

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

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Judicial Structure – India

Indian Supreme Court: Approx. 60K cases pending

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State High Courts: 4-5 million cases pending

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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

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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

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Goal: Help reduce caseload from regular courts

NYAYA PANCHAYATS

- Die off by the late 1960s

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***Informal Justice Idea:
Still Important During 1970s***

Emergency Period (1975-1977)

Informal justice & legal reform proposals

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Halted

Post Emergency Reforms: How to improve access to justice?

- Public Interest Litigation

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Benefits But Drawbacks

Post-1990s Reforms

A Return to the Past:

Promoting Informal Justice at the Local Level

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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

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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,



AND
MILLIONS
MORE

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

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The Indian Legal System Needs to Do Better

Thank you
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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)