

Legal & Societal Changes Required For Reformation of Law Enforcement Process: Modernization of Criminal Courts & Police Stations in India

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Problems in Law Enforcement: DELAY

- ▶ The cancer of delay has crippled the judicial system;
- ▶ Criminal justice system affected– virtually paralyzed;
- ▶ This paralysis of criminal courts & police station – gives free hand to criminals;
- ▶ Makes crime ‘low risk–high profit’ business;
- ▶ Law ceases to have deterrent effect;
- ▶ Results in widespread corruption, scandals from politicians to judges & general mayhem in country;



Problems in Law Enforcement: DELAY Mounting Arrears

- ▶ Total number of cognizable criminal cases (IPC & SLL) for trial during 2010, including pending cases from previous years– 1,78,64,580;

(Table 4.9 at Pg. 357 & Table 4.13 Pg.363, Crime in India, 2010,NCRB)

- ▶ Over 67 lakh (67,50,748) Cognizable Criminal Cases (IPC & SLL crimes) filed in 2010 alone;

(Figures at a Glance 2010, Crimes in India 2010, NCRB);

- ▶ Trial completed (IPC & SLL) in 2010 in 55,88,312 (31.28%) cases (excluding cases withdrawn by govt/compounded);

(Table 4.9 at Pg. 357 & Table 4.13 Pg.363, Crime in India, 2010,NCRB).



Problems in Law Enforcement: DELAY (contd.)

- ▶ Almost 90,000 rape cases(89,707) pending for trial including cases from previous years;
- ▶ More than 1, 75, 000 murder cases (1, 76, 057) pending for trial including cases from previous year;
- ▶ More than 3, 50, 000 cases under S. 498A (3,57,343) pending for trial including cases from previous year;

(Table 4.9, page 357, Crimes in India 2010, NCRB);




Problems in Law Enforcement: RISING PENDENCY

- ▶ Acc. to PRS Legislative Research Report, as on 30.09.2010:
 - 32 Million cases (civil& criminal) pending in court in India till date;
 - Out of this – about 55,000 cases pending in the Supreme Court;
 - 42 lakhs in various High Courts; &
 - About 2.8 crore cases in Sessions & other subordinate courts;
- ▶ Pendency of cases increased in the last 10 years by:
 - 148% in the Supreme Court;
 - 53% in the High Court; &
 - 36% in Sub-ordinate Courts; (www.prsindia.org).

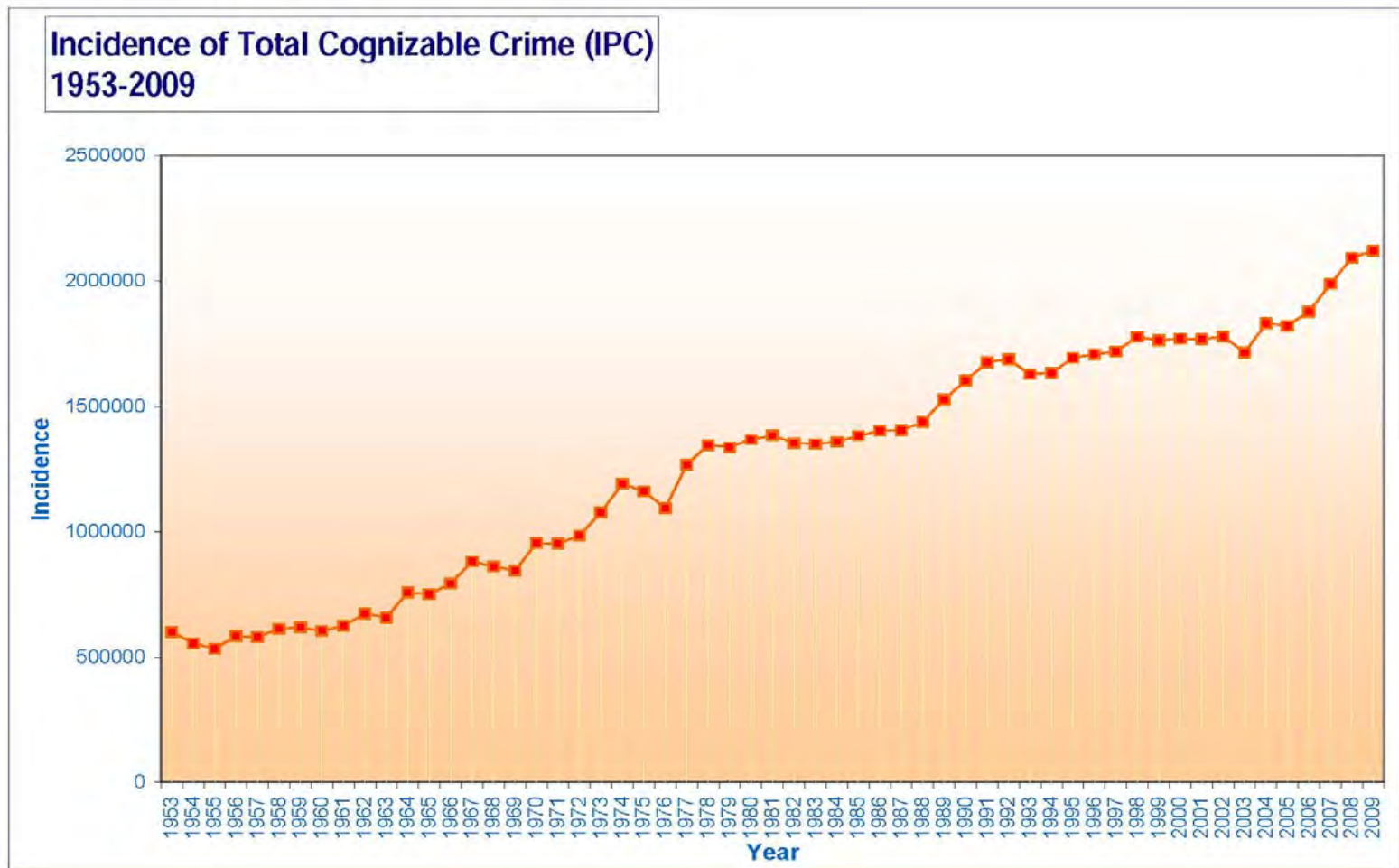
Crime Clock

- ▶ 1 crime committed against women every 2 mins;
- ▶ 1 molestation case every 13 mins;
- ▶ 1 rape case every 18 mins;
- ▶ 1 dowry death case every 62 mins;
- ▶ 1 S. 498A case every 6 mins;
- ▶ 1 sexual harassment case every 52 mins;
- ▶ 1 kidnapping & abduction every 13 mins;
- ▶ 1 robbery occurs every 22 mins;
- ▶ 1 suicide committed every 4 mins;
- ▶ 1 violent crime occurs in India every 2 mins.

(Calculated according to statistics provided in Crimes of India, 2010,
National Crime Records Bureau)



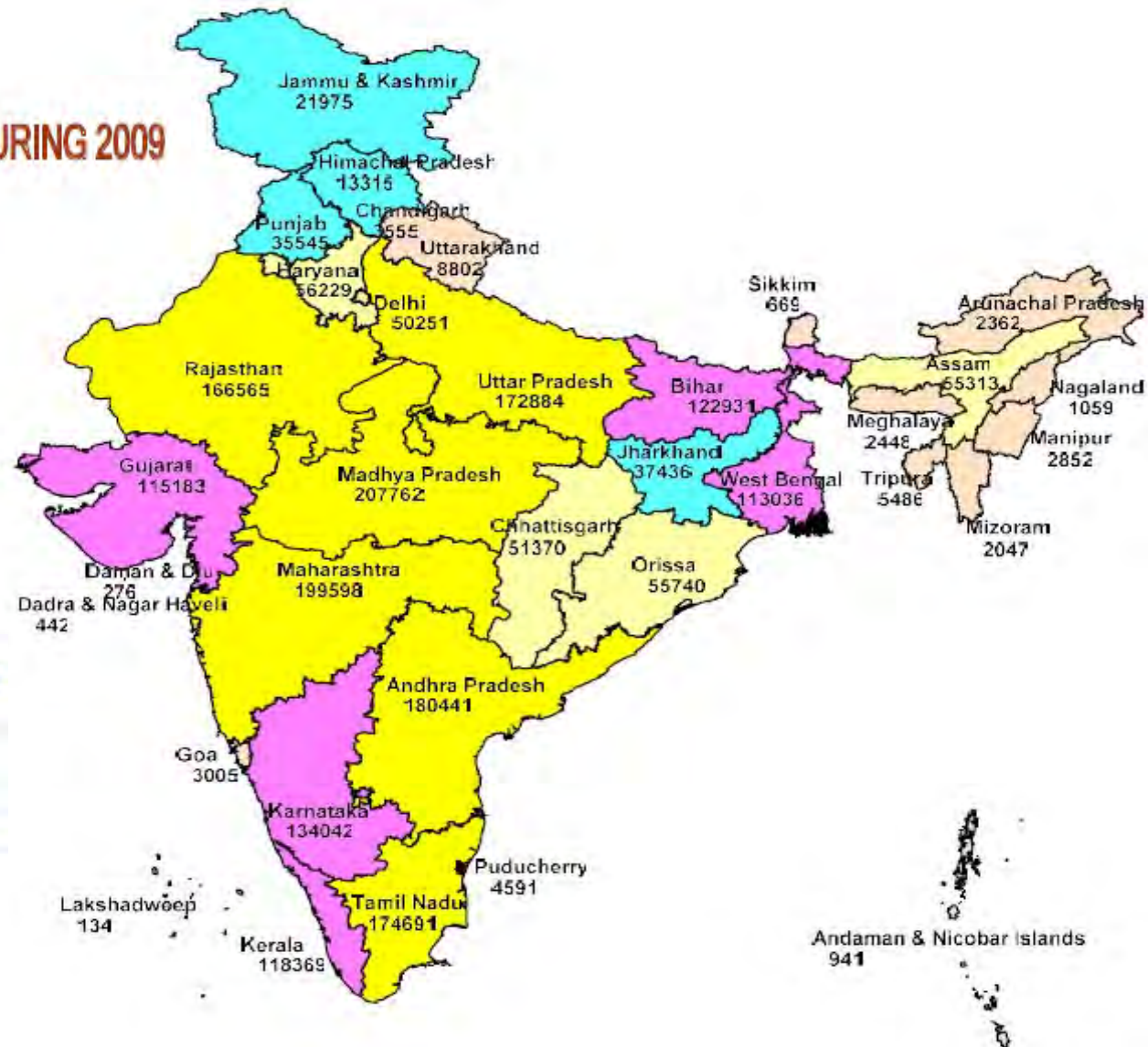
Incidence of Crime from 1953– 2009



Incidence of Crime in 2009

INCIDENCE OF IPC CRIME DURING 2009

(All India 2121345)



Incidence (No. of Cases)



Problems in Law Enforcement: PRISON PACKED WITH UNDERTRIALS


- ▶ Total Capacity of Jails in India– 3,20,450;
- ▶ Total no. of inmates– 3,68,998;
Proof that no. of jail inmates exceeds the capacity of the jails;
- ▶ Out of this undertrial prisoners– 2,40,098;
- ▶ Means 65.1% of all inmates are undertrials;
- ▶ (Snapshot 2010, Prison Statistics India 2010, NCRB)




Problems in Law Enforcement: DECLINING CONVICTION RATE

- ▶ 1961 - Conviction Rate - 20 %
- ▶ 1998 - Conviction Rate - 6.4%
- ▶ Current Conviction Rate:

According to Times of India article titled “Low Conviction Rate Across Country Fails to Move Centre” dated 03.08.2010:

- the conviction rate shown by the cops is somewhere around 30%
but the actual rate is much less.”
- 

Problems in Law Enforcement: DECLINING CONVICTION RATE (contd.)

- ▶ Similarly, India Today's article- "A Case for Prosecution" dated 01.05.2009 reports that:
 - ▶ Although as per NCRB, conviction rate for IPC crimes decreased marginally from 42.9% in 2006 to 42.3% in 2007.
 - But the NGOs tell a different story –
 - In one report it was suggested that in reality our conviction rate is as low as 6.2% for assault and murder cases and is 4.8% for molestation cases;
 - The improved figures include cases where the accused pleads guilty and is let off with a fine;"
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Problems in Law Enforcement: DECLINING CONVICTION RATE (Corruption)

- ▶ 3822 cases registered under PoCA & related sections of the IPC in 2010 alone;
- ▶ (Table 9.1, Chapter 9, Crimes in India, 2010, National Crime Record Bureau)
- ▶ In relation to these:
 - 4578 persons were chargesheeted;
 - 4892 persons were arrested;
 - Trial was completed for 3379 persons;
 - 891 persons were convicted; &
 - 2491 persons were acquitted;**Hence, Conviction rate– 5.49%**
(persons convicted out of those arrested)



Problems in Law Enforcement:

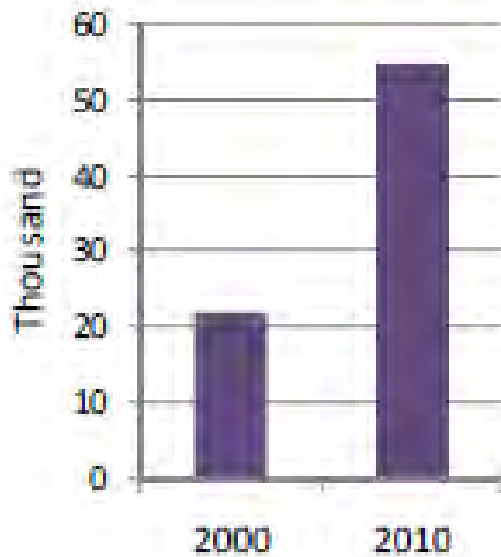
DISPOSAL RATE

- ▶ Out of 29,85,719 cases investigated in 2010;
 - Investigation completed in 21,56,257 cases (72.2%);
 - 27.7% (8,26,631 cases) pending investigation;
 - 53.5% cases chargesheeted by Police;
 - 29,47,122 persons arrested out of 67,50,748 IPC crimes reported; (no. of persons convicted not mentioned)
 - 44% persons arrested out of those reported;(Disposal of Crime Cases, Snapshots 2010, NCRB 2010);

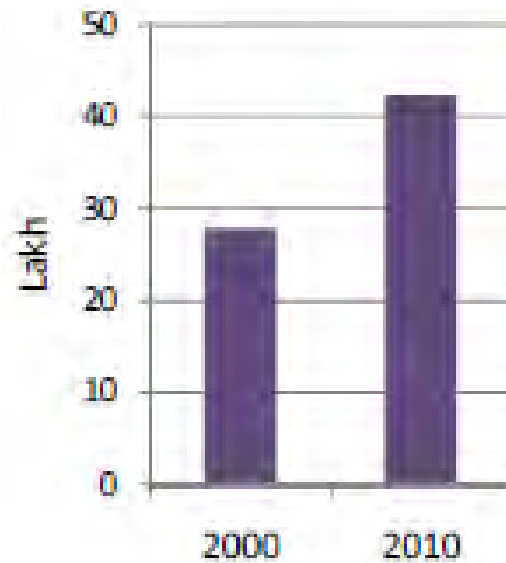


DISPOSAL AND PENDENCY

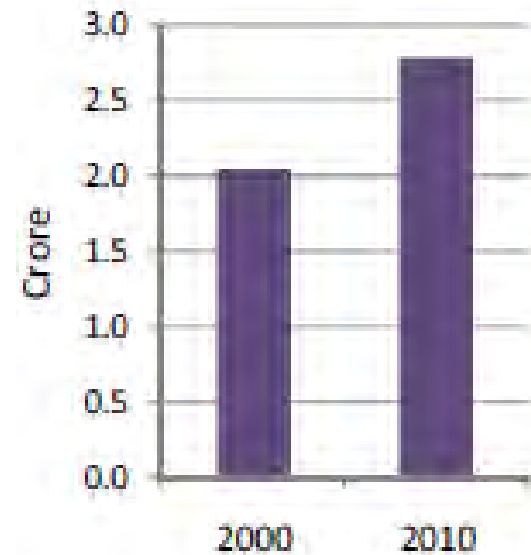
Supreme Court



High Courts



Subordinate Courts



Increase in pendency of Cases across Indian Courts (38%) in the last decade;



Consequences of Delay in Disposal of Cases

- Corruption gallops and enters all fields from top to bottom: –
 - ✓ 2G, Commonwealth, Adarsh, cash for vote scams abound;
 - ✓ Pharmaceutical adulteration;
 - ✓ Piracy in films, Music, Automobiles parts and branded goods jumps to 9,000 crores (1.8 Billion USD);
 - ✓ Size of counterfeit industry swells to 46,600 crores (9.3 Billion USD) and threatens economy;
- Counterfeit currency, share certificates, stamp papers – reach new height (50,000 crores);
- Scams & scandals reach upto highest public officials;
- Education, health, judiciary, police, reek of corruption, etc.;



Causes of Delay

- ▶ Causes for Delay:
 - Delay in Recruitment;
 - Lack of Accountability (34 sitting judges under scanner)
 - Adjournments;
 - Too many holidays;
 - Lack of cohesion between Investigation & Prosecution;
 - Excessive reliance on oral evidence;
 - Poor Court management;



Legal & Societal Changes Required

- ▶ To prevent delay in courts:
- ▶ The wrong answers to above question are:
 - More deterrent punishment;
 - Restrictions on bail;
 - Reversal of burden/presumption;
 - making more laws;
 - amendment to current laws;
 - increasing no. of judges;
- ▶ The right answer is:
 - Technology ;
 - Strengthening infrastructure;
 - Giving facilities & amenities to judges;



The Explanation

- ▶ As per many jurists & thinkers – problem is less no. of judges;
- ▶ Acc. to Justice Malimath Committee Report prob. is the no. of judges / population:
 - Indian Ratio ----- 10.5 Judges per million
 - World Ratio ----- 50 Judges per million
- ▶ However the critical test is not judge–population ratio but judge–docket ratio;
- ▶ Docket refers to the list of cases to be tried–accurate representation of workload of judge;



The Explanation (contd.)

CASES FILED IN ONE YEAR (2001)

INDIA

13.6 Million (1,36,68,073) cases

USA

93.81 Million cases

DOCKET'S PER JUDGE

987 per Judge

3235 per Judge



The Explanation (contd.)

DOCKET RATIO FOR PROPER MATTERS

INDIA

525 per Judge

USA

1335 per Judge

DOCKET RATIO FOR BOTH PROPER AND MINOR MATTERS

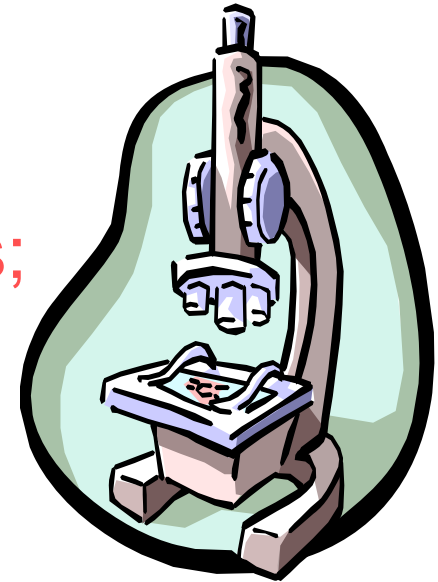
987 per Judge

3235 per Judge



The Right Answer: RE-ENGINEERING PROCEDURES

- Effective Court Management;
- Modernization of Police Stations;
- Modernization of Criminal Courts;
- Criminal Justice Board;
- Use of science, technology & IT;
- Criminal Court design guide;
- Sentencing discounts – Earlier the plea higher the discount;
- Abatement of stale cases;



Changes:

MODERNIZATION OF POLICE STATIONS

- ▶ Police stations to be modernized in order to streamline criminal justice administration;
- ▶ **Some suggestions to ponder over:**
- ▶ Use of technology in registration of FIR to improve accessibility;
- ▶ Installation of CCTV's in police stations;
- ▶ Audio or video recording of statements of all witnesses;
- ▶ With simultaneous transcription facilities;
- ▶ Video recording of all confessions of accused;



MODERNIZATION OF POLICE STATIONS (contd.)

- ▶ Developing and standardization of integrated technology for police stations across country;
- ▶ To provide automatic recording of telephone line of police station– with simultaneous relay facilities to patrol vehicles in area proximal to the caller;
- ▶ All FIR's to be recorded whether complaints made via telephone or in person;




MODERNIZATION OF POLICE STATIONS (contd.)

- ▶ Developing and standardizing design, area & equipment for interrogation rooms;
- ▶ Including audio visual recording facility;
- ▶ Statement of all witnesses to be recorded in interrogation rooms– if accused has no objection to record his interrogation in the same examination room;
- ▶ Provision for transcription machines in each police station for audio and visual examination by Court;



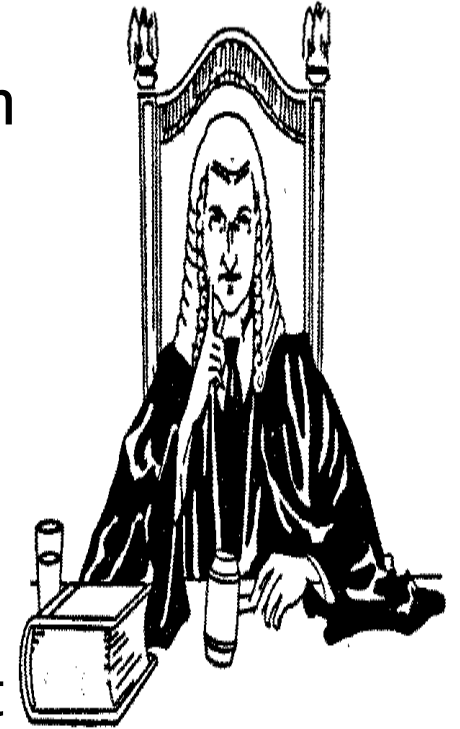
Changes:

Court Management Ideas

- Dedicated bail court;
 - Dedicated summons Court;
 - Centralised registry;
 - Only ripe cases listed before sessions court - not more than five in a day – 2 for charge and 2 for evidence – time for spill over;
 - Once session trial begins it must be heard day to day till concluded;
 - Non-availability of witnesses or counsel – no ground for adjournment;
 - Pursuit of perfection has led to over all collapse of the system;
 - Courts' objective - no one can guarantee complete Justice – the system must work;
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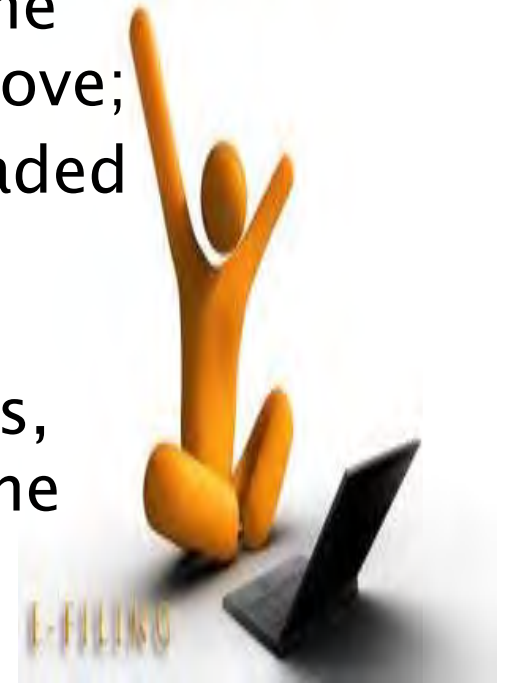
Annual Assessment Report (AAR) of Judges

- Promotion on the basis of AAR along with seniority;
Report to contain:
 - No. of cases dealt in an year;
 - No. of orders reversed in appeal;
 - No. of orders confirmed in appeal;
 - No. of final orders passed;
 - Disciplinary proceedings initiated against the Judge;
- Result: Ensuring meritocracy rather than favoritism;
- Should be published on website of respective courts to promote transparency;



Electronic System of Record Keeping

- ▶ Provision for e-filing in all Courts in the country starting from Sessions and above;
- ▶ All Judgments and records to be uploaded online with provisions for online inspection;
- ▶ Court Notices, summons in petty cases, service of documents to be made online where ever possible;
- ▶ Advantages: Faster Document filing, reduction of delays, paper saving, eradication of problem of misplacement of file, reduction in corruption;



Specific Guidelines for Awarding Death Penalty

- ▶ Life Imprisonment as a rule and Death only as an exception;
- ▶ SC in *Machi Singh's Case* : Death Penalty only in rarest of rare Cases;
- ▶ However, no specific guidelines as to when death should be awarded. Hence, Court's vested with wide discretion. This discretion is antidote of uniformity and consistency in Judicial pronouncements;
- ▶ Specific time guidelines for Execution of Death Sentence. Inhuman to keep someone hanging in balance for years together;
- ▶ Compulsory commutation of Death Sentence to life imprisonment in case of delay in execution beyond the specified time frame;




Changes: Limitation For Terminating Proceedings


- ▶ By amendment of Ss. 309 & 258 Cr.P.C, it can be provided that on completion of 2 years in cases punishable w/not exceeding 7 years & 3 years in cases exceeding 7 years from the date of starting of evidence, court to stop proceedings w/out pronouncing judgment & release / discharge the accused;
- ▶ May reduce arrears significantly;



Limitation For Terminating Proceedings (contd.)

- ▶ Supreme Court held in *P. Ramachandra Rao v. State of Karnataka (2002 4 SCC 578)* that bars on limitation can't be judicially engrafted;
 - ▶ Therefore, the need for engrafting it by way of amendment of Cr.P.C;
 - ▶ Such directions will be in consonance with *Common Cause I* and *Raj Deo Sharma I & II*;
 - ▶ Chief Justice of India in his recent law day speech (26 November, 2011) substantially endorsed the proposal;
- 

Changes: FORENSIC EVIDENCE: TOOL OF THE FUTURE


- ▶ Evidence– authenticity & availability are 2 critical components of criminal trial;
 - ▶ Evidence is unavailable in most cases– police fails to pick up important prints/marks from crime scene;
 - ▶ In absence of that lawyers & judge wander in the maze of circumstances & false witnesses;
 - ▶ Availability of scientific evidence & evaluation –determine success & speed of criminal courts;
- 

FORENSIC EVIDENCE: TOOL OF THE FUTURE (contd.)

- ▶ Every police station should be provided with mobile forensic van;
- ▶ This forensic van to accompany homicide squad to every crime scene;
- ▶ Trained forensic experts to lift evidence from crime scene– preserve– analyse;
- ▶ This appreciation of evidence– can greatly reduce time of judge & arguments of lawyers;
- ▶ It can bring out the truth in no time;
- ▶ Single scientific evidence = 100 witnesses;



THE PANACEA OF ALL ILLS: INFORMATION TECHNOLOGY


- ▶ Even though India is leader in BPO services;
 - ▶ Bangalore is considered the new silicon valley;
 - ▶ Leader in IT & computer skills;
 - ▶ Our Courts still use bullock cart facilities in this super sonic age;
 - ▶ Only natural then, that cases move with bullock cart speed;
 - ▶ Courts should be equipped with technology, world class amenities to facilitate speedy disposal;
- 

India: The Hub of Global IT

- ▶ BPO can transcribe 1000s of pages of data – transmit them over the wire– from across the globe– in less than 24 hours;
- ▶ Why do Indian courts rely on ability of judge to record evidence & judgments in long hand?
- ▶ Or depend on semi literate typists –who make hundred mistakes on every page?
- ▶ Output of Indian judge on an average is roughly 25 pages of evidence /day;
- ▶ The corresponding figure for judge of US court is 300;



COURTS TO HAVE BETTER IT SUPPORT

- ▶ This is not because a US judge is a better writer or typing machine;
 - ▶ Our judges are, without doubt, far more efficient & intellectual;
 - ▶ American judge has advantage of–facilities, such as– transcription machines & recording machines;
 - ▶ Each judge provided with staff of at least 10 law clerks, para legals– to assist him in management of files, analysis of evidence, research & preparation of case;
- 

VISION OF THE FUTURE



UNDERTRIAL JAIL

UNDERTRIAL JAIL

SESSIONS COURT

TRIAL COURTS

TRIAL COURTS

TRIAL COURTS

**MAGISTRATE
COURTS**

REMAND COURT

POLICE LOCK UP

POLICE STATION

THANK YOU

