



**NATIONAL MISSION FOR
DELIVERY OF JUSTICE AND
LEGAL REFORM**

“Towards Timely Delivery of Justice to All”

A BLUEPRINT FOR JUDICIAL REFORMS

Strategic Initiatives

2009 - 2012



THE CONSTITUTION OF INDIA

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

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INTRODUCTION

“*JUSTICE, Social, Economic and Political*” is the spirit and vision of our Constitution as adopted by us which WE, THE PEOPLE OF INDIA have solemnly given to ourselves on 26th 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 in particular ensures that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Access to prompt and quality justice is the key for realizing this vision.

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.

The Hon’ble Prime Minister of India, at “*The Conference of Chief Ministers and Chief Justices*” held on the 16th 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 prompt 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.

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 functionaries include all stakeholders in the judicial system: the

judiciary, the Bar, the litigants as well as the Governments, both Centre and States.

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:

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

NATIONAL MISSION FOR DELIVERY OF JUSTICE AND LEGAL REFORM

VISION

Timely Delivery of Justice to All

MISSION

To Strengthen the Judiciary towards reducing pendency and delays

OBJECTIVE

Reducing the pendency of arrears from 15 years to 3 years by 2012

STRATEGY

The National Mission for Delivery of Justice and Legal Reform proposes the following strategic initiatives to realize its vision:

- I. Outline Policy changes
- II. Re-engineer procedures
- III. Focus on Human Resource Development
- IV. Leverage ICT technology and tools

The National Mission for Delivery of Justice and Legal Reform will be serviced by a Society registered under The Societies Registration Act, 1860. The said Society will act as a Special Purpose Vehicle (“**SPV**”). The SPV will define and implement an action plan to realize the vision of the National Mission for Delivery of Justice and Legal Reform.

At the National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays held on the 24th and 25th October, the Hon'ble Union Minister for Law and Justice, Dr. M. Veerappa Moily presented the following resolutions to Hon'ble Chief Justice of India, Hon'ble Mr. Justice K.G. Balakrishnan:

**National Consultation for Strengthening the Judiciary
towards Reducing Pendency and Delays
(24-25 October 2009)**

RESOLUTION dated 25th October 2009

The Participants,

Reiterating the Constitutional promise to deliver equal justice under law to all citizens and to provide access to justice to all, particularly the weaker sections of society

Noting that the President of India in her address to the Joint session of Parliament delivered on June 3rd 2009 had emphasized the need for a roadmap for judicial reforms

Noting that the Prime Minister of India in his address to the Conference of Chief Ministers and Chief Justices on August 16th 2009 described the huge arrears and case backlogs as the prime source of concern in relation to the Indian legal system

Recalling the consensus of all those present, including the Honourable Chief Justice of India, the Honourable Union Minister for Law and Justice, the Honourable Attorney General of India and the Learned Solicitor General of India and others that the pendency and delays in the courts calls for urgent and immediate action

Reaffirming the commitment of those present including the Justices of the Supreme Court of India and other members of the Judiciary, Judicial officers, Law officers, Members of the Bar, representatives of the Union Ministry of Law & Justice and members of the public to dedicate themselves to reduce the pendency of cases from 15 years to 3 years and to work together to implement the various steps required to ensure expeditious, quality and inclusive justice

Taking Note of the Vision Document presented by the Honourable Union Minister of Law and Justice to the Honourable Chief Justice of India

Adopt the Vision Statement and Action Plan as a public commitment for redesigning the justice delivery system to reduce pendency and delays

Urge all constituents to recognise their special role and responsibility to implement the Action Plan

Decide that to implement the Action Plan the National Arrears Grid and the Special Purpose vehicle be incorporated no later than 26th November 2009, Law Day

Recommend the High Court's make available all the data for the National Grid by 30th November 2009

Also decide that the implementation of the Action Plan should focus on human resource development, infrastructure development and procedural reforms

Commit to comprehensive human resource development in all sectors including judges lawyers, law officers, prosecutors and court staff in an inclusive manner

Further commit to efficient and optimum utilization of existing infrastructure and improvements and additions to physical and technological infrastructure

Also commit to specific implementation of procedural reforms at all levels in a time bound manner including curtailment of adjournments, introducing a system of continuous hearing in civil cases and criminal trials and expediting execution proceedings by removing unnecessary delays

Acknowledge the initiative undertaken by the Government of India to frame a National Litigation Policy by 31st December 2009 with a view to ensure conduct of responsible litigation by the Central Government and urges every State Government to evolve similar policies

Welcome and Applaud the idea of an SPV as an autonomous and flexible means to provide infrastructural, managerial, technological and manpower services to the Judiciary and the singular contribution of Dr. Sam Pitroda in the conceptualisation of the SPV and the implementation of its programs

Bearing in mind that all such changes should focus on inclusive growth reaching all levels of society and acknowledging the need to create an Indian model

Request the Central Government to make available adequate and committed resources to implement and support the Action Plan

Recognize the need for mediation and other methods of dispute resolution as an organized mainstream justice delivery mechanism

Further recognize the principle behind judicial appointments should be delivery of quality and expeditious justice and public service

Commend for consideration the establishment of a All India Judicial Service through an open competitive examination ensuring the best possible selection

Welcome the suggestion of the Honourable Chief Justice of India for a notional increase in the sanctioned strength of judges by 25 % in order to enable the judiciary to make advance selection for appointment as soon as the vacancy arises

Also recognise the need for appointment of ad hoc judges at all levels of the judiciary on a temporary basis from amongst retired judges and members of the bar

Recommend the creation of a National Pool of Judicial Officers from retired judges to enable persons from the pool to be appointed as HC judges in various states

Recommend assigning special judges to deal with all pending criminal cases where the term is less than 3 years

Welcome and Applaud the leadership given the by the Chief Justice of India, Judges of the Supreme Court and Chief Justices of the various High Courts and their colleagues, Bar Councils of India and Bar Associations for their positive role in initiating and furthering a meaningful dialogue to further the objectives of the vision document

SOCIETY FOR DELIVERY OF JUSTICE AND LAW REFORM

Charter

1. The Special Purpose Vehicle, (hereafter called the SPV) for the National Mission for Delivery of Justice and Legal Reform will manage and implement the Vision prepared by the National Mission for Delivery of Justice and Legal Reform and also service the Bar Council of India.
2. The SPV will define and implement an action plan to provide “timely justice” to all. It aims to reduce the pendency of cases (arrears) from 15 years to 3 years by means of various innovative strategies, initiatives and definitive action plans. The SPV has a target to eliminate all arrears from the Indian Judicial System by December 31, 2012. All cases pending as on January 1, 2009 will be treated as arrears.
3. The SPV intends to achieve its objective of reducing pendency through a multi-pronged approach which includes Process Reengineering, Human Resource and Institutional Framework Reforms, Infrastructure Development and Information Technology enablement.
4. The SPV will be formed as a Society which will be fully funded by the Central Government. It may also, in the future, be funded from an appropriate tax, say a legal reform cess that will be applicable to all citizens of the country, on the lines of the existing education cess.
5. The SPV will be empowered to seek the involvement of the Supreme Court, all High Courts and Subordinate Courts in charting out a detailed implementation plan. It will be essential for all bodies to provide support to the SPV. The SPV in consultation with Supreme Court and all High Courts will be empowered to suggest modification of existing Acts and Rules if necessary to implement its vision.
6. The SPV’s Board of Governors will have appropriate representation from the academia, Government and industry. The chief executive of the SPV will report to the Board of governors of the National Mission for Delivery of Justice and Legal Reform. The SPV will be run professionally by executives who have a management background and extensive specialized experience in managing various functions of an organization.

The SPV will also have engineers, architects and information technology experts as part of its team.

7. The executive team of the SPV will have well defined terms of reference, goals and objectives, mechanism to report progress, issue management and performance management framework. The executive team will have freedom and flexibility to work towards its goals and will report only to the Board of Directors for strategic control and decision making.
8. The SPV will be supported for research and scientific studies on legal matters by different academic and Government bodies such as the National Law Schools, the Law Commission, non-governmental organizations, and private research organizations.
9. The SPV will also steer reforms in the legal education system in line with recommendations of the National Legal Knowledge Council established by the Bar Council of India.
10. The SPV will evolve a mechanism to engage the citizens of the country in this mega reform process. The need is to bring about attitudinal change in the public consciousness towards the judicial system and create awareness on the proposed judicial reforms.
11. The SPV will form partnerships and alliances with the private sector wherever required. It would attempt to outsource operational activities, however will retain control of all strategic policy and management aspects.

1. Outline Policy changes

1.1. National Litigation Policy

- The Government needs to be transformed from a compulsive litigant into a responsible and cautious litigant and thus the Central Government is proposing the introduction of a National Litigation Policy. A detailed action plan shall be launched separately, which shall focus on identification and removal of frivolous and vexatious cases preferred by the Central Government.
- This Due Diligence process shall involve drawing upon statistics of all pending matters which shall be provided for by all Government departments (including PSUs). The Office of the Attorney General and the Solicitor General shall also be responsible for reviewing all pending cases and filtering frivolous and vexatious matters from the meritorious ones. An Office for 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.
- Norms will be formulated for defending cases filed against the 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 done with. This would apply both to the Central and the State Governments.
- Setting up of Empowered Committees to eliminate unnecessary litigation needs to be considered.
- 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.

1.2. The Law Commission and other recommendations

- The Office of the Attorney General and Solicitor General has already embarked on a task of identifying all relevant recommendations from various Law Commission reports which require implementation. This target is expected to be achieved by 31st 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.
- 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 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. The terms of reference of the Law Commission need to be precise and focused on laws which expedite disposal of cases.
- There is also 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. The Law Commission must be established as a body with adequate field research workers, anthropologists, sociologists, culture experts and legal researchers.
- The reforms mentioned in the Malimath Committee Report on selection of prosecutors and the recommendations of the Judicial Impact Assessment Committee must be seriously and immediately considered.

2. Re-engineer Procedures

2.1. Identification of Bottlenecks

- Studies have shown that cases under certain statutes and areas of law are choking the dockets of magisterial and specialized courts, and the same have been identified as follows:
 1. Matrimonial cases.
 2. Cases under Section 498A of the Indian Penal Code, 1860.
 3. Cases under Section 138 of the Negotiable Instruments Act, 1881.
 4. Cases under the Prevention of Corruption Act, 1988.
 5. Regular murder cases/appeals.
 6. Civil cases, including suits which may have been rendered infructuous.
 7. Cases under Section 482 of the Code of Criminal Procedure, 1973.
 8. Petty cases such as Traffic Challans.
 9. Motor Accident Claims.

- Prioritization has to be worked out for an expeditious resolution of certain category of cases, such as those filed by senior citizens, terminally ill persons, cases pertaining to Pretrial and Juvenile prisoners, women who are victims of violence. These must receive fast track and out of turn disposal but in a uniform, organized and systematic manner.

- There must be certainty in the law. Restricting the number of judgments is necessary to avoid uncertainty in the law. Quality and precision assist the lower judiciary in the expeditious and final disposal of cases.

2.2. Removal of Bottlenecks

- Fast Track procedures must be evolved to deal with the cases earmarked as causing bottlenecks.

- Special Court Rooms, additional buildings and other infrastructure must be provided for the above purpose. Increased infrastructural support must be considered on a war-footing.
- Setting up a time table for the reduction of bottleneck arrears, with (preferably) the arrears as on 1.1.2009 to be liquidated by 31.12.2012. Timetables should be established for every contested case and monitored through a computerized signalling system (NJA has developed and piloted such a model).
- Special Courts to process cases on a non-stop day-to-day basis with no adjournments except in rare circumstances.
- Cases related to dishonor of a cheque usually end up in some kind of amicable settlement soon after the presence of the accused is secured. The Delhi High Court suggests putting in place a shift system to deal with cases under Section 138 of the Negotiable Instruments Act thereby allowing more judicial manpower to be deployed within the constraints of limited infrastructure.
- 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.
- Commercial and arbitration cases have to be put on a separate track. 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. Judges, who are well versed with commercial laws and practices, as well as specialist arbitration judges, should be requested to put such cases on fast track.

2.3. Categorization and Clubbing of Cases

- Clubbing cases which raise same/similar issues is a healthy practise which helps in block disposal of such cases. 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 deplored.

- 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.
- Government pleaders' offices must 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.

2.4. Judicial Management and Case Management

'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'.

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. The need of the hour is to depart from the traditional adversarial case management practices which had left the pace of litigation primarily in the hands of legal practitioners. This can be achieved by adopting modern and efficient case management practices.

- Traditionally, the courts' role was simply to respond to processes initiated by practitioners. But, the objectives of 'case management' should now include:
 - I. Increasing the cost effectiveness of litigation;
 - II. Expeditious disposal of cases as is reasonably practicable;

- III. Promoting a sense of reasonable proportion and procedural economy;
 - IV. Ensuring fairness between the parties;
 - V. Facilitating settlement;
 - VI. Ensuring 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 to help the court to further the underlying objectives.
- The courts should also be duty bound to further the aforementioned objectives by 'actively managing' cases. Activism in case management by the courts should aim to :
 - I. Encourage parties to cooperate;
 - II. Identify issues at an early stage;
 - III. Encourage and facilitate the use of alternative dispute resolution procedures, if appropriate, and help the parties to settle whole or part of the dispute;
 - IV. Fix timetables or otherwise control the progress of the case;
 - V. Develop information technology support;
 - VI. Monitor case loads;
 - VII. Make more effective use of judicial resources;
 - VIII. establish of trial standards;
 - IX. Consider whether the likely benefit of taking a particular step justifies the cost;
 - X. Deal with as many aspects of the case as possible on the same occasion;
 - XI. Plan for the future;
 - XII. Ensure efficient and expeditious conduct of trial, and issue directions in this regard if necessary.
 - XIII. Periodically review of cases to identify slippages and short comings.

- Setting up a time table for pre-determined events and supervising the progress of a law-suit through the time-table are essential components of the case-management system. To achieve this, the parties must complete a 'Time tabling 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 summon".
- The Civil Procedure Code requires judgments to be given a particular time after the conclusion of arguments. The Supreme Court has given judicial imprimatur to this. Every attempt would be made to eliminate delay in delivering judgments. All courts, without exception, should be required to publish on their websites, figures and particulars of cases reserved for judgment and the date on which the case was closed for arguments. There should be a fundamental transfer in the responsibility for the management of civil litigation from litigants and their legal advisors to the courts.
- 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

Case Management must be introduced by an appropriate set of rules, so that it can become a very proficient tool for the proper and timely disposal of simpler cases and also for the purpose of allocating more time to complex cases.

2.5. Other suggested procedural changes

- Every High Court should have a small department of experienced officers who can be asked to:
 1. 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;
 2. Club cases into groups and sub-groups containing identical issues;
 3. Prepare a brief resume of the facts and the issues raised.
- Filing of Written Statements prior to oral arguments will compel the counsels 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.
- 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.
- All cases where a defence is received will be examined by a 'procedural judge' who will allocate the case to the appropriate track.
- Purely procedural work 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.
- Case numbers to indicate 'litigation start dates' prominently in addition to filing dates.
- Use of ADR for civil cases and plea bargaining for criminal cases to be enhanced and monitored through a nation-wide computerized tracking system.
- 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.

- 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.
- A restricted regime of imposition of costs has encouraged several litigants to abuse the legal process and delay the disposal of cases. Thus we need to take immediate steps to avoid further abuse of the system.

3. Focus on Human Resource Development

3.1. Staffing and Recruitment

3.1.1. Important Statistics

- The combined sanctioned judge 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.
- In the Supreme Court itself there are 7 vacancies out of a total sanctioned strength of 31 judges.
- Around 2,998 vacancies exist among 16,721 judicial posts in District and subordinate Courts.
- Due to the 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, hence rendering them infructuous.

(The above mentioned statistics reflecting the situation as on 1st July, 2009 are based on the information provided on the official website of the Supreme Court of India)

3.1.2. Bridging the Demand and Supply

- The problem of arrears can be doctored by appointment of retired judges as Ad-hoc judges for a period of one year. 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.
- Eminent as well as competent lawyers who are dedicated toward service and satisfy existing criteria of legal acumen and integrity shall be selected.
- Senior law students, fresh graduates from National Law Schools, and MBA graduates may also be appointed at various levels as Court Managers. Good

quality talent can only be attracted by offering competitive salaries and structured incentives. This shall also indirectly ensure effective time management, effective utilization of infrastructure and improved management of court personnel. 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.

- The consultation process has rendered itself cumbersome with the increase in the member strength of the collegium. This is a cause of delay in the selection and elevation of judges. Lucid and comprehensive guidelines should be followed by the collegium in the matter of selection of judges. Currently, there exist no guidelines dealing with situations of deadlock such as lack of consensus among the members of the Collegium or dealing with situations where the majority members of the Collegium disagree with the CJI.
- The Collegium should be bound to a timeline to clear any back-log in vacancies.
- The collegium and the Government should also work hand in hand appointing a judge. This can help bridge differences between the two and hence avoid delay in appointment. The Executive and the Legislature must take initiative in recommending the best possible talent for selection to the judiciary.
- The Government should also be given the power to suggest outstanding lawyers and jurists as Judges.
- Raising the retirement age of High Court Judges from 62 to 65 years will also aid in elimination of vacancies.

- The existing memorandum of procedures should have a shorter time-frame to facilitate the filling up of backlog vacancies of Judges in High Courts.
- 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.
- The All India Judicial Service, including an All India Judicial Service Commission, which shall look into regulating appointment as well as transfer of judicial officers of high quality in the subordinate judiciary must be explored. This shall logically entail adoption of unified standards in matters of language, translation, formats and court procedures.

3.2. Training and Performance Management

- The aim of achieving reduction in arrears also requires reorientation within the Bar Councils, amongst members of the Bar as well as the police/prosecutorial systems. Such programmes must be clearly formulated and structured in consultation with the Bar Councils.
- A National Bar Training and Reorientation Academy must be considered. A plan should be published providing for speakers as well as training modules. It is suggested that such speakers/motivators must include lawyers, Judges (practicing and retired), academicians, managers, computer professionals and sociologists.
- In the training courses for fast track courts, attempts should be made to provide progressive codification modules of the existing law on relevant subjects.

- A separate Bar for mediators, arbitrators and conciliators should be evolved whose skills in achieving negotiated settlements outside litigation would be substantially different.
- It is important to note that quick disposal as well as setting and achieving targets 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 branches of law.

3.3. Legal Education Reforms

- 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).
- The Recommendations of the National Knowledge Commission on Legal Education must be seriously considered and put into action.

4. Leverage ICT technology and tools

4.1. Create a National Arrears Grid/Database

The Woolf Report of 1996 emphasized that the judiciary must generate accurate judicial statistics on a daily basis. The purpose of the National Arrears Grid is to ascertain and analyze the exact number of arrears in every court in the country.

4.1.1. Creation of the Grid

- The NLM shall outsource the development of the software to a private Indian IT company.

4.1.2. Management of the Grid

- The NLM will appoint a reporting executive for each High Court to give weekly reports on reduction of its respective arrears and the arrears in the subordinate Courts falling under its jurisdiction.
 - 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.
 - All cases which are treated as arrears 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.
- The NLM will employ specially trained computer experts, statisticians and software designers to ensure smooth functioning of the Grid. The Grid should be in control of statistics and full time rapporteurs must be appointed for that purpose.

4.1.3. Deliverables of the Grid

- 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.
- The Grid will efficiently monitor the systemic bottlenecks. Four key bottlenecks causing delays in civil and criminal process (Service of process, Adjournments, Interlocutory Orders, Appearance of witnesses and accused) will be monitored through the Grid and attention will be provided through a special cell at the High Court and District Court level to resolve issues in coordination with Executive Agencies.
- 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.
- 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.

4.2. Integration of ICT in the current scenario

- 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.
- Video Conferencing technology should be used extensively for
 - a. For cases involving traffic offences or bailable offences

- b. For the purpose of witness testimony including cross examination
 - 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.
 - Use of ADR for civil cases and plea bargaining for criminal cases to be enhanced and monitored through a nation-wide computerized tracking system.
 - The integration of ICT in the current system will avoid considerable waste of the judicial time that occurs at present because of the system of calling out all the listed cases which are not yet ripe for final disposal to address purely procedural issues, such as,:
 - Whether notices are served,
 - Whether defects are cured,
 - Whether affidavits, replies or rejoinder affidavits are filed,
 - Whether notices in applications for bringing legal representatives or record are served,
 - Whether parties have taken various steps necessary to be taken at various stages of the case.

4.3. ICT interventions for tackling the Criminal Justice System

- There is an urgent need to modernise police stations by having technologically equipped interrogation rooms, 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 videotaped by the police. Confessions made to a police officer,

which are intended to be admissible as evidence under special statutes must also be videotaped.

- Technical evidence like recovery of material as well as samples can be done through electronic systems so that hostile witnesses can be avoided.
- 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.
- 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. This is being practised in Delhi.
- Extensive use of Video conferencing can be made in the following ways:
 - a. Production of 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.
 - b. Production of the police officers / IOs: 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.
 - c. Video conferencing must be made available from the police station itself to enable police officers to attend remand hearings etc.

4.4. E-Courts

E-Courts mean paperless Courts. This system is being followed by courts at various levels in the United States, as well 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 parties. 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 scrutinize 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

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.

CONCLUSION

The Strategic Initiatives presented in this document provide a means for achieving the major objectives of the National Mission for Delivery of Justice and Legal Reform namely:

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

As suggested by the Hon'ble Chief Justice of India, the following may be set as the National Minimum Court Performance Standards for us:

- 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.
- 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).

Law is an important instrument of social and political change. For the Rule of Law to be a reality, and to maintain the faith of society in the legal system of our country, there is an urgent need to reduce the pendency of cases in courts and also reduce the average life span of litigation. The time for change is now.