



UPPER LEFT: Mr. Justice K.G. Balakrishnan and Mr. Desmond McNamara, Q.C.

ABOVE: Justice Adrian Saunders, Judge Nancy Flatters, Justice John W.N. Tsekooko, Chief Justice Anthony Smellie and Justice Annestine Sealy

LOWER LEFT: Mr. Cristian Riego, Professor Gregory Reinhardt, Justice (Ag) Stephen Isaacs (behind) and Justice Jacob Wit

### Keynote Speakers

**Mr. Justice K.G. Balakrishnan, India**  
**Ms. Maria Dakolias, World Bank, Washington D.C.**  
**Justice Johann Kriegler, South Africa**  
**Chief Justice Anthony Smellie, Cayman Islands**



### List of Participants

**Justice Sophia Akuffo, Ghana**  
**Justice Ivor Archie, Trinidad & Tobago**  
**Justice Fritz Brand, South Africa**  
**Chief Justice Sir Dennis Byron, St. Lucia**  
**Chief Justice Abdulai Conteh, Belize**  
**Professor T. Brettel Dawson, Canada**  
**Judge Nancy Flatters, Canada**  
**Ms. Michelle Gibson, Barbados**  
**Magistrate Deborah Holder, Barbados**  
**Justice (Ag) Stephen Isaacs, Bahamas**  
**Justice Wendell Kangaloo, Trinidad & Tobago**  
**Justice Luis de Lannoy, Netherland Antilles**  
**Mrs. Ianthea Leigertwood-Octave, St. Lucia**  
**Ms. Sandra Mason, Barbados**

**Ms. Alyson Meyers, Trinidad & Tobago**  
**Justice Stanley Moore (Ret'd), Caribbean**  
**Master Christie-Anne Morris-Alleyne, Trinidad & Tobago**  
**Mr. Phillip Musonda, Zambia**  
**Judge Sandra E. Oxner, Canada**  
**Mr. Cristian Riego, Holanda**  
**Mrs. Cecille van Reit, South Africa**  
**Justice Adrian Saunders, St. Lucia**  
**Justice Annestine Sealy, Trinidad**  
**Professor Gregory Reinhardt, Australia**  
**Judge William Rose, England & Wales**  
**Justice John W.N. Tsekooko, Uganda**  
**Mrs. Linda Virgill, Bahamas**  
**Ms. Ruth Windeler, Australia**  
**Justice Jacob Wit, Netherland Antilles**

past, and to modernize the composition of the judiciary itself.

According to Honourable Justice Kriegler, reform can be achieved by many means. First, in September 2003 the Justice College was established as a permanent institution for the education of all South African judicial officers. In addition to formal educational opportunities, Honourable Justice Kriegler, like Honourable Justice Smellie and Ms. Dakolias, also suggested that neighbouring Commonwealth jurisdictions in Africa could be involved in a regional programme for judicial reform through education.

The Second Biennial Meeting of Commonwealth Judicial Educators was itself a time for regional exchanges and discussion concerning effective educational techniques. The practical aspects of judicial training were often the subject of workshops, where sharing between participants was fostered. Issues that concern judiciaries

irrespective of region, such as judicial accountability and social context training, were discussed. In the training of trainers workshop, the facilitator Professor T. Brettel Dawson of Canada highlighted the principles of interactive adult education pedagogy. This technique is aimed at drawing from learners their own experiences through methods such as self testing, learning at the learner's own pace, and small group work.

Cross-fertilization also occurred through the sharing of various National Judicial Education Materials and Tools from all over the Commonwealth. These teaching tools were on display all three days of the workshop and included items such as an electronic bench book and several reports and individual papers.

The gathering was also a time of celebration and discovery. One afternoon the group enjoyed a boat tour around the periphery of the island. On the third night of

the conference a dinner was hosted by her Excellency Dame Pearlette Louisy, Governor General of St. Lucia, at the ethereal setting of her official mountaintop residence. Toe-tapping music was provided by the St. Lucian police band. On the last night the group enjoyed a dinner of traditional Caribbean food at the home of the now Ag. Chief Justice Adrian Saunders, Director of the OECS Judicial Education Institute, and Mrs. Saunders. While there, participants were treated to a performance of traditional dance and music.

Overall the conference provided a forum for participants and facilitators alike to find unity, support and fresh ideas for their individual concerns. Through gatherings such as these the hope carried by each individual becomes a source of inspiration for the group, which in turn enables judicial educators to carry on their missions with renewed vigour and efficacy. ■

# A Conversation with The Honourable Justice S.A. Brobbey

To celebrate the appointment of the Honourable Justice Brobbey to the Supreme Court of Ghana, *CJEI Report* elicited the following Q&A.

◆ *Tell us a little about yourself.*

I am mainly interested in commercial cases. Outside the court room, I have a special interest in judicial education and judicial reform. I have in fact been engaged in judicial education in Ghana and in Zimbabwe for nearly three decades, that is, since 1974 and am still pre-occupied with judicial education matters. Currently, I am the Chairman of the Institute of Continuing Judicial Education of Ghana (ICJEG). I do give lectures from time to time in various countries on judicial education. My latest lectures took me to Ethiopia where I presented

a paper on judicial education at an international workshop on the establishment of a college to train judges and magistrates for Ethiopia in August last year.

◆ *How do you feel about your appointment to the Supreme Court of Ghana?*

I know that by this appointment I am at the top or close to the very top of my career. I therefore feel that I have a great sense of responsibility by that position and decisions I shall give.

◆ *Has your involvement with CJEI affected your approach to judicial education?*

Most certainly it has. It has introduced me to better teaching methodologies and practices that have made my judicial education assignments easier and more enjoyable.



◆ *Why is judicial education important?*

I find judicial education important because there is no better way of improving the standard of judges to ensure qualitative justice delivery. ■

## Honourable Justice Suzie D'auvergne Receives a Gold Medal of Honour



Honourable Justice Suzie d'Auvergne, High Court Judge, assigned to the British Virgin Islands, was recently awarded the Gold Medal of Honour by her native St. Lucia, for her contribution to the judicial and legal profession. She

attended the CJEI Intensive Study Programme in 2001.

Honourable Justice Suzie d'Auvergne is living her father's dream. Sullivan d'Auvergne, Justice of the Peace, but better known as a historian, wanted his daughter to fulfill one of his ambitions. Quite early he spotted one characteristic that convinced him that his daughter had a future in the legal profession; young Suzie was very perceptive and talkative.

Home facilitated the required inspiration, where her parents provided varying influences that shaped Justice d'Auvergne during her formative years. But it was her father who had the greatest impact on her life.

The decision to get into the legal profession did not come easy for Honourable Justice d'Auvergne although she had the burning desire to study law she still gave serious thought to a totally different life.

She was being persuaded to do law by

her father at a time when there were few St. Lucian females in the legal profession. There were however, other pressures. The nuns at the St. Joseph's Convent advised against young Suzie pursuing a career in law.

Although her father was willing to support the idea of her becoming a nun, her brother opposed the idea vehemently. Ultimately, the brother's views prevailed, and at the age of twenty-one, Suzie d'Auvergne left for England to study law at the Holborn College of Law, an external college of London University.

Living in the United Kingdom was a dreary experience. It was an atmosphere with which Suzie had a hard time coping.



*His Lordship the Hon. Chief Justice Sir Dennis Byron joins Her Excellency Dame Pearlette Louisy, Governor General of St. Lucia and the Hon. Prime Minister of St. Lucia Dr Kenny Anthony at the Medal Ceremony of Honourable Justice d'Auvergne*

Honourable Justice Suzie d'Auvergne was called to the bar in 1975 and began her career at the law firm of Monplaisir and d'Auvergne, since then, she has had many "firsts" in St. Lucia.

In September 1979 she became the first St. Lucian-born female magistrate. Three years later, she became the first female Director of Public Prosecutions, and during that sojourn earned a reputation as a nonsense prosecutor who showed little mercy for those accused of rape.

One case in particular received lots of media attention and became the subject of a number of popular calypsos.

Honourable Justice Suzie d'Auvergne established a solid record as a Director of Public Prosecutions. After six years, she became the islands first ever Solicitor General, a post she held for two years. Later in September 1990 she was made a High Court Judge - the apex of her career - the realization of a dream.

Her elevation to the bench was a cause for celebration at the St. Joseph's Convent. In fact, September 17, 1990 was a holiday at the St. Joseph's Convent.

Today as Honourable Justice d'Auvergne reflects on

her life in the judiciary, she cannot help but pay tribute to the influence of her parents on her life, in particular the solid grounding she received from her father. ■

## Introducing Dr. N.R. Madhava Menon-- The Newest Member of our Advisory Board

Dr. Menon was born and brought up in Trivandrum (Kerala), was educated at Kerala University (B.Sc. and B.L.), Punjab University (M.A.) and Aligarh Muslim University (LL.M. and Ph.D.). Enrolled as an Advocate in 1957, Dr. Menon practiced law for two years before taking up a full-time career as a law teacher initially at Aligarh University and later at Delhi University. When the Bar Council of India decided to set up a model law school for achieving excellence in legal studies and research, Dr. Menon was chosen to launch the institution. Between 1986 and 1997, he was the Founding Director of the National Law School of India, Bangalore, which not only achieved an international reputation in a short span of ten years, but also gave a new direction to legal education in the country. The West Bengal Government in 1999 invited Dr. Menon to set up the National University of Juridical Sciences in the State of which he was the Founding Vice-Chancellor till September 2003. In early 2003, the Supreme Court of India chose Prof. Menon to be the first Director of the National Judicial Academy at Bhopal where he is now involved in

the design and presentation of judicial programs for judges of the Superior Courts in the country.

Dr. Menon has been member of the Indian Law Commission and the Expert Committee on Legal Aid. He has been a Consultant to many justice sector studies, including the Asian Development Bank, First National Judicial Pay Commission appointed by the Government of India, and the Bangladesh Judicial Administration Training Institute. He also served as Member of the Civil Services Reform Committee and the Criminal Justice Reform Committee set up by the Government of India.

The International Bar Association honoured Dr. Menon with the "Living Legend of Law Award" (1994) for services to legal profession internationally. Rotary Club, Bangalore conferred on him the Vocational Excellence Award (1995). Business Week selected Dr. Menon as one among the fifty leaders of Asia at the Forefront of Change (July 2000).

In the IX<sup>th</sup> Annual Convocation of the National Law School of India University, Bangalore, Dr. Menon was given the Degree



of Doctor of Laws (LL.D.) (Honoris Causa) by the Chief Justice of India "in recognition of his leadership role in reforming legal education in the country and in appreciation of selfless services in the building up of institutions of excellence".

Dr. Madhava Menon is Chairman of the Indian Statistical Institute, Kolkata as well as Chairman of the Centre for Development Studies, Trivandrum.

In recognition of his public services to the country, the President of India conferred on him on the occasion of Republic Day (2003) the national honour of "PADMA SHREE".

Prof. Menon is married to Smt. Rema Devi, who is a homemaker. Their only son, R.K. Menon, is an engineer working with a company in Bangalore.

We are honoured and grateful to have Dr. Menon as a member of our Advisory Board. ■



## Resources for Judges

- ◆ **Electronic Bench Book:** The French version is now available. For a copy in either English or French, please contact Christine Woodrow at [cwoodrow@judicom.gc.ca](mailto:cwoodrow@judicom.gc.ca).
- ◆ **Sentencing Calculation:** This self-taught, online course reviews the complex set of laws that determines the effect of criminal sentencing orders. It includes summaries of the law, short self tests and easy to follow examples. Visit [www.nji.ca/public/iep/ieplugin.cfm](http://www.nji.ca/public/iep/ieplugin.cfm) for more information.
- ◆ **Measuring and Improving Court Performance and Judicial Workload in Child Abuse and Neglect Cases:** Created to help courts handling child abuse and neglect cases improve by measuring court performance and judicial workload needs. View the PDF version on the National Center for State Courts Website: [www.ncsc.dni.us/icm](http://www.ncsc.dni.us/icm)
- ◆ **Probation and Alternatives to Incarceration FAQ & Resource Guide:** Provides questions and answers about alternatives to incarceration, including pretrial, post-conviction, and post-release programs. Questions and answers about alternatives to incarceration, including pretrial, post-conviction, and post-release programs. View the PDF version on the National Center for State Courts Website: [www.ncsc.dni.us/icm](http://www.ncsc.dni.us/icm)
- ◆ **Jury Selection Resource Guide:** List of resources on voir dire, peremptory challenges, and general issues regarding jury selection. View the PDF version on the National Center for State Courts Website: [www.ncsc.dni.us/icm](http://www.ncsc.dni.us/icm)
- ◆ **Tribal Courts:** Includes Overview, FAQ, Resource Guide, plus links to various tribal court resources from other organizations. View the PDF version on the National Center for State Courts Website: [www.ncsc.dni.us/icm](http://www.ncsc.dni.us/icm)
- ◆ **Pro Se Information Trends:** Analysis of pro se information requests received by NCSC's Knowledge and Information Service from 1995-2003. View the PDF version on the National Center for State Courts Website: [www.ncsc.dni.us/icm](http://www.ncsc.dni.us/icm)
- ◆ **Victims of Crime Assistance Tribunal (VOCAT) Handbook (Vol 1)** by Magistrate Felicity Broughton. To place your name on the waiting list for this publication e-mail Di Rooney at [Dianne.Rooney@judicialcollege.vic.edu.au](mailto:Dianne.Rooney@judicialcollege.vic.edu.au)
- ◆ **Individual Education Plan:** allow judges to develop their own education over the long-term, along with the input of his or her Chief or Associate Chief. Log onto <http://www.nji.ca/public/iep/ieplugin.cfm> to learn more.



# Knowledge Management, Information Technology and the Legal System

By Justice Madan B. Lokur,  
Judge of the High Court of Delhi

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The legal profession has always been knowledge intensive. Even today, reported judicial decisions rendered in English Courts more than three hundred and fifty years ago are cited in our Supreme Court.<sup>1</sup> This is in addition to the tens of thousands of judgments reported in recognized law journals of India. Yet this plethora of precedents does not create any problems for our lawyers and the system. Is it due to Knowledge Management in the form of human ingenuity or due to Knowledge Management by utilizing the latest technology? It is difficult to give any conclusive answer. On the other hand, however, despite application of the best legal minds and the use of technology, we have not yet been able to find any effective solution to the single major problem facing our legal system today—a huge pendency of cases. Can we find a workable answer to this problem soon enough? Can the available knowledge be utilized to partially solve the problem or do we need further inputs to even begin finding a remedy?

## I. PROBLEMS OF PLENTY

Certain basic facts must be acknowledged. No one claims to know the exact figure of cases pending in our law Courts, but it is believed to be close to 2.5 million.<sup>2</sup> Many of these cases are known to be pending for decades and some have even been forgotten about.<sup>3</sup> As recently as July this year, the Delhi High Court had to intervene in a case where an under-trial prisoner was found to have been in judicial custody four years more than necessary had he even been sentenced to life imprisonment.<sup>4</sup> Given this situation, we have to accept the fact that it will take years to get accurate and adequate information relating to our system of legal administration. Can we afford to wait until then? It is quite possible that by then the situation may snowball into a devastating avalanche. Therefore, we have to act, and act now.

With these broad facts in mind, is it still possible to find a way to manage this huge backlog of cases so that speedy justice is available to all of us? The thrust today is on

bringing technology to the Courts. Is the introduction of improved (and sometimes expensive) technology the only answer? Can Knowledge Management, as a science, be of any help? We need to give thought to these issues and address them head on.

## II. HISTORICAL EFFORTS

Knowledge is always available; it has only to be obtained from the right sources. For some inexplicable reason, vital information relating to the actual working of the Indian legal system has always been denied, with



Delhi High Court

the result that most reforms fail due to a lack of adequate knowledge, and therefore, an understanding of the specific problem sought to be tackled. This denial of information is nothing new - it goes as far back as 1924 when the Civil Justice Committee (commonly known as the Rankin Committee) was set up to review the law's delays and suggest changes "for the more speedy, economical and satisfactory dispatch of the business transacted in the courts". Despite its wide terms of reference, the Committee was debarred from enquiring into the strength of judicial establishments.

Since then, several other committees have been set up to look into various aspects of our legal system. Eventually, in 1955 a Law Commission was appointed, inter alia, to suggest ways and means to improve the system of judicial administration in the country. The Law Commission has added to our knowledge by examining various aspects and facets of our legal system and giving several reports suggesting ways and means, including amendments to the laws, to enable the Courts to dispense cheap and speedy justice.<sup>5</sup> Various conferences have also been held at virtually all levels, including between Chief Justices of all High

Courts, Chief Ministers of all States, Law Ministers of all States and even joint meetings between Chief Ministers and Chief Justices. And yet, the problem that is variously described as a "docket explosion" or a "litigation explosion" continues to exist and grow. Clearly, available knowledge of the problems facing the system of judicial administration has not been meaningfully harnessed or effectively managed.

The docket explosion has continued despite the fact that ours is not a litigious society. It has been suggested that the number of civil cases instituted in India is about 1/10th the per capita rate as in Germany or Sweden.<sup>6</sup> Notwithstanding this, the general belief is that there are too few judges. In fact, in *P. Ramachandra Rao v. State of Karnataka*,<sup>7</sup> the Supreme Court noted that the judge-population ratio in India (based on the 1971 census) was only 10.5 judges per million, while in Australia the ratio was 41.6, in England it was 50.9, in Canada it was 75.2 and in the United States it was 107. The Supreme Court noticed the suggestion of the Law Commission made in its 120th Report that we require 107 judges per million of the population. While these statistics may be interpreted to suit one's point of view, the fact still remains that any which way you look at it, we have a problem of arrears on hand.

Recently, eminent jurists constituting the National Commission to Review the Working of the Constitution identified five problem areas in the functioning of the judiciary.<sup>8</sup> These are:

- a. Undue delays in the disposal of cases and lack of sensitivity (accountability) to the mounting arrears of cases.
- b. Injecting avoidable uncertainties in the law and thereby making the task of the Executive more difficult and sometimes unmanageable.
- c. Lack of transparency in judicial appointments and transfers.
- d. Poor management of resources and ineffective standards of judicial administration including legal aid.
- e. Absence of strategic Action Plans for clearance of arrears in courts.

Having identified the problem areas, we need to stand on the shoulders of those giants constituting the National Commission so that we can see further<sup>9</sup> and perhaps find some viable solution to the problems facing the Indian legal system.

### III. CASE STUDY: CERTIFIED COPIES

It is of little use to generalize and merely acknowledge that there is a problem. One needs to be a little more specific and evaluate the available information to assess where exactly the bottlenecks are located. The knowledge so derived can then be managed and, with a little help from technology, some solution found.

In the Delhi High Court, knowledge bases on the available information helped in identifying a few problem areas. Though the problems have not been eliminated, they have been substantially reduced with the use of technology. Let me take as an example the provision of a service by the Court Registry to lawyers and litigants. It was found that despite the payment of a fee, lawyers and litigants have a huge problem in obtaining a certified copy of a judicial order passed in their cases.

An inordinate delay in supply of certified copies is specifically mentioned as one of the causes for accumulation of arrears in the High Court in the Report of the Arrears Committee, 1989-1990.<sup>10</sup> This also appears to be the only cause attributable to the Court Registry and was, therefore, taken up in the High Court as one of the priority issues to be tackled.

An analysis of the problem showed that delay in obtaining a copy of the Court's order meant a delay in compliance with its directions, which in turn resulted in other delays. The existing procedure was to apply for a certified copy of an order and wait for several days, if not weeks, for the copy to be ready. This required the lawyer or litigant to make frequent trips to the Court building, only to be told that the certified copy is not ready and to come back later. This was despite the existence of a "certified copy" branch in the Registry. If someone wanted a copy of the order in a hurry, he could inspect the Court files and transcribe the order. This involved a considerable movement of Court records and of the Court staff moving back and forth with case files. For this purpose there was an "inspection" branch in the Registry. In spite of these two branches, effective service was not being rendered to lawyers and litigants alike.

While the problem was being assessed and evaluated, three important facts came to be known and realized.

◆ Delays in obtaining a copy of a judicial order sometimes made the entire exercise totally in fruitless for the applicant. Many applicants would abandon the exercise midway without informing the Registry, which would carry out its duty unmindful of the

fact that the applicant had lost interest in pursuing his application. The result was that piles and piles of unclaimed certified copies were stacked up in the certified copy branch.

◆ Most applicants were really interested only in a copy of the judicial order and not necessarily a certified copy thereof. There was no provision for obtaining an uncertified (though accurate) copy of the order, which is what many applicants would have been satisfied with. This explained the large number of applications for inspection of Court records.

◆ Because of the extremely low (and totally uneconomical) fee charged for the service, not only was there a considerable loss to the exchequer but many applicants made demands for certified copies of bulky documents because it was cheaper for them to get the High Court Registry to give them a properly arranged docket rather than have someone from the market doing the same job. This was cheaper for the applicant in spite of a levy of a certification fee.

So, having knowledge of a few broad facts but without any specific figures being available, how was the problem sought to be resolved?

We started out by making an inventory and then an assessment of the resources available to us. We had a somewhat outdated computer system functioning in the Court premises. It was quite a powerful system, but it was being used essentially for providing word processing facilities. Consultation with experts, in this case the National Informatics Centre, who were managing the computer systems in the High Court, gave us the information that all judicial orders that were being keyed into individual computers (dumb terminals) could easily be stored in the main server of the High Court and uncertified print-outs generated from that database.

On this basis, an experiment was tried out in one or two Courts of providing uncertified copies of judicial orders. After a little trial and error, the experiment was successful at the back-end. Some of the key persons from the Registry were then explained the new procedures involved and given a few days training to adapt to the new work environment. When they too became familiar with the changes, and the front-end procedures also seemed to be in place, the experiment was gradually extended to other Courts. After a few hiccups, a full-fledged system of providing uncertified copies of Court orders has now been put in place. The principal benefit of this new, improved procedure is that with the use of technology,

uncertified copies of Court orders are now usually available to lawyers and litigants within twenty-four hours of the signing of the order by the judge.

The availability of uncertified copies of Court orders had two immediate effects - it substantially reduced the number of applications for certified copies and also reduced the number of applications for inspection of the Court records. This, in turn, reduced the work pressure on the Registry and thereby speeded up the delivery of certified copies. One of the main problems faced by litigants in obtaining certified copies was taken care of, to a large extent.

Since lawyers and litigants were now getting a better service from the Registry, they did not mind paying an increased fee for the certification of documents. This appears to be so because when the fee was increased, there was no protest of any kind, either from individual lawyers or the Bar Associations. The increase in the fee served a dual purpose - it reduced the drain on the exchequer and, more importantly, reduced to a considerable extent, applications for the supply of bulky documents. It may be mentioned that occasionally, an applicant who asked for a certified copy of a Court file (for example) did not actually collect the papers for some reason that is not easy to understand. Be that as it may, to reduce this kind of non-serious applications, the applicants were asked to deposit about half the certification fee in advance. This further deterred lawyers and litigants from making frivolous applications for the grant of certified copies.

The innovations mentioned above came about through an assessment of the problem, its evaluation, understanding the resources available and then using the derived knowledge to try and tackle the problem with the help of available technology.

The innovations have resulted in a considerable reduction in the time lag for obtaining a certified copy of relevant or important documents or orders from the Court records. It is not possible to say that the system has been completely streamlined and all attendant problems eliminated, but there has certainly been an appreciable improvement in the supply of services from the Registry to lawyers and litigants.

The next question to be asked was, can the system be improved? An attempt was made to look for areas of improvement. The same process of assessment, evaluation and understanding the resources was gone through and it was soon realized that the Delhi High Court website<sup>11</sup> could be used to supply information about the availability

of certified copies. The knowledge derived was put into practical use and the information was made available on the internet. Now, an applicant does not even need to enter the Court premises to find out about the pendency or status of his application for the grant of a certified copy. The result is that the usual rush at the receipt counter has decreased, as have repeated visits by lawyers and litigants.

It is not enough to innovate and solve a management problem. The idea is to ensure that the same problem does not come back in a different avatar. This is possible only by managing change, keeping a close watch on the system and monitoring it until it settles down. Acceptance of change by the leader plays an important role in this. Unless the leadership is positive and encouraging, no beneficial change is acceptable or long lasting. If the leader has some foresight and sends out the right signals, the system will adapt faster and it will become easier to tie up loose ends and continue making improvements.

#### IV. CASE STUDY: PETTY OFFENCES

Even without the use of technology, Knowledge Management can be effective. In fact, this has been put to practical use in the Courts subordinate to the Delhi High Court and to actually reduce arrears in criminal cases by 150,000. The period taken for this reduction is only about eight months. How was this achieved?

The end of December 2002 saw an alarming increase in the pendency of criminal cases, as the chart below would show.<sup>12</sup> In one year, that is 2001-2002, the pendency of criminal cases increased by over 200,000.

A search was carried out for ascertaining the causes for the enormous increase in pendency. Could it be the vacancy position, as suggested by various committee reports, or was the cause more fundamental?

To appreciate the problem, a tabular statement of various kinds of pending cases was called for from the District Courts. Even a cursory perusal of the available data left no doubt in anybody's mind that the

upswing was due to a disproportionate increase in the institution of traffic offences and the failure of Special Metropolitan Magistrates to dispose of them. This was despite the fact that posts of Special Metropolitan Magistrates had been recently created specially for dealing with petty offences pursuant to the judgment of the Supreme Court in *Kadra Pahadiya v. State of Bihar*.<sup>13</sup> The problem having been identified rather quickly, the next step was to evaluate it and try to find some solution. It ought to be mentioned that cases relating to traffic offences are not complicated or contentious, and so can be easily disposed of, yet they add to the statistics and form a part of the 25 million pending cases. Because these cases are not so important a cog in the criminal justice delivery system, they are not given adequate importance and so retired personnel having some background in law and experience in legal affairs are appointed to man these posts, as directed by the Supreme Court.

Guidance for solving the problem was provided by the National Commission to Review the Working of the Constitution. The National Commission has noted in its Report:

One of the reasons for the delay is often said to be the inadequate judge strength and the inadequacy of the number of courts and the infrastructure facilities in them.... The presiding officers in courts should be adequately trained. To ensure competence, there should be a proper selection, freedom of action, training, motivation and experience. To maintain their competence it is necessary to have continuing education for the judges. Some national judicial institutions have to be properly structured to give such training. There should be a proper monitoring of moving the judges where work demands such movement from places where there are no arrears of work. There has to be a systematic assessment of training needs of judicial personnel at different levels. ... The Government should ensure basic infrastructure

needed to all courts and arrange to ensure that courts are not handicapped for want of infra structural facilities.<sup>14</sup>

Even though Special Metropolitan Magistrates are not officers belonging to the District Judicial Service, they are nevertheless performing judicial functions and so are entitled to some of the amenities and facilities available to district judicial officers. Consequently, as a first step, the Courts of the Special Metropolitan Magistrates were inspected to see if their working environment was generally conducive and whether it could be improved in any manner. That their working environment is still not ideal is another matter altogether; but the important thing is that after their Courts were inspected, they got the message that someone is at least looking into their difficulties. This by itself was sufficient indication that hopefully things will not be allowed to drift and that some steps will be taken, now or later, to remedy the situation. I believe that this was enough motivation for them to ensure that they, in turn, do not allow matters to drift. The result of these initial steps, though cosmetic, was that disposal of cases slowly picked up. It was soon found that an increase in the pendency of cases was being arrested and the disposal of cases began catching up with their institution.

During interactions with Special Metropolitan Magistrates, the decision makers in the High Court obtained first-hand knowledge of the fact that some Magistrates were not fully briefed about the precise nature of their duties and some of them were a little unsure about the correct position in law in a few areas. They were, therefore, imparted some "continuing education" and explained the legal provisions, their duties and the extent of their judicial power. Sitting judges of the High Court have twice addressed the Special Metropolitan Magistrates and sensitized them to the problems being faced by the common man. Faculty from the Delhi Judicial Academy has also conducted "continuing education" camps. This is now intended as an ongoing program, and may perhaps be extended, more particularly when positive results have been achieved and the trend appears destined to continue. Sharing of information and derived knowledge has played a key role in successfully introducing reforms to reduce arrears.

Monitoring of information and scientific management of data has also contributed significantly to the reduction of arrears pertaining to petty offences. For a period of

End of the year	1996	1997	1998	2000	2001	2002
Pending Criminal Cases	274,622	271,668	295,342	382,505	441,589	643,538