

# **Vision Statement**

Presented to

**Hon'ble Mr. Justice K.G. Balakrishnan**  
Chief Justice of India

by

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**at The National Consultation for  
Strengthening the Judiciary towards  
Reducing Pendency and Delays**

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## **THE VISION STATEMENT**

1. “JUSTICE, Social, Economic and Political” is the spirit and vision of the Constitution which WE, THE PEOPLE OF INDIA have solemnly given to ourselves on 26<sup>th</sup> November 1949. It is the duty of the State to secure a social order in which the legal system of the nation promotes justice, on a basis of equal opportunity and shall, in particular ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Access to Justice is the key for realizing this vision. Access to quick and quality justice must be the focal point.
2. However, in the matter of speedy delivery of justice, the system has not been successful, largely because of the explosion in litigation which, whilst indicating, in a sense, the confidence of the people in the system, also results in increasing frustration and disillusionment with the said system.
3. The Hon’ble Prime Minister, at “*The Conference of Chief Ministers and Chief Justices*” held on the 16<sup>th</sup> of August, 2009, described the huge arrears and case backlogs as the “scourge” of the Indian legal system. The problem of arrears is not new and various attempts have been made to tackle it. A practical, effective, detailed and achievable system for tackling arrears must be attempted. It is in this spirit that we have a Vision Plan, namely, to reduce the pendency of cases from 15 years to 3 years. Ultimately, an efficient legal and judicial system which delivers quick and quality justice reinforces the confidence of people in the rule of law, facilitates investment and production of wealth, enables better distributive justice, promotes basic human rights and enhances accountability and democratic governance.

4. To be able to achieve the above objective, it is felt necessary to articulate this VISION STATEMENT which captures the imagination of the functionaries, comprehends the essential elements of the idea of timely justice and constructs a systematic programme of action for expediting the processes of justice. The functionalities include all stakeholders, the judicial system, the bar, the litigants and Governments, both Central and States.
5. Any Vision Statement in this regard may not be able to project workable deliverables beyond a period of 10 years because of the unprecedented developments taking place in technology, economy and polity of the nation. Nor is it possible to capture all aspects of judicial reform in one document. As such, the present attempt is to focus on two major goals in judicial reform namely:

- increasing access by reducing delay and arrears in the system, and,
- enhancing accountability through structural changes and setting performance standards and capacities

## **THE MISSION STATEMENT**

## **THE ACTION PLAN**

### **I. Immediate Measures for Implementation**

1. Creation of National Arrears Grid/Identification of Arrears.
2. Identification of Bottlenecks in crisis areas.
3. Tackling the Bottleneck Areas.
4. Adoption of innovative measures for expeditious case disposal.
5. Focus on selection, training and performance assessment of judicial personnel and court management executives.
6. Efficient utilisation of the judicial system and existing infrastructure through effective manning, effective planning and timely management by increasing the use of technology and management methods.
7. Uncluttering the System: Removing dead weeds and preventing their re-growth.
8. Procedural changes.
9. Management and administrative changes.

### **1. THE NATIONAL ARREARS GRID: IDENTIFYING THE ARREARS**

1. The purpose of the National Arrears Grid is to ascertain, analyze the exact number of arrears in every court on a scientific basis, and to oversee continued reduction of such arrears, increase in efficiency, and optimal utilization of infrastructure.

2. The National Arrears Grid shall be constituted in the form of a Committee comprising the following:-
  - (i) A Senior Judge of the Supreme Court of India.
  - (ii) Deputy Chairman, Planning Commission.
  - (iii) Attorney General for India.
  - (iv) Solicitor General of India.
  - (v) 3 Chief Justices of High Courts as nominated by the Chief Justice of India.
  - (vi) Director, National Judicial Academy.
  - (vii) Director, IIM, Ahmedabad.
  - (viii) An officer nominated by the Comptroller & Auditor General of India.
  - (ix) Financial Controller, Department of Expenditure (for direct release of grants for the utilization of funds for the arrears reduction plan).
3. Within 8 days of the meeting, each High Court shall report to the National Arrears Grid its respective arrears and the arrears in the subordinate Courts falling within its respective jurisdiction.
4. Reports from the High Courts should contain the details of pending cases, including, *inter alia*, the cause title of the matter, the year of lodgment, the category of the case and the next date of listing.
5. It may be noted that all cases which are pending disposal in courts as on 1.1.2009 shall be treated as arrears.

6. The Grid will appoint a reporting executive for each High Court to give weekly reports on reduction of arrears. All cases which are treated as arrears under the above definition will involve preparation of short written arguments and time tables to be fixed by the Judge/Court Executives. Time tables for disposals of cases will also be published on the Internet.
7. The Woolf Report of 1996 emphasized that the judiciary must generate accurate judicial statistics revisable on a daily basis. The flow of information relating to statistics is vital. The Grid will employ specially trained computer experts, statisticians and software designers to ensure that this database is uniform and fed efficiently into the Grid. The Grid should be in control of statistics and full time rapporteurs must be appointed for that purpose.
8. The Grid will have a map which will show the location and manning of every Court in the country including the name of the Presiding Officer, the arrears before him, as well as the facilities available. The Grid, by a process of mutual and quick consultation, will offer mobility so that, wherever required, strengthening is afforded to the Courts, which need either infrastructure or manpower support to achieve speedy disposal.
9. The National Arrears Grid will submit a report to the Prime Minister on 31.1.2010 of the goals achieved and the work done till that date. The Grid, with the help of sociologists, members of the civil society and the voluntary sector, will also specifically identify action areas / geographical areas concerning the poor and the underprivileged vis-à-vis access to justice. It will pay particular attention to ensure that confidence building takes place in the dispensation of justice in these areas.

## **2. IDENTIFICATION OF BOTTLENECKS: CLEARING THE SYSTEM**

1. Studies have shown that cases under certain statutes and areas of law are choking dockets of magisterial and specialized courts, and the same need to be identified.
2. Bottlenecks shall be identified as follows:
  - a. Matrimonial cases.
  - b. Cases under Section 498A of the Indian Penal Code, 1860.
  - c. Cases under Section 138 of the Negotiable Instruments Act, 1881.
  - d. Cases under the Prevention of Corruption Act, 1988.
  - e. Regular murder cases/appeals.
  - f. Civil cases, including suits which may have been rendered infructuous.
  - g. Cases under Section 482 of the Code of Criminal Procedure, 1973.
  - h. Petty cases such as Traffic Challans.
  - i. Motor Accident Claims.
3. Prioritisation has to be worked out. Those in need of expeditious resolution of their cases, such as senior citizens, terminally ill persons, Pretrial and Juvenile prisoners, women who are victims of violence, must receive fast track and out of turn disposal. This cannot be done in a haphazard manner; it needs to be uniform, organized and systematic.

### **3. TACKLING THE BOTTLENECKS:**

1. Fast Track procedures shall be evolved to deal with the cases earmarked as causing bottlenecks.
2. Retired Judges and eminent lawyers may be appointed as ad-hoc Judges for a period of one year for the purpose of dealing with arrears. While Retired District and Sessions Judges could be inducted vis-à-vis subordinate courts, Retired High Court Judges may be appointed in the High Courts.
3. Special Court Rooms, additional buildings and other infrastructure may be provided for the above purpose.
4. A time table for the reduction of bottleneck arrears may be set; with (preferably) the arrears as on 1.1.2009 to be liquidated by 31.12.2011. Increased infrastructural support in bottleneck areas must be considered on a war-footing.
5. Top quality executives may be recruited to ensure time management, effective utilization of infrastructure and management of personnel for courts.
6. All cases which shall be processed by Special Courts under the above scheme will be conducted on a non-stop day-to-day basis with no adjournments except in rare circumstances.
7. A suggestion with regard to cases under Section 138 of the Negotiable Instruments Act has been put forth by the Delhi High Court. It has been observed that cheque bouncing cases generally end up in some kind of amicable settlement soon after the presence

of the accused is secured. The suggestion of the Delhi High Court is that for such cases a shift system could be used so that more judicial manpower could be deployed within the constraints of limited infrastructure.

#### **4. ADOPTION OF INNOVATIVE MEASURES FOR EXPEDITIOUS DISPOSAL**

1. The Presiding Officers of Courts will be given laptops preinstalled with suitable software enabling them to type out quick and short judgments. Where necessary, personal executives will provide additional assistance.
2. All cases involving traffic offences or bailable offences can be dealt with through the web and video conferencing technology.
3. Where necessary, video conferencing will be resorted to for the purpose of witness testimony including cross examination.
4. Senior law students, fresh graduates from National Law Schools, and MBA graduates may also be appointed as Court Managers. However, to attract such professionals as Court Managers, a structure of incentives must be mapped out, as the bulk of such professionals prefer to join the corporate sector due to the financial incentives offered.
5. Incentives to delay matters must be identified and eliminated. There shall endeavour to remove “benefits” of delay sought by unscrupulous litigants. Such measures must include heavy interest, realistic mesne profits, actual, compensatory and even punitive costs.

**5. FOCUS ON SELECTION, TRAINING AND PERFORMANCE OF JUDICIAL PERSONNEL AND COURT MANAGEMENT EXECUTIVES**

1. All vacancies in High Courts to be filled up within a period of 8 weeks. Eminent and competent lawyers who satisfy existing criteria of legal acumen, integrity and highly dedicated service to be selected.
2. Existing memorandum of procedures to have a shorter time-frame to facilitate the filling up of backlog vacancies of Judges within 8 weeks in High Courts.
3. Till now vacancies in the subordinate Courts have been filled up by means of a competitive examination followed by an interview. The existing procedure should be tailored into a 14-week programme during which advertisements, examinations, interviews and final selections should be carried out for filling up vacancies in the subordinate Courts. It is suggested that Selection Committees should consist not only of Judges, but also leaders of the Bar and other independent constituents.
4. The utilization of time is important and executives appointed will measure the utilization of time in terms of an objective criterion to know whether there is wastage.

**6. EFFICIENT UTILIZATION OF THE JUDICIAL SYSTEM AND EXISTING INFRASTRUCTURE THROUGH EFFECTIVE MANNING, EFFECTIVE PLANNING AND TIMELY MANAGEMENT BY INCREASING THE USE OF TECHNOLOGY AND MANAGEMENT METHODS**

1. It is possible to have 3-shift Courts for the presiding officers / Judges to function. In other words, a Judge need not spend 8 hours

in Court, but instead could work in 5-hour shifts. The first shift could be from 7 a.m. to 12 p.m. The second shift could be from 2 p.m. to 6.30 p.m., while the third shift could be from 7 p.m. to 12 a.m. In between shifts, the judges can sit with special staff for the purpose of dictating judgments. This may appear exacting but if cases are taken on such a priority basis, it would be possible to achieve the target of disposal of cases by 31<sup>st</sup> December 2011. The shift system will require the following:-

- (i) Fifteen thousand judge positions shall be created for a two year period in the trial courts and special recruitments shall be made from among retired judges, public prosecutors, government pleaders and senior advocates for service on a contractual basis and on a consolidated honorarium of **Rs.50,000/-** per month. (This is a suggestion, it may have to be revised upwards should it be found to be inadequate.) Their service regulations shall be framed and approved by their respective Superior Courts. These courts shall function in accordance with the three time-slots described above in the same Court complexes. Court employees willing to work on an overtime basis shall be listed and utilized as support staff thereby bringing down infrastructure expenditures to the bare minimum. The Judges and staff shall undergo an orientation programme and with the managerial support from an AES Care Team, they shall work toward disposing an average of at least 150 trial cases per year that are referred to them. Priority shall be given to criminal cases as well.
- (ii) A similar parallel system shall be implemented at the High Court level with retired Judges and senior advocates serving on

a yearly contractual basis by conducting hearings on evenings and on weekends. All efforts shall be made to put in place 700 judges in select High Courts having greater pendency. Judges may be employed on an honorarium of Rs.1,00,000/-per month on the understanding that they dispose off at least 2,500 cases per year, which is the average disposal rate of sitting High Court Judges. The honorarium may have to be revised upwards should it be found to be inadequate.

- (iii) There shall be an empowered management team at each High Court which shall monitor and ensure time-bound progress and outcomes and shall resolve problems wherever they occur. The above said team shall consist of five members – a senior High Court Judge as the Chairman, a Chief Secretary rank officer as the Secretary, a Management Expert, a systems analyst and an executive director (the last three shall function from the High Court on a full time basis) .The duties and functions of each member of the team shall be clearly defined. Their authority shall be derived from the High Court and the State Government. This shall enable the above said team to function efficiently.
2. It is important to note that a quick disposal and achieving targets such as these would encourage both Judges and lawyers to get familiar with special and varied branches of law. As a result, Courts would guarantee independent and fair judgment. Careful and well thought out assignment of cases having regard to skill and knowledge of the subject by the judge concerned is imperative. This can only happen if there is a periodic review of performance of judges and their familiarity with different brands of law.

3. The manner in which commercial and arbitration cases are dealt with calls for reflection. Though a system of alternative dispute resolution / specialized dispute resolution aims at reducing (and in some cases, eliminating) time spent in court, the existing position does not reflect this. Frequent delays in the conduct of commercial dispute resolution and arbitration matters has slowly led to a loss of faith in the system by not only Indian entrepreneurs, but also by foreign investors. Such matters, therefore, have to be put on a separate track. Judges, who are well versed with commercial laws and practices, as well as specialist arbitration judges, will be requested to map and fast track such cases.
4. Decisions relating to government and governmental policy must also be put on an identifiable course. This would require collection of data, classification and planning of Court/Bench positions. This would apply both to the Central/State Governments. Setting up of Empowered Committees to eliminate unnecessary litigation need to be considered.
5. Courts may also take resort to Section 89A of the Civil Procedure Code, 1908 in order to ensure that litigants first exhaust all modes of alternative dispute resolution. This will not only decrease the pendency of cases before courts, but would also substantially reduce litigation costs and ensure timely and amicable resolution of disputes.
6. There is a need to reconstitute the Law Commission, on a statutory basis, to comprise of lawyers and innovators who can suggest constant amendments to the law. Suggested amendments must proceed on an empirical basis and scientific study. Thus the Law

Commission must be established as a body with adequate field research workers, anthropologists, sociologists, culture experts and legal researchers.

## **7. UNCLUTTERING THE SYSTEM : REMOVING DEAD WEEDS AND PREVENTING THEIR RE-GROWTH:**

1. The Central Government is proposing the introduction of a litigation policy. The government is to be transformed from a compulsive litigant into a responsible and reluctant litigant. An action plan in this behalf will be launched separately. It has a two pronged approach – identifying and removing “useless” cases which are burdening the docket. The Office of the Attorney General and the Solicitor General is slated to be established as a full-fledged office with a total of 52 lawyers and 26 law researchers. The office will also be responsible for undertaking review of pending cases and removing them from the system. Statistics have been called for from each and every Government Department (including PSUs) of pending matters.
2. Norms will be formulated for defending cases filed against Government. The approach that ‘the Petitioner is always wrong and must be resisted in every which way’ must be abandoned. Proper norms will be laid down for appeal and further challenge. The present system viz. *“let the Courts decide every case”* must be eliminated.
3. The Office of the Attorney General and Solicitor General has already embarked on a task of identifying all surviving recommendations from various Law Commission reports which require implementation. This target is expected to be achieved by

31<sup>st</sup> December 2009. A report will be submitted to the Law Minister and the Prime Minister to take forward such amendments as are necessary and which have been approved by the Law Commission.

#### **8. PROCEDURAL CHANGES:**

1. Parliament has introduced procedural reforms in criminal and civil procedure as well as in the Evidence Act in an incremental manner. However, the Law Commission has to consider, on a continuing basis, which portions of the law are unsatisfactory i.e. unduly complex, unclear or outdated. The terms of reference of the Law Commission need to be precise and focused on disposal of cases. The emphasis must be on identifying all laws, procedural or substantial which obstruct expeditious disposal of cases. Further, pre Constitutional laws need to be synchronized with Constitutional goals and ideals.
2. A moderated, on-line web dialogue between lawyers, sitting and retired Judges should be launched on inputs for reduction of arrears, very similar to the “digital dialogues initiative” in the UK.
3. Modern scientific investigation is essential to successful prosecution of criminals. The reforms mentioned in the Malimath Committee Report on selection of prosecutors must also be seriously considered.
4. In view of the fact that there are varying levels of legal education in the country, additional course inputs to increase professional competence amongst members have been encouraged. The Advocates Act, 1961, may also need to be re-visited in consultation with senior members of the Bar to consider re-introduction of

mandatory apprenticeship, undertaking an ethics orientation before admission to the Bar, and, possibly, the introduction of a qualifying exam for advocates (similar to that prescribed for Advocates-on-Record of the Supreme Court).

5. The management of the administrative side of the judiciary must be left to the Chief Justice of India who would undertake effective management with the help of management experts.
6. The recommendations of the Judicial Impact Assessment Committee need to be considered immediately. An Action Plan needs to be drawn up on this basis.

## **9. MANAGEMENT AND ADMINISTRATIVE CHANGES:**

### **(A) Case Management and its various objectives & components:**

1. Case management is a comprehensive system of management of time and events in a law-suit as it proceeds through the justice system, from initiation to resolution of disputes.
2. ‘Case management’ means that the ‘progress of cases’ before the courts must be ‘managed’. In one sense, that is to say that there must be a departure from the traditional adversarial case management which had left the pace of litigation primarily in the hands of the legal practitioners.
3. Traditionally, the courts’ role was simply to respond to processes initiated by practitioners. But, the underlying objectives of ‘case management’ should now include:
  - i. Increase the cost effectiveness of litigation;

- ii. Ensure a case is dealt with as expeditiously as is reasonably practicable;
  - iii. Promote a sense of reasonable proportion and procedural economy;
  - iv. Ensure fairness between the parties;
  - v. Facilitate settlement;
  - vi. Ensure the courts resources are distributed fairly;
  - vii. Courts to secure just resolution of dispute in accordance with the substantive rights of the parties;
  - viii. The parties and their legal representatives are required to help the court to further the underlying objectives.
- 4. ‘Judicial Management’ is a term used to describe all aspects of judicial involvement in the administration and management of courts and the cases before them. It includes procedural activism by judges in pre-trial and trial process and in ‘case management’.
- 5. The courts should also be duty bound to further underlying objectives by ‘actively managing’ cases. Activism in case management by the courts should aim to :
  - a) Encourage parties to cooperate;
  - b) Identify issues at an early stage;
  - c) Encourage and facilitate the use of alternative dispute resolution procedures, if appropriate, and help the parties to settle whole or part of the dispute;

- d) Fix timetables or otherwise control the progress of the case;
  - e) Develop information technology support;
  - f) Monitor of case loads;
  - g) More effective use of judicial resources;
  - h) The establishment of trial standards;
  - i) Consider whether the likely benefit of taking a particular step justifies the cost;
  - j) Deal with as many aspects of the case as possible on the same occasion;
  - k) Facilitating planning for the future;
  - l) Ensure efficient and expeditious conduct of trial, and issue directions in this regard if necessary.
  - m) Periodic Review of cases to identify slippages and short comings.
6. The two essential components of case-management system are:
- i. The setting of a time table for pre- determined events, and,
  - ii. Supervision of the progress of the law-suit through its time-table.
7. Case Management must be introduced by appropriate rules, so that it can become a very efficient tool for the proper and timely disposal of simpler cases and also for the purpose of allocating more time to complex cases.

8. The Gram Nyayalay Act 2000 mandates delivery of judgments within 15 days of the conclusion of the proceedings. Delay in delivering judgments is now assuming virtual dimensions. All courts, without exception, should be required to publish figures, on the websites, particulars of cases reserved for judgment and the date on which the case was closed for arguments.

**(B) Current scenario in India - Procedural Holdups:**

1. Adjournments repeatedly applied for and routinely granted are the curse of the Indian legal system. This must be eradicated. A “no adjournment” system is the aim, which is achievable. For instance, Judges who grant regular and unnecessary adjournments can be “identified” and counselled, and course corrections can be made.
2. Considerable waste of the judicial time occurs by the system of calling out all the listed cases – which are not yet ripe for final disposal – to address purely procedural issues, such as,:
  - i. Whether notices are served,
  - ii. Whether defects are cured,
  - iii. Whether affidavits, replies or rejoinder affidavits are filed,
  - iv. Whether notices in applications for bringing legal representatives or record are served,
  - v. Whether parties have taken various steps necessary to be taken at various stages of the case.
3. So far as final disposal matters are concerned, they are normally listed according to the year in which the case was filed and

numbered, the older cases being listed above the later cases. There is, normally, no distinction made in our Courts between simple and complex cases. All of them are put in one basket and taken up according to their year and number. In this process, simple cases, which do not involve complicated questions and thus do not require much time for disposal, get mixed up with more complex cases and linger on in the Courts for a number of years.

4. A restricted regime of imposition of costs has encouraged several litigants to abuse the legal process and delay the disposal of cases.

#### **(C) The way forward:**

1. As outlined by the Hon'ble the Chief Justice of India, the following may be set as the National Minimum Court Performance Standards:
  - i. Disposal level of the national system should be raised from 60% of total case load (as at present) to 95%-100% of total case load in three years. This target must be established at the district, and State levels as well.
  - ii. Each court to ensure that no more than 5% of the cases in that court should be more than 5 years old (5x5 rule) within the next three years; and in 5 years, to ensure that no more than 1% of the cases should be more than 1 year old (1x1 rule).
  - iii. Timetables to be established for every contested case and monitored through a computerized signalling system (NJA has developed and piloted such a model).

- iv. Case numbers to indicate ‘litigation start dates’ prominently in addition to filing dates.
  - v. Use of ADR for civil cases and plea bargaining for criminal cases to be enhanced and monitored through a nation-wide computerized tracking system.
  - vi. Bottleneck Monitoring: Four key bottlenecks causing delays in civil and criminal process to be monitored through a computerized system and special attention to be provided through a special cell at the High Court and District Court level to resolve issues in coordination with Executive Agencies :
    - (a) Service of process;
    - (b) Adjournments;
    - (c) Interlocutory Orders; and
    - (d) Appearance of witnesses and accused.
2. Purely procedural work, outlined above, should be delegated to a senior ministerial officer, a court manager or another judicial officer, who can take up this work on a Saturday with respect to matters listed in the ensuing week.
3. Clubbing cases which raise same/similar issues is a healthy practise which helps in block disposal of cases involving similar issues. The practise of grouping should be introduced whereby cases should be assigned a particular number or identity according to the subject and statute involved. In fact, further sub-grouping is also possible. To facilitate this process,

standard forms must be devised which lawyers have to fill up at the time of filing of cases.

4. Government pleaders' offices can also be compelled to store information in their registers or computers. This data would state the statute under which each case falls or as to the issues involved and the Government lawyers can be frequently asked to come out with the list of cases which belong to the same category.
5. Cases raising the same point, when initiated in any Court, must be first listed for early hearing and disposed off before the flood actually invades the Court. The tendency to allow such batch-cases to accumulate into hundreds should be deprecated.
6. Every High Court could have a small department of experienced officers who can be asked to:
  - i. Take up the old cases and find out why they are not ripe, what defects have to be cured, or why parties are not served with notices or why legal representatives are not brought on record or why paper books have not been filed by the counsel;
  - ii. Club cases into groups and sub-groups containing identical issues;
  - iii. Prepare a brief resume of the facts and the issues raised.
7. Filing of Written Statements prior to oral arguments will compel counsel to focus on the issues relevant. This will save time by allowing judges to be prepared for the case and by limiting the time taken by counsel for oral arguments.

8. Higher costs should be awarded by courts in cases where the delay in legal process is caused by a concerned party or by such party's counsel. Awarding higher costs shall be a serious deterrent against the institution of unreasonable and frivolous cases.
9. There should be a fundamental transfer in the responsibility for the management of civil litigation from litigants and their legal advisors to the courts;
10. The said case management should be provided by a three tier system:
  - i. An increase in jurisdiction of small claims courts;
  - ii. A new fast track for cases in the lower end of the scale; and
  - iii. A new multi-track for the remaining cases
11. The court shall have an enlarged jurisdiction to give summary judgment on the application of the claimant or defendant or on the courts own initiation, on the ground that a claim (or part of a claim) has no realistic prospect of success.
12. All cases where a defence is received will be examined by a 'procedural judge' who will allocate the case to the appropriate track.
13. In the large court centres, judges engaged in the management and trial of civil proceedings, should work in turns and a case should normally be handled only by members of the same team.

14. The parties must complete a ‘Timetabling Questionnaire’ to enable the court to fix a tailored timetable, which takes into account the reasonable claims of the parties and the needs of the particular case. Proper completion of the said questionnaire will require a detailed consideration of how the case may progress, consultation with the other parties and, preferably, agreement with the other parties as to case management directions. If directions are not agreed at this stage, the plaintiff/petitioner/claimant will need to take out a “case management summons”.
15. Increase in “Non Reportable” Judgments. The plethora of judgments by Supreme Courts not only clutter the Law Reports but also lead to lack of clarity and causes confusion as far as the Lower Judiciary is concerned.

## **II. Filling Up of Vacancies in the Judiciary**

### **(A) Important Statistics**

1. The combined sanctioned strength of all the High Courts in the country is 886 Judges, but the actual working strength is 652 Judges, leading to a deficit of 234 Judges.
2. In the Supreme Court itself there are 7 vacancies out of a total sanctioned strength of 31.
3. Around 2,998 vacancies exist among 16,721 judicial posts in District and subordinate Courts.

4. Due to backlog in filling up of vacancies, the number of pending cases has increased and even urgent petitions take several years before being finally heard and adjudicated rendering them infructuous.

(The above mentioned statistics are based on the information provided on the official website of the Supreme Court of India and reflect the situation as on 1<sup>st</sup> July, 2009)

**(B) Problems**

1. The increased number of members of collegiums has made the consultation process cumbersome and hence there is a delay in the selection and elevation of judges.
2. There are no guidelines dealing with situations of a deadlock or lack of consensus among the members of the Collegium, or dealing with situations where the majority members of the Collegium disagree with the CJI.

**(C) Suggested Improvements**

1. There should be lucid and comprehensive guidelines which the Collegium should follow in the matter of selection of judges.
2. The Executive and the Legislature must take initiative in recommending the best possible talent for selection to the judiciary.
3. The Collegium should be given a timeline to clear the back-log in vacancies.

4. The Government and the Collegium should work hand in hand while appointing Judges, so that the difference between the two does not lead to delay in appointment.
5. Government should also be given the power to suggest outstanding lawyers and jurists as Judges.

### **III. Computerization and E-Courts**

E-Courts mean paperless Courts. This system is being followed by courts at various levels in the United States, as well as in our Supreme Court, though with limited success. To effectively achieve this objective, the following steps are required to be carried out:

1. Papers, pleadings etc. are filed on-line.
2. When a plaint or petition is filed, it is processed by the Office/Court.
3. The scrutiny takes place on-line by the Registry.
4. Any defects are pointed out on-line.
5. The petitioner can rectify the defects on-line.
6. The date of first hearing is communicated on-line.
7. The papers are placed before the Court and the Judges have computers screens/laptops.
8. Computer monitors are available to lawyers.

9. When an order is dictated by the Court, the order will be typed on a screen. The order will be read by the Court Officer/Stenographer/Court Master who would then release the order of the Court under digital signatures.
10. A certified hard copy of the order can also be obtained.
11. The move to a paperless documentation system should be carried out within 3 years for the entire country.
12. Payment of Court Fee can be explored with Court Fee debit cards, whose details are entered in secure on-line transactions like Pay Pal.
13. If the Court dismisses the matter or issues notice, the orders will be issued under a secure digital signature.
14. In case notice is issued in a matter, notice will be issued by email.
15. Service of notice will also be possible in addition through fax, courier and registered post. Since the Evidence Act (after the amendment brought about by the Information Technology Act, 2000) now envisages the use of electronic media to transmit documents, service of notice through email may be considered to be valid service.
16. The post office must be looked as a central player in the matter of E-Courts. Therefore email service may be attempted through the post office.

17. The post office could be served with the notice via e-mail. The hard copy can be printed out at the post office and then served upon the opposite party(ies). The cost of printing can be borne by the plaintiffs / petitioners.
18. Upon service of notice by the postman the post office can relay an electronic confirmation of delivery receipt/service of notice. The Indian Postal Service presently operates a service named 'e-post', where letters are electronically transmitted and delivered to recipients. A similar service can also be set up for service of court documents.
19. When the defendant/respondent enters upon appearance, he can do so on-line.
20. The Registry will scrutinise the reply and make it a part of the Court's record.
21. Similarly, the rejoinder/additional documents by the plaintiff or the petitioner can be brought on record on-line.
22. The date of hearing will be electronically communicated.
24. In the event the court admits a matter, it will also indicate a hearing schedule.
25. The hearing schedule will demand written briefs on-line by a particular date.

26. On the dates specified, there shall be oral arguments within the time specified. However the time can be extended at the discretion of the Court.
27. With respect to court fees, it is important that they are electronically generated so as to avoid fake stamps. The amount can be deposited to the treasury of the Government. As with electronic transmission of notices, the electronic money order facility of the Indian Postal Service may also be used for payment of court fee.
28. The following Courts should be converted into E-Courts:-
  - a) Trial Courts,
  - b) Appellate Courts including High Courts,
  - c) Supreme Court.
  - d) The Gram Nyayalay Act, 2008 has been brought into force. It needs to be made operational and Rules formulated at the earliest.

#### **IV. Tackling the Criminal Justice System**

##### **(A) Criminal Proceedings before the Trial Courts:**

A certain amount of backward integration is required to deal with criminal matters, namely –

1. There is an urgent need to modernise police stations. Various practical measures need to be considered. These include

technologically equipped interrogation norms, State of the Art telephone recording systems with programmed interface and Mobile Forensic Vans. Statements of witnesses (Under Section 161 of the Criminal Procedure Code) should be videographed by the police. This involves sustained interaction with the police authorities.

2. Confessions made to a police officer, which are intended to be admissible as evidence under special statutes must also be videographed. Similarly, confessions must be deposed before the Magistrate.
3. Videoconferencing should be used while producing the accused before the Courts. This saves time and manpower spent in transporting the accused to the Court and in providing security to the accused. This procedure also reduces undue interference by the media.
4. Technical evidence like recovery of material as well as samples can be done through electronic systems so that hostile witnesses can be avoided.
5. Chargesheets, FIR, statements and other essential documents can also be filed not only in the hard copy form but also electronically i.e. on CDs/ DVDs.
6. FIR should be electronically generated and stored and may be made available to the complainant and the accused, through use

of a password or secure key. At the moment this is being done in Delhi.

(B) Video conferencing at the time of remand:

1. As recommended for production of the accused, police officers / IOs may also appear before the Magistrate by way of video conferencing. Studies have shown the police officers are usually unavailable between 9.30 am to 3.00 pm and are unable to attend to their regular police duties and are unable to answer summons and participate in Court proceedings.
2. Webcam / other devices can be connected to the police station itself to enable police officers to attend remand hearings etc.
3. The Technology Information, Forecasting and Assessment Council of the Department of Science and Technology, Government of India, is in the process of undertaking a project in relation to e-courts, which aims a higher level of interfacing between science & technology and the judiciary. The said project is set to function in a collaborative mode with the judiciary, investigating agencies, forensic laboratories and science & technology organisations. Data from the said TIFAC project may also be utilised in this regard.

**V. The SPV : Funding and Removal of Bottlenecks**

1. A Special Purpose Vehicle (SPV) may be created by amongst the Government of India, Infosys, TCS and Wipro as well as Innova (satellite providers).

2. The Special Purpose Vehicle will recruit competent hardware/software personnel who will be attached to each High Court and will also undertake certification/installation/teaching procedures at the District Court and the subordinate Courts level.
3. The SPV will have a single window clearance in terms of funding.
4. The SPV will be subject to independent financial, as well as performance, audit by the Comptroller & Auditor General of India.

## **VI. Role of Bar Councils and Lawyers**

1. The reduction of arrears also requires reorientation within the Bar Councils, amongst members of the Bar as well as the police/prosecutorial systems. The strategies for such re-motivation and reorientation must be formulated. The bar must be made aware of its role in expeditious disposal of the cases. Training can be undertaken in consultation with the National Judicial Academy and a plan should be published providing for speakers/training modules. The dates of such programmes shall be published within a period of 8 weeks from the conclusion of the meet. It is suggested that such speakers/ motivators must include lawyers, Judges (practicing and retired), academicians, managers, computer professionals and sociologists.
2. Budgetary plans must also be taken into account in law reform. In the training courses for fast track courts, attempts should be made to provide progressive codification modules of the existing law on relevant subjects.

3. A separate Bar for mediators, arbitrators and conciliators can be evolved whose skills in achieving negotiated settlements outside litigation would be substantially different.
4. The All India Judicial Service, including an All India Judicial Service Commission, to regulate the appointments as well as the transfers of judicial officers of high quality in the subordinate judiciary must be considered. This, of course, will involve adopting unified standards in matters of language, translation, formats and court procedures.