

Conference
Proceedings of
**National Initiative to
Reduce Pendency
and Delay in
Judicial System**



Organized by : SUPREME COURT OF INDIA
In Collaboration with : THE INDIAN LAW INSTITUTE



**Conference Proceedings of
National Initiative to
Reduce Pendency and Delay
in Judicial System**

Organized by :

SUPREME COURT OF INDIA

In collaboration with :

THE INDIAN LAW INSTITUTE

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Chief Justice of India

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FOREWORD

An efficient judiciary is the hallmark of a great nation. The Indian Supreme Court has lived up to its reputation of being not only the most powerful court in the world but also the custodian of peoples' rights and entitlements. However, judicial administration has felt the load by mounting arrears of cases. On the one hand, the judiciary of the country is applauded for taking care of the weak and the marginalized and upholding the constitutional promise of justice to all; on the other hand, it faces criticism due to huge mounting arrears of cases. However, the Supreme Court as the custodian of the rights of the people has to take decisive steps without waiting for the other organs of the polity to do their part.

To tackle the backlog of cases, it was decided to bring all High Courts along with representation from subordinate judiciary together. A need was also felt to hear academic voices and so legal academicians were made part of this national initiative. The idea was to initiate a conversation amongst each other to chalk out strategies, share best practices, discuss problem areas, find alternate mechanisms and encourage each one to optimally use technological developments.

This Handbook is a result of that initiative and will work as a ready reckoner for judges and judicial officers to deal with and overcome the issues and challenges facing judicial administration in the country and make the system more efficient.


(Dipak Misra)

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Part I



SUPREME COURT

Conference National Initiative to Reduce Delay in Judiciary

in Collaboration with India

28 July

Bharat

Shri Justice Kurian Joseph

Chief Justice of India

Shri Justice Ranjan Gogoi

Chief Justice of Assam



OF INDIA

Conference on Reduce Pendency Judicial System

Law Institute

27 July

Shri Justice Dipak Misra

Shri Justice Madan B. Lokar



Inaugural Session of Conference on National Initiative to Reduce Pendency and Delay in Judicial System on 27 July 2018

National Initiative
to Reduce Pendency
and Delay in
Judicial System

BACKGROUND

The fundamental requirement of a good judicial administration is accessibility, affordability and speedy justice. Mounting arrears of cases in the courts have been a cause of great concern for the litigants as well as the State. This is attributed mainly to lower rate of disposal of cases in comparison to the number of cases instituted. In the present times, there has been an upsurge in the pendency of litigation in the country, especially in the district courts.

The constitutional promise of Justice- social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and unity and integrity of the nation will not be realized until and unless the justice delivery system is made within the reach of the individual in a time bound manner and within a reasonable cost. Speedy trial is a part of right to life and liberty guaranteed under Article 21 of the Constitution of India. Therefore, delay in disposal of cases may in a way result in denial of this fundamental right.

Both the Government and the Judiciary have made numerous attempts from time to time to address the challenges of judicial pendency and delay but still the matter has not been addressed in its entirety. The Law Commission Reports and various independent studies have also flagged the issue and suggested various reforms. With this backdrop, the idea of a National Initiative was floated to deliberate upon these issues, share best practices and find solutions for increasing the disposal rate, reducing pendency and also curtailing the span of trial. The present Conference was an attempt to bring together judges, lawyers and academicians to deliberate the issue of pendency and delay in the judicial system. Another objective was to take stock of technological advancements which may be useful and may be effectively used in the justice administration. The Conference had the following objectives :

- To have in place an effective Case and Court Management System to strengthen the Judiciary.
- To identify immediate possible solutions for reducing pendency and delay in the judicial system.
- To review the functioning of alternate dispute mechanism as an effective mode to address the challenges of pendency and delay in the judicial system.
- To analyse the role of technology in addressing the challenges of pendency and delay in the judicial system.
- To identify the role of Bar Council and Lawyers.
- To seek suggestions and recommendations.

The sessions were as follows:

SESSION I: Case and Court Management to Strengthen Judiciary –The Way Ahead

SESSION II: Alternative Dispute Mechanism- An Effective Solution towards Reducing Pendency

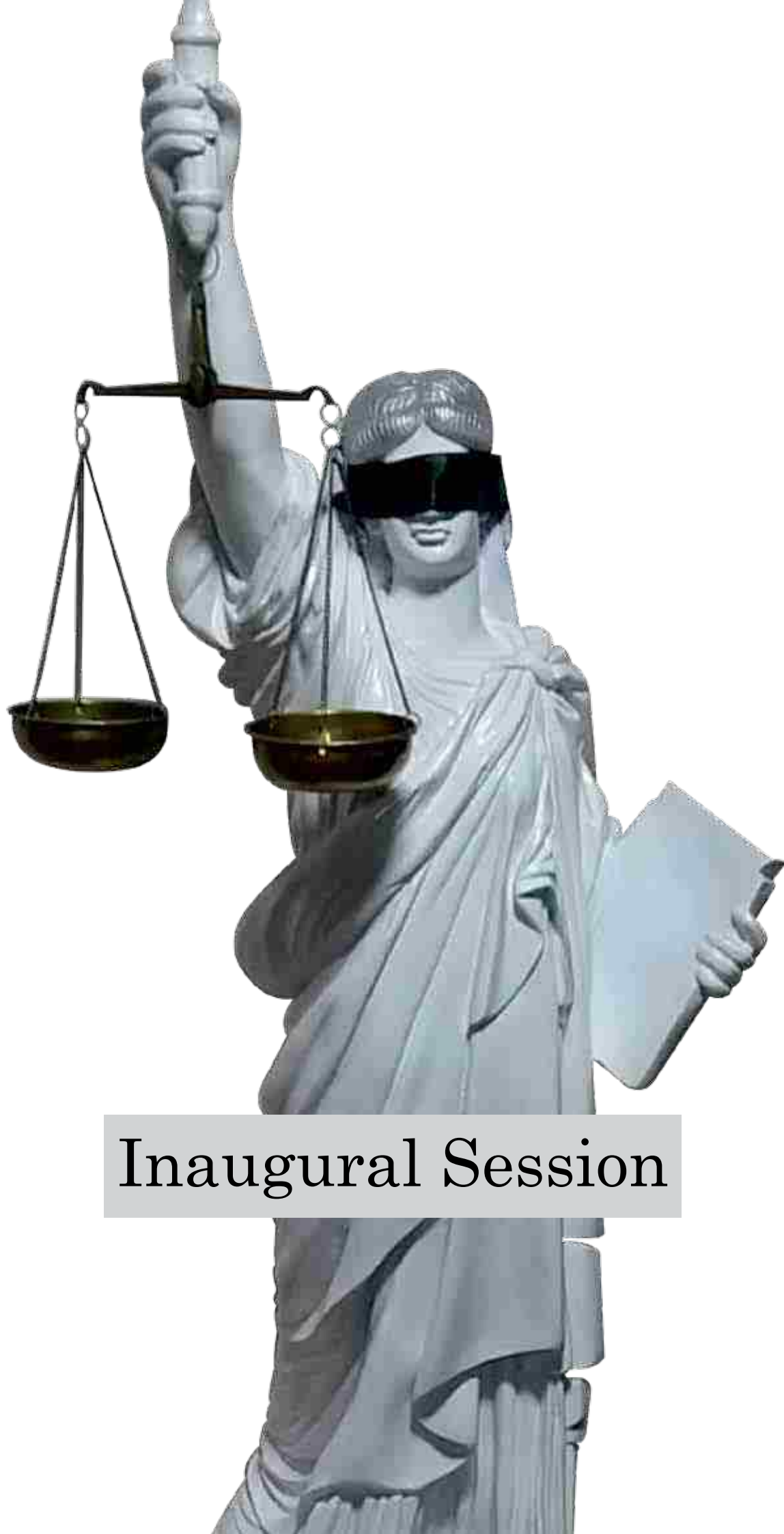
SESSION III: Use of Technology- A Possible Solution to Address Delay and to Deliver

Speedy Justice

SESSION IV: Immediate Possible Solution for Reducing Pendency and Delay in Judicial System

The two-day Conference (27th-28th July, 2018) on National Initiative to Reduce Pendency and Delay in Judicial System was inaugurated by **Hon'ble Shri Justice Dipak Misra**, the Chief Justice of India along with Senior Judges of the Supreme Court. The deliberations in the working sessions were presided over by the Hon'ble Supreme Court Judges and there was representation of Chief Justices and Judges of the High Courts along with senior members of District Courts.

The Conference started on a high note of hope and aspiration to find solutions and there was a participation of over 350 members from various benches from all over the country. The members of the bench explored and deliberated on the loopholes in the system, shared best practices, and tried to evolve workable solutions to tackle the issue of pendency and delay.



Inaugural Session



**Inaugural Address by
Hon'ble Shri Justice Dipak Misra
Chief Justice of India**

My esteemed colleagues of the Supreme Court, Hon'ble Chief Justices of the High Courts, Hon'ble Judges of the High Courts, Eminent Professors, Judicial Officers from various parts of the Country, Faculty Members of the Indian Law Institute, friends from the Electronic and Print Media, Ladies and Gentlemen.

The agenda for this conference is not something new to the stakeholders of the Indian Judiciary. The problem of pendency and delays has to be accepted but I must inform the members of the Indian judiciary, that we are totally committed to arrive at a solution and bring change in this position. We are consciously investing in innovative strategies to tackle the issue of pendency and delays.

I may clarify an aspect. It is to be remembered that every delay is not an arrear. Pendency of large number of cases must not be confused with arrears. The concept of docket explosion is also a sign which signifies that the Indian

citizenry reposes faith in the judicial system of the country and are approaching the courts in their quest for justice.

It is only those cases which are not disposed of within the stipulated period of time or within their case life, that ultimately turn into an arrear. Hence, we must not rush to declare every delay as an arrear and get into a state of disturbance by such ill-founded concepts. Our concerted efforts to reduce and finally eliminate the five year old cases in the subordinate courts are befitting results. Arrears Committees of the High Courts have already been advised to supervise this issue and orchestrate a time bound action plan to curtail the growth of such arrears.

I must acknowledge that our initiatives have started yielding results. Though we have a judge population ratio of approximately 19 per million which is far lower as compared to other countries like US and China yet we have been successful to control the arrears at the subordinate judicial level to around two crore ninety lakhs in the past few years. Such progress speaks eloquently of our constant and ingenuous efforts.

One of the factors intensifying the problem of delay and arrears is the high number of posts lying vacant in the subordinate judiciary.

Though the judiciary as an institution has been making endeavours to ensure that vacancies are identified well in advance and are filled as and when they become vacant, yet the subordinate courts of the country are working with a strength of only 16,900 judicial officers as against the sanctioned strength of 22,200 as on 1st April, 2018, leaving about 5,300 posts vacant. These 5,300 vacant posts constitute around 24% of the total sanctioned strength.

Despite constant monitoring on the judicial side and repeated resolutions in the Chief Justices' Conferences, the current situation cannot be called to be satisfactory. In a few populous states, the vacancy in the subordinate courts is even upto 35%. If I may specify, the High Courts of Allahabad, Patna, Delhi and Jharkhand are having more than 30% vacancies of Judicial Officers. I may also inform that the High Courts are taking steps to fill up the vacancies.

It is high time that we firmly resolve and prepare a pan India action plan so as to eradicate the problem of vacancies in subordinate courts. We must not lose sight of the fact that maximum number of litigants approaching the Indian judicial system have their first experience with the Indian Judiciary at the trial court, and hence, if posts of judicial officers remain vacant at the trial court level, then it would essentially blur our vision for "Access to Justice" for all. I have requested the Chief Justices of all High Courts to explore the possibility of hearing, Criminal Appeals and Jail Appeals in which Legal Aid Counsel has been provided on Saturdays. I am really happy to share with you all that the results have been really encouraging.

This in turn prompted me to urge the High Courts to also explore the possibility of hearing on Saturdays, Criminal Appeals which have been pending for more than 10 years after obtaining consent of counsels of both the parties. Without exaggerating much, I may pleasantly share with you all that these initiatives have resulted in heartening

results, as over 3,000 appeals and revisions have been decided till date by specifically constituted benches for hearing the aforesaid criminal appeals on Saturdays. It has thus proved a step in the right direction.

I must admit, there can be many other numerous ways to give succour to those who are waiting in the queue for justice.

It is axiomatic that the right to life and liberty as a facet of Article 21 is one of the most cherished fundamental right guaranteed under our constitution. Pendency of cases of undertrials for long periods of time jeopardizes this cherished right and raises serious questions about the efficacy of the Indian judicial system. We must make all efforts to protect the liberty of innocent undertrials languishing in jails.

This year, in the month of May, I once again requested the High Courts to explore the possibility of hearing Criminal Appeals during the Summer Vacation in which convict has been in Jail for 5 years or more, of course, after obtaining consent of counsels of both the parties. The information which has been received so far reflects that around

240 cases have been decided during summer vacation in May-June 2018.

This number may at a first look appear to be diminutive, but we have to remind ourselves that Rome was not built in a day. Just imagine, a convict who has been in Jail for 5 years and his Criminal Appeal was decided during this Summer Vacation because of this new initiative, what amount of wonders, would have this done to the confidence of the convict as well as all other stakeholders in our Judicial System.

Seeing a positive result of all these initiatives, I got further encouraged to make yet another request to the high courts to initiate a “Disposal Review Mechanism” which shall, in particular, concentrate on monitoring the status of institution and disposal of cases and thereby evolve a mechanism to devise new strategies so that new cases which are being instituted, do not end up increasing the arrears.

I am absolutely certain that this conference and the working sessions tomorrow would facilitate and foster fruitful and profitable deliberations which will keep in view the

needs of the district judiciary, particularly manpower and infrastructure so that the issue of arrears and delay could effectively dealt with.

For further enhancing and augmenting the functioning of the Indian Judiciary, concerted efforts to increase the manpower and strengthening the infrastructure, shall be pursued in each of the planned sessions. Such efforts shall be done in the backdrop of a well-planned strategy developed keeping in mind the local needs and future requirements. I am sure that every High Court will make conscious decisions in this regard in coordination with the State governments.

We must make optimum utilization of this dialogue to achieve our mission of securing “Justice for All” which is the first and foremost goal under the preamble of our Constitution. Mere acknowledgement of the fact that our judicial system is swamped with a huge number of pending cases, would not suffice anymore. We must also reckon to the statistics at the micro level during our interactions in the four planned sessions

so as to determine the action areas and fix definite targets.

It is a great move that there will be specific discussion on the role of the 'Case and Court Management Techniques' to strengthen the judicial system. Effective case management which is the heart and soul of the judicial process, enriches the quality of justice dispensation through timely, fair and efficient use of processing methods. Case management system is a highly innovative mechanism which enables as well as empowers the judges and the court staff in delivering timely and qualitative justice.

The effective case management reforms depend upon establishment of adequate infrastructure to manage judicial data and records in a reliable and objective manner. Such integration of different initiatives and measures will help in developing a holistic mechanism which would help in providing inherent backup to different initiatives for performing better towards a common goal of strengthening the access to justice. Technology can surely do wonders if used wisely as well as appropriately.

I am of the convinced opinion that Alternative Dispute Resolution (ADR) mechanism is a game-changer in the entire process of handling the challenges of pendency and delays. It is something which has been part of India's culture. Every system evolves with time, so has ADR undergone several changes and what we practice today is a legislatively and judicially sanctioned and approved version and technique oriented art of mediation or conciliation and arbitration. People associate with ADR methods quite easily and are quite receptive to its use for settlement of their disputes. Hence, we must seize such opportunities and employ ADR methods through courts as courts are empowered to do so under section 89 of Civil Procedure Code.

While our major focus in this conference is on revisiting our strategies in the fields of case and court management, ADR and use of technology, I would say that strengthening of the vitality of judicial reforms also need to invest in training new generation of judges who could execute the necessary reformatory measures in relevant areas of the court's





Participants in the Conference on National Initiative to Reduce Pendency and Delay in Judicial System on 27-28 July 2018

functioning. What may be workable in the Delhi may not produce similar results in Chhattisgarh and vice-versa. Basically, the solutions need to be subject specific, areas specific, pendency growth specific and above all culture specific. We shall not forget that we are dealing with judicial problems in a country which has distinct cultural shades, diverse socio-economic necessity and assorted need of justice depending upon the dominance of local customs and many other distinct patterns of human behaviour.

Having said that, a mere revisiting of our ongoing initiatives will not be adequate. At the moment we need to indulge in serious thinking to cull out some plan, some ideas, some framework for immediate use, an immediate solution. We may call it temporary relief but we surely need such urgent measures for immediate implementation.

Institutional regeneration/fortification dynamism meaning thereby that the institution has several duties and responsibilities and constitutional promises to keep and for the said purpose, it has to continue striving tirelessly and incessantly.

It is basically about affirming a path to fulfil constitutional promises which must effectively reach at the ground level.

We have to make attempts to balance and reconcile many ideas to arrive at the solution of 'Timely and Effective Justice' so as to make the goals of justice a reality for the citizens.

The avalanche of litigation and the docket of pending cases have to be controlled with deft approach. I have certain suggestions:

1. Time Limit to dispose of technical pleas by all courts.
2. Mechanism to monitor progress of cases from filing till disposal, categorise cases on the basis of urgency and priority and also grouping of cases.
3. Set annual targets and action plans for subordinate judiciary and High Courts to dispose of old cases and maintain a bi-monthly or quarterly performance review to ensure transparency and accountability.
4. Keep track to bridge the gap between institution and disposal of cases so that there is not much backlog
5. Shortage of Judges is no doubt a factor

- responsible for pendency but at the same time, it is found that some courts have been functioning and performing better in the same conditions. Adopt such courts as models. This underscores the need to understand that existing capacity has to be better and fully utilized rather than solely concentrating on developing additional capacity.
6. Modernisation, computerization and technology – court automation systems, e-courts, digitization of court records, access to information about cases, if possible, could be made available to litigants in a more simpler mode instead to going through multiple web pages, otherwise “access to justice” would remain illusory and we would distance ourselves more from the common man who is the real beneficiary of the justice dispensation system.
 7. Strive for more alternative methods of dispute resolution in various forms like arbitration, mediation, pre-litigation mediation, negotiation, lok adalats, well-structured and channelized plea bargaining, etc.
 8. Committees at the high court level have to be proactive and functional committees. They should meet at least once a fortnight and keep their surveys and reports in digitized format.
 9. Frame strict guidelines for grant of adjournments especially at the trial stage, also stricter timelines for cases, not permitting dilution of time frames specified in CPC for procedural steps in the civil proceedings.
 10. Explore options of Saturday Courts for cases other than criminal appeals. Every drop counts for it is common place that little drops of water make the mighty ocean. It is small things that add up to produce the huge. It is through persistent efforts and continued application that major accomplishments would finally result.
 11. Consider and explore options for setting up fast track courts and fixing time limits or deadlines for certain categories of cases especially in subordinate courts.
 12. Multi-pronged approach and momentum

required. Lackadaisical attitude and the mindset of delay has to go.

13. Emphasis has to be given to basics and minutest details with meticulous planning since you must have heard the way Benjamin Franklin had described how for want of just a horse-shoe nail, a kingdom was lost.

14. High Courts may form think tanks with Judges and lawyers and academicians to consider and explore other innovative modes and initiatives to reduce delays and pendency.

15. Our motto should be – “Shaping our judicial future: Inspiring change through “Timely and Effective Justice”

I am sure we shall arrive at our targeted destination in a glorious manner.

Thank you.

**Summary of Special Address by
Hon’ble Shri Justice Ranjan Gogoi
Judge, Supreme Court of India**

Hon’ble Shri Justice Ranjan Gogoi, Judge, Supreme Court of India, began his special address by thanking the dignitaries.





He initiated his address by asking some pointed questions such as, has the system become unserviceable, does the system now cater to the classes and not the masses, is the system now instrumental in creating a new class of elites, has the delay in justice delivery become a new defense? He further mentioned that we have progressed a little from the 120th Law Commission Report, 1987 titled as “Man power planning in Judiciary - A Blue Print” to 245th Law Commission Report, titled as “Arrears and Backlog: Creating Additional Judicial (wo) manpower”, 2014. With these initial remarks he wanted everyone to ponder upon what the road ahead looks like. He congratulated the Chief Justice of India for holding this National Initiative to Reduce Pendency and Delay in Judicial System.

On a very encouraging note he informed that the annual disposal of cases was proportionate to the institution of new cases. He expressed that this should mean that no new arrears of cases would be created and that the only probable troublesome area are the distress cases.

For this, he suggested some simple solutions such as co-relating the pending cases with the physical database, so as to identify whether they are still in existence or not. This would, in turn, aid in identifying the live cases, where the parties are still interested in pursuing them. The intent of this was to separate the grain from the chaff and save precious judicial time.

He stated that justice cannot be mechanical, it has to be dynamic and everything pragmatic should be done to achieve it. He further added that with the segregation of matters into live and dead cases, the goals and required approach will be different. There could exist a more precise and constructive way to deal with backlog of cases and for doing so, he recommended that the constructive suggestions of National Court Management System, to bifurcate the cases on the basis of number of years of trial be implemented.

He suggested that 2013 Judge’s Committee Recommendations should also be incorporated. He shared that last month the Supreme Court directed the stakeholders to submit an action plan on how they intend

to proceed with implementation of the recommendations. While referring to the sitting Chief Justices of the High Court, he advised that this matter should be actively pursued by them in their respective courts.

He urged efficient use of the existing technology and to substantiate it, he relied on the Economic Survey 2017-18. He mentioned that 0.09% of the GDP is dedicated to the administration of justice. But this has no direct bearing on the pendency of cases. He was categorical that spending on technology in court management would significantly reduce the period of the trial.

He referred to studies conducted wherein it has been observed that substantial judicial time is spent in tackling procedural issues such as summons and recording of evidence. While suggesting for exploring the possibility of delegation of such acts, he considered giving such procedural responsibilities to the Registry of the Courts.

He acknowledged the transformation in judicial processes post the launch of the National Judicial Data Grid and emphasized on incorporation of Artificial Intelligence in

case management. He vehemently suggested that all the courts should be Wi-Fi enabled and technologically sound.

He brought to attention the Commercial Division and Commercial Appellate Division of the High Courts (Amendment) Ordinance, 2018. Quoting that as few States have one to three commercial courts, he cautioned that in order to effectively implement this scheme, there is a need to increase the number of courts and their infrastructure. While concluding, he urged the best judicial minds present to brain storm and come up with innovative and pragmatic solutions for reducing pendency.

**Summary of Address by
Hon'ble Shri Justice
Madan B. Lokur
Judge, Supreme Court of India**

Hon'ble Shri Justice Madan B. Lokur, Judge, Supreme Court of India, greeted the august gathering and congratulated the Chief Justice of India for taking an initiative for addressing the issue of pendency affecting

the Indian judiciary. He began his address by stating his focus areas, which are as below:

1. Subordinate Judiciary:

He highlighted that the real issue is at the district level as the cases pending in the subordinate judiciary is close to 2.75 crore in comparison to 43 lakhs in various High Courts. The total pendency in High Courts is only 13.75% of the subordinate judiciary.

2. Infrastructure

He brought forth the plight of 3300 District Courts of which 214 are housed in dilapidated buildings and 323 are rented buildings. He further stated that certain High Courts are housed in heritage buildings and the same have to be maintained. He urged the government and the judiciary to first check the malaise of pendency and delay and infrastructural issues at the grass root level. He pointed out that the 13th Finance Commission had allocated funds for setting up of ADR centers and remarked on the utilization of the released allocated funds.

3. Setting up of Secretariat for appointment of Judges.









A view of the Conference on National Initiative to Reduce Pendency and Delay in Judicial System on 27 July 2018

He made a very important observation that the Ministry of Home Affairs does tremendous amount of homework while dealing with the collegium recommendations and exhorted the collegium to do the same. He expressed his doubts whether the judgment in *Mallik Mazhar Sultan & Anr. v. U.P. Public Service Commission*, regarding judicial appointments in subordinate judiciary was being adhered to!

4. Technology

He stressed on the use of technology and sought the implementation of latest software. Acknowledging the reluctance in accepting change, he insisted that it is a gradual process and we have to work towards it.

The National Judicial Data Grid provides access to information regarding pending cases at various judicial authorities. He wanted to know from the participants if this easily accessible information was being utilized by them? He exhorted the subordinate judiciary to be vigilant and use the existing technological resources in justice dispensation system.

5. Managerial Cadre

The 13th Finance Commission had allocated funds for appointment of Court Managers in order to smoothen and organize the functioning of the courts, however, only 2 or 3 courts have made such appointments. He asked the Judicial Officers to introspect as to why they have been reluctant in appointing Court Managers. He suggested that the National Judicial Academy along with various State Judicial Academies should be engaged in cross cutting research.

He concluded by urging the judicial officers to introspect as to the path where Judiciary as an institution is heading and how can they by their individual and collective efforts contribute in making this institution great. He wished to bestow to the future generations the legacy of a wonderful legal system.

Summary of Address by Hon'ble Shri Justice Kurian Joseph

Judge, Supreme Court of India

Hon'ble Shri Justice Kurian Joseph, Judge, Supreme Court of India, began his introductory address by extending a hearty

welcome to the dignitaries and the august gathering and took the opportunity to congratulate the Chief Justice of India for initiating a dialogue to Reduce Pendency and Delay in Judicial System. He remarked that ‘this is an introductory observation and this should be followed by a national consultation with all the duty holders, primarily the government’.

He informed that as per the Economic Survey of India 2017-18, pendency leads to hampering contract enforcement, dispute resolution, stalling of projects, tax collections and escalation of legal cost.

He was optimistic that the best practices amongst various Courts would be shared in the Conference.

He took pride in the fact that the Supreme Court in the last one year has had more disposals than institution of matters. He congratulated the Chief Justices of Guwahati and Orissa High Court, for more disposal than institutions of the cases, despite not having full strength of judges. Recollecting his conversations with the respective Chief Justices of the Guwahati and Orissa High

Court, he remarked that both have attributed their success to teamwork and good case management. However, he also mentioned that in the present time, even the smaller High Courts like Sikkim, Manipur, and Meghalaya have arrears of cases. Thereafter, he suggested some measures:

1. There should be a National Consultation of all duty holders involving the government. He referred to the delay by government in making the appointments in the courts and suggested that there should not be a delay of more than three months for elevation to High Court and of two weeks to the Supreme Court, post the recommendation by the collegium.
2. There should be a control of inflow and the management of the outflow of cases and ADR must play a crucial role. Especially in complex family and civil matters, ADR must be explored with passion.
3. Articles 224A and 128 of the Constitution should be invoked for the appointment of *ad hoc* Judges. He underlined that unlike the appointment of Judges, recruitment on an *ad hoc* basis is within the realm

of the Chief Justice and the Government together. He further suggested that based on the strength of the respective High Courts, at the time of retirement, the Judges should be given an option to be an *ad hoc* Judge.

4. There is a need to have an effective case management system. He remarked that although the Chief Justice is the master of the roster, the assistance of other senior judges of the High Court or the Supreme Court should be sought while allotting cases and constituting committees, keeping the expertise and passion in mind.
5. There should be an increase in the retirement age of the High Court and Supreme Court Judges to 70 years so as to get full benefit of their expertise and experience.

He concluded his address with a vision that in 2019-20, India would be a litigation-friendly country because of independent initiatives of the judiciary and invited all the participants to share best practices to ensure that the disposal of cases is greater than the





institution of cases.

Vote of Thanks

Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, expressed his gratitude towards all the participants of the Conference. He profusely thanked Hon'ble the Chief Justice Dipak Misra, Hon'ble Shri Justice Ranjan Gogoi, Hon'ble Shri Justice Madan B. Lokur and Hon'ble Shri Justice Kurian Joseph, and for initiating this dialogue on pendency and delay in the judicial system and sharing their valuable experience regarding the same. He admitted that it is a privilege for the Indian Law Institute to be a part of this path-breaking

workshop and thanked Hon'ble Shri Justice Dipak Misra, the Chief Justice of India for associating the Indian Law Institute in this conference. He expressed his thanks to Shri Ravindra Maithani, Secretary General and Shri Rajesh Goyal, Registrar (Judicial) of the Supreme Court for their continuous support in making the initiative a success. He concluded his vote of thanks by acknowledging the efforts of Shri Shreenibas Prusty, Registrar, ILI and Dr. Ajay Kumar Verma, Deputy Registrar, ILI faculty and students of ILI and staff of the Supreme Court of India and the Indian Law Institute.



Session I



SUPREME COURT

Conference National Initiative to and Delay in Jud

in Collaborat with Ind
27-28 July, 2017

Shri Justice D.B. Bhosale



OF INDIA

Session on Reduce Pendency Judicial System

Indian Law Institute

Delhi

Shri Justice A.K. Sikri
Chief Justice of India

Prof.(Dr.) M.P. Singh
Member, Law Commission

Session on 'Case and Court Management to Strengthen
Judiciary- The Way Ahead' on 28 July 2018

Case and Court
Management
to Strengthen
Judiciary –
The Way Ahead

The Chair **Hon'ble Shri Justice A. K. Sikri**, Judge, Supreme Court of India, greeted the august gathering and remarked that the presence of the Chief Justice of India, sends a strong message that the deliberations of this conference have to be taken seriously and is just not a theoretical exercise.

He remarked that every Judge takes steps to address case and court management but there is no formal structure for the same, therefore adoption of a uniform mechanism throughout the country may do wonders. It was noticed that the time line followed for the proceedings at each stage is also mentioned in CPC, however, the issue is of its effective implementation. He highlighted that in the larger interest of justice, i.e., to do substantive justice we end up sidelining the procedural timelines. He stressed that the judiciary must ensure a balance between quantitative and qualitative justice, as both of them are equally important. With the objective of effective case management, focus should be on a higher disposal rate in comparison to institution of cases.

He admitted that there is dearth of

infrastructure and judicial officers but that cannot be the reason for pendency and delay in justice dispensation and the challenge is what can be done with the existing resources.

He reiterated the concerns raised by Hon'ble Shri Justice Madan B. Lokur and re-emphasized on tackling the issues at the grass root level, i.e., at the district level. He observed that at the original jurisdiction, the timelines as prescribed, if followed, would lead to disposal of matters in 2-3 years. The focus in High Court, however, should be bunching of cases and this can be effectively done with the use of technology. He shared that Hon'ble Shri Justice Dipak Misra, as Chief Justice of Delhi High Court had specially designated a person of judicial acumen for bunching of cases which led to speedy disposal. He also shared his experience in Delhi High Court on IPR matters.

Advocating the need for case management he highlighted that the subordinate judiciary should be made sensitive towards mediation and for this, they should be trained on these aspects during their induction training days itself. He was categorical that Mediation is

not a separate mechanism, rather is a part of case management itself.

The Co-chair **Hon'ble Shri Justice D. B. Bhosale**, Chief Justice, High Court of Judicature at Allahabad, began by thanking the dignitaries and stating how privileged he felt by being a part of this Conference.

He also was of the opinion that real challenge is explosion of docket and brought to the notice of the gathering that in spite of all this, the common man still reposes its faith in the judiciary. And that is why there is an onerous duty on the judiciary to tackle the issue. For this there is an urgent need for case management as quantifying the pendency of cases would be a herculean task and clearing the backlog with existing mechanism at hand will take a long time.

He brought to light that in 2012, NCMS was put in place and committees were established at the Central, State and District levels, however, they have not been able to work to the best of their ability due to various reasons including:

1. Paucity of Judges
2. Insufficiency of Court Management

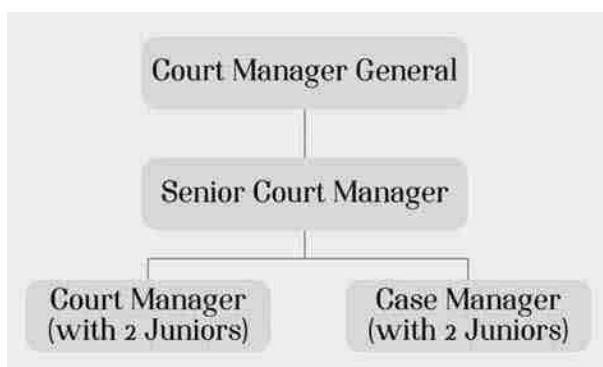
3. Absence of Court culture
4. Inadequate Court staff
5. Frequent adjournments
6. Lack of infrastructure

He remarked that the 13th Finance Commission had allocated Three Hundred Crores to support Judicial outcomes by facilitating Court Management and ADR mechanisms. Of these funds, a major chunk was not released. However, the 14th Finance Commission did not allocate any funds for this.

He referred a 2004 study conducted by NALSAR titled "**A Study On Court Management Techniques for Improving the Efficiency of Subordinate Courts**", which brought forth that the Case management in the country is highly inconsistent and it fails to ensure minimum cost to the litigants. It was suggested that in order to overcome these hurdles, a uniform case management system, quality management and qualified court assistants to support judicial officers should be there.

He highlighted that even judicial officers do not have accurate knowledge on how to

utilize the services of court managers who are not well versed with the modalities of the legal system. Therefore, for an effective court management, he recommended that the court managers should possess legal knowledge. He urged the law schools to incorporate such aspects in their curriculum. He proposed an independent cadre of court managers, which is as follows:



He further bifurcated the district courts on the basis of strength of the court rooms and advocated an appointment of senior Court Manager along with a junior for subordinate courts with more than 30 court rooms.

He shared his experiences from Allahabad High Court, mentioning that despite high vacancy, dearth of infrastructure and budgetary constraints, the disposal rate is 2000 case per head, being the highest in the country. He informed that a special Division

Bench was established for adjudicating old criminal cases along with constitution of Special Bench for hearing bail applications in the Allahabad High Court. A credit system has also been put in place wherein, appreciation letters are issued for deciding pre-1980 matters. Also introduced were half an hour increase in the working hour of judges of high court and one hour increase in the district courts and working on Saturdays. The matters have been divided based on the age of trial into critically old, very old and old.

He concluded with the hope that this initiative will go a long way in tackling the issue of pendency and strengthening the faith in judiciary.

The **Speaker Prof. (Dr.) M.P. Singh**, Chancellor, Central University of Haryana & Chair professor, Centre for Comparative Law, National Law University, Delhi, thanked the Chair and the Co-chair for highlighting the issues.

He admitted that arrears are a perennial problem and existed even during the colonial era. Though Law Commissions and various

other studies gave several recommendations, however, the focus areas have been more or less on the low strength of judiciary and infrastructural issue. He mentioned that during early 90s, Robert Moog propounded various measures to reduce arrears, which, however, did not include increase in recruitment strength of judicial officers and the support staff.

While referring to the Malimath Committee's report and relying on Civil Law jurisdiction, he stressed that the arguments of the lawyers should be concise and short so as to reduce the hearing time. He said that the 245th Law Commission Report, titled as "Arrears and Backlog: Creating Additional Judicial (wo) manpower", 2014 has recommended the following:

1. Increase in age of retirement of district judges.
2. Separate benches for matters of traffic and challan.
3. Infrastructural and lack of administrative staff should be looked into at priority.

He suggested that court management should be streamlined so as to effectively implement case management. He disagreed with the

suggestion on training of Court Managers in Law Schools only and advocated that they should be imparted with training in Business Schools with special focus on Court Management. He reiterated the need of court management in the lower courts than any other courts.

Summary of the proceedings

The Chair **Hon'ble Shri Justice A. K. Sikri**, Judge, Supreme Court of India, summarized the deliberations in the session and made the following concluding remarks:

1. That the grouping of cases should be done in an articulate manner based on various parameters.
2. The fixation of roster should be done keeping in mind the expertise and passion of the judicial officers.
3. Daily cause list should be released, well in advance to save unnecessary adjournments. Further, the purpose of each case should always be borne in mind while preparing cause list.
4. Incorporation of a hybrid system with a mix of new and old cases, and with

- a demarcation of substantive and procedural matters. Matters, which have become infructuous should be disposed of immediately.
5. At times adjournments are granted on technical matters which leads to wastage of a lot of judicial time and, therefore, a system of scrutiny should be placed before hearing substantive issues.
 6. There should be strict adherence to time assigned for oral hearings and the onus of maintaining the same should be on the presiding officers.
 7. Court management should be effectively utilized.
 8. Mechanism should be put in place to study the efficacy of existing court and case management system .
- The panel advocated that the deliberations of the conference should be released as a white paper on case and court management. This in turn would act as guidelines in future for effective case and court management.



Session II

Nation

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27-28

Hon'ble Mr. Justice A.R. Khare

Shri Justice Kurian Joseph
Judge, Supreme Court of India



Conference on National Initiative to Reduce Pendency and Delay in Judicial System

in collaboration with Indian Law Institute
28 July 2018, Pravasi Bhabha Centre



Prof (Dr) Ranbir Singh
Vice-Chancellor, Indian Law Institute

Session on 'Alternative Dispute Mechanism- An Effective Solution Towards Reducing Pendency' on 28 July 2018

Alternative Dispute
Mechanism- An
Effective Solution
Towards Reducing
Pendency

The Chair **Hon'ble Shri Justice Kurian Joseph**, Judge, Supreme Court of India, set the tone for discussion for the session by asking a question as to how far has the ADR mechanism been put to effective use. He flagged the issue of pendency through statistics and informed that there were 2.75 crore cases pending in various courts and 3.5 lakh cases pending in the tribunals which need immediate attention. He also mentioned that there are around 7 lakh matters pertaining to family courts that are pending. Among those, 50% of the cases are from the States of Kerala and Uttar Pradesh. He had a barrage of questions, viz. How many Courts have committees for Court and Case management? Is there a special committee for case management? Is the committee actually functioning and whether the committee meets at least once in a year? He admitted that there is pendency in the High Courts. They are averagely working with the strength of 61% of Judges. With this background, he asserted the need for effective use of ADR mechanism.

He stressed that there is no limit to which the Courts can go. He wanted the judges to be passionate and pragmatic in their approach and exhorted judicial officers to look for alternatives and be a part of the solution.

He posed the question to the house if the tribunalization has actually helped in reduction of pendency of cases? He pointed that even in matters with a stipulated time period mentioned like family matters, Section 138 N.I. Act, consumer matters and many others, is the timeline adhered to? And asked why the tribunals have not been able to achieve the aim they were established for? He exhorted the house, to find answers to these haunting questions and thereafter various judges of the High Courts were asked to share details and experiences from their tenure in Judicial Service. A few of the questions that were asked were:

- What is the pendency in the respective courts?
- What is the disposal rate of the respective courts? Are the measures such as National Lok Adalats, Mediation Centers actually aiding in accelerating the disposal rate?

- Whether the counsels are appointed in the family court?
- Number of Gram Nyayalayas established and functioning in the district?
- Number of cases settled in the Lok Adalats and their genre?
- If there are court annexed mediation centers? Are these mediation centers annexed to every family court? Are private mediation centers operating?
- The cases that are being resolved in the mediation centers, have they been referred by the judges?
- Whether there is mediation training center?
- Whether the retired judges are part of the exercise of mediation?
- Are the mediation centers working effectively even at the subordinate level?
- Why is there a delay in appointing the judges?

During this interaction, the judges shared the practices in the various courts. Some of the practices include setting up Co-ordination Centers to track the service of notice, practice of having fast track arbitrations,

commercial mediations, mediation expert team comprising of trained professionals, video conferencing with the judges of the subordinate judiciary at regular intervals.

It was also highlighted that pre-litigation mediation is yielding better results in dispute resolutions. Advocates have a selfish interest in prolonging the litigation and, therefore, mediation training should be imparted to para legals. It was brought to the notice that at times despite creation of courts having been notified, the support staff posts like court masters and clerks were not sanctioned. Different procedural approaches needs to be applied while dealing with different genre of matters. It was observed that the lawyers are not the stakeholders rather duty holders and they should be trained by their law schools in this direction while pursuing law.

The Co-chair **Hon'ble Shri Justice A.M. Khanwilkar**, Judge, Supreme Court of India and member, Arrears Committee for Supreme Court of India and for High Courts, appreciated the way the interactive session was chaired by Hon'ble Shri Justice

Kurian Joseph and felt that this session has been effectively engaged in examining the efficacy of ADR mechanism in reducing the pendency.

He stressed that 16 years have passed by since Section 89, CPC was introduced and the discussion today still lingers around if the ADR is a panacea for pendency. He referred to the discussion and cited that 20% of the disposal is due to the ADR mechanism and hence the take off from the technical session was that all stakeholders should resolve to make ADR an effective mechanism to be used frequently and diligently. He suggested that we should aim big, so as to achieve the aspired targets of resolving 80% of the disputes through ADR as in Australia and America.

He concluded by stressing that to tackle the huge pendency of cases in courts at different levels only ADR is the way forward and there is a need to institutionalize the ADR mechanism.

The Speaker **Prof. (Dr.) Ranbir Singh**, Vice- Chancellor, National Law University, Delhi, began his address by greeting the

august gathering. He expressed the concern of present times by quoting Charles Dickens from 'A Tale of Two Cities',

"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, ... it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us..."

He went on to discuss the historical backdrop of judicial delays in the country and highlighted that this dates back to 1926. First reference can be found in the 14th Law Commission Report. Thereafter various Law Commission Reports have mentioned the pendency and delays in justice dispensation system including 22nd, 45th, 77th, 79th, 80th, 99th along with numerous committee reports such as Justice Shah Committee, Das Committee, Tiwari Committee, Malimath Committee, Goswami Committee, Nariman Committee. Implying that the gathering was well versed with the issue of pendency and delay, he said it is time to move beyond the vicious circle of committees and reports

and discuss the constructive mechanisms to tackle the issue.

He was of the view that delay is due to non-adherence to timelines. He went on to substantiate it by saying that though post 1999, only three adjournments should be granted but there is no dearth of situations wherein the judges have relaxed this time frame. The notion that 'The Procedure is Handmaid of Justice' has led to escalation of the age of trial. He stressed that mere increase in the infrastructure will not resolve the delay unless the jurisprudence regarding the delay is, simultaneously, strengthened.

While quoting Hon'ble Shri Justice Krishna Iyer, he pointed out the problems that plague our legal system for instance, lack of awareness, impediment due to geographical location, domestication of law, access to constitutional courts, lack of assistance from the bar, unaccountability, poor resource management, delay in justice dispensation, growing arrears, to name a few.

He admitted to ADR mechanism as an effective means to overcome the problem of delays and pendency and acknowledged

that the country is developing infrastructure to effectively implement the same. He mentioned that the law schools are also doing their bit by holding special mediation and conciliation competitions.

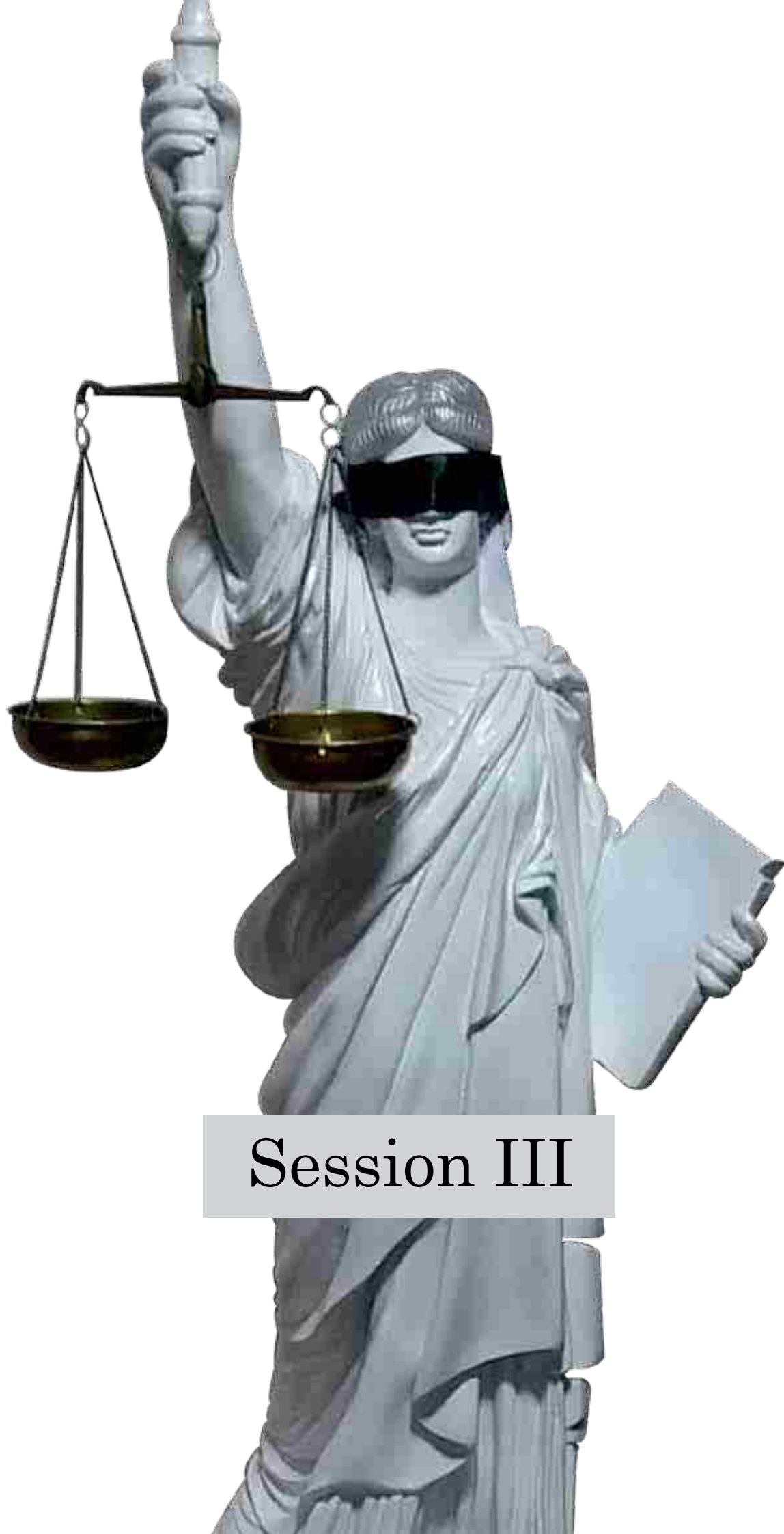
He drew attention to the Gram Nyayalayas Act, 2008 by virtue of which around 5000 Gram Nyayalayas were proposed to be set up across all states of the country. They were aimed to admitting small claim matters from the rural areas and make justice available at the door step and collaterally decrease the workload of the judicial institutions. Unfortunately, only a few States have working Gram Nyayalayas. He emphasized that if an effective justice dispensation system by way of Gram Nyayalayas is established, that will resolve a lot of budding disputes.

He mentioned that there are many communities in many States such as Gujarat and Maharashtra, which do not approach the courts for resolving their disputes. They have an indigenous model of dispute resolution. There is a need to study those models and replicate them at the grass-root level.

Summary of the proceedings

The Chair **Hon'ble Shri Justice Kurian Joseph**, Judge, Supreme Court of India, while summing up the session added that there is a huge pendency in the High Courts and district courts. He stressed on the requirement to devise a mechanism to weed out pending cases in order to effectively resolve the incoming matters. He applauded the speaker, Prof. Ranbir Singh's observation regarding need of greater involvement of Gram Nyayalayas.

He suggested that ADR mechanism is the only way forward and an effectiveness of ADR depends on the interest of judicial officers. He urged the judicial officers to interact with the parties, explore the possibility of ADR, wherever possible. He concluded that if everyone becomes a duty holder then a common man can also effectively contribute in making a change.



Session III



SUPREME COURT

Conference National Initiative to and Delay Justice

in Collaboration
July, 201

Shri Justice Sanjay Karol
Judge, Supreme Court of India

Shri Justice Madan B. Lokur
Judge, Supreme Court of India





COURT OF INDIA

Conference on Use of Technology to Reduce Pendency in the Judicial System

Indian Law

Cooperative Ke...



Prof. (Dr.) R. Venkata Rao
Vice-Chancellor, Bharatiya Kshatriya Samaj, Bangalore

Session on 'Use of Technology- A Possible Solution to Address Delay and to Deliver Speedy Justice' on 28 July 2018

Use of Technology –
A Possible Solution
to Judicial Delay
and to Deliver
Speedy Justice

The Chair, **Hon'ble Shri Justice Madan B. Lokur**, Judge, Supreme Court of India, greeted the gathering for the post lunch session and began by introducing the use of technology towards effective justice delivery system and address the delay. He shared how the then President, Dr. A.P.J. Abdul Kalam, had invited judicial officers from United States to India for learning from their experiences about their first use of video conferencing technique in the courtroom.

Mentioning the steps taken towards digitalization of the judiciary he noted that Chhattisgarh High Court is the latest to assimilate its data. In 2013 the National Judicial Data Grid was launched, thereby easing of the access to the data pertaining to present litigation in the country.

He informed the gathering that efforts have been put towards revamping it; a new type of search called elastic search, which is closer to the artificial intelligence, is ready to be launched in the districts as well as the High Courts. It is thought to be a technology that is immune from hacking.

To everybody's delight he also informed that module for e-filing of cases is also ready to be launched in districts as well as High Courts. Another initiative of launching a website named e-court was taken up by the judiciary and the website has been consistently featuring in the top 5 government websites used by the public.

The Co-chair **Hon'ble Shri Justice Sanjay Karol**, Acting Chief Justice, High Court of Himachal Pradesh, began his address by greeting the august gathering. He pointed out that judges more often than not are engaged in the dispensation of justice. In his address he shared how the State of Himachal Pradesh has resorted to computerization and the benefits and problems faced during the computerization.

He noted that industrial revolution that began three centuries ago has now given way for a new revolution, the information age. This new age has gradually ensured that everyone is engaging with it. Keeping in tune with the technological advancements, Judicial Committees had also been formed,

yet only a limited use of technology in justice dispensation system has been explored.

In 1992, the first Planning Commission recognized the importance of computerization, which led to computerization of many districts across India between 1997-98. Thereafter a series of reforms were set in for digitalization of courts starting from the year 2002, which was subsequently followed by a centrally funded scheme for judicial infrastructure focusing on the computerization of 700 city courts in Delhi, Kolkata, Mumbai, and Chennai, and 900 courts in cities where High Courts were situated in 2004. This was further followed by a release of funds for computerization of 3,475 district and subordinate courts in 2005.

Post the Deliberations in the Chief Minister/Chief Justices' Conference 2006 coupled with suggestions in the 230th report of the Law Commission of India, a Vision Statement and Action Plan, 2009 was prepared, which led to establishment of National Judicial Data Grid.

In 2007, an e-Committee (formed in 2004) submitted its first National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian judiciary, eventually resulting in the e-Courts Project proposing the computerization of 14,948 subordinate courts in three stages. The 11th Five Year Plan had further earmarked funds to this project in 2009. By mid-2015 the first phase ended resulting in completion of about 95 per cent of the project activities in terms of hardware provision and service delivery and Phase 2 of the e-Courts Project was approved in July 2015.

After giving this detailed policy roadmap, he focused majorly on the achievements, benefits and obstacles while implementing the two-phase proposal of digitalization along with sharing the best practices of the State of Himachal Pradesh.

In Himachal Pradesh, Phase I proceeded with the central scheme encompassing approximately 38 court establishments. And under Phase II (tentatively dated from July 2015 to March 2019) of e-Courts project the targets were achieved well before the

stipulated deadlines and the State witnessed 100% presence of NJDG and e-Courts in all their courts.

Moreover, the benefits provided under the computerization scheme extend to varied services like case management, registry management, updates to advocates, litigants and public, legal services, judicial academy, etc. services like e-registration of cases, e-payment of court fee in High Court, auto generation of cause lists and daily case status, uploading of final order/judgment, delivery of services to stakeholders through Information kiosks at all courts, multiplatform service delivery to stakeholders, etc.

He highlighted that like the State of Uttar Pradesh, even State of Himachal Pradesh appreciates Judicial Officers and court staff, addressing pending cases by publishing their names on the website of High Court.

Another important feature which he highlighted was that Himachal Pradesh High Court amended its Rules to tune with computerization which most of the other High Courts have not done yet, thereby

catering to the process of re-engineering.

Based on the principle of sharing best practices, State of Himachal Pradesh had shared the development of more than 25 Periphery Modules ranging from case query to certified copy, objections to daily proceedings, search of the cases on the basis of FIR no., police station, etc. with eight High Courts and looks forward to sharing these modules with the rest of the High Courts too. The process also shows category wise disposal of cases through mediation.

Village Legal Care and Support Centre has also been established by the High Court to work at grass root level for making the State litigation friendly.

The computerization process has not stopped at the courts alone but Jail Clinics have also been established, manned by lawyers and para-legal volunteers, where database of all the prisoners is maintained along with record and track of each case hearing of under-trial prisoners.

He emphasized that the technology has

greatly enhanced their capacity to capture, study and analyze data, and generate reports at macro and micro level. The use of technology has helped in tracking and monitoring cases and in providing relevant information to the decision maker in a timely manner.

He concluded by saying that it is noteworthy that a small State like Himachal Pradesh has taken a lead towards computerizing their judicial system, thereby focusing their entire energy on dealing with pendency of cases, acting as a torch-bearer for the rest of the country.

The Speaker **Prof. (Dr.) R. Venkata Rao**, Vice- Chancellor, National Law School of India University, Bangalore, applauded the effort of organizing this National Initiative to engage in a dialogue regarding the pendency and arrears. He mentioned how the presence of galaxy of judges and academicians as an august gathering for these deliberations, made the Saturday afternoon different from all others.

Reminiscing the old times he recounted how

happy and peaceful life was when apple and blackberry were just fruits. However, with the advent of technology the methods and techniques of justice dispensation should also be improvised. Thirst of a mindset of 20th century cannot be quenched with 19th century technology, therefore endeavors must be made to prepare for a change, which may not be as smooth.

Citing the book “Physics of the future” he mentioned how the author Michio Kaku had predicted that in less than 20 years we will have paperless office but counter to his prediction we are using more paper because we have not been able to get rid of the caveman mentality. Winston Churchill said: *“We shape our buildings; thereafter they shape us.”*

This stands true for technology also, i.e., we shape our technology and thereafter our technology shapes us.

He opined that unlike the other three revolutions, the fourth age of industrial revolution is not a product revolution but

a system revolution. This age of revolution combines digital and physical system and is characterized by interaction between the technology and human. However, technology should be used judiciously and in taking help of gadgets we must not forget that justice dispensation can wholly never be technological function as we can replicate human brain in robot but not heart with compassion.

Further, citing “The Future of the Professions: How Technology Will Transform the Work of Human Experts” authored by Daniel Susskind and Richard Susskind, he stated that chartered accountants are largely receptive to technological changes; however, lawyers are mostly reluctant. The authors had in reference to professional practices stated that communication between lawyers and client in future should be through use of technology but the people in the legal profession believed this would not happen due to the client-attorney privilege yet the shift has happened nonetheless.

He highlighted that the use of technology and

electronics in India can improve courtroom functions, judges’ accessibility to material in turn overhauling the judicial system as a whole. This would in turn make the justice accessible for a common man starting from filing of an FIR, filing a suit, payment of court fees, serving of summons to recording of evidences through video conferences. Technology can be applied at various stages in making justice dispensation system more efficient and fast.

He mentioned that ADR mechanism is another area, which can be taken online via use of technology. He referred to use of online forums in USA for e-adjudication and settling of consumer disputes and other online dispute redressal mechanisms like e-negotiation. He highlighted how the NLSIU, Bangalore has established Online Consumer Mediation Centre under the aegis of Ministry of Consumer Affairs for resolving consumer disputes through online mediation.

In his concluding remarks, highlighting the creative use of technology as the need of the

hour, he quoted John Maynard Keynes and said:

“The difficulty lies not so much in developing new ideas as in escaping from old ones.”

Summary of the proceedings

The Chair, **Hon’ble Shri Justice Madan B. Lokur**, Judge, Supreme Court of India, summarized the session and highlighted:

1. E-filing Model:

He shared that e-filing, enabling electronic filing of matters is ready to be launched in the courts of the country thereby ensuring that all district courts become paperless in the country.

2. Process re-engineering:

It involves the re-designing of the core business processes to achieve dramatic improvements in productivity, cycle times and quality and the same is very important for incorporation of the use of technology in court rules so as to provide legitimacy to the process.

He concluded with recommending greater reliance and use of National Judicial Data Grid and also urging the Corporate sector for commercially utilizing the data of National Judicial Data Grid.



Session IV


11th Conference National Initiative and Delay in

in Collaboration with

27-29 July, 2011
Chennai

Justice Ranjan Gogoi
Judge, Supreme Court of India

Shri Justice Dipak Misra
Chief Justice of India



Conference on Measures to Reduce Pendency in Judicial System

in collaboration with Indian Law Institute
New Delhi, Delhi and Sri Aurobindo Centre for
Sanskrit Bharatiya Kendra, Mysore

Prof. (Dr.) N.R. Madhava Menon

Former Vice-Chancellor, National Law School of
India (Delhi), Bangalore & WU

Session on 'Immediate Possible Solutions for Reducing
Pendency and Delay in Judicial System and Valediction' on 28 July 2018

Immediate Possible
Solutions for
Reducing
Pendency and Delay
in Judicial System
and Valediction

**Valedictory Address by
Hon'ble Shri Justice Dipak Misra
Chief Justice of India**

Hon'ble Shri Justice Ranjan Gogoi, my esteemed peers from the Supreme Court, Hon'ble Shri Justice Madan B. Lokur and Hon'ble Shri Justice Kurian Joseph, Hon'ble Chief Justices of various High Courts, Prof. (Dr.) N.R. Madhava Menon, Prof. (Dr.) M.P. Singh, Prof. (Dr.) Manoj Kumar Sinha, Director, Indian Law Institute, Hon'ble Judges from the High Courts and other delegates, Members of the Registry of the Supreme Court of India, Friends from the electronic and print media, Ladies and Gentlemen.

The basic and fundamental right of access to justice, in the most fundamental sense, has been the core foundational purpose of this National Conference. All of us were required to reflect on certain aspects, especially our efforts towards reducing pendency and delays in the judicial system. I was present in the first session and I have carefully perused the summary of the other technical sessions. The discussions and deliberations have been

quite instructive. The broad points that have been discussed relate to:-

Exploring the possibility of utilizing Court Managers;

Chief Justice of the High Courts to study the aspects of Court and Case Management so that the same can be institutionalized;

Grouping of cases and introduction of a hybrid system where old cases are given priority and at the same time, new cases don't go into arrears;

Utilizing of the tool of case management to deal with infructuous and non-alive cases;

Dealing promptly with cases in which a stay has been granted by the High Courts.

Laying focus on the grass root level, introduction of best practices in ADR system and emphasis on technological aspects was part of the discussion that took place in the Sessions today.

The purpose was to share good practices and absorb them with a sense of objectivity.

As I gather, there has been sharing. I may note that sharing of ideas is the moot factor of belonging. And here belonging means to be a part of great judicial fraternity with



the avowed aim of speedy dispensation of quality justice. The discussions have ranged from the concept of 'case and court management system', 'methods of promoting Alternative Dispute Resolution', 'greater use of technology to endeavour to plug the gaps in justice delivery' by taking immediate appropriate measures of identifying the cases which need urgent attention and quick disposal. Many learned Chief Justices have spoken about the innovative steps they have undertaken. The effort and the consequent result deserve to be appreciated.

I have also perused the strategy of reducing pendency in a phase wise manner especially pertaining to old cases and simultaneous dealing with litigations which are more than five years old. This is one of the very successful schemes to handle pendency and delays. It also brings with itself inherent checks and balances so that our judicial officers especially in the subordinate judiciary can execute the delay and pendency reduction scheme effectively in a time bound manner and be accountable for their work. This would not only help us in addressing the singular

issue of delay and pendency but will enable us to set standards for judicial discipline vis-à-vis timely disposal of allocated cases. Separate standards are being worked out to assess the quality of judicial work. I am sure that the same will further enhance working at the subordinate judiciary level.

I must say that E-Committee of the Supreme Court has been one of the most successful steps taken by the Indian judiciary. Since its creation way back in 2004, we have come a long way. It has led to computerization of the courts in India and fruitfully accentuated on technological communication and other management related issues.

The deliberation in this conference has substantially focused on strengthening the promotion of methods of ADR for facilitating timely settlement of disputes and that too in a cost effective manner. However, I may add a caution, that never impose your views on mediation or settlement in Lok-Adalat and judicial settlement. We should never send a wrong message. I would like to say

- be enthusiastic but never be obsessed. Perseverance and enthusiasm are to be distinguished from obsession with an idea.

The court congestion and delays do require a modern and progressive approach where every Judge takes the burden of judicial leadership and managerial skills of his court and the cases before him. That will help the system in promptitude and I am certain, we will see the effective result.

A compilation of thoughts, ideas and suggestions that have generated in all the sessions shall be prepared and circulated to all High Courts so that they can be followed pragmatically having due focus on the ground reality.

I hope this national conference will help us improve upon our strategies, our plans, our focus, our targets, our energies and above all, our commitment towards the judicial system, its growth and strengthening of the same.

Thank you.

**Summary of Address by
Hon'ble Shri Justice Ranjan Gogoi**
Judge, Supreme Court of India

Hon'ble **Shri Justice Ranjan Gogoi**, Judge, Supreme Court of India, began his special address by congratulating the gathering for such in-depth deliberations in the preceding sessions. He quickly brought the attention to the theme of the fourth and the final session i.e. immediate possible solutions for reducing pendency and limited his scope of address to the theme of the session. He offered a few solutions that could be implemented instantly in our legal system, namely:

1. Vacancies

He poignantly brought forth that the vacancies in subordinate judiciary in India is to the tune of 5900, as on July 2018. The talk of making the recruitment system centralized was due to inability to fill up such huge amount of vacancies. He highlighted the disparity in time taken for recruitment in subordinate judiciary in various States, as the range varied from 99 days in Pondicherry to 762 days in Delhi.

He expressed that the qualities to be looked in

prospective judicial officers are outstanding merit, integrity and absolute commitment to work. There should be a major recruitment drive and person with judicial acumen and sense of commitment should be recruited.

2. Monitoring, Vigil, and Awareness

Holding of a judicial post requires immense amount of commitment, as it is a 24x7 job. He advised that the Chief Justices of the High Courts should be vigilant with respect to the mediation centers working at the subordinate level and should regularly take stock of the same via technological mediums such as video conferencing. He also urged the Chief Justices to share these statistics regularly with the Supreme Court so that the entire judicial system is effectively monitored.

3. Appointment of *ad hoc* Judges

He vehemently advocated the appointment of *ad hoc* Judges, as mentioned in the preceding sessions, based on the assessment of performance. If the vacancies, at any point of time are unable to be filled then on a selective basis *ad hoc* judges should be appointed.

While referring to the personnel policy, he opined that seniority is a norm in the higher judiciary and that cannot be digressed from. He elaborated upon that and added that difficulty arises due to change in priorities with the change in judges. There should be a consistent judicial policy.

4. Infrastructure

He referred to his address in the inaugural session and clarified that pre-litigation, mediation is a positive step and should be taken seriously by all the judicial officers. The infrastructure would also have to match its pace with the proposed demand for increase in ADR mechanisms.

He mentioned that the Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts (Amendment) Ordinance, 2018 has an infrastructural cost attached to it and that our legal system is not adept to face such a huge influx of commercial disputes. He urged the legal fraternity to give a serious thought to this.





5. Judicial Training

Rather than solely relying on academic learning, he emphasized the need for self-learning for elimination of huge backlog of cases through well-established and settled jurisprudential principles. Commenting on the art of bulky judgment writing, he pointed out that there is an urgent need to have concise and coherent judgments, as they are a public resource in their own sense and should be comprehensible. This would also save precious judicial time in appellate courts.

He parted with the thought that there is no radical solution to the growing pendency and arrears rather it as a gradual process and the approach to deal with it has to be multi-pronged. There is a need to act immediately on the solutions that have emerged from the deliberations of the conference.

Summary of Address by Hon'ble Prof.

N.R. Madhava Menon

Former Vice Chancellor, National Law School of India University, Bangalore and NUJS, Kolkata

Prof. (Dr.) N.R. Madhava Menon, Former Vice Chancellor, National Law School of India University, Bangalore and NUJS, Kolkata began with sharing that he felt honored in addressing an assembly of superior court judicial officers on a subject that is of great concern to judicial fraternity along with the entire nation. Thereafter, he expressed his gratitude towards organizers for providing him with this privilege.

While expressing his dejection, he shared that despite the role of judiciary in preserving and promoting democracy, rule of law and individual rights, in our country, it did not receive the attention it deserves from the other two branches of the State – the executive and the legislature. He said that it is a matter of justifiable pride for the entire legal community that despite structural and institutional constraints, the judicial system could serve the justice needs of the people

and keep the system alive and kicking for the last seven decades of the republic. He further stated that the nation owes a debt to judges, past and present.

He cautioned that irrespective of what the government may or may not do, the public expects the judiciary to take responsibility for delivery of fair and timely justice to all approaching the courts. He applauded the efforts of the Judges of the Supreme Court and the High Courts to deliberate on delay and pendency and stressed that everyone involved in the administration of justice has a duty to make this initiative a success.

While reflecting on the intent of this initiative, he mentioned that it is intended to make an inventory of what can immediately be done without waiting for the Governments to act in support of this endeavor. To find the answer to the immediate steps, he referred to the addresses delivered by the Chief Justice of India and his successor during the inaugural session and identified the following approaches:

1. Optimism or change of mindset:

He emphasized that with a positive shift in the outlook and mindset, many things can happen even in the present situation and the Guwahati and Orissa High Courts, besides the Supreme Court, have demonstrated it.

2. Introspection:

He stressed the need to introspect and look for answers and solutions for reducing delay and pendency. He said there is a need to have passion and commitment at work – analyze success stories to discover what leadership, team work and passion can accomplish even in the worst of circumstances. And that changing the judicial future is in one's hands. Drawing from the principal address in inaugural session and extensive discussions in the later three working sessions, he broadly classified the four-fold mantra that emerged as:

- I. Personnel Policy and Management
- II. Diversions to Alternative Methods
- III. Intelligent and Extensive Use of
Technology



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IV. Court and Case Management

He briefly highlighted the possible contributions by the judiciary in the immediate future to make a difference in pendency and delay in respect of each of the four strategies.

I. Personnel Policy and Management

Noting that competency is quintessential, he stated that no system can work without it. Drawing cue from Hon'ble Shri Justice Kurian Joseph, he stated that an attitudinal change from stakeholders to dutyholders coupled with motivation, accountability and sense of ownership is necessary for a paradigm shift in the system.

Observing the inconsistency in as much as only in some High Courts the judges hold Court during the holidays, he questioned why only were these judges so motivated and why others did not feel it necessary?

He highlighted this paradox to show that the way the Chief Justice of India is propagating against pendency and delay has a human element to it and emphasized on making performance assessment objective. He

pointed out that for this, focus should be towards making the process of appointing judges more objective by holding the examination in time, declaring results, followed by proper training and in the process giving due importance to accountability.

Few solutions that he suggested could be implemented in the immediate future were:

- i) Recruitment examinations should be held in time, evaluation and the results should be declared promptly. The new recruits should be trained, ensuring that competence, motivation and accountability is given its due importance in the whole process.
- ii) Performance assessment should be made objective, transparent and meaningful. The message, that inefficiency and inability to improve competence will not be tolerated and dead wood will not be allowed to continue in the system at any cost, should go out loud and clear.
- iii) Judicial manpower should be put to optimum use and if this cannot happen with judges alone, delegate the task to those trained in personnel management,

in turn making them solely responsible to show enhanced efficiency and productivity in the system.

- iv) Court specialization, which is a universal practice, should be explored as that will enhance the productivity. Taking cue from Supreme Court of Germany, he suggested that the judges could specialize in their chosen area and be allowed to continue in that jurisdiction for at least 5 to 10 years without being transferred out.
- v) Referring to the technical sessions, he urged to utilize the funds sanctioned by the government for deployment of court managers, as that will aid in court and case management.
- vi) Owing to a dearth in manpower and reluctance of government to allocate necessary funds, judicial officers should not be sent to non-judicial or quasi-judicial positions.
- vii) Establish a research wing in every High Court, which is managed by competent researchers rather than the judicial officers.

viii) The judicial head of the country should have tenure of at least a year, so as to contribute significantly in the administration of justice.

ix) Supreme Court and High Courts should take initiatives to appoint efficient and experienced judges as *ad hoc* Judges in accordance with the Constitution of India. There is an urgent need to have a worthwhile personnel management policy in the courts so as to save the system from drifting without directions.

He emphasised on personnel management factor stating that finances, infrastructure and technology will not yield results unless the human elements, which drive the system, are taken care of. He further stated that immediate action on this front can be undertaken, which is entirely under judicial control.

II. Diversion to Alternative Methods

Identifying the steps that can be taken immediately on ADR issues, he voiced Hon'ble Shri Justice Ranjan Gogoi's concerns regarding interrogating the capacity and

readiness of existing ADR regime. He suggested that if Legal Services Authority were to undertake pre-litigation mediation in a big way, the inflow of cases into courts can be regulated. Adequate research, training and preparation in ADR mechanism can make distinct contribution to the reduction of pendency.

Referring to Hon'ble Shri Justice Ranjan Gogoi, he suggested that there is a need to do a reality check of the so called three crore pending cases. He said it is possible that one may find many cases are non-existent in the sense that no one is interested in pursuing the claim or no live issues are involved.

He mentioned that Plea-bargaining should be explored as a means to settling criminal cases, as suggested by the Chief Justice of India. There should be diversion to the ADR schemes, and every High Court in consultation with subordinate judiciary, Bar Associations, the Advocate General on behalf of Government and the Legal Services Authorities should take a policy decision, develop a manual for operating procedures and start diverting cases in the first instance

at every court within the State.

The Lok Adalat is one of the principal instruments for ADR mechanisms and should be organized regularly in a business like fashion without the ceremonial inauguration and valedictions by VIPs, not even by the administrative judge. He suggested that they can be organized in local law college and the staff and students of the Legal Services Clinic of the college can cater organizational support without cost as it is part of professional legal education.

He stressed on the need to ensure the working of Gram Nyayalayas as a dynamic institution to settle small disputes.

III. Intelligent and Extensive Use of Technology

He drew attention to use of technology in order to increase efficiency and productivity and cited the example of the Banking System. Reminiscing the time, when the ministerial staff of Calcutta High Court agitated against the introduction of Xerox Machines and destroyed many of them, as they feared it will reduce employment opportunities, he said today such reactions can seldom happen

because technology has overtaken every aspect of life excepting administration of justice.

He was confounded that the judges are trained to utilize the technology for their benefit and thereafter are provided with systems to work, all this from public exchequer and despite this they are reluctant to use the technology. He wondered if this can be termed as professional misconduct or non-accountability? He further probed as to why have e-courts not started working efficiently? And how long can the lack of infrastructure, lack of uninterrupted supply of electricity, no technical support services etc. be touted as reasons for the same?

Appreciating the continuous efforts that led to formulation of National Judicial Data Grid, he reiterated the question posed by Hon'ble Shri Justice Madan B. Lokur, as to how much reliance is placed on this grid. He urged the judicial officers to introspect before blaming the Government.

Acknowledging the suggestion of Hon'ble Shri Justice Ranjan Gogoi, he admitted that the scope of Artificial Intelligence is huge and

the same is yet to be explored. The Research Division proposed for every High Court can be assigned the task of exploring the use of Artificial Intelligence in the judiciary.

IV. Case and Court Management

He mentioned a cluster of action points for the immediate future on the management side other than personnel management, which were as follows:

1. Case planning and grouping them in 3 or 4 categories for fast track, medium track and long track treatment- in other words, setting timelines.
2. Bunching of cases of a similar kind for collective treatment, as was mentioned by the Chief Justice of India in the inaugural address.
3. Annual target to be set for disposal of old cases and preparing a plan for its implementation.
4. Strict regulation of adjournments and imposition of exemplary costs for seeking it on flimsy grounds.
5. Making written arguments the basis for mainstream advocacy thereby limiting

time for oral arguments.

6. Clear guidelines on exercise of judicial activism, admission of PILs, expression of personal views while hearing a matter contested in court.
7. Creation of an expert unit or secretariat in every High Court for processing cases for timely appointments, promotions and transfers based on objective criteria and methods.
8. Standard operating procedures on court and case management are the need of the hour, they would in turn aid in deciding priorities and acting on them- like focusing on district courts. Gram Nyayalayas with flexible procedures work to reduce village disputes.
9. The possibility of issuing notices to parties before admitting second appeals or revision petitions should be explored. This may help in limiting the filings to cases involving substantial questions of law.
10. The Judicial Impact Assessment Report prepared at the instance of the Supreme Court is awaiting final orders, which will

ensure infrastructural support for every new legislation or amendment generating additional demands on judicial time.

GOVERNMENTAL SUPPORT IN THESE INITIATIVES

Referring to governmental support for this national initiative on pendency, it was suggested that immediate steps should be taken to establish an All India Judicial Service attracting the best of available talents to the judicial services.

Citing the huge backlog of vacancies in the judicial appointments, he suggested that the Government should raise the retirement age of judges at all levels to 70 years uniformly throughout the country. As the “Ease of doing business” which the government is committed towards will not be easy without ensuring “Case of Settling Disputes fairly and timely”.

Pendency and delay are directly related to competence and professionalism, on the part of judges and lawyers. Therefore, objective criteria along with a transparent process may help in weeding out deadwood at frequent intervals thereby ensuring high competence

among the judicial officers.

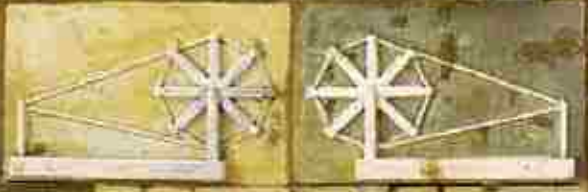
He suggested that government can help in this initiative of the judiciary by controlling the government litigation as per the policy adopted and letting the private mediation regulate it statutorily.

Recognizing the strength of Bar, he mentioned that the reform of the Bar is overdue and a mechanism to re-visit the Bar - Bench Relations should be in place, to facilitate efficiency and speed in judicial proceedings.

He concluded with an appeal to the judiciary, to give priority to criminal cases in the initiative proposed and that no criminal case should linger on in the justice system for more than 3 years and a clear message in this regard should go to the police and the prosecution. After stating that business as usual should not be allowed in administration of criminal justice and over 2 crores of criminal cases pending should be ended within the next couple of years, he observed that in that case the National Initiative will occupy a prominent place in the judicial history of the country.



Part II



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SUMMARY OF PROCEEDINGS

The two- day conference (27th -28th July, 2018) on National Initiative to Reduce Pendency and Delay in Judicial System was inaugurated by **Hon'ble Shri Justice Dipak Misra**, the Chief Justice of India along with Senior Judges of the Supreme Court. The deliberations in the working sessions were presided over by the Hon'ble Supreme Court Judges and there was representation of Chief Justices and Judges of the High Courts along with senior members of District Courts.

SETTING THE TONE

Hon'ble Shri Justice Dipak Misra, Chief Justice of India, very succinctly set the tone for the conference in his inaugural address by delineating fifteen points for deliberation. He implored the gathering to explore delegating the work of disposing technical pleas and requested each judicial officer and judge to monitor cases from their inception to finality. The setting of targets may prove very helpful in reducing pendency. The participants were encouraged to share best practices and to use technology to make court spaces litigant friendly. The use of alternate dispute resolution ought to be passionately and vigorously employed. Making Saturday working for criminal appeals was another big step that the Chief Justice of India advocated. The emphasis in the inauguration speech was to employ a multi pronged strategy with inputs and innovative suggestions from the Bar, the Bench as well as the academia. The Judge cautioned that to make dispensation of justice timely and effective, it must be ensured that even the minutest detail is taken care of and not left unaddressed.

Fifteen Indicators

The Chief Justice of India put up fifteen indicators which may go a long way in dealing with the problem at hand. They are as follows:

1. Since 40% of the judicial time is spent in disposing technical pleas by the courts, the possibility of delegating this should be explored thereby imposing a limit to

dispose of technical pleas by all Courts.

2. A Mechanism should be in place to monitor the progress of cases from filing to disposal. Categorization of cases on the basis of urgency and priority along with grouping of cases should be done.
3. Annual targets and action plans should be set up for the subordinate judiciary and the High Courts to dispose off old cases.

- A practice of bimonthly or quarterly review to ensure transparency and accountability should also be adopted.
4. The gap between institution and the disposal of cases should be bridged so that there is not much backlog. Though we have a National Judicial Data Grid, which is excellent, but simultaneously High Courts should organize data in a synchronized manner.
 5. He opined that the shortage of judges is no doubt a factor responsible for pendency but at the same time if it is found that some courts are functioning and performing better in the same conditions, the best practices can be shared.
 6. Courts should be litigant friendly and have the latest accessible litigant friendly technology to smoothen the working of justice administration.
 7. He emphasized on ADR methods, especially plea-bargaining under Sec. 265A CrPC. He advocated that under the supervision of a magistrate, assistance should be sought from students to engage in interaction with the inmates and neutrally discuss the pros and cons of their respective plea-bargaining.
 8. He advised that proactive and functional committees should be set up at the High Court level. They should meet at least once a fortnight and keep their service and reports in digitized format with all sincerity.
 9. He suggested stricter guidelines for grant of adjournments especially at the trial stage and not permitting dilution of time frames specified in CPC.
 10. Exploring of opening of Courts on Saturday for cases other than criminal appeals.
 11. He suggested fixing of time limits and deadlines for certain categories of cases in fast track courts and adhering to the same.
 12. Adoption of multi- pronged approach to effectively deal with pendency.
 13. Emphasis has to be given to basics and minutest details with meticulous planning to find out helpful solution to reduce pendency.
 14. Each High Court may form think tanks

with Judges, lawyers and academicians to consider and explore other innovative modes and initiatives to reduce delays and pendency.

15. Our motto should be –“shaping our judicial future: inspiring change through timely and effective justice”.

SESSION - I

Case and Court Management to Strengthen Judiciary – The Way Ahead

Management practices have slowly and gradually crept in the judicial administration, especially to tackle the enormous backlog of pending cases. This session was conducted to deliberate on the various ideas that had been mooted and subsequently implemented in the administration. The benefits of these ideas and the hurdles being faced while implementing these managerial reforms were discussed at length.

The panel presiding over the session consisted of eminent legal luminaries, which were:

Chair: **Hon'ble Shri Justice A.K. Sikri**,
Judge, Supreme Court of India.

Co-chair: **Hon'ble Shri Justice D. B. Bhosale**, Chief Justice, High Court of
Judicature at Allahabad.

Speaker: **Prof. (Dr.) M.P. Singh**,
Chancellor, Central University of Haryana
& Chair Professor, Centre for Comparative
Law, National Law University, Delhi.

Focus areas that emerged during the deliberations in the session were:

- There is a need of formal, uniform mechanism to address case and court management. Explosion of docket is the real threat.
- A balance has to be maintained between qualitative and quantitative justice and therefore, procedural timelines should not be sidelined.
- Despite dearth of infrastructure and insufficient judicial strength, there has to be optimum use of available resources.
- Bunching of cases is strongly

- recommended. The grouping of cases should be done in an articulate manner based on various parameters.
- The fixation of roster should be done keeping in mind the expertise and passion of the judicial officers.
 - Daily cause list should be released well in advance, to save unnecessary adjournments. Further, the purpose of each case should always be borne in mind while preparing the cause list.
 - Incorporation of a hybrid system with a mix of new and old cases, with a demarcation of substantive and procedural matters. Matters, which have become infructuous, should be disposed of immediately.
 - Adjournments are granted on technical matters which leads to the wastage of a lot of judicial time. Therefore, a system of scrutiny should be placed before hearing on substantive issues
- There should be strict adherence to time assigned for oral hearings and the onus of maintaining the same should be on the presiding officer of the court.
 - Great stress was laid on aligning the backlog of cases in the subordinate Judiciary and extensive ADR methods at the grass root levels.
 - There should be an independent cadre of court managers and their job description should be defined and clearly outlined. The Judicial officers should be apprised on how to utilize the managerial skills of these managers.
 - Mechanism, should be put in place to study the efficacy of existing court and case management system.
- The Chair, **Hon'ble Shri Justice A. K. Sikri**, Judge, Supreme Court of India, concluded the session by insisting that these deliberations would act as guidelines in future for effective court and case management.

SESSION - II

Alternative Dispute Mechanism- An Effective Solution Towards Reducing Pendency

With a mounting number of litigation and increasing pendency, various methods of dispute resolution are being explored.

Abraham Lincoln observed in the 1850s:

“Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses and waste of time.”

This observation still holds prominence. The theme of this session prompted participants to engage in an exercise of sharing their experiences while implementing ADR Mechanisms and best practices. A greater amount of stress was laid on resolving disputes at the grass root levels, especially by way of Gram Nyayalayas.

This interactive session had the following

eminent jurists as its panel members:

Chair: **Hon’ble Shri Justice Kurian Joseph**, Judge, Supreme Court of India.

Co-chair: **Hon’ble Shri Justice A.M. Khanwilkar**, Judge, Supreme Court of India and member, Arrears Committee for Supreme Court of India and for High Courts.

Speaker: **Prof. (Dr.) Ranbir Singh**, Vice-Chancellor, National Law University, Delhi.

Focus areas that emerged during the deliberations in the session were:

- Introspection is the need of the hour to assess if effective measures such as court and case management committees have been set up; court managers have been appointed; number of mediation centers are established in a State; and if private mediation centers; referral by the judges

for mediation, arbitration, mediation and conciliation training programs have been put in place.

- The judges have to be passionate and pragmatic in their approach.
- Gram Nyayalayas can be used as an effective way to manage small claim disputes from rural areas and make justice accessible for all by decreasing the workload of the judicial institution.
- The notion that 'The Procedure is Handmaid of Justice' has led to an escalation of the age of trial.
- Whether the tribunalization with strict time limits has actually helped in shortening the age of trial or reducing the pendency of cases.
- Coordination Centers to track the service of notice, practice of having fast track arbitrations, commercial mediations,

mediation expert team comprising of trained professionals and video conferencing with the judges of the subordinate judiciary at regular intervals can be set up.

- The judicial officers should interact with the parties and explore the possibility of ADR, wherever possible.
- Every stakeholder should become a duty holder so as to effectively contribute to a change.

The Chair **Hon'ble Shri Justice Kurian Joseph**, Judge, Supreme Court of India, while summing up the session added that there is a huge pendency in the High Courts and district courts. He stressed on the requirement of devising mechanism to weed out pending cases in order to effectively resolve the incoming matters.

SESSION - III

Use of Technology – A Possible Solution to Judicial Delay and to Deliver Speedy Justice

The theme of this session: ‘Use of Technology’, has been touted as pacemaker for the problem of pendency that plagues the Indian legal system. In the present era, technology has greatly enhanced our capacity to capture, study and analyze data, and generate reports at macro and micro level. The use of technology could help us in tracking and monitoring cases and in providing relevant information to decision makers in a timely manner. With this in the backdrop, deliberations were done to explore the measures for greater inclusion of technology in our justice dispensation system.

The panel presiding the session consisted of eminent legal luminaries, which were as follows:

Chair: **Hon’ble Shri Justice Madan B. Lokur**, Judge, Supreme Court of India.

Co-chair: **Hon’ble Shri Justice Sanjay Karol**, Acting Chief Justice, High Court of Himachal Pradesh.

Speaker: **Prof. (Dr.) R. Venkata Rao**, Vice-Chancellor, National Law School of India University, Bangalore.

Focus areas that emerged during the deliberations in the session were:

E-filing Model:

Since this is an age of system revolution that combines digital and physical system, and is characterized by interaction between technology and human, there is a need to get rid of the caveman mentality and work towards incorporating greater technology

and better techniques in our justice dispensation. A greater impetus should be given to enabling electronic filing of matters.

This can further include:

- Application of technology at various stages of the justice dispensation system such as case management, registry management, updates to advocates, litigants and public, legal services, judicial academy, etc. It can also be effectively utilized for services like e-registration of cases, e-payment of court fee in High Courts, auto generation of cause lists and daily case status, uploading of final order/judgment, delivery of services to stakeholders through Information kiosks at all courts, multiplatform service delivery to stakeholders, etc.
- Revamping of National Judicial Data Grid by introducing a new type of search known as elastic search, which is closer to the artificial intelligence.
- E-courts website has been launched providing easy access to data in various District and Taluka Courts of India. It has featured in top five governmental

websites.

- E-filing of cases is ready to be launched in district as well as High Courts.
- ADR Mechanism can also be taken online via use of technology like online forums in USA for e-adjudication and settling of consumer disputes by E-bay and other online dispute redressal mechanisms like e-negotiation.
- Jail Clinics can also be established, manned by lawyers and para-legal volunteers, where a database of all the prisoners is maintained along with record and track of each case hearing of under trial prisoners.

Process reengineering:

- It involves the redesigning of core business processes to achieve dramatic improvements in productivity, cycle times and quality and the same is very important for incorporation of the use of technology in court rules so as to provide legitimacy to the process.
- Performance based incentivisation for judicial officers which keeps them motivated.

- Village Legal Care & Support Centre can also be established by the High Courts to work at grass root level to make the State litigation friendly.

The Chair, **Hon'ble Shri Justice Madan B. Lokur**, Judge, Supreme Court of India,

concluded the session with recommending greater reliance and use of National Judicial Data Grid and also urging corporates to commercially utilize the data of National Judicial Data Grid.

SESSION – IV

Immediate Possible Solutions For Reducing Pendency And Delay In Judicial System And Valediction

After deliberating upon various reasons and a few systematic efforts launched for dealing with pendency and delay in the judicial system, the focus shifted to exploring immediate solutions. First and foremost, there is a need for introspection and an optimistic attitude among the judicial officers, which can be instrumental in dealing with delays and pendency in the judicial system.

The panel presiding the session consisted of eminent legal luminaries, which were as follows:

Hon'ble Shri Justice Dipak Misra, Chief Justice of India.

Hon'ble Shri Justice Ranjan Gogoi, Judge, Supreme Court of India.

Prof. (Dr.) N.R. Madhava Menon, Former Vice Chancellor, National Law School of

India University, Bangalore and NUJS, Kolkata.

Hon'ble Shri Justice Dipak Misra, Chief Justice of India, delivered the valedictory address by thanking the participants for their fruitful, engaging and instructive deliberations.

He emphasized that the basic and fundamental right of access to justice, in the most fundamental sense, has been the core foundational purpose of this National Conference. It provided an opportunity to everyone present to reflect on certain aspects and accelerate efforts towards reducing pendency and delays in the judicial system.

He underlined that the technical sessions along with numerous dialogues and ruminations reflected the following broad points:

1. Exploring the possibility of utilizing Court Managers;
2. Chief Justices of the High Courts to study the aspects of Court and Case Management so that the same can be institutionalized;
3. Grouping of cases and introduction of a hybrid system where old cases are given priority and at the same time, new cases don't go into arrears;
4. Utilizing of the tool of case management to deal with infructuous and non-alive cases;
5. Dealing promptly with cases in which a stay has been granted by the High Courts.

He observed that the purpose of this National Conference was to share good practices and absorb them with a sense of objectivity and a lot of ideas have been effectively shared paving way for sense of belongingness among the judicial fraternity. He applauded the efforts and consequent results of practices being observed in various state judiciaries. Sharing his experience, he referred to reducing pendency in a planned and phased

manner, especially pertaining to old cases. The work of E-Committee of Supreme Court was appreciated. And he emphasized that stress should be laid on the grass root level and suggested the introduction of the best practices in the ADR system including the latest technology.

Admitting that the current court congestion and delays require a modern and progressive approach, he stressed that every Judge should take the burden of judicial leadership and managerial skills of this court and the cases before him.

He concluded with optimism that ideas, thoughts and suggestions generated in all the sessions during this National Conference will contribute in improving strategies, plans, focus, targets, energies, commitment towards the judicial system, its growth and strengthening of the same.

The Chief Justice of India, **Hon'ble Shri Justice Dipak Misra**, thanked the participants for engaging in these deliberations and was confident that a new era of more effective judicial administration is in the offing.

Hon'ble Shri Justice Ranjan Gogoi, Judge, Supreme Court of India, began his special address by congratulating the fellow judicial officers for such in-depth deliberations in the preceding sessions. He drew attention to the theme of the fourth and the final session i.e. immediate possible solutions for reducing pendency and limited his scope of address to the theme of the session. He offered a few solutions that could be implemented instantly in our legal system:

Vacancies topped the list and he highlighted the disparity in time taken for recruitment in subordinate judiciary in various States, as the same ranges from 99 days in Pondicherry to 762 days in Delhi. Outlining the qualities to be looked in prospective judicial officers, he advocated a major recruitment drive. The Chief Justices of the High Courts were advised to regularly take stock of the mediation centres via technological mediums such as video conferencing.

Appointment of *ad hoc* Judges and infrastructure overhauling were other key concerns flagged by the judge. Another very

important issue that was stressed was the need for consistent judicial policy irrespective of the change in guard.

Judgment writing was also taken note of and the judge stressed on the need to refrain from writing lengthy, verbose judgments which will save a lot of judicial time. He concluded with faith in the initiative that has been taken in helping us to step up towards a more meaningful new world.

Prof. N.R. Madhava Menon gave the four-fold mantra to deal with issues of delay and pendency which are :

I. Personnel Policy and Management:

Recruitment examinations should be held in time, the results should be declared promptly. Performance assessment should be made objective, transparent and meaningful. Court specialization should be explored, as that will enhance the productivity. The funds sanctioned by the government should be utilized for deployment of court managers, as that will aid in court and case management. Owing to a dearth in manpower and reluctance of government

to allocate necessary funds, judicial officers should not be sent to non-judicial or quasi-judicial positions. The judicial head of the Country should have tenure of at least a year, so as to contribute significantly in the administration of justice. Supreme Court and High Courts should take initiatives to appoint efficient and experienced judges as Ad-hoc judges in accordance with the Constitution of India.

II. Diversions to Alternative Methods:

Legal Services Authorities were to undertake pre-litigation mediation in a big way, so that the inflow of cases into courts can be regulated. The Lok Adalat is one of the principal instruments for ADR mechanisms and should be organized regularly in a business like fashion without the ceremonial inauguration and valedictions. There is a need to ensure the working of Gram Nyayalayas as a dynamic institution to settle small disputes.

III. Intelligent and Extensive Use of Technology:

The judicial officers, lawyers and litigants all alike should utilize National Judicial Data Grid to its most optimum level. The scope of Artificial Intelligence, which is yet unexplored should be utilized.

IV. Court and Case Management:

Case planning and grouping them in 3 or 4 categories for fast track, medium track and long track treatment in other words, setting timelines should also be encouraged. There should be strict regulation of adjournments and imposition of exemplary costs for seeking it on flimsy grounds. Creation of an expert unit or secretariat in every High Court for processing cases for timely appointments, promotions and transfers based on objective criteria and methods. Gram Nyayalayas can work to reduce village disputes.





SUPREME COURT OF INDIA

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