A VISION STATEMENT
FOR THE INDIAN JUDICIARY

DAKSH

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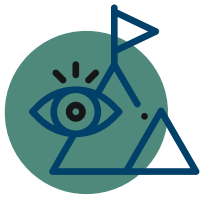
01 Introduction

The Indian judiciary across its various tiers appears to be in a cycle of delay, arrears, and pendency.[1] Pendency of cases across the Supreme Court, High Courts, and the subordinate judiciary runs into startling numbers.[2] There is a lack of infrastructure for judges and litigants in the subordinate judiciary;[3] and vacancies among judges and support staff[4] have been a source of constant concern. The various tiers of the Indian judiciary need consistent planning and a vision for the foreseeable future to address the compelling issues which currently plague it.

Planning, as a concept, pervades the functioning of every sector. Edward B. McConnell, who was President Emeritus of the National Center for State Courts (United States of America), pointed out that there are five major components of a good planning process – responsibility for planning specifically assigned to some individual or group; the process involving, directly or indirectly, all of those who will be affected by the resulting plan; the results of the process articulated in a written plan that is simple and easily understood; the plan being widely disseminated and explained to all who will be affected by it; and provision for periodic review of the plan both to determine progress and enable revision necessitated by changing conditions.[5] Judiciaries across the world have also come to recognise the importance of planning while meeting their goals, which is evident in the preparation of vision statements by courts in several countries. The International Framework for Court Excellence notes that having a vision for the court is the initial driving force that enables the transformation of the courts.[6] It is recognised as an important step on a quality curve that determines the efficient performance of the courts.[7] Thus, vision statements have been recognised as an important component that set in motion a planning process for courts.



Judiciaries across the world have also come to recognise the importance of planning while meeting their goals, which is evident in the preparation of vision statements by several countries.

[1] Yashomati Ghosh. 2017. 'Indian Judiciary: An Analysis of the Cyclic Syndrome of Delay, Arrears and Pendency', Asian Journal of Legal Education, 5(1): 21-39.

[2] Vivek Kaul. 2019. 'Why pending court cases have been going up', LiveMint, 11 February, available online at https://www.livemint.com/news/india/why-pending-court-cases-have-been-going-up-1549859010699.html (last accessed on 3 December 2019).

[3] The Hindu. 2019. 'Backlog, lack of infrastructure need quick resolution', The Hindu, 26 November 2019, available online at https://www.thehindu.com/news/national/backlog-lack-of-infrastructure-need-quick-resolution-cji-bobde/article30089973.ece (last accessed on 3 December 2019).

[4] Amulya Ashwathappa. 2019. 'Should the Central Selection Mechanism for the Appointment of Subordinate Court Judges be Implemented?', DAKSH India, 30 May, available online at https://dakshindia.org/should-central-selection-mechanism-for-the-appointment-of-subordinate-courts-judges-should-be-implemented/ (last accessed on 3 December 2019).

[5] Edward B. McConnell. 1992. 'Planning for the State and Federal Courts', Virginia Law Review, 78(8): 1849, 1850.

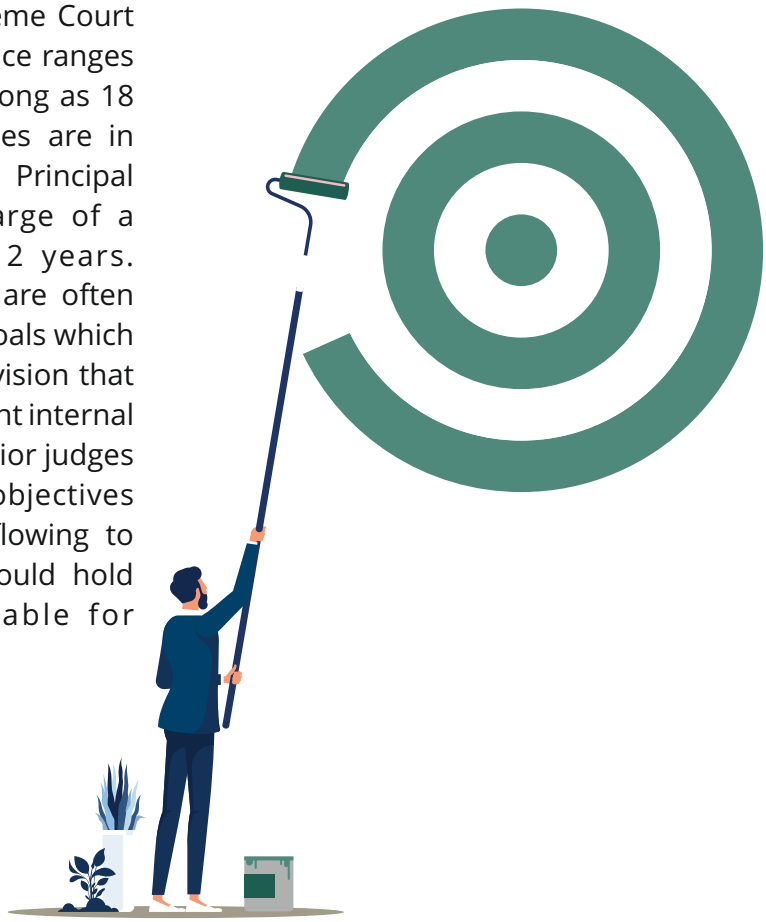
[6] International Framework for Court Excellence. 2020. International Framework for Court Excellence – 3rd Edition. Available online at https://www.courtexcellence.com/__data/assets/pdf_file/0023/66605/The-International-Framework-3rd-Edition-Amended.pdf (accessed 30 December 2021).

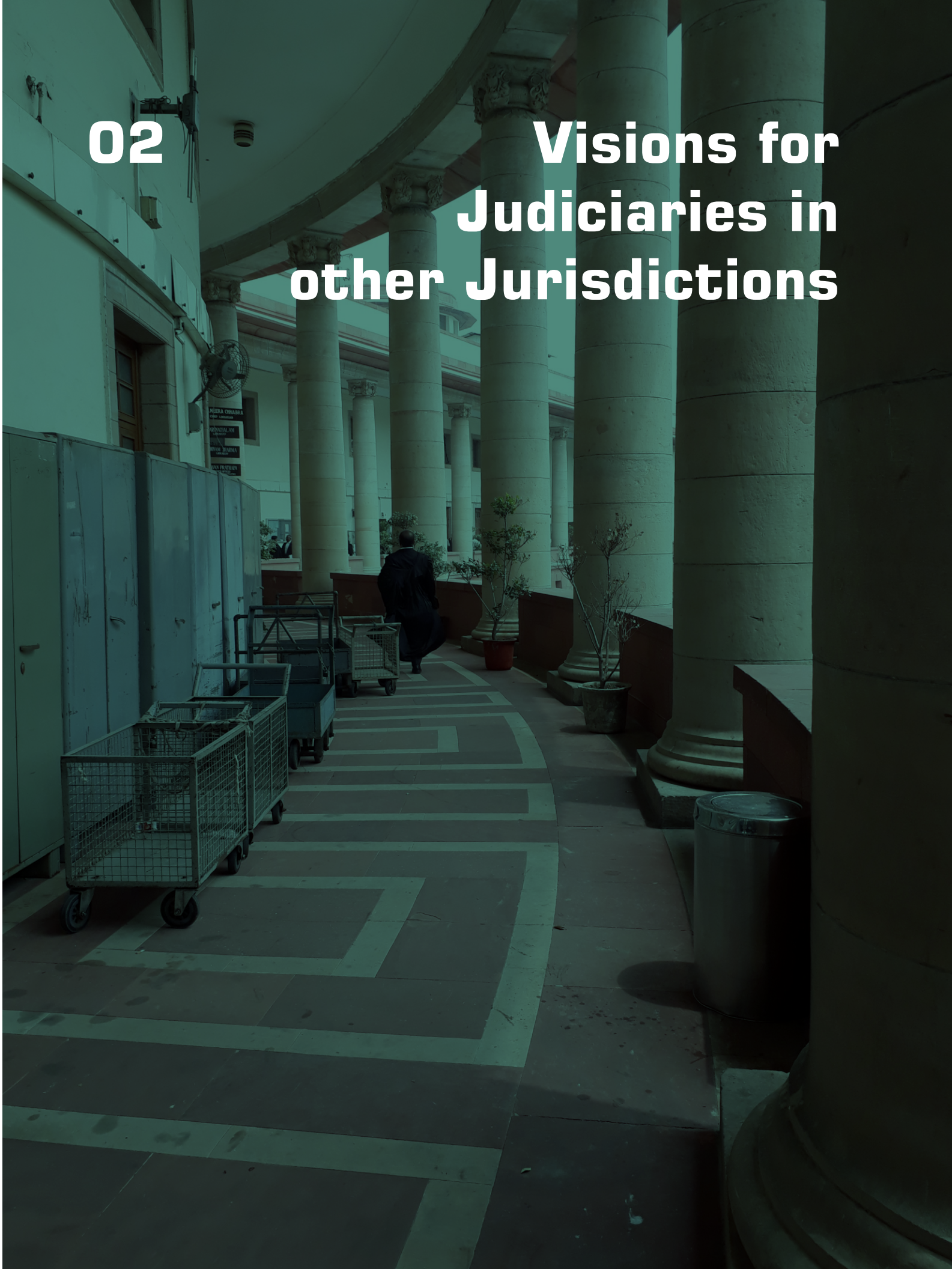
[7] International Framework for Court Excellence, International Framework for Court Excellence – 3rd Edition.

This paper brings to the fore the need for vision statements for the judiciary in India. Vision statements, called by whatever name, are not meant only for setting aspirational goals for the judiciary. As will be discussed in this paper, these statements lay down granular details about what targets the judiciary needs to achieve in a specific time frame, and how. Vision statements should also be mindful of how targets are arrived at. What the judiciary needs to achieve in the future should be informed by the progress made in the past, and must address the most imminent and foreseeable needs. To that end, vision statements look both into the past as well as the future.

A vision statement gives certainty to and institutionalises the policy priorities of the judiciary. Leadership in the Indian judiciary is transient by design. At the Supreme Court level, the tenure of the Chief Justice ranges from as little as 4 months to as long as 18 months. High Court Chief Justices are in office for about 2 to 2.5 years. Principal District Judges may be in charge of a particular district for about 2 years. Frequent changes in leadership are often accompanied by changes in the goals which the judiciary wants to pursue. A vision that has been formulated after sufficient internal deliberation within a group of senior judges would ensure consistency in objectives being pursued, and resources flowing to achieving these objectives. It would hold concerned persons accountable for implementation.

Vision statements for the judiciary, known by a variety of names, are prevalent in several other jurisdictions. While a single vision statement may encompass all tiers of the judiciary in some countries, in others, separate vision statements are drafted for different tiers. This paper surveys the vision statements for the judiciaries in Australia, South Africa, and the United States of America ('USA'), and culls out crucial aspects from them which can inform a vision statement for India's judiciary. Broad principles that should inform vision statements for the judiciary in India are provided in chapter 3 of this paper. It concludes with the thought that meticulous planning by means of measurable goals and enforceable timelines, can improve the performance of all tiers of the judiciary in India.





02 Visions for Judiciaries in other Jurisdictions

Vision statements for other jurisdictions that have been discussed in this paper, viz., Australia, South Africa, and the USA are exercises in medium-term planning. The vision statements analysed in this paper for Australia are for a period of four years (2016-2020), and five years for South Africa (2015-2020). The 2015 Strategic Plan for the Federal Judiciary in the USA is an update of the Strategic Plan of 2010. While the vision statement is a document laying down the goals and objectives of the judiciary, it operates in the interest of other stakeholders as well. Broadly, vision statements cater to stakeholders within the judiciary and outside. A comparative analysis of vision statements presents a clear focus on three aspects:

- an obligation of the concerned authority to devise such vision statements;
- precise goals to be achieved; and
- metrics for measuring performance of the judiciary in achieving those goals.

The question of enforceability becomes interesting when one studies the Australian example where Section 35 of the Public Governance, Performance and Accountability Act 2013 mandates the preparation of corporate plans for Commonwealth entities. Clause (1)(a) of Section 35 mandates that the accountable authority of a Commonwealth entity must prepare a corporate plan for the entity.[8]

As part of this obligation, the Chief Executive Officer of the Federal Court of Australia (who is the concerned accountable authority) prepares a four-year Corporate Plan which outlines the strategic direction, challenges, and priorities for the following courts:

- the Federal Court of Australia;
- the Family Court of Australia;
- the Federal Circuit Court of Australia;
- the National Native Title Tribunal; and
- the Federal Court Corporate Services.

The Corporate Plan for each of these courts encompasses three aspects, goals, performance measures, strategies and priorities. Evidently, the Australian Corporate Plan approaches the judiciary through its various tiers and then sets specific targets to be achieved. For instance, for the Family Court of Australia,[9] the Corporate Plan identifies the cohort of first instance cases and appeals as its focus areas for the next four years.[10] The Plan also strategically prioritises judicial guidelines in relation to cases of family violence, and working to leverage technology for enhancing the experience of court users.[11] For these priority areas, the Corporate Plan has clearly laid down deliverables and timelines. For instance, for enhancing judicial guidelines for cases of family violence, and for maximising the use of registrars in courts, the Plan provides for the following:[12]

[8] Section 35(1)(a), Public Governance, Performance and Accountability Act 2013, available online at https://www.legislation.gov.au/Details/C2013A00123 (last last accessed on 1 December 2019).

[9] The Family Court of Australia assists Australians to resolve their most complex legal family disputes. See, Family Court of Australia, 'About the Court' http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/ (accessed 1 December 2019).

[10] Federal Court of Australia. 2016. Corporate Plan: 2016-2020, available online at http://www.fedcourt.gov.au/__data/assets/pdf_file/0019/29026/Corporate_Plan_2016-2020.pdf> (last last accessed on 1 December 2019)

[11] Federal Court of Australia, Corporate Plan: 2016-2020.

[12] Federal Court of Australia, Corporate Plan: 2016-2020.

Objective or Project	Tactics	Target
Enhance judicial guidelines for cases of family violence	Develop guidelines for judges dealing with cases involving cross-examination of vulnerable witnesses by an alleged perpetrator	July 2017
Family violence risk screening for interim s11F assessment[13] interviews	• Review the family violence risk screening process • Roll out the revised tool nationally	June 2017
Evaluate guidelines and processes that will maximise the use of registrars in matters	Continual enhancement to the role of registrars to ensure maximum judicial support	June 2017

The Plan is commended for setting out clear deadlines for each of the deliverables. One of the highlights of the Corporate Plan published by the Federal Court of Australia is the aspect of 'Performance Measures' which lays down parameters to measure the success of the Plan for each of the courts. The success of the Plan, with respect to timely completion of cases by the Family Court of Australia, is to be measured by achieving a clearance rate of 100%, delivering 75% of judgments within a time period of three months.[14] This sits in contrast with resolutions of the Joint Conference of Chief Ministers of the States and Chief Justices of the High Courts, organised periodically by the Department of Justice in India, which do not mention any timelines for achieving the goals the Conference passes resolutions on. The vague nature of implementation of the resolutions made at these Conferences is discussed later in this paper.

The Australian approach recognizes the management functions of the court. A need

[13] In parenting proceedings, a court may order one or more parties to attend an appointment(s) with a family consultant and direct them to arrange for a child to attend such an appointment. After the appointment, the family consultant makes a report to the Court, which provides the Court a snap shot of the issues between the parties. These reports are called s11F reports. See, '4 things to know about Family Reports', Corney and Lind Lawyers, available online at https://www.corneyandlind.com.au/resource-centre/brisbane-family-lawyer/4-things-to-know-about-family-reports/ (last accessed on 2 December 2019).

[14] Federal Court of Australia, Corporate Plan: 2016-2020.

[15] Federal Court of Australia Act, 1976, available online at https://www.legislation.gov.au/Details/C2018C00342 (last accessed on 30 March 2020).

to define court functions can be traced to the Federal Court of Australia Act, 1976.[15] Even before the formulation of the Australian Corporate Plans, there have been efforts to outline the approach towards improving court governance.[16] The judicial conferences are most reflective of this thought process. In these conferences, there have been discussions to cull out the extent of participation of the judiciary in court governance. There have also been discussions pertaining to the limits of judicial efficiency, and how public funds are being spent by the courts.[17] These conferences have pressed for an elevated approach to court administration and performance. Thus, the dialogue in Australia has evolved over many years leading to an exchange of ideas to formulate the details of a vision plan for the courts.

South Africa boasts of a Strategic Plan which, broadly, aims at improving the efficiency and effectiveness of administration of the courts.[18] In South Africa, however, the Plan is a part of a tripartite arrangement which also includes the Annual Performance Plan, and the budget and structure, all of which together form part of the institutional framework for an operational Office of the Chief Justice.[19] Part B of the Strategic Plan lays down Strategic Objectives for three aspects (which are called 'Programmes'), viz., Administration (of the Office of the Chief Justice or "OCJ" as a National Department), Judicial Support and Court Administration, and Judicial Education and Research. For each of these programmes, the Strategic Plan has objectives, indicators, and annual targets. An illustration of one such strategic plan (for the Finance Administration sub-programme) is as follows:[20]

- **Strategic Objective:** Render financial, supply chain, and asset management services to the Judiciary and the Department
- **Objective Statement:** Ensure 100% compliance with the Public Finance Management Act, 1999 (PFMA) and other prescripts by producing 12 financial performance reports per annum, and processing 100% of received invoices within 30 days
- **Justification:** This objective will ensure efficient and effective utilisation of financial resources, and enable the department to be transparent and accountable.

In the interest of being comprehensive, the Plan also contains a section on risk management. Devising a plan for risk

[16] Judicial Conference of Australia, Colloquium 2006, Canberra. Available online at https://ajoa.asn.au/wp-content/uploads/2013/11/2006_smithpaper1.pdf (last accessed on 30 December 2021).

[17] Judicial Conference of Australia, Colloquium 2013, Sydney. Available online at https://ajoa.asn.au/wp-content/uploads/2013/10/P01_13_02_25-Bathurst-CJs-paper.pdf (last accessed on 30 December 2021).

[18] Republic of South Africa, Office of the Chief Justice. 2015. Strategic Plan: 2015/16-2019-20, available online at https://www.judiciary.org.za/index.php/documents/strategic-plan (last accessed on 1 December 2019).

[19] The Office of the Chief Justice is a National Department in the Republic of South Africa which provides support to the Judiciary to ensure effective and efficient court administration services. See, The South African Judiciary, available online at https://nationalgovernment.co.za/units/view/28/office-of-the-chief-justice-ocj (last accessed on 1 December 2019).

[20] Republic of South Africa, Office of the Chief Justice, Strategic Plan: 2015/16-2019-20.

management emanates from a statutory obligation on all Accounting Authorities,[21] under the Public Finance Management Act, 1999, to maintain effective, efficient, and transparent systems of financial and risk management, and internal control.[22] In this case, the Accounting Authority is the OCJ which has established a unit for Internal Audit and Risk Management for effective and efficient risk management.

The purpose of the risk management unit is to anticipate risks that might arise while meeting a certain programme objective, and to propose suitable mitigation intervention/s to counter that risk. For instance, the potential (and foreseeable) risk for meeting the programme objectives of judicial education and research, and intervening steps for mitigating such risk, are as follows:[23]

Programme: Judicial Education and Research	Risks	Mitigation Intervention
Provides education programmes to judicial officers, including policy development and research services for the optimal administration of justice	Inadequate capacity to provide training to the judicial officers	• Develop e-Learning system • Partnership with relevant stakeholders

Risk management is essential for anticipating what risks can hamper the implementation of a strategic plan for the judiciary. It is worthy of emulation in a vision statement for India so as to ensure that plans, which may not be implementable, are not drafted for any level of judiciary. In India, the most imminent risk with respect to implementation of any vision statement is the lack of manpower and infrastructure (technological and physical). These are red flags which need to be considered at the outset while setting out targets for the judiciary for any given time frame.

Strategic visions for the judiciary are also in place in the USA. There is no statutory obligation, at least in as many words, on any authority to prepare a vision statement for the judiciary. Title 28, Section 331 of the United States Code, though, does provide that the Judicial Conference of the United States ("Judicial Conference") shall make a comprehensive survey of the condition of business in the courts in the USA, submit suggestions and recommendations to the various courts to promote uniformity in management procedures and the expeditious conduct of court business, and

[21] Section 49, Public Finance Management Act, 1999, provides that every public entity must have an authority which must be accountable for the purposes of the Act.

[22] Section 51(1)(a)(I), Public Finance Management Act, 1999.

[23] Republic of South Africa, Office of the Chief Justice, Strategic Plan: 2015/16-2019-20, available online at https://www.judiciary.org.za/index.php/documents/strategic-plan (last accessed on 1 December 2019).

carry on a continuous study of the operation and effect of the general rules of practice and procedure in use as prescribed by the Supreme Court for the other courts of the USA.[24] The Judicial Conference, the national policy-making body for federal courts, prepared a Strategic Plan for the Federal Judiciary in 2015, thereby updating the Plan which was devised in 2010. The Plan aims to be a consistent mix of aspirational goals along with targets supported by empirical analysis. In brief, the Plan aims to do the following:

> This plan anticipates a future in which the federal judiciary is noteworthy for its accessibility, timeliness, and efficiency, attracts to judicial service the nation's finest legal talent, is an employer of choice for highly qualified executives and support staff, works effectively with the other branches of government, and enjoys the people's trust and confidence.[25]

The strategies of the Plan are organised around seven key issues, viz., providing justice, effective and efficient management of public resources, the judicial workforce of the future, harnessing technology's potential, enhancing access to the judicial process, the judiciary's relationship with other branches of the government, and enhancing public understanding, trust and confidence. For each issue, the Plan lays down specific strategies. For instance, insofar as a workforce for the judiciary is concerned, the Plan primarily concerns itself with attracting, developing, and retaining a highly competent and diverse range of judges and staff.[26] To address this issue, the Plan proposes two strategies:

[24] Title 28, United States Code, Section 331, available online at https://www.law.cornell.edu/uscode/text/28/331 (last accessed on 4 December 2019).

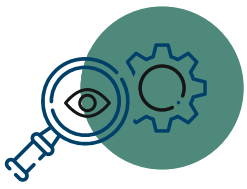
[25] Judicial Conference of the United States. 2015. Strategic Plan for the Federal Judiciary: September 2015. Administrative Office of the US Courts, available online at https://www.uscourts.gov/sites/default/files/federaljudiciary_2015strategicplan.pdf (last accessed on 1 December 2019).

[26] Judicial Conference of the United States, Strategic Plan for the Federal Judiciary: September 2015.

Strategy 1: *Support a lifetime of service for federal judges* – The strategy proposes that judges be supported throughout their careers, and they continue handling cases as long as they are willing and able to do so. The strategy also emphasises the importance of education, training, and orientation programmes to meet the needs of judges.[27]

Strategy 2: *Recruit, develop, and retain highly competent staff while defining the judiciary's future workforce requirements* – The strategy also recognises the importance of the judiciary being an attractive employer. It proposes that the judiciary address ongoing changes including an increase in the amount of work that can be performed away from the office, shifting career options, and changes in how staff communicate and interact.[28] Also, the strategy recommends that the judiciary should ensure a sufficient internal supply of qualified candidates, for whom a meaningful leadership and executive development training programme (which provides for the option of relocation of executives) should be created. This is also to widen the pool of qualified internal applicants.[29]

In 1990, while analysing the functioning of courts, the Federal Courts Study Committee released a report.[30] The report dealt in detail with various issues including judicial personnel, court administration etc.[31] The discussions were focused on the importance of incremental reforms that will be monitored closely so as to attain the objectives set out in the committee report.[32] The report reiterated the need to have a long-term vision to cover all horizons of the judicial administration in addition to the short-term goals.[33] It was recommended that the long-term vision goals should be listed so that they can considered while mooting changes. Particular references were made to collecting judicial data to analyse the long-term plans[34]. Thus, the report recognised the need for empirically-backed planning of long-term goals and their use as a vision for the judiciary.



In the jurisdictions examined, there is an active inclination shown both on the statutory front and by the various stakeholders within the judiciary to formulate plans for effective court administration. These plans and discussions have evolved into vision statements that have become an important tool to monitor the administration of courts.

[27] Judicial Conference of the United States, Strategic Plan for the Federal Judiciary: September 2015.

[28] Judicial Conference of the United States, Strategic Plan for the Federal Judiciary: September 2015.

[29] Judicial Conference of the United States, Strategic Plan for the Federal Judiciary: September 2015.

[30] Federal Courts Study Committee, Judicial Conference of the United States. 1990. Report of the Federal Courts Study Committee, available online at https://www.fjc.gov/content/report-federal-courts-study-committee-0 (last accessed on 30 March 2020). ('Federal Courts Study, USA').

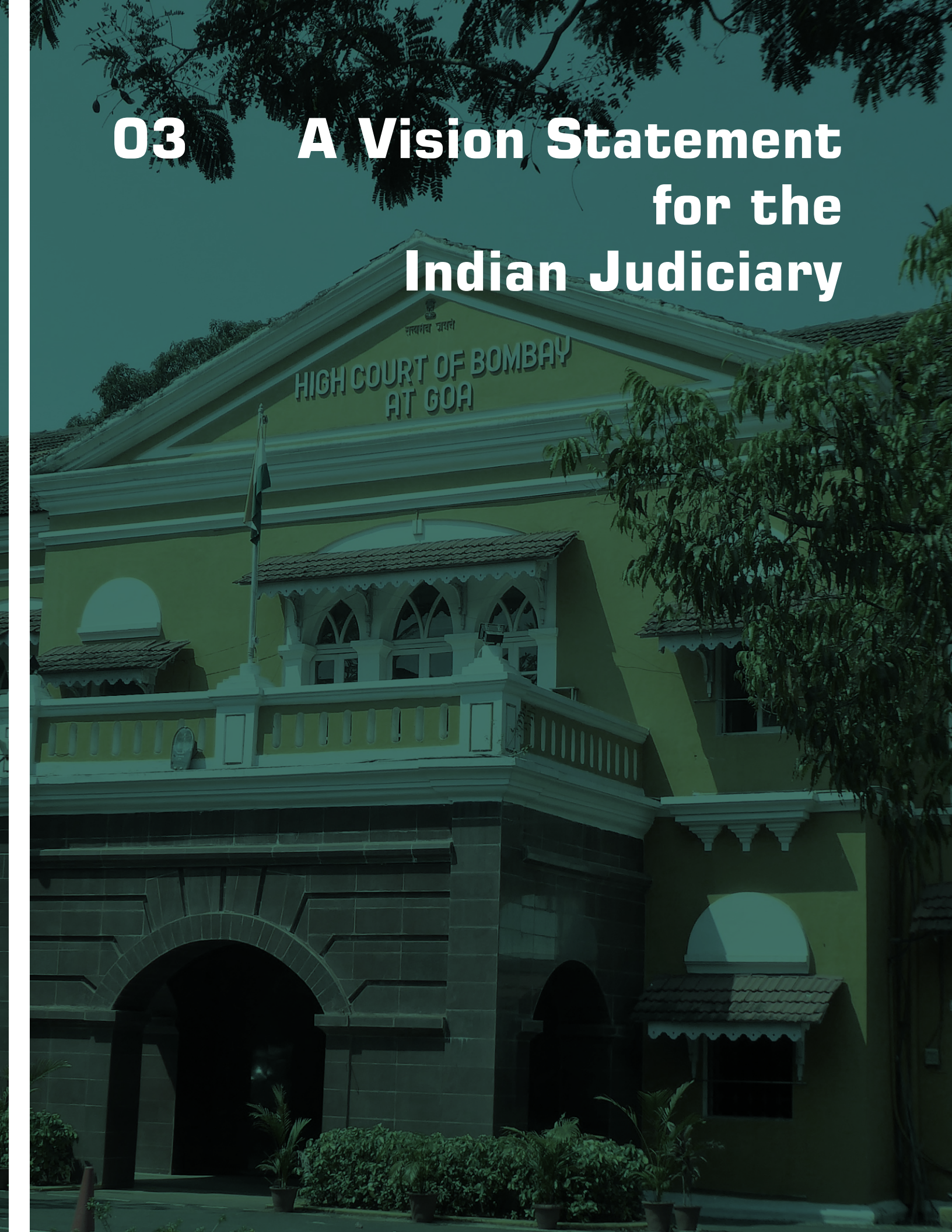
[31] Federal Courts Study Committee, Judicial Conference of the United States, Report of the Federal Courts Study Committee.

[32] Federal Courts Study Committee, Judicial Conference of the United States, Report of the Federal Courts Study Committee.

[33] Federal Courts Study Committee, Judicial Conference of the United States, Report of the Federal Courts Study Committee.

[34] Federal Courts Study Committee, Judicial Conference of the United States, Report of the Federal Courts Study Committee.

03 A Vision Statement for the Indian Judiciary



a. Previous attempts at a vision for the Indian Judiciary

Even a cursory glance at the vision statements for the judiciaries in other jurisdictions reveals that they are holistic in their approach – they target stakeholders inside the courts and outside them, and also consider aspects of risk management and potential roadblocks that might hamper their implementation. The only attempt at a vision statement in India was in 2009, when the National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays adopted a Vision Statement for the Judiciary ('Vision Statement'). The Vision Statement captured the imagination of the functionaries, comprehending the essential elements of the idea of timely justice.[35] The Vision Statement focussed on two major goals – *first*, increasing access by reducing delay and arrears in the system, and *second*, enhancing accountability through structural changes and setting performance standards and capacities.[36]

While the Vision Statement of 2009 covered a wide expanse of goals and recommendations, it did not lay down enforceable timelines, and means of achieving targets or parameters for measuring performance. For instance, the Vision Statement identifies cases under certain statutes and areas of law as 'bottlenecks', due to their ability to clog the dockets of magisterial and specialised courts. Some of the bottlenecks identified by the Vision Statement are matrimonial cases, cases under the Prevention of Corruption Act, 1988, petty cases such as traffic challans, and motor accident claims.[37] The Vision Statement recommends that fast track procedures be evolved to deal with cases earmarked as bottlenecks. The Vision Statement sets a deadline of 31 December 2011 for liquidating the arrears of such cases as on 1 January 2009. While this recommendation is made in the right spirit, the Vision Statement does not provide any insights into monitoring the performance of these fast track procedures, or any evidence-based analysis into the number of fast track courts that would be required to address the existing arrears of such cases. This was a recurring theme in the Vision Statement of 2009. While it encompassed most areas of judicial reform which need imminent attention, it did not go into granular details regarding implementation. This is an important aspect that future vision statements should be mindful of.

[35] Ministry of Law and Justice. 2009. 'National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays', Vision Statement, para 4. ('Vision Statement 2009).

[36] Vision Statement 2009.

[37] Vision Statement 2009.

b. Discussions around vision statements in India

The Supreme Court in *Imitiaz Ahmad v State of UP* and others[38] discussed the fundamental right to access courts. The government cited the Vision Statement as one of the ways to increase access to courts and justice. More recently, the need for the courts to chart out vision statements was mentioned in the Sub-Committee Report of the National Court Management Systems Committee.[39] The report suggests that there need to be annual, mid-term (5 years) and long-term (10 years) vision plans for the courts.[40] The five year plan and annual plan suggestions are also mentioned in the CJCM conference, 2016.[41] The Sub-Committee report notes that the plans should be created by each High Court as per their requirements.[42] An important argument raised in this report is the need for such vision statements to plan the needs of the High Courts in a manner that would allow them to demand the allocation of funds necessary to put the plans in motion.[43] The report suggests that a vision should encapsulate immediate action plans that would reduce pendency and focus on availability of personnel.[44] It notes that deliverables should be apportioned to the judiciary and the executive so that performance by both agencies can be monitored.[45] The report suggests that the move to digital courts should be a main objective of the first five year plan for all High Courts and district courts.[46] The report provides a mechanism to frame the budgeting for the vision plans,[47] reiterating the need to use experts if necessary.[48] Many of the Sub- Committee report's suggestions find validation in international practice with regard to vision statements. The International Framework for Court Excellence also underlines the importance of setting out short-term and long-term goals, allowing for budgeting using experts and monitoring the performance as per the vision statements.

A vision statement by the Pathanamthitta District Court[49] is a good example of using an

[38] Imtiyaz Ahmad vs State Of U.P. & Ors, available at https://indiankanoon.org/doc/44403361/ (accessed 30 December 2021)

[39] 'Court Development Planning System', available online at http://nja.gov.in/Concluded_Programes_2015-16/P-960_Reading_Material/05.%20reort%20Submitted%20by%20the%20Sub-Committee%20headed%20by%20Hon.%20Mr.%20Justice%20Badar%20Durrez%20Ahmed-Court%20Development%20Planning%20System%20ver%202.0-1.pdf (last accessed on 30 March 2020).

[40] Court Development Planning System.

[41] Joint Conference of the Chief Ministers of State and Chief Justices of the High Courts', available online at https://doj.gov.in/sites/default/files/MINUES%20OF%20CMCJ%20CONFERENCE%2C%2024TH%20APRIL%2C%202016.pdf (last accessed on 30 March 2020). ('CJCM Conference 2016').

[42] CJCM Conference 2016, 5.

[43] CJCM Conference 2016, 9,57.

[44] CJCM Conference 2016, 7.

[45] CJCM Conference 2016, 8-9.

[46] CJCM Conference 2016, 56.

[47] CJCM Conference 2016, 60.

[48] CJCM Conference 2016, 8.

analysis of grass-root problems to chart out a vision statement. This vision statement was prepared consequent to directions from the High Court of Kerala. This document describes an approach to management of the Pathanamthitta district courts, encompassing staffing (both judicial and non-judicial) and infrastructure issues. It is made abundantly clear that this vision is centred on reducing the cases that have been pending for more than five years.[50] This obligation seems to flow from the National Court Management System's obligation to reduce cases which are pending for more than five years. The District Court vision statement is impressive in how it brings within its purview all tangential issues pertaining to the management of courts, especially the focus on non-judicial staff's workload. Unfortunately, whether this vision was implemented in its entirety and whether there was a reduction of the five-year pendency case category is not known. There are no annual performance review records available on the district court website.

The National Court Management Systems (NCMS) in India is responsible for initiating the state-level court management mechanisms, an objective of which is to chart out vision statements for the judiciary.[51] The NCMS Policy and Action plan included provisions to allow for five year court development plans, notably arguing for individual development plans for each court.[52] The NCMS action plan, understanding the importance of data in planning for the judiciary, set out a statistics wing (information and statistics secretariat) to collect important data that can inform reforms. It emphasises the participation of the judiciary alongside budgeting experts in the budget process.[53] The active participation of the district judges is called for with respect to calculating the number of non-judicial personnel required in the court section.[54] Thus, there is awareness shown in formulating vision statements for the judiciary in India and it has taken shape in various attempts made by different wings within the judicial mechanism.

[49] District Court Management Systems(DCMS) Committee Pathanamthitta. 2016. Vision Statement for District Judiciary, Pathanamthitta, Vision 2020. Available online at https://districts.ecourts.gov.in/sites/default/files/VISION%202020-VISION%20Statement%20of%20District%20Judicary%20Pathanamthitta.pdf (last accessed on 30 March 2020).

[50] 'A study on court management techniques to improve the efficiency of subordinate courts', available online at https://doj.gov.in/sites/default/files/Final%20DOJ%20Report_Revised%20%281%29.pdf (last accessed on 30 March 2020).

[51] Supreme Court of India. 2012. National Court Management Systems, Policy & Action Plan. Available online at http://www.wbja.nic.in/wbja_adm/files/National%20Court%20Management%20Systems%20NCMS%20Policy%20and%20Action%20Plan.pdf (last accessed on 30 March 2020).

[52] Supreme Court of India, National Court Management Systems, Policy & Action Plan Policy and Action Plan.

[53] Supreme Court of India, National Court Management Systems, Policy & Action Plan Policy and Action Plan.

[54] Supreme Court of India, National Court Management Systems, Policy & Action Plan Policy and Action Plan.

c. Challenges in setting and implementing a vision statement

An advisory council is set up under the National Mission of Justice Delivery and Legal Reforms. Aspects of the Vision Statement remain a point of discussion during the meetings of the advisory council.[55] It has been reported that there have only been ten meetings so far.[56] The most recent meeting was in February 2019 and there is an annual meeting every year to discuss the state of affairs of the judiciary. The first challenge to creating a vision statement is cultivating the awareness about its importance at the national level. This would translate into building a new vision statement that encompasses short-term and long-term goals, deadlines and budgets. There is a need to make feasible action plans and deal with priority issues and sequencing to cover other issues gradually. Thus, having a vision statement that articulates the court's strategy will make a difference and narrow the focus to immediate action plans, rather than getting lost in the myriad of issues that take a toll on the judiciary.

The second challenge is to build this new vision statement using available empirical data that allows for the accurate identification of the short-term goals. This would ensure that the plans under the vision are not misdirected. For instance, the Vision Statement initiated an inquiry citing issues related to pendency and judicial delay. It also stated that there was an explosion of litigation in India. The reason for the reference to explosion of litigation in the Vision Statement is not clear. The fact remains that pendency has been a long-standing issue in India, so much so that the Law Commission looked into it in its 14th report as early as 1958.[58] Thus, there is a need to understand correctly, the reasons for certain issues at the goal formation stage so as to not undertake a misinformed enquiry.

[55] Department of Justice, Ministry of Law and Justice, Government of India. 2019. 'Minutes of the Eleventh Meeting of the Advisory Council of the National Mission for Justice Delivery and Legal Reforms held on 19.02.2019', available online at https://doj.gov.in/sites/default/files/minutes_1.pdf (last accessed on 30 March 2020). ('Minutes of 2019 Advisory Council Meeting, DOJ, Government of India').

[56] Tarika Jain, Shreya Tripathy. 2019. 'Irregular meetings of advisory council won't help national mission for legal reforms or bring down pendency as cases pile up'. Vidhi Legal Policy, 5 February, available online at https://vidhilegalpolicy.in/2019/02/05/2019-2-5-irregular-meetings-of-advisory-council-wont-help-national-mission-for-legal-reforms-or-bring-down-pendency-as-cases-pile-up/ (last accessed on 30 March 2020).

[57] Minutes of 2019 Advisory Council Meeting, DOJ, Government of India.

[58] Law Commission of India. 1958. Report No. 14: Reform of Judicial Administration. Available online at http://lawcommissionofindia.nic.in/1-50/Report14Vol1.pdf (last accessed on 30 March 2020). (14th Report, Law Commission of India).

Discussions on judicial reforms in India are predominantly done through the Law Commission reports. The discussion regarding what entails a vision statement has not found its way into these reports. The 230th report looked at adjournments in the context of delay.[59] The 230th report was published in the same year as the Vision Statement. While the report and the Vision Statement were set to look into the judiciary, they were done independently of each other. This is perhaps indicative of multiple approaches to similar problems and why there is a need to streamline analyses to build a vision-based framework. The Vision Statement was mentioned in the 245th Law Commission report.[60] The 245th report disagreed with certain recommendations of the Vision Statement. For instance, it was not in favour of appointing ad hoc judges to deal with case arrears and also pointed out that the shift system proposed by the Vision Statement is not the ideal option.[61] Thus, while a Vision Statement exists, there have been conflicting points of view about the same.

The various reform attempts, including the Law Commission reports and Vision Statement are independent ones. There is a need to have some consistency with all reform attempts and vision statements, so they do not operate in isolation. Countries with emphasis on the vision statement have an accentuated awareness for the need and importance of the vision statements. The jurisdictions examined here have a formidable judicial framework that supports the vision statements. While there are a few examples of vision statements making their way in India, notably the Tripura (elaborated below in sub-section(g)) and the Pathanamthitta statements, there is still a long way to go before vision statements become the norm.

An important challenge that must be taken into consideration is staffing. Multiple law commissions have mulled over the increase in judicial strength, most notably the 245th report. Some vision documents like the Pathanamthitta shows awareness regarding the insufficiency of non-judicial staff in certain courts. Research notes that every High Court and subordinate court is functioning without the sanctioned judge strength.[62] Managing personnel, both judicial and non-judicial, will be a critical component of implementing vision statement objectives.

[59] Law Commission of India. 2009. Report No. 230: Reforms in the Judiciary- some suggestions. Available online at http://lawcommissionofindia.nic.in/reports/report230.pdf (last accessed on 30 March 2020).

[60] Law Commission of India. 2014. Report No. 245: Arrears and Backlog: Creating Additional Judicial (wo)manpower. Available online at http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf > (last accessed on 30 March 2020). (245th Report, Law Commission of India).

[61] 245th Report, Law Commission of India.

[62] Tata Trusts. 2019. 'India Justice Report, Ranking States on Police, Judiciary, Prisons and Legal Aid', available online at https://www.tatatrusts.org/upload/pdf/overall-report-single.pdf (last accessed on 30 March 2020).

d. An example of vision-based approach within the Indian judiciary

The eCourts initiative has been one of the most important examples in India about vision setting and implementation within the judiciary. It functions under the auspices of the Supreme Court's eCommittee and has been regularly monitoring the transformation of the courts to a digital model. There are target deliverables established and a phase-wise monitoring of whether such deliverables have been met.[63] The eCommittee is in the process of setting a vision document for Phase III of the eCourts project.[64] Thus, the eCourts project is a reminder that the Indian judiciary is open to vision-setting and implementing the same. The CM-CJ 2016 conference observed that insufficient support by state governments in completing the infrastructure deliverables is a cause for concern for the eCourts project.[65] This is an important lesson to bear in mind in the vision statements process. Deliverables within the vision statement should thus have explicit obligations that the state government will have to adhere to.

e. The need for a state specific vision statement in India

The challenges to the justice system are often fragmented from state-to-state in India. The 14th Law Commission report was one of the earliest reports to understand the state to state differences in terms of judicial administration. It recommended that High Courts should work in tandem with the district courts when it comes to judicial administration of the courts in a state.[66] It suggested monitoring at the high court level and execution at the district court level by district judges.[67] This was highlighted in the 245th report as well. For instance, the 245th report attempted to procure data from all the high courts and most of the high courts could not provide the requisite data due to vastly different practices of the various High Courts and sub-ordinate courts.[68] Further, as highlighted by the 245th report, it is important to consider all other allied issues including staffing and recruitment, infrastructure availability, funding, etc. faced by each district and each state.[69] This insight reveals that one of the biggest challenges to setting a vision statement is to ensure that each state has a vision policy encompassing issues specific to the state. Further, this could be modified for different districts, so that they can set their own milestones. This has been followed by the Pathanamthitta vision statement mentioned above. While

[63] eCommittee, Supreme Court of India. 2019. E- courts Project, Phase – II: Objectives Accomplishment Report. Available online at https://ecourts.gov.in/ecourts_home/static/manuals/Objective%20Accomplishment%20Report-2019.pdf (last accessed on 30 March 2020).

[64] See https://ecommitteesci.gov.in/inviting-suggestions-on-the-draft-vision-document-for-phase-iii-of-ecourts-project/

[65] CJCM Conference 2016.

[66] 14th Report, Law Commission of India.

[67] 14th Report, Law Commission of India.

[68] 245th Report, Law Commission of India.

following the Kerala High Court's directions, the vision statement sets a milestone for the district courts of Pathanamthitta. As noted above, the NCMS also acknowledges the need for state level vision statements which are to be formulated by the High Courts.

There can be a broad national framework for a vision statement. While there can be monitoring at the Supreme Court level, the task of framing a vision statement for the respective states along with milestone options for the various district courts should be vested with the High Courts.

There needs to be a collaborative approach between the Supreme Court's monitoring and the High Court's powers to carry out the vision statement objectives. The lower tiers of the judiciary should actively engage with formulating the vision statement for the respective states and districts. The national framework will have to recognise the intricacies of various state challenges to modify the deliverables.

The eCourts initiative functions by monitoring state-wise deliverables, while having a broader perspective. This could be a model worthy of emulation while framing and monitoring a comprehensive vision statement at the national level.

f. CM-CJ Conferences

In addition to the above, the periodic Joint Conference of Chief Ministers of the States and Chief Justices of the High Courts ('CM-CJ Conference') culminates with a list of resolutions which are, essentially, in the nature of goals to be achieved by all levels of the judiciary. The CM-CJ Conference is a platform for the executive and judiciary to deliberate on the state of the judicial system and the steps to be taken for its efficient functioning. The expanse of the Conference is wide, and in its preceding editions, solutions for all levels of the judiciary have been discussed.

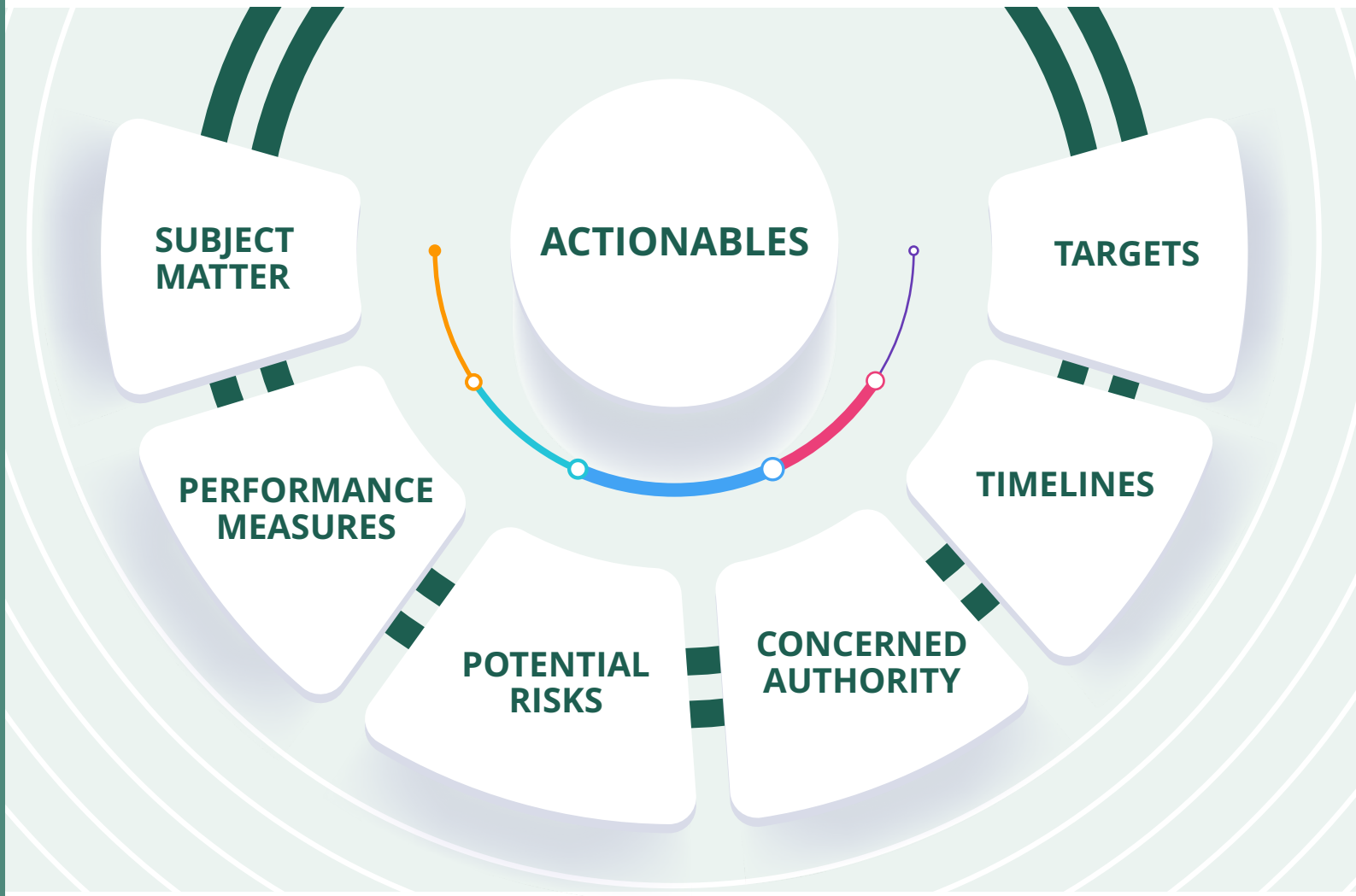
DAKSH analysed the recommendations made in the CM-CJ Conferences over the last 10 years (in 2009, 2013, 2015, and 2016) and the analysis reveals that resolutions have been made repeatedly on certain subject-matters.[70] Recommendations pertaining to establishment of new courts, improvement of infrastructure in High Courts as well as subordinate courts, strengthening the legal aid system, increasing strength of judges in High Courts as well as subordinate courts, training of judicial officers, and reforming IT processes, have been made several times since 2009. Some of these resolutions have repeated themselves, while others remain conspicuous by their absence e.g. reforms to the criminal justice system. The two aspects pertaining to these recommendations which have largely evaded the CM-CJ Conferences are – first, the monitoring of implementation of these recommendations, and second, risk monitoring.

[69] 245th Report, Law Commission of India.

[70] DAKSH. 2019. Note on Agenda for the Joint Conference of Chief Ministers of States and Chief Justices of the High Courts, available online at (https://dakshindia.org/wp-content/uploads/2019/08/Note_CM_CJ-Conference_2019-converted.pdf (last accessed on 4 December 2019).

g. A vision for the future – the 'what' and the 'how'

As mentioned earlier in this paper, a workable vision statement should be mindful of the obligation of the concerned authority to draft a vision statement for the judiciary, the precise goals to be achieved, and parameters to measure performance of the judiciary towards achieving these goals. A vision statement for the judiciary in India should also target these three aspects, which are discussed in some detail in this part. A vision statement should also cover the following aspects:



For a vision statement to work as desired, it is important that actionables be identified and are mindful of the following aspects:

- Subject-matter (or focus area) of the actionable (such as trends in listing of cases to be heard in a day, implementing case-flow management rules, adoption of technology);
- Targets which need to be met with regard to the identified subject-matter (deriving the optimum number of cases that can be heard in a single day, drafting sound and

implementable rules for case-flow management, and step-by-step introduction of technology in courtroom procedures);

- Timelines within which the above targets should be met (setting timeframes for deliverables for each quarter, and for the end of the financial year);

- Concerned authority/authorities who/ which will be responsible for meeting these targets (the judicial as well as administrative authority/authorities who have to sign off on a particular actionable need to be specified in the vision statement);

- Performance measures or parameters which will evaluate how well/to what extent the targets have been met;

- Potential risks which can hamper the meeting of these targets (for instance, delays caused in ushering in new processes attributable to costs, bureaucratic inefficiencies, and stakeholder resistance).

There is a statutory obligation in Australia for preparation of a Corporate Plan for the several tiers of the judiciary. More than anything else, this obligation ensures that the necessary step of drafting such a plan is undertaken. In India, there is no statutory obligation on the Department of Justice (Ministry of Law and Justice), or the office of the Chief Justice of India to draft such a vision statement. Neither is there an obligation at the state level on the High Courts. While there is no counterpart for the Australian Public Governance, Performance and Accountability Act 2013 in India, such an enforceable obligation can be placed on concerned authorities under the Constitution of India. However, the lack of such a mandate does not hamper the judiciary from preparing a vision statement. As a starting point, the following authorities, in consultation with each other, can be made responsible for drafting vision statements for different tiers of the judiciary:

Court/Tiers of judiciary	Authorities responsible drafting a Vision Statement
Supreme Court	Office of the Chief Justice of India + Department of Law and Justice
High Court	Office of the Chief Justice of the High Court + State-specific Department of Justice
Subordinate judiciary	Principal District Judge + Administrative-in-charge Judge of the High Court + State-specific Department of Justice

For a vision statement, the next step is to identify goals/targets to be achieved, and measures to monitor performance. An incisive way to approach the question of how vision statements should be drafted is by means of evidence-based analysis. An interesting example of this exercise is a Vision Document for the subordinate judiciary in Tripura, prepared at the behest of the former Chief Justice of the High Court of Tripura, Justice Ajay Rastogi.[71] The Vision Document proceeds district-wise, and assesses the number of pending cases, sanctioned strength of judges in each district, and court infrastructure in each district. The document also mulls the need for setting up new Family Courts and Commercial Courts in individual districts in Tripura based on the number of such pending disputes therein. The Vision Document also covers aspects pertaining to Alternative Dispute Resolution ('ADR') and takes stock of the number of cases referred to mechanisms of ADR between 2008 and 2013.

The Vision Document for Tripura is an important step towards informing the goals and targets which should be set out in such a vision. Empirical analysis is essential for identifying the nature of interventions which are required for meeting certain goals and targets set for the judiciary. Empirical analysis in the nature of DAKSH's Zero Pendency Courts Project[72] that was undertaken along with the Delhi High Court can form the basis of an important discussion on the reforms required in the subordinate judiciary. As part of the methodology, the DAKSH research team tracked and recorded hearing durations and reasons of adjournment in cases from two types of courts – first, 11 designated Pilot Courts with no backlog or arrears, and second, Reference Courts (with regular workload) in same jurisdictions. The functioning of these two kinds of courts was then compared. The Zero Pendency Courts Project revealed that subordinate courts in Delhi need an additional 43 judges of certain cadres to dispose all pending cases in one year.[73] Data-driven inputs like these are crucial for setting targets on filling vacancies on the bench for the subordinate judiciary.

Further, based on the data and analyses of this project, the primary causes of delay were identified as consistent absence of witnesses, adjournments sought by counsels as well as parties, and delays in service of summons.[74] Such pilot projects can be conducted in other subordinate courts in the country as well so as to gain perspectives on how cases progress, their life-cycle, which cases take the longest to

[71] Ajay Rastogi, Chief Justice, High Court of Tripura. 2018. Tripura Judiciary: A Road Map for the Future, available online at http://thc.nic.in/VisionDocument-2018.pdf (last accessed on 1 December 2019).

[72] Between 2017 and 2019, DAKSH worked with the Delhi High Court on the Zero Pendency Courts Pilot Project. The aim of this project was to identify causes of delay in disposal of cases, and develop norms for disposal timelines based on the subject-matter of cases.

[73] DAKSH-Delhi High Court. 2019. Zero Pendency Courts Project: Final Report on the Pilot Project by High Court of Delhi, available online at https://www.dakshindia.org/wp-content/uploads/2019/05/PublicNotice_3MRRIN3QTHN.pdf (last accessed on 1 December 2019) ('ZPC Project Report').

[74] ZPC Project Report.

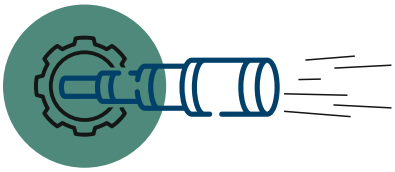
[75] ZPC Project Report.

conclude, and which parties are responsible for delaying the progress of cases.[75]

It would be beneficial for the High Courts to undertake pilot projects to initiate evidence-based reforms. Pilot projects can be useful in several areas of study, such as implementation of case-flow management, process re-engineering, using predictive tools in court management, and scientific calculation of required strength of judicial and non-judicial staff.

04 Conclusion

To address the pressing concerns pertaining to the judiciary, there is an urgent need for its various tiers to devise and draft their respective vision statements. The most important benefit of putting in place a vision statement and mechanisms for tracking progress is restoring trust of the citizens in the judiciary. It signals to the society that the judiciary is mindful of systemic changes required to improve justice delivery beyond the transactional case-by-case justice dispensation. A statutory or constitutional obligation mandating the concerned authorities to devise a vision statement would be beneficial in the long run. Even in the absence of such a statutory obligation, concerned authorities can embark upon the task of drafting vision statements. The Indian judiciary needs a precise vision, with measurable targets to achieve within a specified timeframe. Most importantly, the judiciary requires a mechanism for regular reporting of progress made with respect to the targets to be achieved. The discourse around judicial reforms is brimming with recommendations but not with enough thought being given to their implementation. The time is ripe for the Indian judiciary to have a holistic vision and benefit from the experience of other jurisdictions in this regard.



The discussions around vision statements have gathered pace owing to international recognition of the same. The inculcation of a vision statement is recognised as an organisation improvement method. The performance deliverables monitored using the vision statement can also enhance open justice by increasing transparency.[76]

This is the first step to initiate the framework to allow for improvements by allowing for the articulation of the values of the court. For instance, in Singapore a clear connective thread was observed between the vision set and the actions accomplished by it upon survey of subordinate courts.[77]

Thus, the vision statement will be an extension of democratic values that the Indian courts hold. It will ensure that all the stakeholders, including court staff and litigants are participating in the process where all their needs are accounted for.

[76] International Framework for Court Excellence, International Framework for Court Excellence – 3rd Edition.

[77] International Framework for Court Excellence, International Framework for Court Excellence – 3rd Edition.

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