIFIED INDIVIDUALLY.

ANNEXURE – 3

Research Project on Judicial Reforms
(न्यायिक सुधार अनुसंधान परियोजना)
Performance Indicators for Subordinate Courts and Policy / Procedural Changes for Reducing Civil Case Pendency
(अधीनस्थ न्यायालयों के प्रदर्शन के सूचक तथा लंबित दीवानी मामले में कमी हेतू नीतिगत / प्रक्रियात्मक परिवर्तन के सुझाव)

QUESTIONNAIRE (प्रश्नावली)

Stakeholders Group: Advocates (हितधारक समूह **:** अधिवक्ता**)**

Name (नाम) : ……
Enrollment Number (नामांकन नंबर)……..
Year(वर्ष)…….
Address(पता)……
……
……
Phone No. (फोन नंबर) ……....
Email Id ईमेल आईडी ……..

Do you permit us to use your personal information Yes (हाँ) No नहीं
(आप अपनी व्यक्तिगत जानकारी का उपयोग करने के लिए हमें की अनुमति देते है ?)

Q.1. Do you think that there enough courts have been established in ratio of population in your District?(क्या आपको लगता है कि आपके यहाँ न्यायालयों की स्थापना जिले के आबादी के अनुपात में किया गया है ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.2. How many Courts are there in your district court premise?(आपके जिला में कितने कोर्ट हैं ?)

a) 0-5.
b) 6-10.
c) 11-15.
d) More than 15;

Q.3. How many of them are vacant (without Presiding Judge) ? (उनमें से कितने बिना न्यायाधीश के हैं ?)

a) < 5.
b) 5.
c) > 5.
d) 10 or more.

Q.4. According to you what is the minimum requisite number of staffs per judge?(आप के अनुसार प्रति न्यायाधीश को कितने कर्मचारी की जरुरत होनी चाहिए ?)

a) 3
b) 4
c) 5
d) 5 or more.

Q.5. Does every judge of 'subordinate court' have requisite numbers of staffs for the proper functioning of the court? (क्या न्यायालय के हर न्यायाधीश के पास कार्य के लिए कर्मचारी की संख्या पर्याप्त है?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.6. Does the elementary Computer education should be mandatory for the Judges and other Class III & above Staff? (क्या न्यायाधीशों और अन्य कर्मचारियों के लिए प्राथमिक कंप्यूटर शिक्षा अनिवार्य किया जाना चाहिए ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.7. Do you think that for proper implementation of ICT & E-court including daily preparation of cause list, upload of judgment or order, there is need of minimum one IT person in each court? (क्या आपको लगता है कि वाद सूची, निर्णय या आदेश के अपलोड सहित आईसीटी और ई - अदालत के उचित कार्यान्वयन के लिए , प्रत्येक अदालत में कम से कम एक व्यक्ति (जिसको सूचान प्रौद्योगिकी का ज्ञान होना चाहिए)की जरूरत है?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.8. What according to you is the main reason behind the huge pendency of civil suits? (आप के अनुसार सिविल सूट के भारी संख्या में लंबित होने के पीछे मुख्य कारण क्या है?)

a) Lack of Judges.(न्यायाधीशों संख्या की कमी |
b) Lack of proper Infrastructure including court staff. (अदालत स्टाफ सहित समुचित बुनियादी सुविधाओं की कमी |)

c) Litigant themselves as they didn't turn up on fixed date.(खुद वादी सुनवाई तिथि को अनुपस्थित रहना |)
d) Advocate/Counsel.(अधिवक्ता / वकील|)

Q.9. Which category of cases tops the civil case pendency list?(इन सब में से किस तरह के दीवानी मामले न्यायालय में लंबित है?)

a) Land/revenue cases (भूमि / राजस्व मामले)
b) Family cases (परिवार के मामलों)
c) Commercial disputes (वाणिज्यिक विवादों)
d) Money suits (मनी के मामलों)

Q.10. According to you what is the main reason in context of Procedural laws including CPC and other similar law for huge pendency in subordinate courts in India? (आप के अनुसार कौन सा प्रक्रिया संबंधी कानून(सीपीसी) लंबित मामलों के मुख्य कारण है?)

a) Complex Court Procedures. (पेचीदा कोर्ट प्रक्रिया)
b) Excessive Adjournments. (अत्यधिक स्थगनों)
c) Commission Report.(आयोग की रिपोर्ट)
d) Both (i) & (ii).(दोनों (i) और (ii))

Q.11. what is the *prima facie* cause behind the adjournments? (स्थगन के पीछे मुख्य कारण क्या है?)

a) Vested interest of the parties.(पार्टियों का स्वार्थ)
b) Unnecessary strike called by the Bar.(अनावश्यक हड़ताल बार द्वारा बुलाया)
c) Absence of either parties.(पार्टियों की अनुपस्थिति)
d) Absence of the judges. (न्यायाधीशों की अनुपस्थिति)

Q. 12. Do you think that filing of Interlocutory Application by the parties is the one of the reason behind the huge pendency of civil case in the District Court? (क्या आपको लगता है कि पार्टियों के द्वारा वादकालीन आवेदन-पत्र दाखिल करना , जिला न्यायालय में सिविल मामले का लंबित होने का एक कारण है ?

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.13. Do you think that using the mechanism of ADR will reduce the pendency of case in District Court? (क्या आपको लगता है कि एडीआर के तंत्र का उपयोग करते हुए जिला न्यायालय में मामला लंबित रहने की अवधि कम हो जाएगी ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q. 14. Do you think that unnecessary time seek / taken by the Advocate to file reply/ rejoinder is another reason for the pendency of civil cases in District Court? (आपको लगता है कि अधिवक्ता द्वारा जवाब दाखिल करने के लिए अधिक समय के लिए अनुरोध भी अनावश्यक जिला न्यायालय में दीवानी मामलों के लंबित रहने के लिए एक और कारण है?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.15. Have you heard about the Performance measures of the Judges/Court conducted in US or any other parts of the world? (आपने न्यायाधीशों / न्यायालय के प्रदर्शन के सूचक (पैमाना) के बारे में सुना है जो अमेरिकी या दुनिया के किसी भी अन्य देश /भागों में आयोजित किया गया हो ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.16. Do you think after introduction of Performance measures, pendency of civil court will reduced in the Country? (क्या आपको लगता है कि प्रदर्शन के सूचक (पैमाना) की शुरूआत के बाद , सिविल न्यायालय मैं लंबित मामलों में कमी आएगी ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.17. Do you think whether the same Performance Measures can be successful if introduced in our country? (यदि हमारे देश में शुरू किया गया तो, क्या आपको लगता है कि उसी प्रकार के प्रदर्शन के सूचक (पैमाना) हमारे देश में सफल हो सकते है ?)

(i) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say. (नहीं कह सकता |)

Q.18. Do you think, on the basis of performance measures, Judges must be promoted to next cadre or next level ? क्या आपको लगता है कि प्रदर्शन के सूचक (पैमाना) के आधार पर , न्यायाधीशों को अगले कैडर या अगले स्तर के लिए पदोन्नत किया जाना चाहिए ?

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.19. Do you think it will increase the efficiency of the Judges to get promotion after performing well in performance measures? (क्या आपको लगता है कि प्रदर्शन के सूचक (पैमाना) में अच्छा प्रदर्शन करने के बाद पदोन्नति पाने के लिए न्यायाधीशों की कार्यक्षमता में वृद्धि होगी ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.20. Do you think, after introduction of performance measures, quality of the judgment will degrade as Judges will start giving judgment in haste in order to improve their performances? (क्या आपको लगता है कि प्रदर्शन के सूचक (पैमाना) की शुरूआत के बाद , न्यायाधीश अपने प्रदर्शन में सुधार करने के लिए जल्दबाजी में निर्णय लेंगे तथा इसके कारण फैसला की गुणवत्ता प्रभावित होगी ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.21. Don't you think that it will have adverse effect on the Judges as Court functioning also depends upon the Advocates and litigants? If they didn't turn up or argue the matter, why Judges should suffer for it? (आपको नहीं लगता है कि इसका न्यायाधीशों पर प्रतिकूल प्रभाव पड़ेगा क्योंकि न्यायालय का कामकाज अधिवक्ताओं और वादियों पर भी निर्भर है? अगर वे उपस्थित नहीं थे या वकील ने बहस नहीं की, तो क्यों न्यायाधीशों की कार्यक्षमता का मूल्यांकन इस आधार पर हो ?)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.22. Whether the performance measures can be the part of the annual confidential report (ACR) of the Judges and same could be made public? (क्या प्रदर्शन के सूचक (पैमाना) को न्यायाधीशों के वार्षिक गोपनीय रिपोर्ट (एसीआर) का हिस्सा बनाया जा सकता है तथा सार्वजनिक किया जा सकता है)

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.23. Do you think for implementing/ Calculating the performance measure of the Judge and Court there is need of any specialised agency?

a) Yes.(हाँ |)
b) No. (नहीं |)
c) Can't say.(नहीं कह सकता |)

Q.24. Would you like to suggest any other performance indicator apart from institution of case and disposition ratio, time taken, cost per case and caseload per judge? (क्या मामले और निपटाने अनुपात, मामले के अनुसार लागत ,समय सीमा में निपटाना, मामले के अनुसार जज, के अलावा आप और कोई सलाह देना चाहते हैं ?)

……
……
……
……
……
……
……
……
……
……
……

(THANK YOU FOR YOUR COOPERATION)

DATA PROTECTION DECLARATION: YOUR ANSWERS / OPINION EXPRESSED HERE WILL BE HELD IN STRICT CONFIDENTIALITY AND WILL BE USED ONLY FOR THE PURPOSES OF THIS STUDY. THE RESULTS WILL BE REPORTED IN AGGREGATE FORM ONLY, AND CANNOT BE IDENTIFIED INDIVIDUALLY.

(**डेटा संरक्षण घोषणा**: यहाँ व्यक्त आपका जवाब / राय सख्त गोपनीयता में रखा जायेगा तथा केवल इस अध्ययन के प्रयोजनों के लिए उपयोग किया जाएगा | परिणाम केवल समग्र रूप में प्रतिवेदित किया जाएगा और जिसकी व्यक्तिगत रूप से पहचान नहीं की जा सकती है |)

ANNEXURE – 4

Questionnaire for Judges

CONSULTATIVE QUESTIONNAIRE
Stakeholders Group: Advocates/Judicial Officers/Law Experts

Part I A: Infrastructure

Q.1. Do you think that there enough courts have been established in ratio of population in your District?
(i) Yes.
(ii) No.
(iii) Can't say.

Q.2. How many Courts are there in your district court premise?
(i) 0-5.
(ii) 6-10.
(iii) 11-15.
(iv) More than 15.

Q.3. How many of them are vacant (without Presiding Judge) ?
(i) < 5.
(ii) 5.
(iii) > 5.
(iv) 10 or more.

Q.4. According to you what is the minimum requisite number of staffs per judge?
(i) 3
(ii) 4
(iii) 5
(iv) 5 or more.

Q.5. Does every judge of 'subordinate court' have requisite numbers of staffs for the proper functioning of the court?
(i) Yes.
(ii) No.
(iii) Can't say.

Q.6. Amongst the following which staffs are required for proper functioning of the court?
(i) Court Master, Stenographer and Peon.
(ii) Stenographer, Peon and Orderly.
(iii) Personal Assistant, Researcher, Peon, Information Technology Assistant and Orderly.
(iv) Court Master, Information Technology Assistant and Orderly.

Part IB: ICT

Q.7. Does the elementary Computer education should be mandatory for the Judges and other Class III & above Staff?
(i) Yes.
(ii) No.
(iii) Can't say.

Q.8. Which is the most important tool to expedite the process of judgement delivery?
(i) ICT infrastructure implementation.
(ii) Implementation of Court Management System (CMS).
(iii) Both (i) & (ii).

Q.9. Do you think that for proper implementation of ICT & E-court including daily preparation of cause list, upload of judgment or order, there is need of minimum one IT person in each court?
(i) Yes.
(ii) No.
(iii) Can't say.

Part II: Identifying the main reason behind the huge pendency of Civil Cases

Q.10. What according to you is the main reason behind the huge pendency of civil suits?
(i) Lack of Judges.
(ii) Lack of proper Infrastructure including court staff.
(iii) Litigant themselves as they didn't turn up on fixed date.
(iv) Advocate/Counsel.
(v) Any other reason.

Q.11. Which category of cases tops the civil case pendency list?
(i) Land/revenue cases
(ii) Family cases
(iii) Commercial disputes
(iv) None of these

Q.12. According to you what is the main reason in context of Procedural laws including CPC and other similar law for huge pendency in subordinate courts in India?
(i) Complex Court Procedures.
(ii) Excessive Adjournments.
(iii) Commission Report.
(iv) Both (i) & (ii).

Q.13. what is the *prima facie* cause behind the adjournments?
(i) Vested interest of the parties.
(ii) Unnecessary strike called by the Bar.
(iii) Absence of either parties.
(iv) Absence of the judges.

Q. 14. Do you think that filing of Interlocutory Application by the parties is the one of the reason behind the huge pendency of civil case in the District Court?

(i) Yes.
(ii) No.
(iii) Can't say.

Q.15. Do you think that using the mechanism of ADR will reduce the pendency of case in District Court?

(i) Yes.
(ii) No.
(iii) Can't Say.

Q.16. Refer to Q.14. (Preceding question), If yes than how many cases have been transferred or referred for the ADR by you in the capacity of presiding officer?

(i) Zero
(ii) 0-5
(iii) 5-20

Q. 17. Do you think that non observance of strict compliance of CPC/ or any other law which provides specific time to resolved the disputes is another reason behind the pendency of civil cases in the District Court?

(i) Yes
(ii) No
(iii) Can't Say

Q. 18. Do you think that unnecessary time seek / taken by the Advocate to file reply/ rejoinder is another reason for the pendency of civil cases in District Court?

(i) Yes
(ii) No
(iii) Can't Say

Part IV: Performance Measures and Indicators of Subordinate Courts

Q.19. Do you think, on the basis of performance measures, Judges must be promoted to next cadre or next level?

(iv) Yes
(v) No
(vi) Can't say

Q.20. Do you think it will increase the efficiency of the Judges to get promotion after performing well in performance measures?

(iv) Yes
(v) No
(vi) Can't say

Q.21. Do you think, after introduction of performance measures, quality of the judgment will degrade as Judges will start giving judgment in haste in order to improve their performances?

(iv) Yes
(v) No
(vi) Can't say.

Q.22. Don't you think that it will have adverse effect on the Judges as Court functioning also depends upon the Advocates and litigants? If they didn't turn up or argue the matter, why Judges should suffer for it?

(iv) Yes
(v) No
(vi) Can't say.

Q.23. Whether the performance measures can be the part of the annual confidential report (ACR) of the Judges and same could be made public?

(iv) Yes
(v) No
(vi) Can't say.

Q.24. Do you think for implementing/ Calculating the performance measure of the Judge and Court there is need of any specialised agency?

(i) Yes.
(ii) No.
(iii)Can't say.

Q.25. Would you like to suggest any other performance indicator apart from institution of case and disposition ratio, time taken, cost per case and caseload per judge?
(**USE EXTRA BLANK PAGE, IF NECESSARY)**

……
……
……
……
……
……
……
……
……

(THANK YOU FOR YOUR COOPERATION)

DATA PROTECTION DECLARATION: Your answers / opinion expressed here will be held in strict confidentiality and will be used only for the purposes of this study. The results will be reported in aggregate form only, and cannot be identified individually.

ANNEXURE – 5

Registered Post

From,

Nalin Kant Tyagi, H.J.S.,
Joint Registrar (J), Inspection,
High Court of Judicature at
Allahabad.

To,

All the District Judges,
District Courts, U.P.

No. **/2016/Admin. 'G-1'/J.R. (I)** **Dated:**

Subject: **Regarding request letter of Prof. K.M. Baharul Islam, Chair, Centre for Public Policy & Government, Principal Investigator, Law Ministry Project on Judicial Reforms, Indian Institute of Management, Kashipur, Udham Singh Nagar (Uttarakhand), alongwith the questionnaire for participation of Subordinate Judges in the Project Survery under the Judicial Reforms Research Study on Performance Indicators for subordinate courts.**

Sir,

Kindly find enclosed herewith a photocopy of the letter, dated 28.07.2016, of Prof. K.M. Baharul Islam, Chair, Centre for Public Policy & Government, Principal Investigator, Law Ministry Project on Judicial Reforms, Indian Institute of Management, Kashipur, Udham Singh Nagar (Uttarakhand), alongwith the questionnaire, regarding request for participation of Subordinate Judges in the Project Survey under the Judicial Reforms Research Study on Performance Indicators for subordinate courts.

In this regard, I am directed to request you to circulate the same amongst all the Judicial Officers and to submit their responses directly to Prof. K.M. Baharul Islam, Chair, Centre for Public Policy & Government, Principal Investigator, Law Ministry Project on Judicial Reforms, Indian Institute of Management, Kashipur, Udham Singh Nagar (Uttarakhand) subject to the willingness of the Officers.

Encl: As above

Yours faithfully,

(Nalin Kant Tyagi)
Joint Registrar (J), Inspection

No. 14950 **/2016/Admin. 'G-1'/J.R. (I)** **Dated:** 01-10-2016

Copy for information to:-

1. Prof. K.M. Baharul Islam, Chair, Centre for Public Policy & Government, Principal Investigator, Law Ministry Project on Judicial Reforms, Indian Institute of Management, Kashipur, Udham Singh Nagar (Uttarakhand), to the effect that his letter, dated 28.07.2016, has been sent to all the District Judges Subordinate to the High Court of Judicature at Allahabad and the responses shall be sent by the respective District Judges directly to the Indian Institute of Management, Kashipur, Udham Singh Nagar (Uttarakhand).

ANNEXURE – 6

List of Respondents (Judges)

A total 36 (Thirty-six) Judicial officers responded to our survey and sent back the duly filled up questionnaire. As per the data protection policy only the indicative designation-wise list is given below:

	Designation	Number of Responses Received
1	District Judge	2
2	Addl. District Judge	9
3	Family Judge	3
4	Chief Judicial Magistrate	4
5	Addl. Chief Judicial Magistrate	6
6	Civil Judge (Sr Div)	2
7	Civil Judge (Jr Div)	5
8	Judicial Magistrate	2
9	Special Judge	1
10	Anonymous	2
	TOTAL	**36**

ANNEXURE – 7

Report of the National Validation Seminar

The National Validation Seminar was envisaged to test the proposed performance indicator identified after various consultative meeting organised across the State of Uttar Pradesh and Uttarakhand over the two years. The validation seminar was organised in association with Faculty of Law, University of Lucknow at Lucknow on November 12, 2017. The seminar was attended by the various stakeholder namely Judges, Retired Judges, Advocates and Academician including research scholar and law students. Prof Balraj Chauhan (ex VC, Ram Manohar Lohia National Law University, Lucknow) was the chief guest of the validation Seminar while Mr. Saurabh Saxena (Dy Director, Judicial Training & Research Training Institute Lucknow) was the Guest of Honour. Prof Shabir), Prof Shabir (former Dean Faculty of Law, Aligarh Muslim University) was the key note speaker in the Validation Seminar.

The National Validation seminar was begun with the lighting of the lamp by the Chief Guest, Guest Honour , Key Note Speaker and Principal Investigator. Guests at the inaugural session were: by Mr. Saurabh Saxena (Dy Director, Judicial Training & Research Training Institute Lucknow), Prof Rakesh Kumar Singh (Dean, Faculty of Law, University of Lucknow), Prof Balraj Chauhan (ex VC, Ram Manohar Lohia National Law University, Lucknow), Prof Shabir (former Dean Faculty of Law, Aligarh Muslim University and Prof K M Baharul Islam (Principal Investigator, Law Ministry Project).

Prof Rakesh Kumar Singh, Dean Faculty of Law, University of Lucknow had given Inaugural Speech. In his speech, he mainly talked about judicial reform running in order to reduce the pendency of the civil suits and also mentioned the initiative taken by Chief Minister of Uttar Pradesh regarding the establishment of Commercial Court in 13 District of Uttar Pradesh. Prof

K M Baharul Islam, Principal Investigator of the project and Chair of CoEPPG had given background note. He briefed the gathering about the goals of the exercise. He said that a set of performance indicators have been suggested for the lower judiciary and it is developed over the last two years drawing from a range of data sources including the opinions of experts and members of the general public, information from the police, courts, and other institutions, NGO reports, and past researches on the subject. The keynote address was delivered by Prof Mohammad Shabbir, former Dean of Law faculty at AMU, Aligarh who said:

> "*Judiciary is the pivot of distributing justice among the people. A litigant comes to the judiciary not to lose rights but to establish. When loses his rights he tries to recover and re-establish by all means. Judiciary is the last resort for establishing rights. But judiciary is not proficient enough in delivering justice because of defective administration of justice due to procedural as well as practical loopholes*"

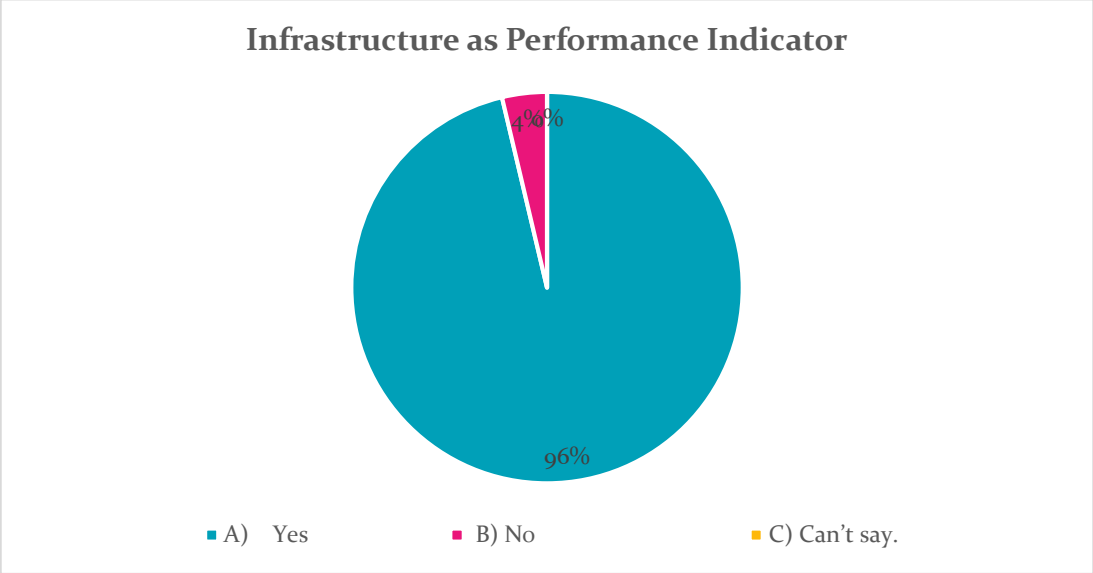
Validation of the Proposed Performance Indicator

The proposed performance indicator was validated through different technical session organised during the day. The technical session -I was chaired by the Retd Judge T. P Singh and co-chaired by Prof Ashish Kumar Srivastav, Assistant Professor of Law, University of Lucknow while Technical Session –II was chaired by the District Judge, Faizabad and co-chaired by Prof Mohd Ahmad , Associate Professor of Law, University of Lucknow. Miss Ambica Mehrotra (Civil Judge Junior Division) was a team leader in the technical session-I while Mr Sanjay Singh (Civil Judge) was a team leader in the technical session-II.

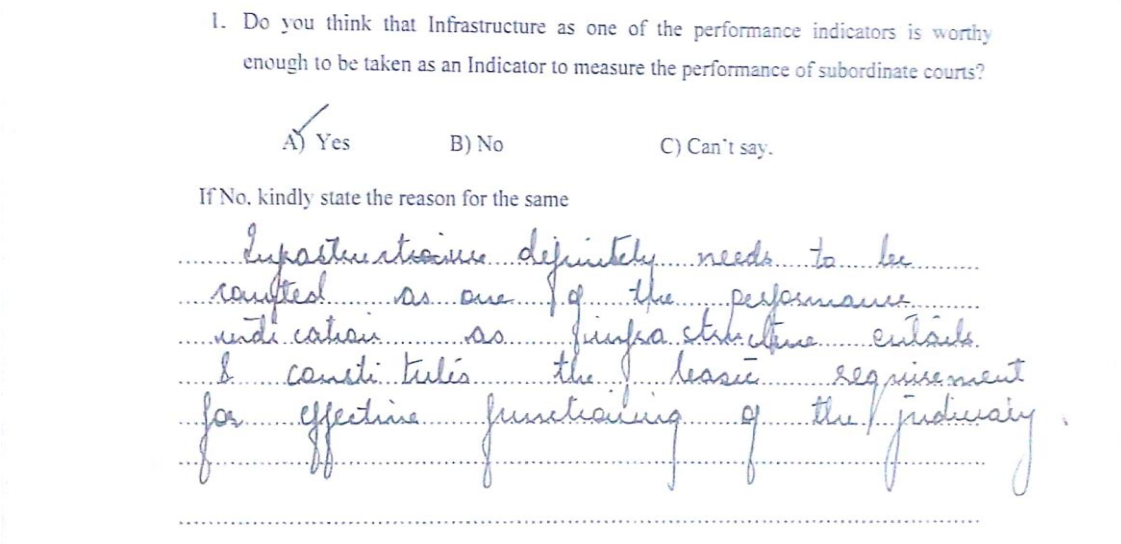
Session	**Chair**	**Co-Chair**	**Leader**	**Moderator**	**Team Member**
Technical Session-I	Mr. T. P Singh (Retd Judge)	Prof A.k.Srivastav	Ambica Mehrotra	Prof Shabir	1. Advocates 2. Anuj Kumar (Founder, Legal Desire) 3. Academician 4.
Technical Session-II	District Judge, Faizabad	Prof Mohd. Ahmad	Sanjay Singh	Prof Islam	1. Advocates 2. Ankit Gupta (Co-Founder, Legal Desire) 3. Academician

Summary of Feedback on Draft Indicators

1. Do you think that Infrastructure as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?



The majority, i.e. 96% of the view that Infrastructure as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts whereas only 4 % were of the opposite view.



1. Do you think that Infrastructure as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?

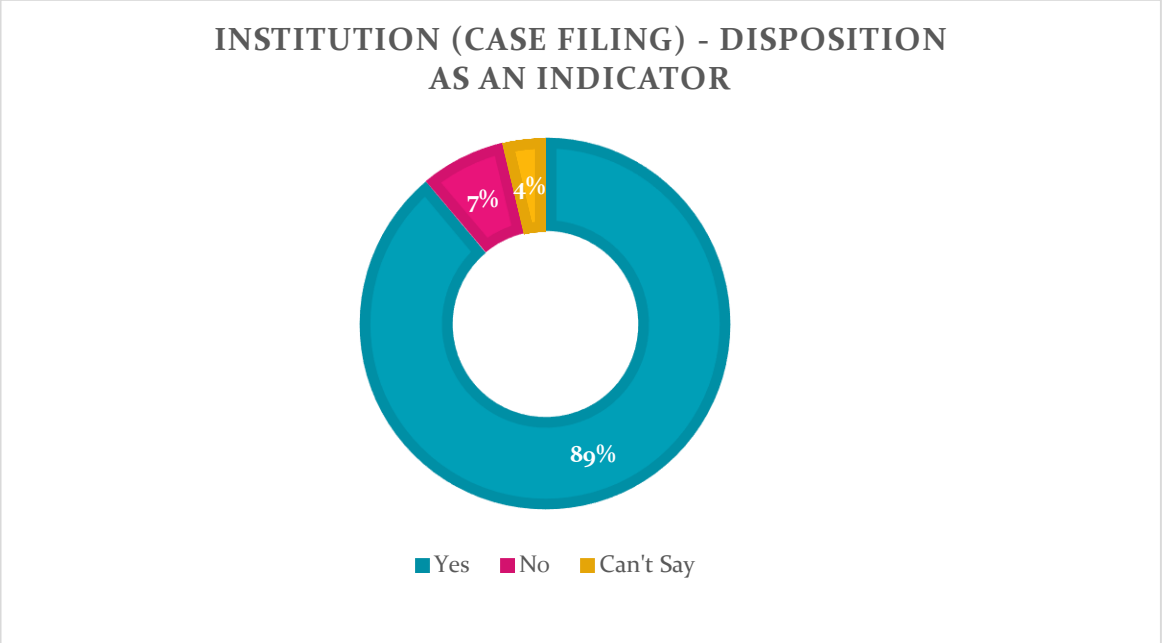
A) Yes B) No C) Can't say.

If No, kindly state the reason for the same

Infrastructure definitely needs to be counted as one of the performance indicators as infra structure entails & constitutes the basic requirement for effective functioning of the judiciary.

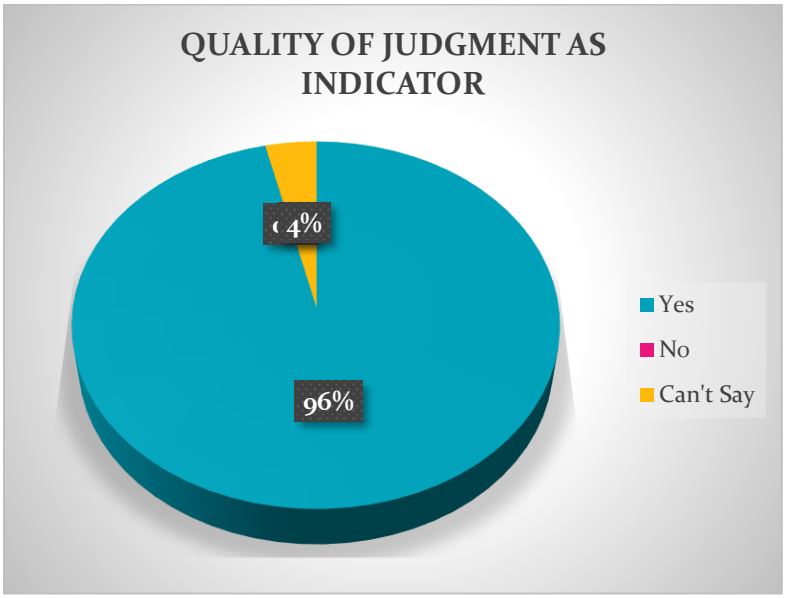
(Sample of feedback given by the participants at the Validation Seminar)

2 Do you think that Institution and Disposition Ratio as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?



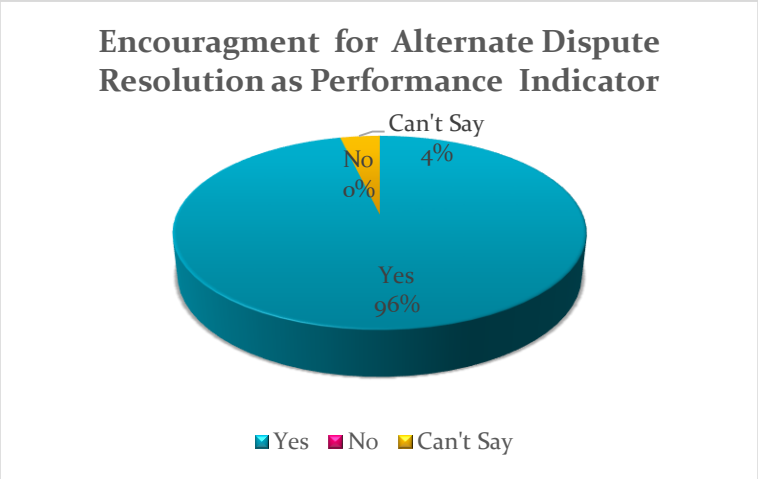
The majority, i.e. 89% stated that Institution and Disposition Ratio as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts whereas 4 (11%) were of the opposite view.

3. Do you think that "**Quality of Judgment**" as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?



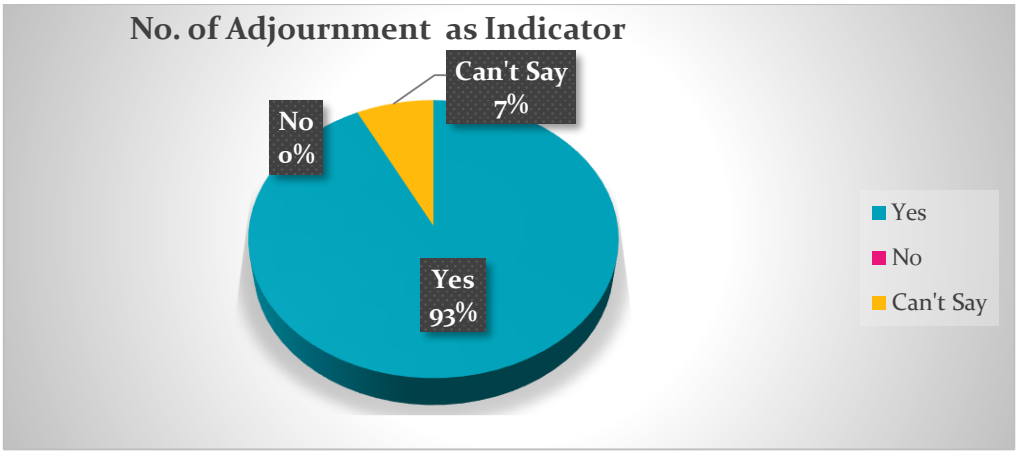
The majority, i.e. 96 % stated that Quality of judgment as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts whereas 4 % were of the opposite view.

4. Do you think that **"Encouragement for Alternate Dispute Resolution"** as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?



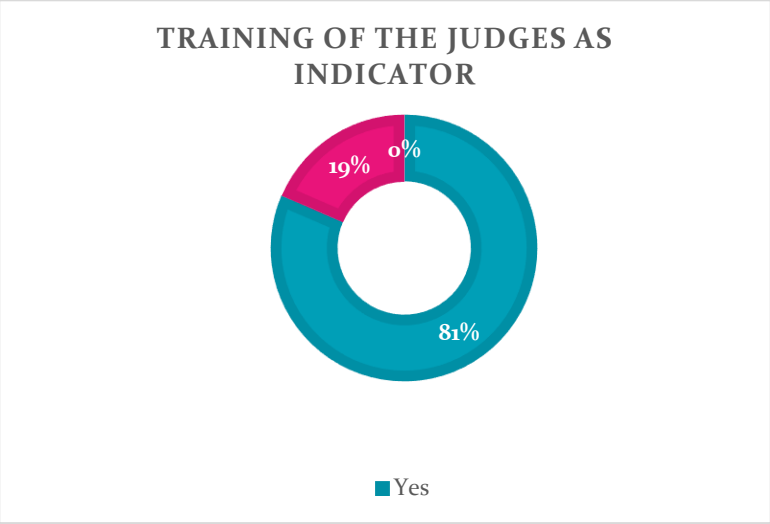
The majority, i.e. 96 % stated that Quality of judgment as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts whereas 4 % were not sure about it.

5. Do you think that "**No. of Adjournment granted during the life of case**" as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?



The majority, i.e. 93 % of the respondents stated that No. of Adjournment as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts whereas 4 % were of the opposite view.

6. Do you think that **"Training of the Judges"** as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts?



The majority, i.e. 81% of the respondent stated that Quality of judgment as one of the performance indicators is worthy enough to be taken as an Indicator to measure the performance of subordinate courts whereas 19 % of respondent were of the opposite view.

Outcomes of the Validation Seminar

The overall response of the participants at the national validation seminar on the *Performance Indicators for Subordinate Courts as* suggested by this study can be summarised as follows:

Sl.	Proposed Performance Indicator	Validation Score
1	Infrastructure	96%
2	Institution/Disposition Ratio	89%
3	Quality of Judgment	96%
4	Encouragement of ADR	96%
5	Number of Adjournment during the life of a case	93%
6	Training of Judicial Officer	88%

ANNEXURE- 8

Glimpses from the Consultative Workshops / Project Activities

Participants at the First Workshop at IIM Kashipur on Feb 14, 2016

Second Workshop at District Legal Service Authority, Aligarh on April 26, 2016

Third Workshop organised at District Legal Service Authority, Almora on August 23, 2016

Fourth Workshop organised at Bar Bhawan, Vikashnagar (Dehradun) on 19 Sept, 2016

Fifth Workshop organised at Conference Hall, Moradabad on 29 September, 2016

Sixth Workshop organised at Bar Hall, Allahabad on 7 December, 2016.

Seventh Workshop organised at Bar Hall, Haldwani (Nainital) on 12 April, 2017.

Participants responding to draft Indicators at the National Validation Seminar (University of Lucknow, 12 Nov 2017)

Participants at Technical sessions working on the Draft Indicators during the National Validation Seminar (University of Lucknow, 12 Nov 2017)

Participants at a Technical Session during the National Validation Seminar (University of Lucknow, 12 Nov 2017)

ANNEXURE- 9

MEDIA CLIPPINGS

lucknow.amarujala.com लखनऊ नवंबर 13, 2017 सोमवार अमर उजाला

'हाजिरी माफी पर रोक से कम हो सकते हैं लंबित मुकदमे'

लखनऊ विश्वविद्यालय के विधि संकाय में आयोजित सेमिनार में मंचासीन अतिथि। अमर उजाला

अमर उजाला ब्यूरो

लखनऊ।

वकीलों की ओर से न्यायालय में हाजिरी माफी लगाने की वजह से लंबित मुकदमों की संख्या लगातार बढ़ रही है। इनकी संख्या निचली अदालतों में ज्यादा है। हाईकोर्ट में यह संख्या कम है और सुप्रीम कोर्ट में तो नाममात्र की ही है। हाजिरी माफी पर रोक लगाकर लंबित मुकदमों की संख्या कम की जा सकती है। लखनऊ विश्वविद्यालय के विधि संकाय में आयोजित सेमिनार में रविवार को अलीगढ़ मुस्लिम विवि के शिक्षक प्रो. एम शब्बीर ने ये विचार व्यक्त किए। सेमिनार का विषय अदालतों में लंबित मुकदमों की संख्या कम करने के सुझावों पर आधारित था।

प्रो. शब्बीर ने कहा कि सिविल प्रोसीजर केस में काफी बदलाव हो चुके हैं। अभी भी इसमें कई बदलाव की जरूरत है, जिसके बाद लंबित केस की संख्या कम करने में आसानी होगी। डॉ. राम मनोहर लोहिया विधि विवि के पूर्व कुलपति प्रो. बलराज चौहान ने मुख्य अतिथि के तौर पर सेमिनार का उद्घाटन किया। उन्होंने कहा कि ये छात्र ही भविष्य के वकील और जज हैं। इस तरह के सेमिनार से उन्हें काफी मदद मिलेगी। विधि संकायाध्यक्ष डॉ. आरके सिंह ने सभी का स्वागत किया। इस मौके पर डॉ. अनुराग श्रीवास्तव तथा अन्य शिक्षकगण उपस्थित थे।

02/05/2016 जज को उसके काम से जाना जाए : संजय

जज को उसके काम से जाना जाए : संजय

अलीगढ़ : अब समय आ गया है कि जज को उसके काम से जाना जाए और जज की जबावदेही तय हो। इसके साथ ही अच्छा काम व अधिक मामले निपटाने वाले अधिवक्ताओं को पुरस्कृत किया जाना चाहिए। यह बातें प्राधिकरण सचिव संजय चौधरी ने भारत सरकार के कानून एवं न्याय मंत्रालय की न्यायिक सुधार अनुसंधान परियोजना के तहत आइआइएम, काशीपुर, उत्तराखंड ने जिला विधिक सेवा प्राधिकरण, अलीगढ़ के सहयोग से लाईब्रेरी हॉल में 'अधीनस्थ न्यायालयों के प्रदर्शन के सूचक तथा लंबित दीवानी मामले में कमी हेतु नीतिगत व प्रक्रियात्मक परिवर्तन' विषय पर कार्यक्रम के दौरान कहीं।

प्रभारी जिला न्यायाधीश मो. जहीरुद्दीन ने कार्यक्रम का शुभारंभ करते हुए कहा कि न्यायिक प्रक्रिया में सुधार समय की माग है। परिवर्तन होने भी चाहिए। प्राधिकरण सचिव आइआइएम काशीपुर को धन्यवाद देते हुए कहा कि इस विषय पर इस विषय पर अलीगढ़ जिले को चुना जाना हर्ष का विषय है। आइआइएम के प्रोफेसर नितिन सिंह ने कहा कि न्यायिक सुधार में नीतिगत परिवर्तन के लिए सरकार प्रयासरत है। आइआइएम के सीनियर रिसर्च स्कॉलर एके शर्मा ने कहा कि उत्तराखंड, दिल्ली, हरियाणा व उत्तर प्रदेश के सभी जिला विधिक सेवा प्राधिकरणों में अलीगढ़ के सबसे बेहतर स्थिति में होने के कारण अलीगढ़ को चुना गया। इस परियोजना को अलीगढ़ के लिए चुना गया। उन्होंने बताया कि इस परियोजना को तीन चरणों में बाटा गया है, जिसके प्रथम चरण में अधिवक्ता, द्वितीय चरण में वादी-प्रतिवादी व तीसरे चरण में न्यायिक अधिकारियों से जाना जाएगा कि अधीनस्थ न्यायालयों के प्रदर्शन के सूचक व लंबित दीवानी मामले में कमी के लिए परिवर्तन कैसे लाए जा सकते हैं। एएमयू के विधि विभाग के प्रो. नोमानी ने कहा कि जब हर व्यक्ति की जवाबदेही तय की जा रही है तो न्यायिक अफसरों की भी जवाबदेही तय होनी चाहिए। यहां अधिवक्ताओं से एक प्रश्नावली भी भरवाई गई। इस मौके पर अपर जिला न्यायाधीश केके पांडेय, एके पुंढीर, विनय कुमार, योगेश शर्मा, संजय पाठक, शिवा पाठक, योगेश सारस्वत, आमिर खान, पूनम बजाज, रामप्रताप, संजय पाठक आदि मौजूद रहे।

जागरण

15/02/2016 Hindustan E-paper

epaper हिन्दुस्तान

काशीपुर। कार्यालय संवाददाता

सही मार्गदर्शन से मंजिल तक पहुंचने की है जरूरत

रामनगर। राज्य में प्रतिभाओं की कमी नहीं, जरूरत उन्हें सही मार्गदर्शन करके मंजिल तक पहुंचाने की है। अमेरिका के जॉर्जिया विश्वविद्यालय में रिसर्च फेलो जितेंद्र पंत ने यह बात युवाओं के लिए विशेष तौर पर आयोजित सेमिनार में कही। उन्होंने सेमिनार में व्यक्तित्व विकास एवं सकारात्मक सोच के लिए अहम टिप्स देने के साथ ही सात समुंदर पार शिक्षा एवं व्यवसायिक प्रशिक्षण लेने के बारे में विस्तार से जानकारी दी। लाइफ चेंजिंग सेमिनार नाम से पीएनजी कालेज में आयोजित कार्यशाला में मुख्य वक्ता जितेंद्र पंत ने स्लाइड शो के जरिए विदेशों में स्थित विश्वविद्यालयों और शोध संस्थानों की जानकारी देते हुए इनमें प्रवेश प्रक्रिया के बारे में बताया। उन्होंने कहा कि इनमें पढ़ाई के लिए कई फेलोशिप उपलब्ध हैं। उन्होंने छात्रों को परीक्षाओं के दौरान मानसिक तनाव प्रबंधन के गुर सिखाए। उन्होंने कहा कि रामनगर जैसे छोटे शहरों के युवा भी उचित तैयारी और जरूरी मार्गदर्शन के साथ बेहतर करियर बना सकते हैं। कार्यक्रम के आयोजक धीरज सिंह असवाल ने सबका आभार जताया। यहां डॉ. गिरीश पंत, डॉ. बीएम पांडे, पूरन नेगी रहे।

वकीलों ने दिए यह सुझाव

पेचीदा मामलों में जजों को साइट विजिट करनी चाहिए गवाहों के लिए वीडियो कान्फ्रेंसिंग की सुविधा होनी चाहिए जजों की संख्या बढ़ाई जाए, राजस्व केसों को ज्यूडिशियल आफिसर ही सुनें,जजों को जबावदेह बनाया जाना चाहिए, जिन जजों के अधिकतम फैसले अपील में पलटे जाते हैं, उन्हें दोबारा ट्रेनिंग दी जाए।

आईआईएम काशीपुर और कानून एवं न्याय मंत्रालय भारत सरकार की ओर से लंबित सिविल केसों के निस्तारण को लेकर कार्यशाला आयोजित की गई। इसमें अधिवक्ताओं ने अपने सुझाव रखे।

अधिवक्ता बीएस गहलौत ने कहा कि सिविल केस में अधिकतर केस राजस्व के होते हैं, जिनकी सुनवाई एसडीएम और तहसीलदार करते है। जबकि पीसीएस लॉ ग्रेजुएट नहीं होते हैं। जानकारी के अभाव में वह केस को लंबा खींच देते हैं। इसके अलावा वीआईपी ड्यूटी के कारण वह केसों की सुनवाई नहीं कर पाते हैं। राजस्व केसों को ज्युडिशियल आफिसर ही सुनें। अम्बरीश अग्रवाल ने कहा कि जमीन के मामले में कई बार पटवारी गलत रिपोर्ट देते हैं, जिसे चैलेंज करने के बाद काफी समय बर्बाद होता है। कहा कि आनलाइन मैप की व्यवस्था होनी चाहिए। गवाह को भी वीडियो कान्फ्रेंसिंग से अपनी बात रखने की व्यवस्था होनी चाहिए। आईआईएम के प्रोफेसर केएम बहरूल इस्लाम ने कहा कि केसों के निस्तारण के लिए जजों के साथ ही लॉ स्टूडेंट को अधिक ट्रेनिंग देने की जरूरत है। कहा कि जजों की संख्या भी बढ़ाई जानी चाहिए। प्रो नितिन सिंह ने कहा कि जजों की क्षमता का आंकलन संख्या के आधार पर होना चाहिए। उन्होंने कहा कि कोर्ट में सर्विस लेवल एक्ट होना चाहिए। वादी से फीस तब ली जाए, जब जजमेंट आने वाला हो। डॉ.अजय शर्मा ने कहा कि कई बार अधिवक्ता भी वादी को गलत राह दिखा देते हैं। कहा कि उपभोक्ता व अन्य कई केसों में सिविल केस दर्ज करा दिया जाता है, जबकि उन्हें फोरम के माध्यम से निपटाया जा सकता है।

10/24/2016 कार्यशाला में मुकदमों का बोझ कम करने पर चर्चा 14788934 ANNEXURE - 8

जागरण

www.jagran.com October 24,2016

#समाजवादी संग्राम #सीजफायर #नरेंद्र मोदी #अमेरिकी चुनाव #बिग बॉस 10 #इंडिया vs न्यूजीलैंड

उत्तर प्रदेश ▸ कानपुर • लखनऊ • मेरठ • आगरा • इलाहाबाद

कार्यशाला में मुकदमों का बोझ कम करने पर चर्चा

Publish Date:Fri, 30 Sep 2016 02:25 AM (IST) | Updated Date:Fri, 30 Sep 2016 02:25 AM (IST)

मुरादाबाद, जासं : इंडियन इंस्टीट्यूट ऑफ मैनेजमेंट द्वारा बार सभागार में आयोजित कार्यशाला में न्यायालय में दीवानी के मुकदमों में कैसे कमी आए और इनका निस्तारण कैसे जल्दी किया जाए, इस पर चर्चा हुई। अधिवक्ता प्रभात गोयल ने कहा कि दीवानी में वाद तय होने के बाद इजरा में अत्यधिक विलंब से बचने की व्यवस्था होनी चाहिए। वरिष्ठ अधिवक्ता पुष्पेन्द्र कुमार गुप्त ने कहा कि तामील में सुधार होना चाहिए। कार्यशाला में सभी अधिवक्ताओं के विचारों को नोट किया गया। अध्यक्ष धर्मवीर सिंह, महासचिव राकेश कुमार वशिष्ठ, अंकित कुमार श्रीवास्तव, आशुतोष मिश्र सहित अन्य अधिवक्ता मौजूद रहे।

मुरादाबाद, जासं : इंडियन इंस्टीट्यूट ऑफ मैनेजमेंट द्वारा बार सभागार में आयोजित कार्यशाला में न्यायाल

DR K M BAHARUL ISLAM
MBA, MA, B.Ed, LLB, LLM (Strathclyde, UK)
PhD (English), PhD (Social work)
Post-Doctorate (AIT, Bangkok), IPDET (Bern)
GloCOLL (Harvard)
Professor & Chairperson,
Centre for Public Policy and Government
Fellow,
KAICIID Dialogue Centre, Vienna
US-India Policy Institute, Washington DC
Indian Institute of Advanced Study, Shimla

IIM KASHIPUR
भारतीय प्रबंध संस्थान काशीपुर
INDIAN INSTITUTE OF MANAGEMENT KASHIPUR
T +91 5947 262174 & 116 Fax +91 5947 262820
e-mail : info@iimkashipur.ac.in website : iimkashipur.ac.in
Kundeshwari, Kashipur - 244713, (U.S. Nagar)
Uttarakhand, INDIA

No. IIMK2/COEPPG/LAW/1177
Date 5 Oct 2018

Sri Giridhar Pai
Director
Ministry of Law & Justice
Jaisalmer House
26 Mansigh Road
NEW DELHI 110011

Kind Attn: Sri Z A Khan, Under Secy.

Sub: Submission of 5 Copies of Final Report and copies of UC – reg.

Sir,

With reference to your letter under F. No. N-9/19/2014-NM Dated 23 March 2018, I am sending herewith five copies of the final report of our project entitle "Performance Indicators for subordinate courts and suggestive policy/procedural changes for reducing civil law pendency". The suggestions made at the made at the PSC meeting dated 5.3.2018 have been incorporated in the report.

The original utilisation certificate and the financial statements for entire cost and duration is attached herewith.

Yours sincerely,

(Dr K M Baharul Islam)
Principal Investigator
Prof and Chair
Center for Public Policy and Government
IIM Kashipur 244713 (Uttarakhand)

11/10/18

IIM KASHIPUR
भारतीय प्रबंध संस्थान काशीपुर
INDIAN INSTITUTE OF MANAGEMENT KASHIPUR
T +91 5947 262174 & 116 Fax +91 5947 262820
e-mail : info@iimkashipur.ac.in website : iimkashipur.ac.in
Kundeshwari, Kashipur - 244713, (U.S. Nagar)
Uttarakhand, INDIA

GFR 12 – C

Form of Utilization Certificate

(Where expenditure incurred by Govt. bodies only)

S.No.	Letter No. and Date	Amount (Rs.)
01	SO No.N-9/19/2014-NM date 21.05.2015	5,00,000/-
	SO No.N-9/19/2014-NM date 21.06.2016	10,00,000/-
	SO No.N-9/19/2014-NM date 23.03.2018	8,75,000/-
	Total	**23,75,000/-**

1.Certified that out of **Rs.25,00,000/-** lacs of Grants sanctioned through letter No. N-9/19/2014-NM dated 27.05.2015 and against which **Rs.23,75,000/-** (Rupee Twenty Three Lakh Seventy Five Thousand Only) has been received in favour of Indian Institute of Management Kashipur under MHRD/Department, letter No. given in the margin and a sum of **Rs.25,00,000/-** (Rupee Twenty Five Lakh Only) has been utilized for the purpose of "Performance indicators for subordinate courts and suggestive policy/procedural changes for reducing civil case pendency" for which it was sanctioned and that the balance of **Rs.1,25,000/-** (negative) remaining unutilized at the end of year, against bills in process and Rs. NIL has been surrendered to Government (vide No. Nil dated Nil)/ will be adjusted towards the grants payable during the next year.

2. Certified that I have satisfied myself that the conditions on which the grants-in-aid was sanctioned have been duly fulfilled/are being fulfilled and that I have exercised that following checks to see that the money was actually utilized for the purpose for which it was sanctioned.

Principal Investigator
Ministry of Law Project

Signature
Designation - Director IIM Kashipur

INDIAN INSTITUTE OF MANAGEMENT KASHIPUR
Director

Date – 08.10.18