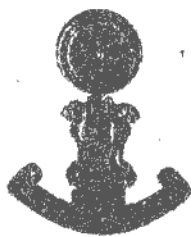


Sanjay Parihar
Registrar
Supreme Court of India



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Dated: 07.01.2017

To
The Ld. Principal District and Sessions Judge,
District - Faridabad.

753/84
24/1/17

Sub: "Subordinate Courts of India: A Report on Access to Justice 2016"

Dear Sir,

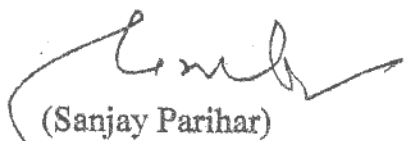
This is to inform you that The Center for Research and Planning, Supreme Court of India, New Delhi has prepared a report entitled "Subordinate Court of India: A Report on Access to Justice 2016". This report highlights the issues of lack of man power and infrastructure in the Subordinate Judiciary and concludes that **"there is a crying need to increase judicial work strength and to overhaul infrastructure if seekers of Justice are to get it within optimal time"**.

As per directions of Hon'ble the Chief Justice of India this report has been uploaded on the official website of the Supreme Court of India under the link "Publication".

As directed a Gist of report is being forwarded to your goodself for your kind perusal with a further request that Judicial officers of your District, may be asked to download the report from the above said link in order to give wider publicity of the report.

With warm personal regards,

Your sincerely,


(Sanjay Parihar)

Enclt. No. 1311-44/24 Dt. 25/1/17

Seen: Office / Computer Clerk,
System Officer to note.

Copy forwarded to all the
Judicial Officers posted at Faridabad
for information and necessary
compliance.


District & Sessions Judge

SUMMARY OF THE REPORT
SUBORDINATE COURTS OF INDIA:
ACCESS TO JUSTICE 2016

The Report relates to the issue of inadequacy of manpower and infrastructure in the subordinate judiciary, which is the foundation of the judicial system in India. The issue relates essentially to the fundamental right of citizens to “Access to Justice” within reasonable time and in an inexpensive manner through an efficient judicial system. Inadequate judicial manpower, staff and infrastructure impede the enforcement of this fundamental right. It also affects judicial independence, which is a basic feature of the Constitution, and the credibility of the judiciary itself.

The Supreme Court's Centre for Research & Planning has compiled a range of legal sources and research materials concerning the manpower requirement of the Indian Judiciary at the district level. This material has then been analyzed to find out whether the existing manpower is adequate in comparison to the manpower necessary for ensuring access to justice. For this purpose, different methods such as Human Development Index (HDI), Demography, Literacy, NCMS Committee Unit System and Judge Population Ratio have been used. The Report concludes that *“there is a crying need to increase judicial work strength and to overhaul infrastructure if seekers of justice are to get it within optimal time”*. The Report makes a comparative analysis of access to other public services, such as policing and public administration in juxtaposition to the availability of judicial services at the first instance court level. The study reveals that on a geographical average, one judge is available at a distance of 157 sq. kilometers whereas in comparison, one police officer of the rank of Inspector and above is available every 61 kilometers.

The chapter-wise summary is given below.

Chapter I : Introduction

Chapter I states the two essential objectives of the study: firstly, to understand the complexity of challenges towards ensuring timely justice which includes judicial manpower requirements, administrative capacities and infrastructural gaps and secondly quantifying the number of judicial officers required to tackle existing backlog while addressing to reasonable time-lines to handle and dispose of freshly filed cases. Two approaches have been employed: Firstly, estimating the number of judges needed to address both immediate short term and long term disposal goals. Secondly determining judge strength on the basis of different indices of growth including demographic, Human Development Index (HDI) and literacy.

Chapter II: Indian Judicial System – Current Inadequacies in Manpower, comparison with other branches of Governance and barriers to Access to Justice

Chapter II discusses the current inadequacies in judicial manpower. Concerns regarding judicial backlog and infrastructure have been the subject of debate and discussion in different fora. The Report shows that judicial workforce is currently unable to meet the demands of justice as is reflected in the high number of cases pending for long periods of time.

Reasons for High Pendency

The mounting pendency of cases in subordinate courts is because the subordinate judiciary works under a severe shortage of court rooms, secretarial and support staff and residential

accommodation for judges. The subordinate judiciary has been working under a deficiency of 5,018 courtrooms because existing 15,540 court halls are insufficient to cater to the sanctioned strength of 20,558 judicial officers as on 31.12.2015. Similarly, there is shortage of 8,538 residences for judicial officers. This affects more than 40% of the sanctioned strength of judicial officers. Also 41,775 staff positions are lying vacant as on 31.12.2015. In 1958, the 14th Report of the Law Commission of India dealt at length with the issue of delay and arrears and identified the root cause of the problem as inadequate judge strength.

For dealing with the issue pertaining to delay and arrears, different approaches have been suggested by the Law Commission & other expert bodies. These include the following methods: Demographic, Rate of Disposal and the National Court Management System based unit system.

Judicial Manpower Planning: Towards a Citizen Centric Approach

The 120th Report of the Law Commission of India, 1987: Endorsement by the Judiciary and Executive

The 120th Law Commission of India Report on Manpower Planning in Judiciary 1987 suggested that since the demographic factor is the predominant consideration while delimiting legislative boundaries, population should be the basis of fixing judge strength. The Commission found that the judge population ratio was 107 judges per million in US, 41.6 per million in Australia, 75.2 per million in Canada and 50.9 per million in England. However in India it was only 10 judges per million for the 1981 Census population. Accordingly, it recommended that the Judge-Population Ratio in India be immediately increased from the then ratio of 10 judges to 50 judges per million. The Report also recommended a five-fold increase in Judge strength in the country immediately. For

ensuring a reasonable access to justice, it found that India should achieve a Judge-Population Ratio which the US had in 1981, i.e. 107 Judges per million by the year 2000. If this would have been achieved, then as on 31.12.2015, the Judges' strength in India would have been 1,36,794 instead of 21,607.

In the case of *All India Judges Association and others Vs. UOI*, (2002) 4 SCC 247, the Supreme Court had directed that the Judge Population Ratio in India must be 50 Judges per million of population and that the norm be achieved within a period of five years from the order dated 21.03.2002, and no later than 10 years in any case. The demographic approach to ascertain the judge strength is a citizen centric approach.

In 2013, the then Prime Minister of India accepted the recommendations of the then Chief Justice of India to double the existing number of courts. This issue was taken up at the 2013 Joint Conference of the Chief Ministers of the States and Chief Justice of the High Courts. It was decided that *"In order to narrow down Judge-population ratio, the State Governments, in consultation with the Chief Justices will take requisite steps for creation of new posts of Judicial Officers at all levels with support staff and requisite infrastructure"* If the demographic standard of 50 Judges per million of population is applied, to the 2011 Census population of 1,210.6 million, then India requires a total of 60,530 judges to reach a Judge-Population ratio of 50 per million. With the Judge-Population ratio of 18 Judges per million as on 31.12.2015, the Indian judiciary is understaffed in comparison to other countries. China which compares best to India in terms of its population of 1,360 million in 2013, had a Judge-Population ratio of 147 Judges per million.

Rate of Disposal Approach

To deal with the problem of delay and arrears, another approach was suggested by the July 2014, 245th Law Commission of India Report. The Report recommended that the Rate

of Disposal method formula be followed for calculating adequate judge strength for subordinate courts.

In this method, the existing pendency is divided by the rate of disposal to arrive at the number of judges required to clear the pendency in one, two and three years. The Law Commission suggested that an additional number of 348 and 11,834 judges were required, in the 14 States/ UTs that were analyzed by it at the Subordinate Court level to handle institution and clear backlog in one year, respectively.

NCMS Approach:

The third method for assessing judge strength was devised by the Supreme Court NCMS (National Court Management Systems) Committee while analysing the approach of 245th Law Commission of India Report, the Committee suggested that calculation of additional judge strength should be based on the 'Unit System'. It proposed that whenever the total units required to be disposed of annually by a court is greater than 150% of the disposal norm for a very good performance by that Court, a new Court should be created.

Access to Justice

The Report also recommends that a citizen centric approach needs to be taken while determining judge strength. This translates into using proximity to Courts of first instance as a yardstick for assessing the requirement of judicial manpower. Access to justice is meaningful when each citizen has a ready access to court and this will be possible only if the number of courts is increased. As a starting point, it is necessary to provide that a court of first instance is available to each citizen within a radius of 50 kilometers from his residence or within a maximum traveling time of half a day. In practical terms this can be translated into the deployment of a minimum number of judicial officers (of different ranks) at every administrative level, along the lines of man-power planning in the civil services. The basic administrative unit can be taken to be the *tehsil* to achieve this ideal.

Chapter III: The Way Ahead

Increasing Pendency

The analysis of 2013-2015 statistics shows that the judicial system is able to tackle the flow of fresh cases. In 2013, institution of cases was 1.86 crore while disposal was 1.87 crore cases. In the year 2014, institution stood at 1.92 crore and disposal at 1.93 crore cases and in 2015 the figure of institution was 1.90 crore while disposal was 1.83 crore. However over the last three years period, the pendency has remained at 2.68 crores, 2.64 crores and 2.74 crores cases respectively. Keeping this in mind, the existing strength of judicial officers is not sufficient to tackle the increasing backlog. This is more so concerning criminal cases which involve the fundamental right to life and liberty. An analysis of data from National Crime Records Bureau reveals that the existing strength of judicial officers needs to be enhanced at least 7 times so that trials are completed within a period of one year.

Case Life Cycle

After analyzing the data, it was found that the Indian subordinate judiciary in the next 3 years, requires an additional 14,597 judicial officers and a sanctioned judge strength of 35,155 to cater to the existing problem, provided the rate of filing remains constant. The fact cannot be ignored that the rate of filing has been increasing consistently and is likely to rise rapidly in coming years. The Report attempts to study and forecast future demands of justice by use of statistical models. The study involves State/UT wise analysis of litigation levels and the corresponding judge strength to achieve the lowest case pendency levels. The work is divided into two parts: firstly, the short term goal of reducing present case pendency and secondly the long term goal of reducing the case life cycle, to between one and two years. The following three ratios have been used for achieving the case life norm of 1-2 years and establishing equilibrium:

- (i) Pendency : Institution
- (ii) Disposal : Institution
- (iii) Pendency : Disposal

HDI Approach:

The Centre's Report recommends phased manpower induction with 2040 as the target year. The volume of cases likely to be filed would increase by 2040 based on Human Development Index (HDI). Studies have reflected a positive correlation between HDI and institution of cases. To project future case filings, individual States/UTs analysis was carried out. The institution of cases in the future was calculated by multiplying the population of the State/UT in a given year with the projected average institution per million in that year. The study based on HDI method further shows that 75,594 Judicial Officers will be required in the States/UTs by 2040, so that the above mentioned ratios can be stabilized.

Literacy Rate Approach:

One of the components of HDI is the growth of literacy. The literacy indicator was also separately used to calculate the number of judges required. Analysis of the data on rate of growth of literacy on the one hand and of cases filing on the other, revealed a co-relation between the two. States/UTs have been grouped into bands according to their literacy rates as per 2011 census. The average institution per million of the States/UTs falling in such bands has been calculated. The study shows that on the basis of growth of literacy, 85,734 judicial officers will be required in the States/UTs by 2040, so that the above-mentioned ratios can be stabilized.

Linear Regression Model / Normal Growth:

The forecast method was also employed to study the pattern of litigation in the past. It used the linear regression model to predict future case institution growth for any given time-frame. The required judge strength was calculated in accordance with the institution figures. The study shows that 42,561 judicial officers will be required by 2040 so that the above ratios can be stabilized.

50 Judges Per Million of Population Model:

To reach the judge-population ratio of 50 Judges per million in 2040, States/UTs data analysts was done and projected filing was worked out by taking the average of institution figures by the above three methods. The analysis show that in some States like Bihar, Jharkhand, Goa, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Sikkim, even this standard is insufficient to stabilize the ratios.

Chapter IV : Conclusion

It is important for a State to assure 'Access to justice' as rigorously as any other social

service that it provides to its people under the Constitution. Nothing rankles more in the heart than endlessly pending injustice. There is thus an absolute justification value in providing minimum access to justice, at a reasonable distance, withing reasonable time and at affordable cost.

Based on the study and keeping in mind the future growth in institution of cases, it was found that all approaches lead to only one conclusion – the present Judge strength is insufficient to deal with the huge figure of pendency of cases. Additional judicial manpower and support staff as well as infrastructure is required immediately to handle the situation. The report suggests that the starting point for this exercise should be such States/UTs where the crisis is at its most severe stage. As a first step, these States can be identified and worked on for tackling the situation in a phased manner. The study ends with the hope that the Executive will comprehend the crisis, rise to the occasion and fulfill its solemn constitutional obligations towards the citizens.

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**Centre for Research & Planning,
Supreme Court of India**