

Session 5: Speedy Justice in Trial Courts



Saturday, 27 Feb 2021
5:00 PM - 7:00 PM



Justice G. Raghuram
Director, National Judicial Academy
(Chair)



Dr. Jayaprakash Narayan
General Secretary, Foundation for Democratic Reforms



Justice R.C. Chavan
Former Judge, Bombay High Court



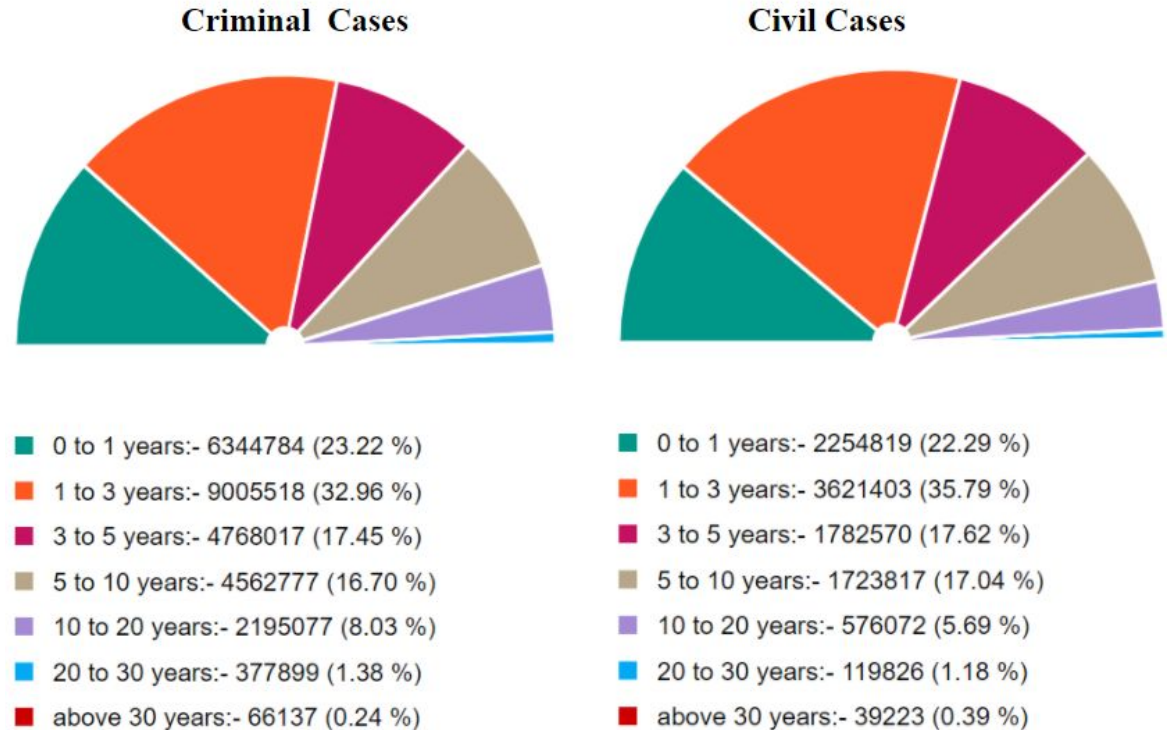
Shri Atul Kaushik
Chief of Party, The Asia Foundation

- The session will begin with a presentation from Dr Jayaprakash Narayan.
- The Chair for the session will first present his views for 10-12 minutes.
- The Chair will then call upon each speaker, who will also have 10-12 minutes to share their insights.
- Post that, the Chair may open the session for a panel discussion.
- The last 30-45 minutes will be dedicated to taking questions from the audience.
- We request the participants to keep the questions brief and lucid and also mention the panelist that they would like the question to be directed to.

Huge Pendency of Cases

- Over **37 million** cases are currently pending in trial courts
- The reasons include -
 - **Procedural complexities**
 - **Low judge to population ratio**
 - **Inadequate resources**
 - **Quality of judges**

Figure 1: Age-wise Pendency in District and Talukas Courts in India

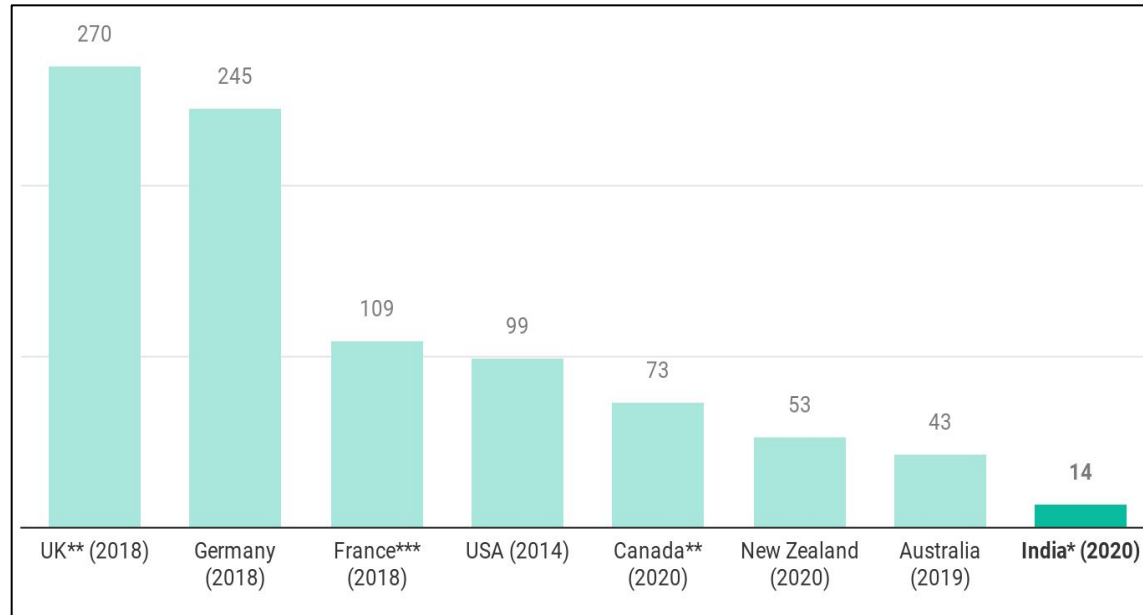


Source: National Judicial Data Grid, 10 February 2020

Low Judge to Population Ratio

- At **50** judges per million people, requirement of judges stands at nearly **70,000**
- Sanctioned strength of judges in India is only **25,316**, of which **5442** posts are **vacant**, with **410** vacancies in the High Courts and Supreme Court
- A trial court judge in India on average disposes **824** cases in a year compared to **159** in the UK

Figure 2: Judges per Million Population by Country

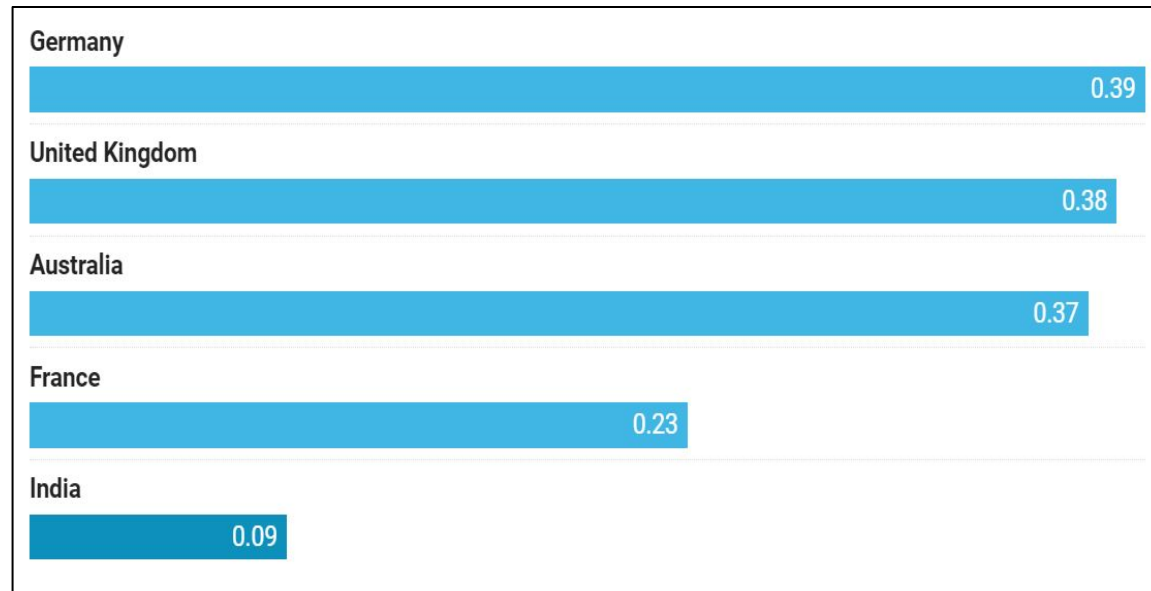


*Note: *India - 14 at actual strength and 21 at sanctioned strength. ** Canada and UK - numbers include Justices of Peace *** France - numbers don't not include members of the labour and commercial courts.*

Sources: Various countries' official statistics compiled by FDR

- As of January 2020, there are only **19,632 courtrooms** available in the country, **less** than sanctioned strength of judges
- Combined expenditure of Union and states on court system in 2018 amounted to a meagre **0.09% of the GDP**
- Union and states on an average spend **less than 1%** of their respective budgeted amount of money on judiciary

Figure 3: Expenditure on Law Courts as a % of GDP



Sources: International Monetary Fund 2018, Economic Survey 2017-2018

Incapacity to provide justice to ordinary citizens



- Barriers to justice for ordinary citizens -
 - Too few **judges**
 - Remote **location** of courts
 - Rigid and formal **procedures**
 - Excessive **delay**
 - **Cost** of litigation
 - **Perjury**
 - Perception that courts are **biased** towards those with means
- As a result, people either -
 - **Suffer** in silence
 - Use **extra-judicial methods** of settling disputes, often involving violence and corruption

- **Speedy** and **fair** justice to ordinary citizens
- **Simple** and **uncomplicated** procedures
- **Low cost** of functioning
- **Low cost** to people
- Maintain **close proximity** to the cause of action - to encourage truthful witness to come forward locally

US - Small claims courts, with limited jurisdiction, for civil suits involving relatively small amounts of money and minor violations of law

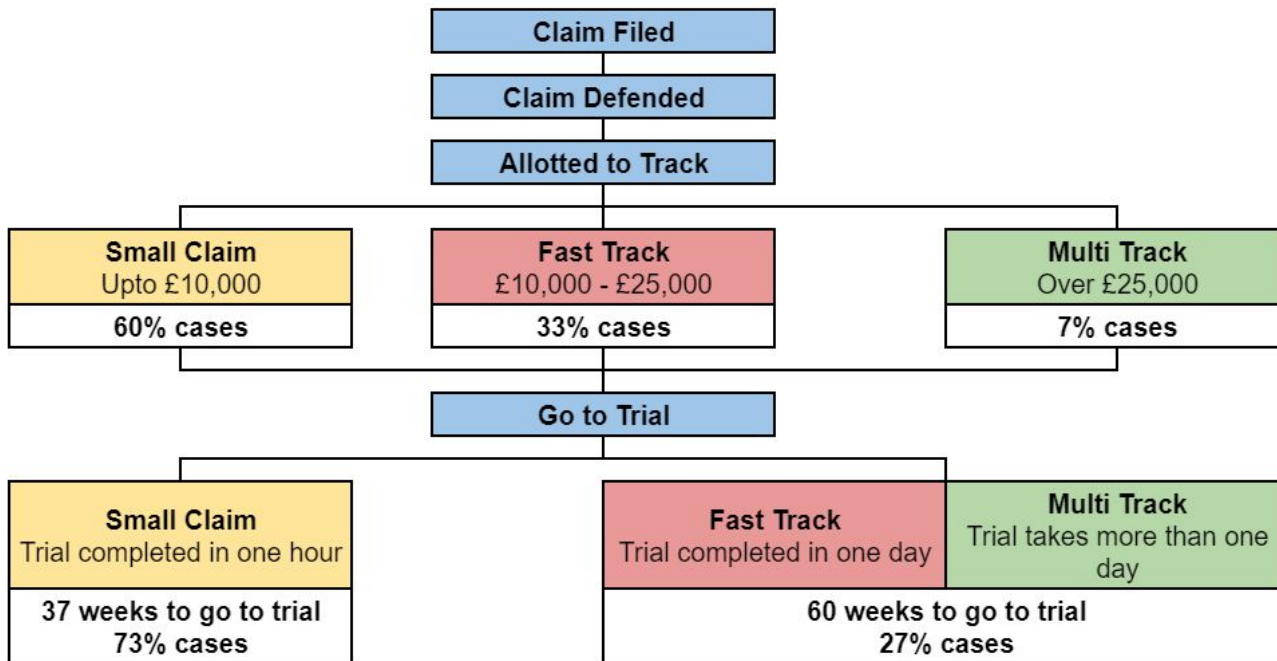
UK - Magistrates Courts (Justices of the Peace) for criminal matters and small claims track for civil matters

India - Honorary second-class magistrates system

Table 1: Justices of Peace in UK for Minor Criminal Cases

Magistrates' Courts (Justices of the Peace)		
Proportion of Magistrates in the judiciary	Proportion of total criminal caseload dealt with	Clearance Rate
83%	93.40%	99.8
<i>Source: UK House of Commons, 2019</i>		

Figure 4: Small Claims Track for Civil Cases upto £10,000



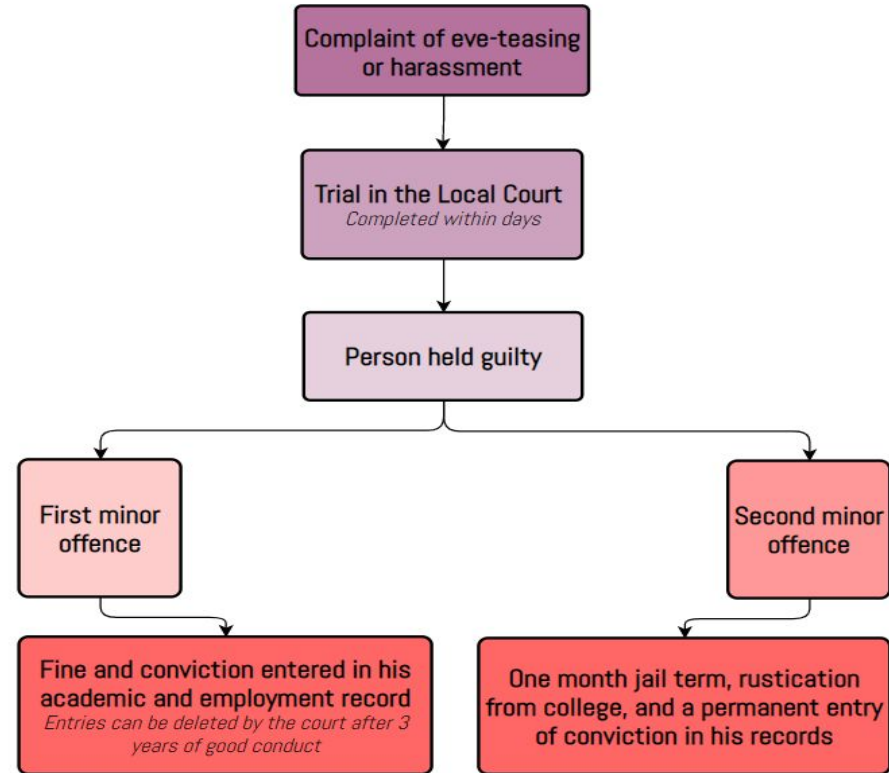
Source: Ministry of Justice, UK, 2019

- Features of the Act
 - Local court in every block in rural areas
 - Integral part of the **independent** judiciary, under administrative control of the High Courts
 - Provision for **appeal** ensures corrective steps in case of miscarriage of justice
 - Judges to be **appointed** by the State Government in consultation with High Courts
 - Salary and other allowances payable and other terms and conditions of service must be those applicable to the Judicial Magistrate First Class
- Problems with the Act
 - Not **mandatory** - As of 2020, a mere **395** Gram Nyayalayas have been notified, of which only **221** are functional
 - **Limited** scope - greater necessity in **urban** areas where petty crime & civil disputes are on the rise

- Gram Nyayalayas Act, 2008 must be extended to urban areas
 - 1 local court per **50,000 - 1,00,000** population based on caseload
- Courts to be mandatorily set up in all rural and urban areas over next 3 years
 - Around **15,000** such courts dispensing prompt and effective justice across the country (UK has **14,348** local criminal courts (JPs), or one JP for **4,658** population)
- Jurisdiction -
 - **Minor criminal cases** which account for **80%** of total crimes
 - Civil cases up to a certain **pecuniary limit**, say Rs 5,00,000
- Power of sentencing of these local courts may be limited to one year jail term
- Local courts and local police station must be **coterminous** and have one **dedicated** public prosecutor for improved coordination

Local Courts for Women's Safety

- When **permissive** climate of harassment of women with impunity goes unchecked, it escalates over time and paves way for more **serious** crimes against women
- Provisions may be made in the criminal law for providing for **summary trial** and speedy justice in local courts in all minor cases of sexual harassment like eve-teasing



- Backlog is a constraint on the system that needs to be addressed through a **one-time** mechanism to improve efficiency

Table 2: Clearance Rate of Trial Courts

Type	Cases Instituted in 2019	Cases Disposed in 2019	Clearance Rate	Cases Instituted in 2019 + Cumulative Pending Caseload	Clearance Rate including Cumulative Pending Caseload
Civil	3516589	3387063	96.3	13637583	24.8
Criminal	13641430	12094736	88.7	40984166	29.5
Total	17158019	15481799	90.2	54621749	28.3

Source: National Judicial Data Grid, 12 February 2021

Clearing Pendency in Trial Courts



- All cases pending **>1 year** and punishable by a **maximum of 3 years** of imprisonment (approx. 80%) or **<Rs 500,000** value of civil suit must be disposed of speedily by **local courts**
- All cases pending **>1 year** and punishable by **more than or equal to 3 years** of imprisonment or **>Rs. 5,00,000** value of civil suit must be disposed of by **fast-track courts**

Table 3: Jurisdiction of Local Courts and Fast Track Courts

Court	Civil	Criminal
Local Courts	Below the threshold, say Rs. 500,000	Below a threshold, crimes punishable by a maximum sentence of 3 years of imprisonment
Fast Track Courts	Above Rs. 500,000	Crimes punishable by more than 3 years of imprisonment

- **Contempt of Court**

- **Misbehaviour** and **disregard** for the judicial rules and norms by the witnesses, litigants, accused, or lawyers is common
- Causes **delays** in the trial process and is an **obstruction** to justice
- Currently, trial courts must rely on the High Courts to penalize those in contempt of court
- **Empower** trial court judges to deliver **speedy** justice, and preserve the **dignity** and **authority** of the court

- **Judicial Clerks**

- At least **one** highly competent judicial clerk to **assist** District Judges
- Judicial clerks may **grow** in stature over time and become **leading lawyers** and **judges** themselves