#### Session: July 17, 2019

"The Role of the Legal Profession in Advancing Human Rights and Development"

> Talk: The Crisis of the Legal Profession and Access to Justice in India: A Three-State Study

> > Jayanth K. Krishnan

Indiana-Bloomington Maurer School of Law

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#### Judicial Structure – India

Indian Supreme Court: Approx. 60K cases pending

# State High Courts: 4-5 million cases pending

District Courts: 27-28 million cases pending

#### Length of Time in the Courts

Estimated: 1/4 of the cases in the courts for more than 10 Years

Projected: 1/2 of cases in the courts more than 5 Years

SC Justice Markandey Katju:

"It is estimated that even if no new case is filed it will take 360 years to clear the backlog."

#### Why is this the situation?

## Thesis: Historical, Structural, Educational Factors | Contributing to India's Backlogged, Delay-Ridden Courts

Start with the Historical: NYAYA PANCHAYATS

 Post-1947: Informal justice councils formally established throughout rural India to handle legal disputes

Goal: Help reduce caseload from regular courts

#### NYAYA PANCHAYATS

## • Die off by the late 1960s

## Informal Justice Idea: Still Important During 1970s

#### Emergency Period (1975-1977)

## Informal justice & legal reform proposals

Halted

### Post Emergency Reforms: How to improve access to justice?

#### Public Interest Litigation

#### Benefits ...... But Drawbacks

#### Post-1990s Reforms

#### A Return to the Past: Promoting Informal Justice at the Local Level

**Proliferation of Alternative Specialized Judicial Bodies** 

## Alternative Specialized Judicial Bodies in India

- What do they look like?
- How do they function What do lawyers and judges do?
- Do these bodies bring about settlements more regularly and equitably?
- And are people really able to obtain satisfaction on claims that they bring?

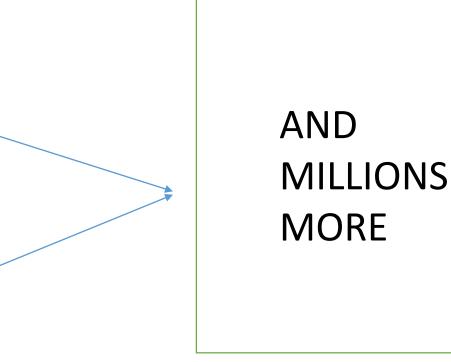
### **Research Study**

Krishnan partners with 3 Indian NGO Research Centers to examine alternative specialized judicial bodies Centre for Social Justice (Gujarat) Jagori (Himachal Pradesh) National Centre for Advocacy Studies (Maharashtra)



#### Diversity of Alternative Specialized Forums

- Labor Courts,
- Tax Courts,
- Family Courts,
- Consumer Courts,
- Med Mal Courts,
- Property Courts,
- Electricity Courts,



Observational Patterns of Alternative Specialized Forums

- Very adversarial
- Lack of diversity/expertise among judges
- Weak informalism / Weak formalism
- Poor record-keeping
- Enormous power imbalances
- Problems similar to regular courts

## The Defense of Alternative Specialized Forums

- Passionate support by Judges
- Lawyers are the problem . . . But of course they would be

• "Gruff Justice"

• Specialized forums elsewhere work just fine!

#### Responses to the Supporters

• On sample size – we invite others to study these forums. To date, no one else has

• Yes: The Indian Bar Needs Reform! – Including how lawyers are educated. Discuss during Q & A

• Gruff Justice is not Perfect Justice . . . Or Good Justice Either

#### Rule of Law in India Needs to Function Better

#### The Indian Legal System Needs to Do Better

## Thank you @



#### HARVARD T.H. CHAN SCHOOL OF PUBLIC HEALTH

Department of Global Health and Population



## Law Schools in India Today: A Breakdown

- The National Law Schools (which are public) [and are seen as among the most prestigious]
- The historically reputed public law schools based in Delhi, Chennai, Mumbai, and Kolkata
- Another set of about twenty to thirty "decently reputed" public institutions that are not in the previous two categories
- Recently emerging private law schools (where there is variation here too); [and]

\*\*\*\*Several hundred regional law schools\*\*\*\*

(Most lawyers come from here)