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NATIONAL JUDICIAL ACADEMY



**Colloquium on Court Procedure and Practice for Judges heading
the State Court Management System Committee and Member
Judges of the Committee [P-960]**

12th – 13th December, 2015

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10th Semester, B.A., LL.B (Hons.)

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Objective of the Colloquium

This colloquium would bring together members of the National Court Management System Committee and the State Court Management System Committee at NJA Bhopal to discuss further strategies for strengthening the system of Court Management, Case Management and improve administration of Justice with changing demands of space and time. It will also bring member Justices of Arrears Committee, E-Committee and Mediation Committee of the Supreme Court so as to develop greater co-ordination between objectives to be achieved through the medium of these committees.

Main Points Discussed

1. Case Management
2. Court Management
3. National Court Management System: Constitution, Objectives and Functions
4. “Five Plus Zero” action plan
5. Determining the Judicial Hours
6. Excellence of Judges and the Courts
7. Assigning management work to Court Managers
8. Aspects Relating to Implementation
9. Human Resource Development

Resource Persons

1. Prof. (Dr.) G. Mohan Gopal (Former Director, National Judicial Academy, Bhopal)
2. Hon’ble Mr. Justice Jayant Patel (Acting Chief Justice, Gujarat High Court)
3. Hon’ble Mr. Justice Ram Mohan Reddy (Judge, Karnataka High Court)
4. Hon’ble Mr. Justice Deepankar Dutta (Judge, Calcutta High Court)
5. Hon’ble Mr. Justice Dilip Gupta (Judge, Allahabad High Court, UP)
6. Mr. Hiranya Bora (Deputy Director General {Government of India}, Ministry of Statistics & Programme Implementation)

DAY 1: 10:00 AM – 11:00 AM

SESSION 1 & 2

**Introductory Session: Key Challenges Facing the Judicial System and the Role of the
CMS Committee Scheme**

AND

**NCMS Baseline Reports and Implementation: Element (1) and (2): National
Framework for Court Excellence; and Monitoring of Performance Standards**

Prof. (Dr.) G. Mohan Gopal gave a warm welcome and brief introduction on all the sessions and deliberated on the objective of the conference.

Hon'ble Mr. Justice Jayant Patel

There is no systematic planning and therefore a need of State Court Management System is felt, with regard to which the last conference was held in Supreme Court under the Chairmanship of Justice Dipak Misra and Justice T.S. Thakur. While pointing out the functioning of the High Courts he stated that every High court has different method of working, have their own sets of issue i.e. regional problems, lawyers, resources etc. Therefore it is suggested that every High Court should have its own State Court Management System (SCMS) and the broad parameters have been given by the Supreme Court in National Court Management System (NCMS) in response to which 17 High Courts have already forwarded their reasoned document, including Gujarat High Court.

While highlighting one of the core issues he brought Standardization of units for disposal of cases. It was submitted that different High Courts have different stats and therefore when you consider the number of matters filed and disposed of, a huge difference comes. NCMS must provide for some minimum and maximum criteria for standardization of units for disposal of cases.

After explaining the broad points to the house he said these points will be further deliberated and Prof. Mohan Gopal, Chairperson of NCMS will throw light on the issues.

Hon'ble Mr. Justice R.M. Reddy

As jurisdiction of every High Court is different, situations are different (what is good for Karnataka cannot be good for Gujarat) and therefore there is a need of standardization. He raises a question as to what about the jurisdiction at the district level? We do have some commonalities! These commonalities will point out NCMS to bring about standardization. He then briefly touched 3 issues:

- *Construction of Buildings*

It was highlighted by him that in Karnataka High Court a committee is functioning which deals with the issues relating to Infrastructure so that lawyers/litigants and general public may feel comfortable in the court premises. The committee suggested that there are some courts which are situated in crowded places and space is not available for construction, therefore in such a case construction of more buildings is not possible and so the existing buildings have to be extended. Courts situated in places where sunlight is adequate, solar power can be used for cost cutting.

- *Case Management*

While pointing out the lacuna in the Standardization of units for disposal of cases, if the unit is fixed, some Judges will dispose of the minimum number so fixed and the efficiency will then be limited to those cases. He explained the system with an example: where a judge at district level has disposed of 140 Bail petitions in a month and no other matter has been entertained by him, according to him he has completed the units so fixed and hence the other matters will remain incomplete.

- *Human Resource Management*

It was explained that most of the judges are not professionals in Human Resource Development, they certainly know how to write judgments, adjudicate cases but when it comes to advice on management it becomes difficult for them to tackle. What is done in Karnataka High Court is that they have engaged some court managers who are all MBA graduates to come up with new ideas regarding Human Resource Management. They give feedback to the Administrative Judge and then the court start

working on it. It was suggested that there cannot be a standard formula for everything; there must be change in everything according to the needs of the states.

The transfer policy was also highlighted as it has been discussed in the NCMS. It was argued that Chief Justice will have the last veto power over the issues relating to transfer policy, although others may disagree.

Hon'ble Mr. Justice Dipankar Dutta

Starting with the background of the colloquium he stated that “today we are here to discuss and take forward the movement which was initiated by our former Chief Justices”. Hon'ble Mr. Justice S.H. Kapadia in 2006 came up with an idea of National Court Management System with an objective to make the system 5 + 0 meaning thereby objective is to dispose of the disputes which are pending for more than 5 years. But it seems to be a herculean task.

The policies given by NCMS are not binding but are recommendatory in nature and it is for the High Courts to adopt it as far as possible.

Till date one achievement of NCMS is that it is successful in increasing the strength of Judges by 25%.

Prof (Dr.) G. Mohan Gopal

He started with proposing a round of self-introduction where the Judges participating from different High Courts introduced themselves. After the round of introduction Professor moved on to give a brief overview and background of NCMS so that the participants will understand what the purposes of the whole exercise are.

Background

High Courts are vested with not only judicial but also with administrative powers. High Courts take administrative measures as needed to improve the quality, responsiveness and timeliness of the administration of justice within their jurisdiction. Over the years High Courts have initiated many proposals and policy changes in the system of Judicial Administration. After 2004 a systematic process (not *ad hoc*) was established where judges were coming together and sharing information regarding the initiative taken by them in their High Courts. For example E-Courts initiative of Karnataka High Court became the National

Project. The Judges of High Courts took many initiatives and it proved to be good at the National level. When the knowledge, experience and initiative is shared to all it makes a great impact on the development of Judiciary. Hence it was felt to institutionalize this, so that efforts must be shared. The objective of NCMS is the sharing of experience, knowledge and initiatives to all other sovereign High Courts to strengthen the system. It is not an attempt to create national rules and policy rather it is exactly the opposite. It is seeking to address the institutional lacuna i.e. there is no institutional space inside the judiciary to take up the issue of reforming and strengthening the judicial system systematically. There is no capacity to collect and analyse data and statistics to study and systematically understand the gaps in the judicial system.

Quality, Responsiveness and Timeliness (QRT)

There are three core underlined systemic concerns which a system needs to perform i.e. ***Quality, Responsiveness and Timeliness (QRT)***. If these 3 systems works well then the symptoms will not appear (delay, arrears, discontinuity, lack of good performance etc.). But there are no clear standards for Quality, Responsiveness and Timeliness and unless we don't have any clear performance standards (which are measurable, quantifiable, monitorable) the symptoms will appear. One reason for not having performance standards is absence of institutionalized capacity to develop these performance standards. This work cannot be given to the bar because there is conflict of interests. Therefore NCMS is required to be established.

Elements

The policy of NCMS is based on six elements:

1. A National Framework of Court Excellence (NFCE) that will set measurable *performance standards* for Indian Courts, addressing issues of quality, responsiveness and timeliness.
2. A system for *monitoring* the performance parameters established in the NFCE on quality, responsiveness and timeliness.
3. A system of *Court Management and Case Management* to enhance efficiency, effectiveness and user friendliness of the Judicial System.
4. A *National System of Judicial Statistics* (NSJS) to provide a common national platform for recording and maintaining judicial statistics from across the country.

5. A *Court Development Planning System* that will provide a framework for systematic five year plans for the future development of the Indian judiciary.
6. A *Human Resource Development strategy* setting standards on selection and training of judges of subordinate courts.

Objective

The core goal of the NCMS mechanism is to facilitate the development of policy ideas and initiatives for due consideration by the Supreme Court and the High Courts with a view to strengthen court management systems and enhance quality, responsiveness and timeliness of justice administration.

Structure of the Committee

NCMS has two Committees:

I. Advisory Committee:

1. Two Hon'ble Judges of the Supreme Court of India nominated by the Hon'ble Chief Justice of India
2. Such Chief Justices/Judges of High Courts as may be nominated by the Hon'ble Chief Justice of India;
3. The Chairperson of the NCMS Committee;
4. Secretary, Department of Justice, Government of India;
5. The Secretary-General of the Supreme Court (Convener).

II. NCMS Committee:

Chair: A Jurist/Domain Expert nominated by the Hon'ble Chief Justice of India,

Members:

1. Four Sitting Judges (preferably one from each zone in India) nominated by the Hon'ble Chief Justice of India.
2. Secretary General of the Supreme Court (ex-officio).
3. Joint Secretary and Mission Director (National Mission for Judicial Delivery and Legal Reforms), Department of Justice, Government of India (ex-fficio).
4. Registrar Generals of three High Courts nominated by the Hon'ble Chief Justice of India.
5. Director, National Judicial Academy.

6. Two practicing Advocates nominated by the Hon'ble Chief Justice of India.
7. An expert Statistician, nominated by the Chief Statistician of India.
8. An expert in management of decision making systems and process re-engineering, nominated by the Hon'ble Chief Justice of India.
9. An expert in Computer Technology relevant to Court Management, nominated by the Hon'ble Chief Justice of India.
10. A representative of a NGO working for improving access to justice and user friendliness of courts, nominated by the Chief Justice of India.
11. Additional Registrar, Information and Statistics, Supreme Court.

→ NCMS only give recommendations, SCMS has administrative power and not bound by the recommendations of the NCMS committee.

→ It was highlighted that policy making power is with Judiciary and not with government.

Main areas of NCMS work

- Establishment of the basic institutional foundations of the NCMS and SCMS mechanisms;
- Developing baseline policy, benchmarks/standards on the six core elements identified in the NCMS policy paper;
- Clearance of backlog, delay and arrears;
- Shortage of judges;
- Development of national best practice on case and court management;
- Monitoring court performance; and
- Improving a scientific understanding of the state of the judicial system.

With regard to the misconceptions a statistical handbook must be prepared by High Courts so as to clear the misconceptions of the general people and other institutional machineries.

Main actions taken by NCMS

1. Establishment of an *Institutional Framework for Facilitating Judicial System Development*
2. Preparation of *Base Line Reports*
3. Establishment of *State Court Management Systems Committees*

4. Preparation of *Vision Statements on Strengthening Judicial Systems*
5. Mechanism for *Monitoring Implementation on the Six Elements* of NCMS
6. Policy for *Assessing Judge Strength of High Courts; Increase in High Court Judges' Strength*
7. Policy for *Assessing Judges' Strength of Subordinate Courts; Increase in Judges' Strength of Subordinate Courts*
8. Review of *Law Commission of India Report on methodology for assessing judges' strength of subordinate courts*
9. Proposed *National Model Court Management and Case Management Manual*
10. NCMS "**Five Plus Zero**" Initiative
Six High Courts are already 5+0 free. The aim is to dispose of the cases before every court that are more than five year old in that court. Mission is to go step by step i.e. 5+0 →4+0 →3+0 →2+0 →1+0.
11. Proposed *National Arrears Elimination Mission*
A one-time initiative to eliminate backlog by appointing recently retired judges as *ad hoc* judges in district courts as well as high courts.
12. Research Project on *Causes and Remedies for Arrears Reduction*

3 Areas of focus of NCMS

1. Quality and Responsiveness
2. Court development planning system including infrastructure
3. Quality improvement of the courts duty holder

It was asked by one of the participant judge, whether it is possible to decide a target? *Prof Gopal* answered as, there are 2 ways: simply looking at the cases and judge strength. Judicial hour is always unpredictable.

It was highlighted by one of the participant that in Allahabad a judge approximately deals with 1 lakh 10 thousand cases each year.

It was suggested that to calculate the available judicial hours and the units required, and then come up with an approach.

Justice Patel asked whether there is any mechanism for SCMS/NCMS to decide that how much judicial hours are required. If it is categorised on the basis of last 5-10 years of statistics, what will be the criteria for categorising the judicial hours?

Prof Gopal stated that as it is not possible to have a standardise time limit for each and every case, while deciding the judicial hours, type of the case must be kept in mind. There are three categories of cases:

1. Predictable
2. Completely unpredictable
3. Reasonably predictable

He made it clear that NCMS is not looking at how much a judge should work.

DAY 1: 12:05 PM – 01:15 PM

SESSION 3

NCMS Baseline Reports and Implementation: Element (3) National System of Case Management

It was suggested that the NCMS can collect data and provide it to High Court. One of the participating judge asked whether for a district judiciary there should be any yardstick as to units of cases. It was suggested that the yardstick must not be there and it should be removed. Rather on the place of yardstick SCMS may request for a methodology for self-appraisal evaluation report in which they will mention that what measures they have applied for strengthening the judicial system. It was highlighted that units and yardsticks will make a judge answerable for his performance. It may also be possible that they may find shortcuts to achieve those units. One of the suggestions was to increase the timing of functioning of judiciary i.e. a judge may sit from 10:00 AM to 05:00 PM.

A criticism pointed out by one of the participant was that if 10 is the unit decided, the judge will try to reach that limit and will not work more than that. This ceiling will act as limitation! Justice Patel stated that the ‘number of unit disposed’ should be the criteria for promotion. A counter argument came from one of the participants that, if a judge is being evaluated on the basis of the ceiling, he will try to achieve the minimum limit as promotion will anyways depend upon the seniority.

It was then exemplified by one of the fellow participant as: A judge is appointed first because he got 3rd Rank on the merit list, will get early promotion in comparison with a person who has secured 50th rank on the merit list, irrespective of the fact that the second person was an excellent performer and the first person was an average performer. So the question thus arises that why will the first person perform excellently?

It was also stated by one of the participants that Delhi High Court at one point of time has given up the unit system and then they come back to it. Kerala High Court has incorporated the practice to ask judge of a subordinate court to give a self-evaluation report on the basis of his performance.

Prof. (Dr.) G Mohan Gopal

How will you define *excellence*? Will it be useful to discuss the excellence of Judges and the courts?

What is a Court? The question has three answers:

1. If you look from the point of view of a *Judge*, it is a *Temple of Justice*.
2. From the point of view of a *Dalit*, it is place where *police takes them without their will and consent to punish them*.
3. According to him, it is *an activity which cannot begin without a judge*.

Excellence comes from the quality i.e. well carried out activities. He explained it in simple words by relating the equation as: “*A Judge is a conductor of an Orchestra*” where *orchestra* is court. Therefore a court cannot function without a judge. Similarly a judge cannot work well if other functions are not good. It was pointed out that the issue relating to court excellence is dealt in detail in the module.

It was highlighted that there may be an excellent Judge but if the court management is not good people will criticize the excellence of the Judiciary. As the court excellence is determined on the basis of Judges plus courts performance. Till now there is no such system to manage courts.

A well performing court shall always be accessible, have adequate resources, should be fair and just to provide remedy. A system of defining, measuring and managing is what is required.

Justice Patel highlighted the questionnaire system which is prevalent in Gujarat High court. The system is as follows: a questionnaire is presented to the visitors which include questions relating to cleanliness of court surroundings, washrooms, court rooms, noise in the court rooms and in the surrounding areas, filing office is functioning properly or not etc. He stated that the visitors write ups created many changes in the functioning of the High Court.

Is excellence of a Judge and court measurable?

It was stated that not everything can be decided by the government but High court can also decide the measurable parameters.

Justice Patel further asked that can't this work be assigned to the court managers. The answer was in affirmative.

Justice Indrajit Mahanty stated the progress of Orissa High Court. In Orissa training programs are conducted for the court managers.

Page number 29 of the reading material was referred. It consists of system for monitoring and enhancing the performance standards. One of the basic factors to achieve this is to establish a small research cell in a state which will be responsible for making systematic research and data collection about the performance level.

It was suggested that where advocates appearing on behalf of parties are not arguing or voluntarily absent, a judge should not overstep the rights of the parties. He must have a quality to protect the rights of the parties. An individual will assess the efficiency of the judge on the basis of his quality to protect rights. A pertinent question here was raised that if a litigant wants to fight his case *in personam* but he is not aware of the procedure what should be the response of the Judiciary?

It was concluded by Prof. Gopal that a lot of good things are going on in all parts of our country but are not known to all, so all we need is a person/mechanism who jot it down. A comparative analysis of International court system was also done on the same point.

DAY 1: 02:15 PM – 03:45 PM

SESSION 4

**NCMS Baseline Reports and Implementation: Element (5): Court Development
Planning**

Prof. (Dr.) G Mohan Gopal

Court Development: There are two aspects for court development planning:

1. Every SCMS must have a plan for court not for a judge (5 year plan) [attempt is made to shift the focus from judge to court) i.e. National Framework of Court Excellence.
2. Vision statement on how to develop court.

One of the participating judge stated that we have to set out a standard manner for physical infrastructure in judicial system. It would be great if all the courts are same in look so that all courts in India would be same from Kashmir to Kanyakumari.

Infrastructure: In Delhi, Saket District court is made in 14 acre, which includes court buildings, staff quarters and judges' quarters. Even in Karnataka well furnished bungalows are given to the civil judges, the court premises are also large enough.

Budget: By looking at the year-wise percentage allocation of Budget to Judiciary in each state, it was clear that highest budget allocation is been done to the Maharashtra Judiciary i.e. 3.56% whereas West Bengal is getting only 0.65% and Chhattisgarh 0.2%. Bihar is even not present in the list of allocation it is may be because government doesn't want to disclose. It was also highlighted by Justice Datta that as allocation of budget is so less in West Bengal, the infrastructural development is very poor.

It was suggested that NCMS should make an analysis and provide High Courts with a proportional budget which High Court can forward it to the State government. The proportion of the budget is not adequate in many of the states. The practice of the state governments is that every year without looking at the requirement, they increase 10% of the last year's budget. As government is unwilling to provide land and resources, in such a case to resolve these types of issues it was suggested to have a regular infrastructure bench in every High

court. Even one of the functions of SCMS is to help High Courts in preparing the budget. In Gujarat and Orissa High courts, court managers are involved in preparation of budgets.

Where state government is adamant and not willing to help courts, SCMS will step in and try to convince state government for helping the courts.

Court fee and fine :As one important point was raised up by one of the participant that amount raised up by fine and court fees shall be retained by court it was suggested by the other participants that in doing so they will face problems as High Courts derives its funds from consolidated funds secondly there will be audit objection.

It was also highlighted by one of the participants that women advocates are increasing day by day and hence we need infrastructure (proper toilets, working space etc.). While constructing a building as a court complex sometimes government argues that lawyers are not our responsibility and hence we are not required to construct a separate block/ space for them. But it was concluded that Lawyer is like a family and '*a bench cannot function without a bar*'.

For Advocates: A dedicated entry in the Court Block separated from the general public entry will ensure lawyers timely presence in courts. There must be a separate core of stairs and lifts connecting all court floors.

For Litigants/ general public: Litigants and the visitors enter the court complex through an access control and surveillance system dedicated for the purpose. Parking lots for visitors have to be separated from the main court block and visitors are expected to walk down to the dedicated visitors' entry.

After concluding on the issue of infrastructure the conference then moved on to issue of *Case management*.

Case Management

There must be a scheduled system for time management. The case management system adopted by the courts in United States of America and United Kingdom were mentioned. It was stated that the system prevailing in these countries can be followed but as pointed out that in India it is only theoretically possible. It was suggested that a limited time must be decided to dispose a particular case. After critically examining this suggestion of time management one of the participants stated: it is not difficult to lay down a roadmap or a

schedule but how are you going to implement it? For example a schedule is framed which lays down number of cases to be disposed of in a limited time frame, but his capacity is limited or case/cases are of such a nature that it can't be settled in a given time frame. Secondly it may be possible that limiting the time frame will lead to a judge deciding a case without interpretation/applying his judicial mind. It was suggested by another participant that time limit must not be uniform for each and every case; it must differ from type of cases. As a bail petition can be disposed of in a limited time but a matter relating to constitutional law can't be disposed of in a limited time, it needs time for constitutional and judicial interpretation, so time limit must be according to these factors. The time frame should be framed in such a manner that it will not affect Quality Justice. Therefore we need expeditious as well as quality Justice. One more thing which must be looked into is the ability of the judge to control the proceedings. Many a times some practical difficulties pop up when judges are unable to manage their court. A question raised by one of the participant was why the two identical cases of theft get different punishment? When we talk about judgment delivered by two different courts, often they vary in terms of punishment, *ratio decidendi* etc., this problem arises because one judge is very liberal whereas other is strict.

Performance of the quality of Justice: It was suggested that for testing the performance of the quality of justice, the following performance measures can be adopted. Periodical refreshing courses should be conducted to the judges to ensure that they are well equipped with the settled legal principles of law and are in a position to curb prolonged trial. Continuous legal education, awareness is being extended to the advocates to update their legal knowledge and improve their professional skills. The training of lawyers is required as without sanskritising them change in the prevailing situation is not possible. A periodical review of the quality and consistency of judgments/orders made should be there. An error index should be maintained. Assessment of legal knowledge and ethical standards of the bar is required.

Backlog of Cases: On the issue of backlog of cases, the burden was shifted on advocates as they usually want to delay the case so that they can earn money from the same case. It was suggested that the advocates must be made aware that already the judiciary is flooded with the backlog of cases and if they argue for their cases each day they will get a fresh case on the very next day. Even after completing a case they will be entitled to full fees in a lump sum amount.

Requirement of a comprehensive code: A suggestion is given by one of the participants that Civil Procedure Code, Criminal Procedure Code or any other code in India does not talk about court management and case management thus a comprehensive code is required.

Public Relation Officer: Emphasis was laid on the Public Relation Officer (PRO). It was suggested that the PRO must be appointed to every High Court. On criticizing the appointment of PRO, it was explained that the work assigned to PRO is already being done by the Registrar General of Supreme Court i.e. making statement to press etc. therefore this new position is not required. Courts in United Kingdom uploads press release for each case.

The session through this concluding statement ended and participants were dispersed for high tea.

DAY 1: 04:15 PM – 05:30 PM

SESSION 5

NCMS Baseline Reports and Implementation: Element (6): Human Resource Development

Hon'ble Mr. Justice Dipankar Datta

Why is there a need for Human Resource Development? The success of any reform initiative depends on the people who manage the system sought to be reformed. The broad areas covered in the sessions were: Selection and training of judges, transfers, investigation, enquiry, training of Public prosecutors, man power requirements.

Selection of Judges: It was suggested to have an All India Competitive Examination for direct recruitment of District Judges and the selection will be merit based. But as stated by one of the participants that majority of the High Court has opposed this system because in every state everything is being done in their local language and it will not be possible for a person from Gujarat to be a district Judge in Assam as he does not know Assamese (local language). As a counter argument it was stated that IAS are also appointed through All India Exams so why can't Judiciary have such an Examination.

Training: It was suggested that a state level expert committee for selection at each level must be formed. For court staff some training and development courses must be organised.

Transfer/Posting: It was suggested that the Veto power vested in Chief Justice to transfer a judicial officer who is a black sheep is to be limited. Initiating proceedings against such an officer will be a better procedure. There must be a uniform transfer policy. The transfer of Class III and IV (who belongs to state cadres) cannot be transferred beyond the district.

Practical difficulty arises when a judicial officer is known to be corrupt but because of no evidence no action can be taken against him, what should be the response to this situation? High Court has appointed a portfolio judge to keep a check and review on the known corrupt judge's judgment. When an appeal comes to High Court for quashing the prior judgment of the subordinate court and it is visible on its face that it is a tainted judgment, while setting aside the judgment it is also suggested to initiate enquiry on the administrative side.

Investigation and Enquiries

- Establishment of Judicial Accountability Office and Judicial Accountability Commission.
- Revamping of Vigilance Cells.

As Supreme Court guidelines goes, any application without affidavit should not be entertained but it is suggested to use discretion where affidavit is not present. Enquiry must start where on face of the record of a material gross misconduct is evident.

Training of Public Prosecutor/Government Pleaders: It was argued that public prosecutors are appointed by Government and training them is very difficult. This phrase was highlighted in the discussion "*You can take a horse to water but you cannot make him drink it*".

Revamping High Court registry: Task performed by the registry officials being at variance with judicial functions and duties and therefore it was suggested that registry may be manned by personnel trained in management techniques and skills. It was also highlighted that sending judicial officers on deputation to any governmental organisation causes trouble as by the time they come back, they become a different person altogether.

DAY 2: 09:45 AM – 11:30 AM

SESSION 6 & 7

NCMS Baseline Reports and Implementation Element (4): National System of Judicial Statistics

AND

Role and Responsibility of SCMS: Views of Hon'ble Chairpersons of SCMS Committees Discussion with NCMS Committee Members and other Resource Persons

Prof. (Dr.) G. Mohan Gopal

This session will highlight the importance of data collection and its analysis. It was highlighted that a Railway Chairman can click a button and know the status of a train but same is not the case with a judge of Supreme Court. It is very difficult to know the status of a case on a single click as it is not available.

The basic problem is that the statistics of cases are not available. There is a lack of Management Information System. It was suggested to take help of National Judicial Data Grid. The process is three folded: first collect data and then take out the information and then put it in the information management system.

Hiranya Bora

He stated that Statistical data is collected from Survey. It was suggested that processing of data is very necessary. To clear the pendency of cases, not only the increase in judges' strength will be sufficient but also there must be some other factors need to be considered.

For development of any statistical system, the following considerations are to be made:

- Maximum use of existing data sets (because collecting data is very expensive and comes with many problems).
- Identifying Important Data Requirement
- Identification of Indicators
- Identification of Data Gaps
- Appropriate Methodology

- Efficient Data Dissemination System
- Timeliness
- Capacity Development
- Ownership of data must be established as ownership comes with responsibility i.e. quality of data.

After receiving data the next steps are cleaning the data and then processing the data.

Broad indicator domains:

- Accessibility
- Expeditious justice
- Quality justice
- Availability of Human and Material Resources
- Adherence to court values
- Public trust and confidence

Four criteria for selecting core indicators are:

- Relevance
- Feasibility
- Comparability and
- Timeliness

Suggestion

- ✚ It is recommended that existing data sets in different codes, web portals may be examined and stock of the situation may be compiled in such a way that addition of new data sets may be incorporated in the existing data sets in a seamless manner.
- ✚ A proper dissemination policy may be formulated for providing data to the general public and to the selected group(s) of people.
- ✚ In the framework, time frame may be indicated for group of indicators selected for the judicial statistical system.
- ✚ A statistical Unit with Professional Statisticians need to be established by each High Court for collection and processing of data.

- ✚ It is necessary to post data on website of High Courts giving details of institution, filing, disposal and pendency of different type of matters.

Data Sets

To have a clear view on data sets this table was shown.

Type of Judge	Max Pending Category & its %	Followed by
District / Additional District Judges	Suits (42%)	Arbitration/Conciliation Act (12%)
District / Additional Sessions Judges	Electricity (30%)	Other than murder cases (19%)
Presiding Officer Motor Accident Claims Tribunal	Injury (45%)	Fatal (28%)
Presiding Officer Industrial Tribunal	U/S 101(DC) (78%)	Section 33-A (10%)
Presiding Officer Labour Tribunal	Industrial Dispute Act (79%)	LCA (15%)
Senior /Civil Judges	Regular Suits (68%)	Execution (15%)
Rent/ addl. Rent Controller Judges	Eviction Cases (64%)	Deposit of Rent (28%)

Table: number of cases for the month of August, 2013 for each of the following types of judges shows the number of pending cases under respective type

It was marked by Prof. Gopal Mohan that trespass cases in Kerala are more but the same is not the case with Madhya Pradesh or Rajasthan.

CHARTS

1. A Chart on the status of pendency in criminal cases in District Courts of Delhi at the start and end of each of the five years was shown.

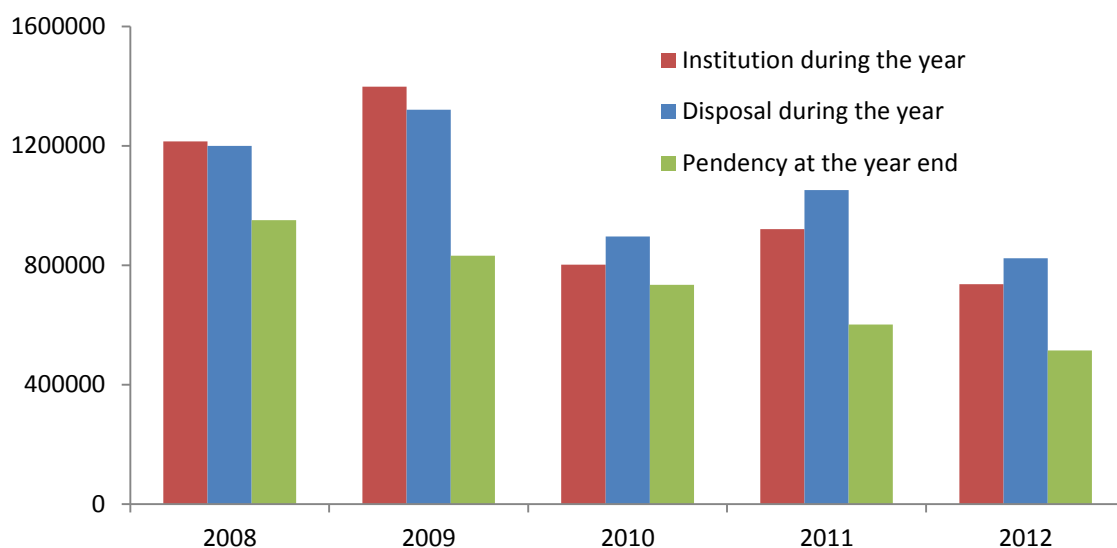


Chart 1

2. A Chart on the status of pendency in civil cases at the start and end of each of the five years was shown.

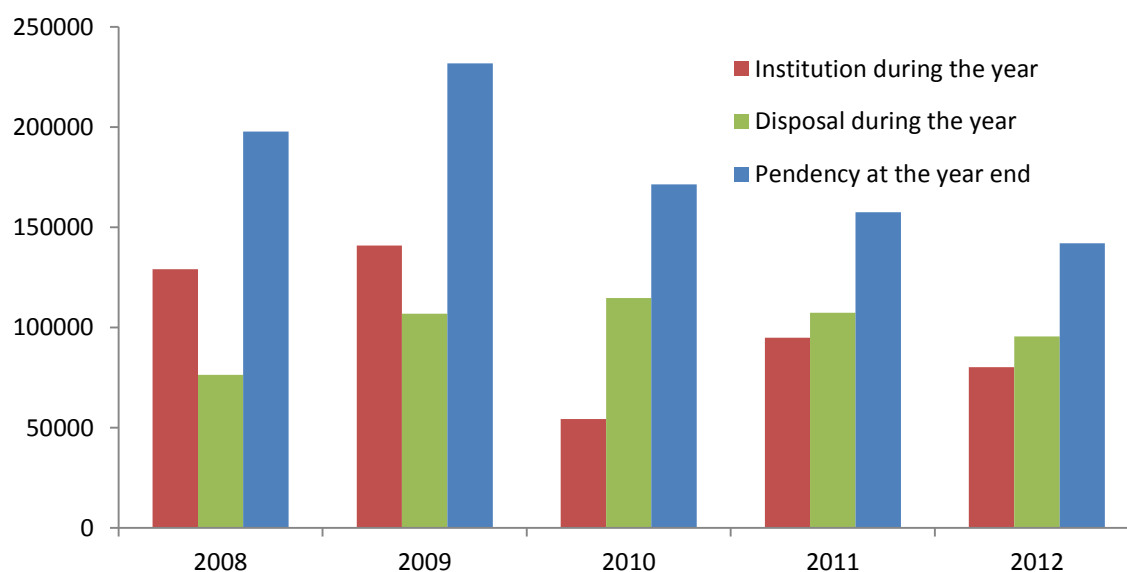


Chart 2

3. Chart showing Major category wise Pendency of cases from 2008-2012

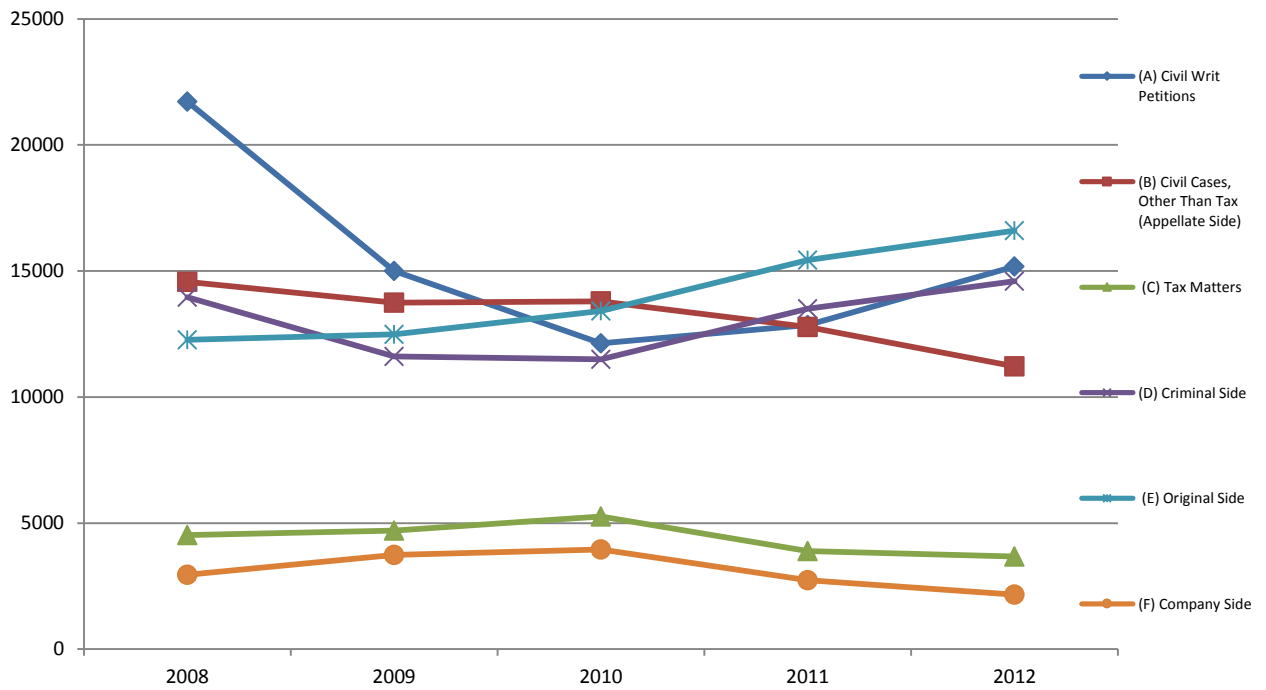


Chart 3

4. Chart showing Over-all pendency in both the civil cases and criminal cases

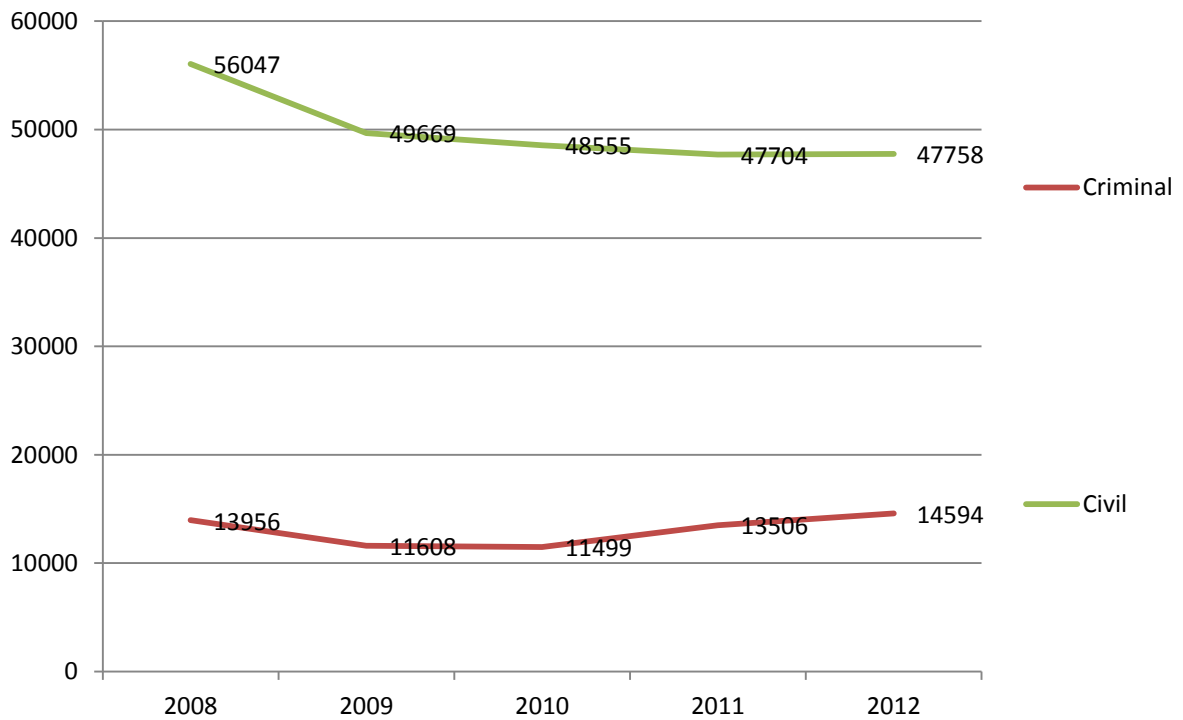


Chart 4

Disposal and pendency should be looked but as pointed out by one of the participating judges that many of the cases are disposed of easily because they are small in nature but cases which are pending in the courts are much bigger and therefore takes a long time to be disposed of.

It was suggested to set a standard time for each type of cases and if the time decided is exceeded, then the case shall be deemed to be pending and delayed.

It was explained by *Prof. Gopal* that as a Vice Chancellor of a University he knows that some students will require 7 years to pass LL.B whereas some may take 3 year but a general system should be formulate so as to make system working (i.e. 5 years).

It was suggested that while collecting data, variable must be taken into mind.

It was suggested that a large number of cases are being disposed of very quickly and it must be noted in the statistics.

It was highlighted that in Allahabad High Court the prevalent practice is, whenever a case is pending and not coming before a magistrate for a long time he is supposed to look into the data grid and question the administration that why it has not been produced. By adopting this mechanism, the rate of pending cases is fall down from 6 lakh to 1.2 lakh.

Hon'ble Mr. Justice Dipankar Datta highlighted the steps taken by West Bengal Court Management System:

1. Infrastructural Development.
2. Less financial support from government but trying to come up with other resources.
3. Physical verification report.
4. Trying to complete a case within 5 years by marking the year and the date on which 5 year are being completed, first completing it within 5 year and then moving onto the next case.
5. It was suggested that on every disposal, incentive must be given.

It was highlighted that, in some cases next date is given may be of 2022 but physically it will be deemed as a next hearing i.e. 3-4 hearing only. The case is delayed not on the basis of hearing but on the basis of time taken by judiciary to dispose of the matter.

DAY 2: 11:55 AM – 01:25 PM

SESSION 8

Evolving a Common National Approach to the Role, Responsibility and Functioning of SCMS, Committees Discussion with NCMS Committee Members and others Resource Persons

State Court Management System

It was suggested that in every court a data entry operator is required to be appointed.

Punjab and Haryana

- It was highlighted that in Punjab and Haryana, High court provides refresher courses for judicial officer as well as staff.
- It was argued that one of the factors to cause delay is lack of infrastructure.
- Video conference technology is being used for recording of evidences.
- It was also suggested to the Chief Justice of the High Court to amend the rules of High Court for introduction of technology.
- Number of public prosecutor is to be increased.
- Requirement of stationery and other miscellaneous items must be taken care of.
- It was concluded that the Judges are looking forward for the NCMS to incorporate some necessary changes.

Kerala

They have incorporated Roll call mechanism i.e. all the fresh cases are called till 1 o'clock and then the pending cases are dealt in the remaining time. There are cases which are pending from year 1995, 1998, 2000 etc.

It was expected that NCMS may help out in tackling these issues.

One of the participants made comment on *QRT*. He stated that “we want disposal with regard to QRT we don't need rocket science to deal with delay in cases”. It can be taken care by appointing good and experienced judges, with increase in judges' strength and Quality Legal education (Learned lawyers and judges) etc.

Section 138 of Negotiable Instruments Act i.e. cheque bounce cases has created havoc in the judiciary, because of which delay is in existence. While explaining the reality he sated ‘what complainant starts to do is he stops coming to court and loses interest in the case, resultant case becomes pending and delayed.

Bombay High Court

It was suggested that to have training program for court masters, because they are the one who are involved in managing case status.

Jammu and Kashmir High Court

It was highlighted that the arrears committee has been appointed which has the same functions as a state committee and therefore it was suggested to tell both of these committees to sit together. Number of Judges must be increased to deal with the current situation. It was pointed out that by concentrating on “5 + 0” don’t you think we are forgetting the newly filed cases, which have to be decided immediately? It was suggested to have a look on how a cause list to be framed. Time management must be taken care off. The prevalent situations were highlighted as in many districts Judges are by their own recording the evidences with a clerk. They don’t even have a court master. If 100 cases are listed in the cause list 30% of the cases are miscellaneous matters which can be transferred to Registrar or some other Officer because it will save the time of the judiciary. Some more time to be spent to look into the base line report and then come again for discussion.

Manipur

It was highlighted that the High Court was created in 2013 only therefore most of the problems faced by the other High Courts are not faced by Manipur High Court.

Training of lawyers must be there but as regards to Manipur this problem is not that big with comparison to other states.

Tripura

Every High Court has its own process for evaluating the performance of their judicial officers and to determine the black sheep in the system. It was suggested that some sort of power must be vested in administrative judge to tackle this issue.

In Tripura the problem of pending cases is not there. One of the practices followed in the courts is that when a case is fixed on a particular date, the lawyers and the parties are informed through SMS. Vision document is prepared and followed.

It is suggested to include District Judges in the SCMS.

Guwahati High Court

It was highlighted that there is an existence of North Eastern Judicial Officers Training Institute (NEJOTI) in addition to the State Judicial Academy. A division bench regularly sits and looks in the infrastructural issues. Including High Court 107 posts has been created. Transfer policy is in existence. E-transfer of record to district court is soon going to start.

One of the major problems in the state is of illegal migrants and to deal with them a separate foreigners Tribunal is set up. Writ from this tribunal comes to the High Court and hence it is suggested to increase the strength. In some of the districts Solar energy is also used for cost cutting.

It was suggested that NCMS should review progress made by SCMS at least once in 6 month and give revisionary notes.

It was highlighted that one third of the litigations in Guwahati high court are on Motor Vehicle appeals. It was suggested to have an Amendment in Motor Vehicle Act and NI Act.

Delhi

It was suggested that the training of court managers is required.

Uttarakhand

The pendency is not an issue in the state. There are some difficulties faced by the district judges and officers. The situation is very different from Saket Court.

Jharkhand

It was highlighted that Judicial Academy has been inaugurated and 116 judges takes training in the Judicial Academy. State has created 150 posts for other staffs. Recruitment is been done.

2016 is declared as year of excellence and they will try to work in consonance with NCMS and SCMS.

Chhattisgarh

It was highlighted that they have saved approximately 5 lakh rupees on electricity because of solar power. Every month a meeting is held and a report is submitted to SCMS. State Judicial Academy has undertaken the task of training of staff of subordinate courts, young lawyers. Digitalization of records of High Court and then district courts is also been done.

Patna

A form as to the performance is created and a judicial officer is supposed to fill it and send it through Email to the portfolio judge every month which makes him conscious. It is suggested to develop a manual for each and every case. The activities must be shared with NJA and NCMS which will make it available to other courts so that other states may incorporate some good policies. Proper meeting area for litigants, toilets and other infrastructure of court is been set up.

While making a remark on the usage of technology it was stated by Justice Reddy that “Justice must be assisted and be careful that we should not become slave of technology”

Concluding remarks

Two things must always be kept in mind

1. Institutional measures
 - Rationalize membership of SCMS (NGO, Bar Council, District Judge and High Court Judges)
 - A full time member secretary is required for SCMS
 - Regular meeting date to be fixed every month
 - Establishment of District Court Management Committee
2. System to develop
 - Identifying and prioritizing an issue.
 - Monitoring the performance of the court and issues.
 - Exchange of idea (at district level) [can be done by seminar].

- Sharing of experience across the state.
- Involving the other duty holders [such as bar, court managers, registrar, judge etc.].
- Involving State Judicial Academy [meeting with SJA and SCMS]

Three Priority issues must be looked at:

- Delay and Arrears.
- Judges' strength.
- Monitoring of court performance.

It was suggested to have Pilot Court on National Framework for Court Excellence. Requirement of a Court Management manual is to be addressed. Guidelines on budget, Human Rights issues, and Government lawyer qualifications are required.

Therefore, the session was concluded and with this the colloquium came to an end.