

VIDHI | Centre for
Legal Policy

IMPACT REPORT
2020–2021

THE
SHIFTING
PARADIGM

The Vidhi Centre for Legal Policy (‘Vidhi’)
is an independent think-tank | doing legal
research to make better laws and improve
governance for the public good.



IMPACT REPORT 2020–2021

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DESIGN: ODDWORKS

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Vidhi’s Footprint: 2020–2021

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83 TALKS GIVEN

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24 JOURNAL ARTICLES

108 BLOGS

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28 PODCASTS

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1 (Maharashtra) NEW STATE OFFICE

8 (across 7 states) KAUTILYA SOCIETIES (student societies in universities)

The Vidhi Virtuous Impact Cycle



Original research leads to new law



Original research shapes public narrative on issues with significant public impact



Original research leads to change in existing law



Engagements with governments or public institutions to draft law with significant public impact



Original research leads to active consideration of new law or changes to existing law by governments



Engagements with governments or public institutions to shape public discussion on issues with significant public impact



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Last month, we spotted a sign-board at a kirana store near our New Delhi office which read- “Cash accepted. UPI preferred.” For a store that earlier refused card payments, to jump straight to a contactless mode of payment is remarkable. This is nothing short of a paradigm shift caused by Covid-19. Digital first is no longer an aspirational slogan, it is a lived reality; work-from-home is not a millennial demand, but the default mode of work for many; protecting the environment is no more concern of only environmentalists, it is the most urgent task for the survival of humanity.

Original research at Vidhi in the last year has been focused on understanding the contours of these seismic shifts. Change that is so fundamental, cannot be understood, let alone acted upon overnight. Take a recent example—while working on our White Paper on a new public health emergency law for India, we realised that a top-down, clinician-driven approach to public health simply does not grasp the community engagement that is needed to improve health communication and shore up health infrastructure. Such change will take time, patience and deep research. Vidhi is committed to seeing this change through, to create the healthcare systems that we, as citizens, deserve.

It is equally critical to ensure that a solid, inclusive foundation for changes that are already underway. Over the last year, we have worked with our partners and the E-Committee of the Supreme Court, to draft a set of rules that will allow live-streaming of judicial proceedings. This is a huge step for transparency but one whose success will require the full-fledged support of court staff and lawyers, the unsung backbone of the judicial system. Without the entire legal community being aligned, the paradigm may shift, but the shift will be uneven, exclusionary and unsustainable.

In our work on healthcare, judicial reforms and other areas in the past year, the need to reaffirm our sense of community and togetherness has been a recurring theme. Over time, we have built a community of researchers, staff, patrons, board members and well-wishers at Vidhi. Thank you for being with us through what has been the most difficult year many of us have faced in our lifetimes. This Impact Report captures a snapshot of what Vidhi has achieved in the last year and is a testament to your hard work, support and good wishes. After all, if Covid-19 has taught us all one lesson, it is this: real impact can only be achieved when we are all in it together.

Warm regards,

Arghya Sengupta

FOUNDER

Alok Prasanna

CO-FOUNDER

Debanshu Mukherjee

CO-FOUNDER

Dhvani Mehta

CO-FOUNDER



Drafting Good Laws

Vidhi is committed to combining legal principles with evidence-based research to draft laws that work for everyone and promote socio-economic progress of the country.



photo: goodreturns.in

PRESERVING SMALL BUSINESSES, PRESERVING JOBS IN A PANDEMIC

Advising the Government of India on designing a special framework for insolvency resolution of small businesses

Context

‘The lockdown imposed in response to the COVID-19 pandemic proved to be a *‘triple whammy’* for micro, small and medium enterprises (MSMEs).’

— the Reserve Bank of India’s (RBI) report, *State Finances: A Study of Budgets of 2020-21*.

Supply-related disruptions and a fall in both external and internal demand led to this blow. According to a [survey](#) conducted by the All India Manufacturers' Association, the nation-wide lockdown had forced an estimated 35 per cent of MSMEs to shut down their operations. Anecdotal evidence indicates that a large number of MSMEs continue to face severe financial stress owing to the overall economic impact of the pandemic.

Smaller firms often have a high cost of credit, undiversified business structures, and depend on a very limited number of suppliers and consumers for their survival. These factors make them particularly vulnerable to failures in a downturn.

Moreover, their chances of revival are comparatively lower. A World Bank study states that, MSME debtors are more likely to be liquidated – during an insolvency proceeding – than be revived or restructured. This is because corporate insolvency processes are often too time-consuming, complex and expensive to be an effective mechanism for reviving smaller firms.

Yet, the MSME sector is one of the strongest drivers of economic growth and employment. As per the Annual Report of the Ministry of Micro, Small and Medium Enterprises (2020-21), the MSME sector provides for more than 11 crore jobs and contributes to more than 30 per cent of India's Gross Domestic Product (GDP). Hence, it is vital that the insolvency resolution system be responsive to the needs of this sector and preserve the critical role it plays in employment generation.

Vidhi, given its long-standing work on the Insolvency and Bankruptcy Code, 2016 (**'Code'**) from the very inception, suggested the introduction of a special framework for ensuring greater survival of MSMEs during an insolvency process.

Pre-empting the crisis – suggestions by Vidhi to ease the blow

Nine months ago, foreseeing the impending financial crisis for MSMEs, Vidhi proposed a simple and debtor-friendly insolvency process for MSMEs. Such a process would allow the existing management of the MSME debtor to continue to run its operations during the proceeding, instead of being displaced by a third-party insolvency professional as is the case in a corporate insolvency resolution process under the Code. The idea was introduced in Vidhi's 2020 Briefing book – [*Towards a Post-COVID India: 25 Governance Challenges and Legal Reforms.*](#)

Additionally, in February 2020, Vidhi had released a report – [*Designing a Framework for Pre-Packaged Insolvency Resolution in India: Some Ideas for Reform*](#) – which suggested introducing a pre-packaged insolvency framework in India. Pre-packs are essentially hybrid insolvency processes, which combine the benefits of out-of-court workouts – often involving minimal costs and simple procedures – with the legal certainty of a formal insolvency process. The report had proposed that pre-packs be introduced to the Indian insolvency ecosystem in a phased manner, starting with MSMEs.

Vidhi presented its research to the Ministry of Corporate Affairs (MCA) in May, 2020. Later in the year, it was appointed to advise the MCA on designing the legal framework for pre-packs in India, which was recently introduced through The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021.

The pre-pack scheme will facilitate quicker resolution, allow MSMEs to retain staff and continue operations during the process, be legally fair to all stakeholders, and provide a critical lifeline to India's small businesses and their spirit of enterprise, which form the backbone of her economy, in a time of unprecedented disruption. In the long run, it can be potentially used for insolvency resolution of other corporate borrowers as well.

The research assistance provided by Vidhi for the new pre-packaged insolvency framework has been extremely useful to the Government. The impeccable research, subject-matter expertise, and sincere support offered by Vidhi was instrumental in designing an effective alternative for resolving the insolvency of MSMEs.

— **GYANESHWAR KUMAR SINGH**
Joint Secretary, Ministry of Corporate Affairs



The pre-pack scheme introduced by the government will enable MSME corporate debtors to resolve their insolvency with minimum disruption to their operations. The framework adopts several features of pre-packs, as conventionally understood, while also drawing heavily from the formal insolvency process under the Code to balance the rights of all stakeholders. We hope that this new regime will help in alleviating the financial condition of small businesses affected by the pandemic and preserve jobs. We consider ourselves fortunate to have contributed to this meaningful reform in such uncertain times.

— **DEBANSHU MUKHERJEE**
Co-founder, Vidhi



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photo: Income Tax Appellate Tribunal | itat.gov.in

REFORMING TRIBUNALS AND EXPEDITING JUSTICE DELIVERY

Advising the Government of India on abolishing defunct tribunals

Context

During the COVID-19 pandemic, most tribunals in India stopped functioning. Tribunals were created with two primary intentions in mind: providing faster justice by improving efficiency, and providing better justice by involving more experts in judicial decision-making. However, tribunals in India have largely failed to deliver on both promises. According to the Law Commission of India, the Armed Forces Tribunal had 10,222 cases pending and the Income Tax Appellate Tribunal, a whopping 90,538 cases.

Far from appointing experts for quick disposal, data shows appointments were not made at all with 138 out of 352 sanctioned posts vacant.

Both vacancies and pendency multiplied during the pandemic entirely belying the rationale of access to justice for which tribunals were originally set up. A [study](#) conducted in September 2020 showed that when the lockdown was in place from March 2020 till May 2020, there was a 95 per cent decline in the average number of hearings scheduled per day across various benches of the National Company Law Tribunal, which is one of the most prominent and otherwise well-functioning tribunals in India.

Radical reforms were thus necessary.

[A data-driven approach to tribunals](#)

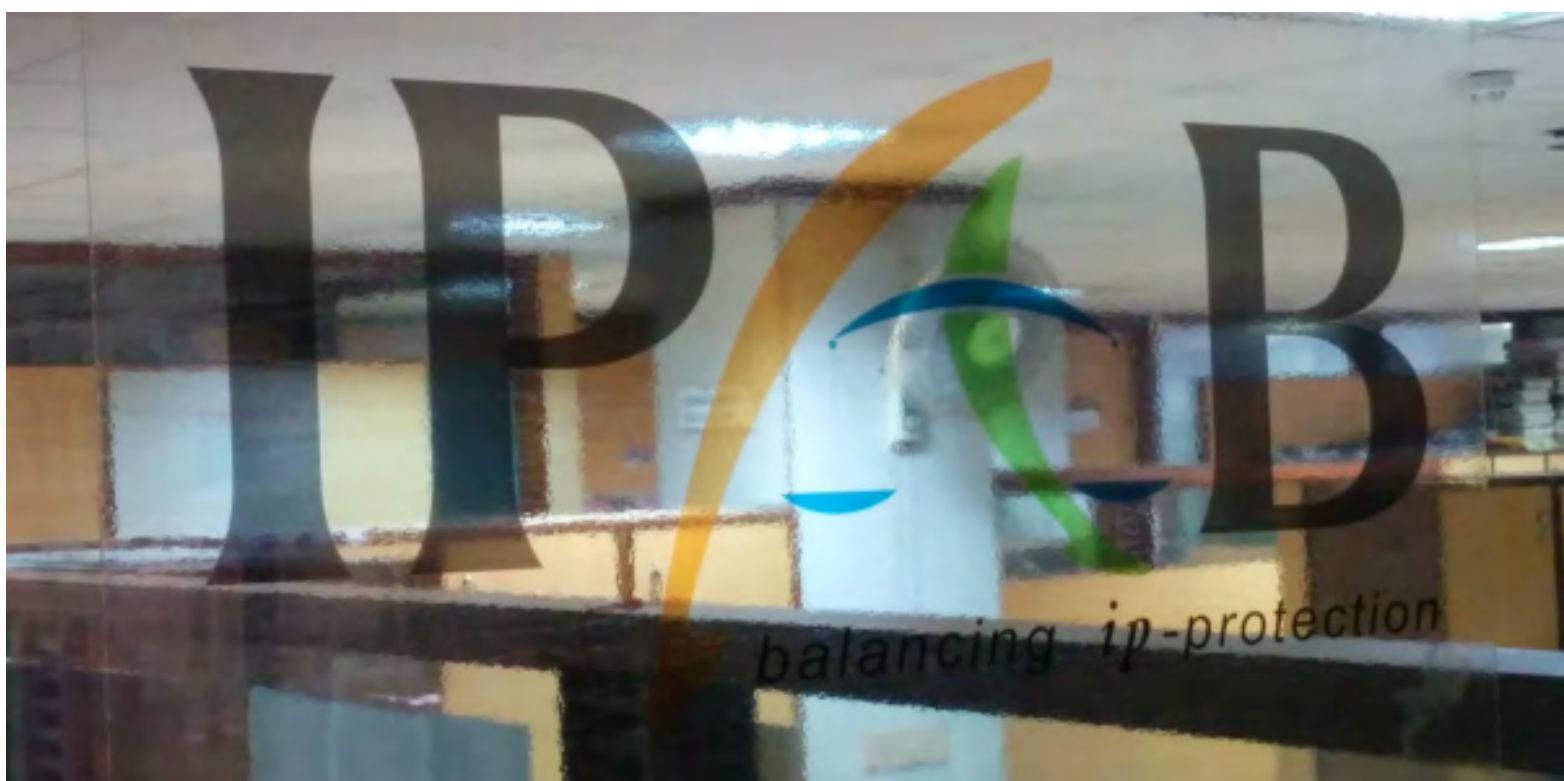
Since its inception, Vidhi has been an active player in advocating reform of tribunals. In 2014, a series of two reports titled 'The State of the Nation's Tribunals' were released. Through an in-depth analysis of two tribunals ([TDSAT](#) & [IPAB](#)), the reports highlighted key data points – abysmally low rates of disposal, lack of uniformity in service conditions, etc.

Another [interim report](#) released by Vidhi in 2018 studied the reforms introduced in the United Kingdom to the tribunals system pursuant to the Leggatt Report. Extrapolating the reforms to India, the interim report recommended the rationalisation of tribunals – 26 tribunals could be reduced to 12 based on their subject matter. These were acted on partially with the Finance Act, 2017 reducing the number of tribunals to 19.

In November 2020, in the aftermath of the Supreme Court judgment in the Madras Bar Association case where the abject performance of tribunals was yet again called into question, a clear opportunity for legal intervention arose. Vidhi worked with the Department of Revenue, Ministry of Finance, Government of India, to prepare a draft bill with the twin objectives of rationalising the number of tribunals and making their functioning uniform. Owing to their poor performance in terms of judicial metrics (such as high pendency and lack of finality), the following tribunals were recommended for abolition:

- Film Certification Appellate Tribunal;
- Intellectual Property Appellate Board;
- Authority for Advance Rulings under the Customs Act;
- Airport Appellate Tribunal;
- Plant Varieties Protection Appellate Tribunal.

In their place, jurisdiction was vested in the appropriate High Court (including its Commercial Division) where disposal is both quicker and more certain.



The [Tribunals Reforms \(Rationalisation and Conditions of Service\) Bill, 2021](#) was introduced in the Lok Sabha in February, 2021, and eventually, the [Tribunals Reforms \(Rationalisation and Conditions of Service\) Ordinance, 2021](#) was promulgated in April, 2021.

In addition to easing the burden on the exchequer, the abolition of these tribunals will free up more infrastructure and staff for the remaining ones. The cases pending before the abolished bodies are being transferred to the very High Courts which the tribunals intended to replace, but failed to do so effectively.

As a result, litigants in remote corners of the country will now no longer have to travel to New Delhi or Chennai (in case of the Intellectual Property Appellate Board) but may file their case in their respective state High Court. Justice will be quicker, more accessible and conclusive. Particularly for matters relating to censorship in film, with the abolition of the Film Certification Appellate Tribunal, film creators can expect fairer and more independent determinations by the local High Court.

As a result of these reforms the total number of tribunals in India stands at 15, another step towards rationalisation that Vidhi had suggested in its original research. For anyone who is familiar with how public administration functions, closure of defunct institutions is a fraught task as the default wisdom is always to perpetuate the status quo.

To be able to reverse a non-working status quo on the basis of a data-driven approach and seven years of research and advocacy is a classic example of Vidhi's theory of change – original research combined with sustained engagement for real-world impact.

It was being experienced that many tribunals were unable to ensure ease of access and deliver speedy justice. The problem became more pronounced during COVID pandemic, which led the government to contemplate reforms in this area. Vidhi's data driven and in-depth research provided us useful insights for this task. Its analysis of Law Commission report and UK reforms and hours of brainstorming with Dr Arghya Sengupta and his team were of tremendous help in drafting our proposal and making the government take informed decisions on the reforms and finally bring out Tribunals Reforms (Rationalisation and Conditions of Service) Bill, 2021 in February 2021.

– **DR AJAY BHUSHAN PANDEY**
former Finance Secretary
Government of India



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photo: Amit Dave/Reuters

SHAPING THE FOUNDATIONAL REGULATORY ARCHITECTURE OF INDIA'S FIRST INTERNATIONAL FINANCIAL CENTRE

Assisting the development of the legal framework for the financial services market in International Financial Services Centre, GIFT City, Gujarat

Context

The Indian economy has taken a major blow due to COVID-19. The GDP shrank by 23.9 per cent in 2020, and the second wave has only exacerbated uncertainties.

In such a scenario, the International Financial Services Centre (IFSC) being developed in Gujarat International Financial Tec-City (**GIFT City**) – India’s first global financial and IT hub – presents itself as a viable investment destination to support the stressed economy.

The IFSC is envisaged as a centralised hub of financial activity by the Ministry of Finance, Government of India, driven by clustering and concentration of financial activities. An ambitious venture, it is designed to attract investments from both local and foreign investors. The Centre is being developed as an export hub of international financial services to generate revenue for the country’s economy.

In December 2019, the Parliament enacted a law to set up a regulator – the International Financial Services Centres Authority (IFSCA) – for regulating the financial services market in financial centres such as the IFSC. In July 2020, soon after the authority was set up, Vidhi was appointed to provide research assistance on several aspects relating to its functioning. Among other issues, Vidhi advised them on designing the legal framework for the operation and functioning of banks located in the IFSC, GIFT City. This resulted in the International Financial Services Centres Authority (Banking) Regulations, 2020 (**Banking Regulations**).

It also provided advisory inputs on the legal framework applicable to other types of financial market stakeholders operating in the Centre such as bullion exchanges, aircraft leasing businesses, and back-end financial service providers.

Importance of legal regulations for financial institutions at the IFSC, GIFT City

The Banking Regulations, which consolidate and set out the enabling framework for Indian and foreign banks to set up shop at the IFSC, include a wider but more prescriptive scope of activities. Additionally, they expand the customer base of these banks. Clarity and certainty through concrete regulations is likely to assure both investors and applicants, as well as boost the uptake of the financial services on offer. The advisory inputs provided by Vidhi to create a simplified legal framework for other financial market stakeholders will:

- Facilitate the setting up of bullion exchanges – the first step towards India's long-term goal of becoming a price setter for precious metals, including gold;
- Sow the seeds for India being developed as a compelling aircraft leasing alternative to existing global leasing destinations such as Dublin (Ireland), Singapore etc. Four such businesses are already under way at the IFSC, and;
- Allow the back-end financial service industry to flourish in India, which offers vast business and employment opportunities.



Express photo

As per the rankings released by Global Financial Centres Index (March 2021):

- Out of 15 international financial centres (IFCs), the GIFT City IFSC ranks as the topmost centre likely to become even more significant over the next 2-3 years;
- It is also the topmost global contender in the emerging IFC category (up by 4 ranks from March 2020);
- Further, for the first time, the GIFT City IFSC is ranked 10th out of top 15 in the [finance service industry sub-index](#).

Building on our commitment to strengthen public institutions in India, we take great pride in having worked alongside the IFSCA for shaping the foundational regulatory framework for operationalising India's first global financial centre.

The biggest challenge in promoting GIFT IFSC as a regional/ global hub for international financial services was to build a state-of-the-art unified regulatory framework that is aligned with the international best practices, and Vidhi's research inputs were useful to IFSCA in developing a world-class regulatory architecture across banking, insurance, securities and funds management.

— INJETI SRINIVAS, Chairman, IFSCA



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Strengthening Public Institutions

Vidhi is committed to working with governments, courts and regulators to improve their functioning.

BRINGING COURTS ONLINE

Improving and accelerating access to justice through technological integration

Context

The Indian legal system, bogged down by backlog even in normal circumstances, saw a record increase in pendency during the last year due to multiple lockdowns as a result of COVID-19. Even though the judiciary rose to the occasion by facilitating online hearings, the lack of adequate technological infrastructure and internet connectivity resulted in overall pendency rising by 19 per cent (from 3.68 crore to 4.4 crore across all courts) between March 2020 and April 2021.

Data from the National Judicial Data Grid (NJDG) showed that pendency rose by 10.35 per cent in Supreme Court, by 20.4 per cent in 25 high courts, and by 18.2 per cent in district courts.

The pandemic has made it clear that the future belongs to a hybrid mode of functioning with physical and virtual courts co-existing. It is, therefore, imperative to put the missing infrastructure and planning in place to optimise judicial functioning in both these modes.

Vidhi has been researching on integrating technology in the legal system, releasing reports on [Virtual Courts in India](#), [Online Dispute Resolution](#) and on introducing [Electronic Summons](#). As a result of its work, Arghya Sengupta was invited by the eCommittee of the Supreme Court to a sub-committee of experts formed for developing the vision for phase III of the eCourts project. Vidhi worked as part of this sub-committee over the last year to assist in the preparation of a vision document for the Indian judiciary.

AN ACCESSIBLE AND EFFICIENT JUDICIARY

The [vision document](#) for phase III of the eCourts project aims to develop end-to-end Digital Courts in the country – an ambitious model that adopts a platform approach to:

- Design services and processes with the primary goal of ease of access and use for lawyers, litigants, judges, the registry and civil society;
- Enable and support participation from different stakeholders in the ecosystem to create and adopt these services, and;
- Enable seamless collaboration across all arms of the justice system, including legal aid authorities, prisons, police, and more.

The vision document has been released for public comments for the first time to foster greater transparency. It introduces a grievance redressal mechanism for all users with a clear accountability framework.

IMPACT

When implemented, phase III of the eCourts project will transform access to justice for all stakeholders, through enabling:

- E-filing, simpler case tracking, digitally enabled hearings, and regional language availability – *for citizens*;
- Digital filing from any location, changes in case records updated in real time, smarter scheduling, and use of artificial intelligence (AI) in research – *for lawyers*;
- Use of AI assisted judgment writing tool and legal research, easier case tracking, algorithmic scheduling and prioritisation of cases – *for judges*;
- Digital filing for time efficiency and error management along with the use of smart templates – *for court staff*;
- Seamless integration of courts with police, prisons and other aspects of the judicial system to expedite information sharing, and use of open data by independent researchers to inform laws, processes and reforms – *for improving the overall health of the legal system*.

ENSURING TRANSPARENCY IN THE AGE OF LOCKDOWNS THROUGH LIVESTREAMING

Even as all levels of judiciary quickly adapted to virtual hearings during lockdowns, these compromised on the principle of ‘open courts’, which allow anybody to observe proceedings in a physical court. To address this, select courts across the country started live-streaming court proceedings.

However, to enable live-streaming across all courts keeping in mind concerns regarding confidentiality and data management, the Supreme Court’s eCommittee set up a committee to draft rules for live-streaming of court proceedings. Vidhi, along with partners, contributed to formulating these [Model Rules for Livestreaming and Recording of Court Proceedings](#) that can be adopted by all High Courts, and have recently been published for public feedback.

IMPACT

If adopted and implemented by the High Courts and the District Courts within their jurisdiction, this will be a path-breaking step towards ensuring transparency and accountability in judicial functioning. The democratic potential of courts opening themselves up to the public in this matter is enormous.

Besides, provisions of live-streaming, recording, transcribing, storage, etc. are also likely to create a massive data corpus, which can facilitate a deeper understanding of the judiciary as well as foster responsible innovation.

Indian courts have to become accessible, efficient and dynamic in the digital age. I appreciate the work of Vidhi's JALDI team in furthering this vision with their ideas and deep research.

— JUSTICE R.C. CHAVAN,
former Judge, Bombay High Court

DRAFT POLICY PLAN FOR MAINSTREAMING ONLINE DISPUTE RESOLUTION (ODR)

NITI Aayog's [draft policy](#) plan for mainstreaming ODR in India has the potential to transform justice delivery. While ODR is used in several other countries, India is at the cusp of this transformation. The government is working with key stakeholders to formulate an action plan for integrating it into formal dispute resolution systems and the draft policy is an important step towards realising this objective.

IMPACT

The draft policy is the culmination of Vidhi's two-year long work on ODR. What started with a [Strategy Document](#) before the pandemic became an engagement with the NITI Aayog to work with various ministries on mainstreaming ODR. NITI Aayog has now sent targeted recommendations to six Ministries and Departments of the Government of India that were part of the Expert Committee.

These include the Ministry of Micro, Small and Medium Enterprises, the Ministry of Corporate Affairs, the Department of Consumer Affairs,

the Department of Justice, the Department of Legal Affairs and the Department for Promotion of Industry and Internal Trade. Soon, online resolution of disputes pertaining to these ministries will become a reality.

I had the occasion to study the research papers and reports published by Vidhi on Virtual Courts, ODR, Digital Summons and Court Infrastructure. The papers were well researched and the multi-disciplinary perspective contained therein would surely cater well to a broad audience including policy makers, academia, civil society organizations, legal professionals and citizens. These reports contain valuable inputs and innovative ideas which will certainly be useful in shaping plans and policies on the judicial landscape. The contributions made by Vidhi in the conceptualization of the Vision Document of eCourts Phase III project for a more robust digital governance framework of the court system also deserves a special mention. I wish them all success in their future research endeavours on judicial reforms.

— **BARUN MITRA**
Secretary, Department of Justice



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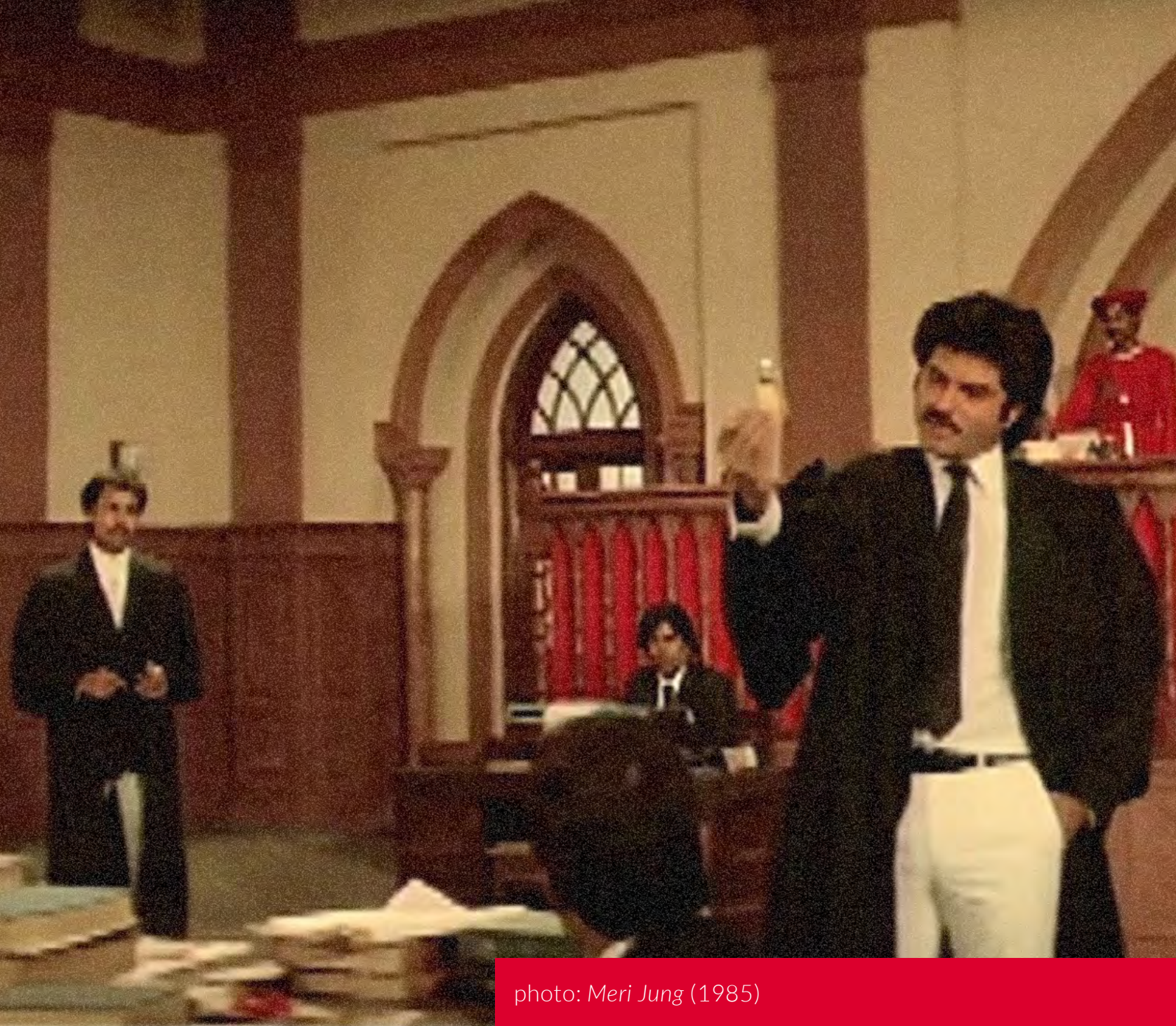


photo: Meri Jung (1985)

RE-VAMPING THE LOOK & FEEL OF COURT ROOMS

Litigant-friendly infrastructure designs for consumer courts using an interdisciplinary lens to spur change across courts

Context

As physical access to courts was completely halted during the pandemic, the issue of crumbling court infrastructure came under the spotlight. The limited functioning of courts and lack of adequate infrastructure meant that protocols such as social distancing and hygiene could not be satisfactorily followed. However, even in regular circumstances, litigant-unfriendly infrastructure adds a layer of exclusion in an already complicated legal system.

A 2019 first-of-its-kind national study by Vidhi surveying 665 district courts and interviewing 6650 litigants found that courts lacked basic infrastructural facilities. For instance, less than 100 courts had toilets, while only 54 per cent had waiting areas. Hygiene was uniformly poor.

In an initial step towards addressing such infrastructural inadequacy, the JALDI (Justice, Access and Lowering Delays in India) Innovation Lab at Vidhi, in collaboration with the Srishti Manipal Institute of Art, Design and Technology, has developed a litigant friendly layout for a consumer forum in a first-of-its-kind inter-disciplinary report – [*Re-Imagining Consumer Forums*](#).

The Lab's unique interdisciplinary approach

Working with experts from architecture, spatial design, urban planning, universal design and related disciplines, the JALDI team studied physical premises, analysed consumer court legislations, and interviewed a wide range of stakeholders and experts to design specifics, including:

- Several combinations of adjacency diagrams for efficient communication and systematic file movement in a court;
- A detailed area statement for scale applicable to any consumer forum in the country, and;
- Floor plans and room designs for every functional requirement of a consumer forum, including the filing counter, pending section, court room, record room, and more.

The Chief Justice of India, Justice N.V.Ramana, has time and again spoken of the need for improving judicial infrastructure. Vidhi's work in this area has put the spotlight on this hitherto unheralded topic of judicial infrastructure. Its inter-disciplinary designed approach to reimagining such infrastructure will lead to improved hygiene, better management of large crowds, greater inclusivity through barrier-free access, and an overall litigant friendly environment.

I must congratulate the team which has prepared this meaningful and stupendous report. I am sure that undertaking such a task was not that easy. This report is going to be of immense help when we are talking about reforms for not just consumer courts but also for tribunals and other similar courts as well.

— **JUSTICE A. K. SIKRI**
former Judge, Supreme Court of India



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Grama Panchayat Hakkottaya Andolana rally

BUILDING RESILIENT CITIES THROUGH EMPOWERING THE THIRD TIER

Contributing to the drafting of the Bruhat Bengaluru Mahanagara Palike Act, 2020 to ensure greater autonomy for local bodies and better governance for citizens

Context

COVID-19 brought tensions between the Centre and the States in the management of the pandemic to the fore. Evident in the midst of this conflict, was the importance of adequately empowering the third tier. Major cities of India were among the worst affected, and Bengaluru, which saw 12 lakh cases over the first and second waves with 15 thousand deaths, was no exception.

The City Corporation of Bengaluru has the highest budget in the state of Karnataka with the maximum number of councillors and a large, growing population. Despite being a major centre of economic activity spanning 714 sq. kms. within the jurisdiction of Bruhat Bengaluru Mahanagara Palike (BBMP), and witnessing rapid growth at the outskirts, the existing law fails to make any unique distinction for the size and complexity of the city. Governed by the outdated Karnataka Municipal Corporations Act, 1976 (KMC Act), the lack of an efficient municipal governance framework has hindered the BBMP from being able to effectively govern the Bengaluru metropolis. This ineffective governance model was exposed during the onset of COVID-19 when BBMP struggled to contain cases and respond to distress calls of residents.

To address this and more, Vidhi assisted the Government of Karnataka to draft an exclusive legislation for Bengaluru called the *Bruhat Bengaluru Mahanagara Palike Act, 2020* (**BBMP Act**). Through decentralisation of powers allowing for greater flexibility and decision-making ability, the BBMP Act is the only effort in recent times to empower a city with an independent legislation, thus offering a new and empowered model of municipal governance.



The Bruhat Bengaluru Mahanagara Palike Act, 2020

The KMC Act, 1976, which also applies to cities a twentieth the size of Bengaluru, does not account for the latest trends in urban governance. For instance, it does not facilitate decentralisation of powers to lower levels, lacks a coordination mechanism for non-elected agencies managing municipal services, and hinders quick decision-making necessary for a city the size of Bengaluru, among other issues.

Key features of the BBMP Act, which was passed to provide greater autonomy to city-level bodies and facilitate better governance for citizens, include:

- Administration of the BBMP area, divided into a maximum of 250 wards, through a four-tier system, to take the pressure off the over burdened Commissioner of BBMP;
- Creation of Zonal Committees to function as key centres of implementation for all municipal schemes and functions, and empowerment of Ward Committees to effectively discharge their duties as well as encourage citizen participation;
- Establishment of a Constituency Consultative Committee for every assembly constituency in the Corporation area to better understand local issues;
- Improved fiscal management through allowing the Corporation to levy select new taxes and necessitating the development of a medium-term fiscal plan as well as a debt limitation policy.

The BBMP Act *today* is the administrative and legislative response for the Bengaluru of *tomorrow*. The BBMP Act, which was in the asking for many years, ensures many firsts, such as:

- Structured resident-BBMP dispute resolution mechanisms;
- Earmarking of professional taxes for BBMP, and;
- Reduction in the role of the State Government in city management.

During the second wave of COVID-19, the state government – drawing on the spirit of the BBMP Act and Vidhi’s push for decentralisation of COVID-19 management – established triage centres in each assembly constituency in Bengaluru. These centres expedited last mile health services delivery as they allowed for patient diagnosis and hospital referrals at a constituency/ward level rather than at the Corporation level.

The BBMP Act also sheds clarity on long pending issues of land ownership mechanisms (A Khata/B Khata, Section 144), enforcement of property tax (Section 145), and the relationship between the mayor and the municipal bureaucracy (Section 138). These policy interventions have not only structurally strengthened municipal governance in Bengaluru but also ensured that the city is better equipped to deal with a post-COVID world.



I would like to acknowledge and appreciate the research and drafting efforts of the team at Vidhi Centre for Legal Policy to the formulations of the new BBMP Act and thank them for all their support in facilitating the passage of the Bill.

— **RAKESH SINGH**

**IAS, Additional Chief Secretary,
Urban Development Department,
Government of Karnataka & Administrator,
Bruhat Bengaluru Mahanagara Palike**



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Realising Fundamental Rights

Vidhi is committed to articulating the content of rights and creating strong and implementable frameworks for their realisation.



photo: Trinity Care Foundation

ESTABLISHING A COMPREHENSIVE LEGAL FRAMEWORK FOR PUBLIC HEALTH EMERGENCIES

Analysing the legal framework that formed the backbone of India's response to the pandemic to identify gaps and suggesting a measured overhaul

Context

On the evening of 24 March, 2020, the Ministry of Home Affairs (MHA) issued an immediate and urgent [nation-wide lockdown](#) to contain the COVID-19 pandemic. It drew its authority from the National Disaster Management Authority (NDMA) under the Disaster Management Act, 2005 (DMA). Prior to this, several states had already taken impromptu steps to ban public gatherings and restrict movement under the Epidemic Diseases Act, 1897 (EDA) and certain criminal law provisions.

The inability of the government and community to manage a rapidly spreading pandemic became evident immediately, given [India's deficient healthcare system](#) and lack of adequate public health emergency (PHE) preparedness and response protocols. Some statistics that highlight the gaps:

- 8.5 hospital beds and 8 physicians per 10,000 of the population;
- [Strikes](#) by unpaid and unsupported healthcare workers with inadequate protective gear;
- Estimates of up to [104 lakh](#) migrant workers displaced due to the sudden and harsh lockdown;
- The economy contracting by an estimated [7.7%](#) in the financial year 2020-21, and;
- Inaccurate [reporting](#) of COVID-19 cases and deaths.

A key concern that emerged was the ambiguity regarding the relative roles of the Centre and the States in responding to a public health emergency of this scale. Vidhi has conducted extensive research and stakeholder consultations to explore what an ideal public health emergency preparedness and response law should look like, a first-of-its-kind exercise.

Need for a modern, targeted public health emergency preparedness and response law for India

Vidhi's whitepaper – [What Should a Public Health Emergency Law for India Look Like?](#) – evaluates the role of the law in the context of such an emergency

and the necessary components of effective PHE legislation. It finds that the law must delineate governments' powers and duties to ensure a healthy and safe population, as well as impose limitations on such power to safeguard the rights of individuals.

In analysing the existing legal framework dealing with PHEs in India, Vidhi found it fragmented and lacking. The whitepaper outlined several key questions that must be considered when crafting effective PHE legislation such as identifying authorities responsible for various aspects of PHE management, ensuring monitoring and accountability, and adopting a rights-based approach, among others.

Vidhi consulted experts from government, civil society organisations and academics to make this exercise participatory, consultative and collaborative.

Impact

A well-drafted PHE law will provide a holistic plan – prioritising preparedness measures, effective alert systems, and prompt response protocols. It will pre-empt ad-hoc, makeshift response measures by focusing on:

- Capacity building of public health administration, human resources, and stockpiling;
- Evidence-based response measures and decision-making processes aided by structured communication protocols;

- Accessible and effective legal remedies against the infringement of individual rights;
- Clear centre, state, and local division of responsibilities and powers, and;
- Transparent and mandatory monitoring and accountability mechanisms.

Such a law is only possible in the aftermath of the pandemic when public attention is focused on this issue. By bringing together a group of diverse experts, Vidhi hopes to make use of this opportunity so that India has the PHE law it needs to tackle future pandemics.

The COVID-19 pandemic has exposed some deep fault-lines in the health sector, including the weaknesses in the legal frameworks for preparing and timely responding to a health emergency. We should not be relying on a century old legal instrument for responding to a crisis today. Insightful analysis and well-thought out recommendations by Vidhi Centre for Legal Policy on the issue will hopefully lead to a stronger legal framework and help us build-back-better.

— **DR INDU BHUSHAN**
former CEO, National Health Authority



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photo: Primary school in Nalanda, Bihar | Vishwanathan/UNICEF

MAKING INCLUSIVE EDUCATION EVIDENCE-BASED

In-depth research on gaps in the legal rights of students with disabilities to inclusive education and focused advocacy to strengthen the policy framework

Context

The rights of persons with disabilities to inclusive education got statutory backing only as recently as 2016, with the passage of the Right for Persons with Disabilities Act ('**RPWD Act**'). Yet, effective implementation remains a pressing concern. This was particularly exacerbated during the pandemic when complete reliance on digital modes of instruction created barriers for all students but those with disabilities were the worst affected.

For instance, a study by Vidhi, [COVID-19 and Exclusion of Children with Disabilities from Education](#), found that 62% of students with disabilities were ‘never’, or only ‘sometimes’ able to understand the lessons and finish their assignments, due to inaccessibility. Yet, another Vidhi study, [How Accessible is Education for Students with Visual Disabilities](#), found that 36 per cent and 95 per cent of e-textbooks sampled from the National Council of Educational Research and Training (NCERT) and the State Councils for Educational Research and Training (SCERT) hosted on the Government of India’s Digital Infrastructure for School Education (DIKSHA) platform, were inaccessible for such students.

Vidhi has conducted extensive empirical research on gaps in the legal policy framework and its implementation, which prevent children with disabilities from accessing their constitutional right to education, as specified under the Right to Education Act, 2010 (RTE Act) as well as the RPWD Act, 2016. Worryingly, of the population of children with disabilities, one-fourth between 5-19 years, and three-fourth of 5 year olds, are still not enrolled in any formal schooling ([UNESCO, 2019](#)).

Vidhi is creating this evidence bank to move forward the conversation and consequently existing policies towards greater inclusivity for children with disabilities.

Vidhi's research on the right to education for students with disabilities

Between July 2020 and March 2021, Vidhi published four reports, drawing on consultations with special educators, teachers, government officials, civil society organisations (CSOs), students and parents. The research found:

- A school system unprepared for true inclusion – continued practice of segregated schooling limits choices for parents and students with disabilities;
- Disruption in access to determinants of well-being during COVID-19 – including health, nutrition, rehabilitation and routine affect the ability of students to engage in education;
- Inaccessibility of digital learning materials – especially in subjects like Mathematics, Sciences, Economics, among others, likely negatively impact career choices of students with visual disabilities;
- Under-trained and overworked regular teachers, and under-utilised special educators – systemic challenges of large class sizes and administrative responsibilities limit regular teachers, special educators lack job clarity and adequate remuneration, forcing them to leave the field.

Recommendations by Vidhi included:

- Addressing the inconsistencies in the RTE Act, including definitions of key terms to ensure these were in consonance with the disability rights framework, which has evolved with the passage of the RPWD Act;

- Broadening the inclusive education policy framework to address intersectional disadvantages of socio-economic vulnerability, which inhibit access for students with disabilities, and;
- Incorporating principles of Universal Design for Learning (UDL) – using multiple teaching methods to remove barriers to learning – in curriculum, assessment and pedagogy.

Impact

Through over 10 consultations with officials in Department of Empowerment for Persons with Disabilities (DEPWD), Ministry of Social Justice and Empowerment (MSJE), Ministry of Education (MOE), Samagra Siksha Abhiyaan (SSA), the Rehabilitation Council of India (RCI), and State Disability Commissions of Tamil Nadu, Kerala, Karnataka and Assam, Vidhi is actively placing the disabled at the centre of the public narrative of education.

Specifically, it was invited to submit suggestions to the Chief Minister of Kerala on education for students with disabilities for the *Nava Kerala Mission*.

It has also been advocating with other organisations working on the ground and publishing widely in the media to deepen the public conversation on this subject.



I'd like to congratulate the Vidhi Centre for Legal Policy on the release of its insightful report on 'COVID-19 and the Exclusion of Children with Disabilities in Education'. The report identifies a distinct set of challenges faced by children with disabilities in accessing education and offers creative solutions, crafted in consultation with civil society experts and government officials. I do want to appreciate the initiative taken by Vidhi that calls not just for a response, but for action from the government and from civil society alike to the much, much neglected issue of access to education. I hope the findings of this report will be implemented and put into action to secure a better future for the children of our country.

— SHASHI THAROOR
Member of Parliament from
Thiruvananthapuram



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photo: My Way or The Highway | VIDHI

SAVING THE ENVIRONMENT TO SECURE A PANDEMIC-FREE FUTURE

**Creating awareness on the need to protect
wildlife habitats and corridors through an
investigative research documentary**

Context

If anything, the COVID-19 pandemic has reminded us unequivocally to live in harmony with the environment. Given that viruses typically spill over from wild animals to humans due to increased proximity when their natural habitats are invaded, the ultimate way to prevent another COVID-19 style pandemic in the future is through conserving ecology.

Despite having strong mechanisms in place since the 1970s, the Indian legal system does not adequately account for conservation of wildlife and related landscapes. For instance, it is estimated that about 80 per cent of India's Asian elephant range and 40 per cent of the tiger habitat fall outside the Protected Area network.

India is home to 7-8 per cent of the world's recorded species. However, only 5 per cent of India's land has been notified as Protected Areas under the Wild Life (Protection) Act, 1972 (WLPA), while more than 20 per cent of India's land mass constitutes forests supporting a wide range of wildlife. The lack of protection of habitats has led to loss of forest land for non-forest uses, posing a threat to wildlife populations, causing zoonotic diseases, including COVID-19, and accelerating climate change.

To create awareness about the urgent need to conserve important wildlife habitats and forests outside Protected Areas that lack sufficient legal protection, Vidhi produced an investigative research documentary – [*My Way or The Highway*](#). The film uncovers the on-ground implementation of court orders issued to preserve the wildlife habitats and corridors outside the Kaziranga National Park in Assam. It is one in a series of five films that track the implementation of landmark environmental judgments on various issues.

My Way or The Highway

The wildlife of the Kaziranga National Park, a notified Protected Area and UNESCO World Heritage Site, spread on the active floodplains of the Brahmaputra river, routinely disperses to the highlands of the surrounding Karbi Anglong hills during seasonal floods. Not being legally protected, these hills have been plagued by development activities that limit animal movement.

Over the years, the Supreme Court and the National Green Tribunal passed several directions to promote wildlife conservation in and around the Park, including a ban on mining in the Karbi Anglong Hills, traffic management and limiting of construction activities on NH 37 running alongside the park, and demolition of the Numaligarh Refinery Ltd.'s obstructive boundary wall.

Vidhi's investigation found that the orders have been partially followed on the ground, especially due to the tireless work of local activists, but challenges by vested interests continue to pose a threat.

Impact

Vidhi premiered the documentary, produced in association with Riverbank Studios and featuring an introduction by United Nations Environment Protection Goodwill Ambassador Dia Mirza, in December.

It is continuing to screen it for different audiences, including Supreme Court judges, lawyers, college students and journalists to amplify the conversation on the need to legally recognise and protect wildlife habitats and corridors.

***W**e need a specific law for the wildlife corridors management as opposed to handling it on an ad-hoc case-to-case basis. Till the legislature law does not come, the courts have to play a proactive role protecting the corridors.*

— **JUSTICE DEEPAK GUPTA**

former Judge, Supreme Court of India

***W**hen Project Tiger was launched we had nine tiger reserves, now we have 50 tiger reserves. Presently, we have 72,000 sq.km or 2.2% of India's geographical area under Tiger Reserves. However, tigers and other wild animals cannot suffer in the islands of these protected areas. They need connectivity and corridors must be conserved.*

— **DR S.P. YADAV**

Member Secretary, National Tiger Conservation Authority



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IMPACT AT HOME

Vidhi is young, dynamic and believes in harnessing the energy of every individual through ensuring that work remains their *happy place*. The organisational culture is inclusive, gender-equal, sensitive and supportive in its approach.

MENTAL HEALTH SUPPORT – The uncertainty, fear, and worry due caused by the COVID-19 pandemic has impacted mental health at large. To support its teams through these unprecedented times, Vidhi tied up with 1to1help, an ISO certified mental health service provider (MHSP), to provide 24*7 mental health support to anybody at the organisation who needed it. This includes telephonic and online counseling, webinars/workshops on dealing with workplace issues, and manager training programmes, among others. The MHSP will also provide contextual support – counseling/help required during the pandemic – as long-term benefits.

PLATFORM FOR YOUNG RESEARCHERS – Vidhi is proud to be a platform for many young researchers who, over the past 7 years, have been admitted for higher education to top institutions abroad. In 2020, Akshat Agarwal and Akriti Gaur left to pursue their LL.M. at Yale University, being the only 2 Indians in the cohort of 40 graduate law students around the world. Vidushi Gupta won the Chevening Scholarship for a masters' programme at the London School of Economics.

SHAPING THE NEXT GENERATION – Vidhi has set up *Kautilya Societies* – student initiatives in universities across the country aimed at exploring public policy as a career path. So far, eight such societies in seven universities have undertaken various activities, including conducting legal research, hosting discussions and events on relevant legal policy developments, collaborating on events with Vidhi such as on a series of discussions on the constitution, writing for the Vidhi blog, as well as running their own blogs, newsletters, and podcasts.

For instance, the Kautilya Society at National Law School of India University (NLSIU), Bengaluru, runs a [blog](#), which is cited in *The Diplomat*, *The Print*, *Social Change Journal*, etc. while members of the Society at the National University of Juridical Sciences (NUJS), West Bengal, were invited by the Parliamentary Select Committee in October 2020 to present their views on the draft data protection law.

Other Kautilya Societies are based out of NALSAR University of Law, Hyderabad, National Law University, Odisha, Symbiosis Law School, Pune, Dr. Ram Manohar Lohiya National Law University, Lucknow, Hidayatullah National Law University, Raipur, and Gujarat National Law University, Gandhinagar.

COVID-19 RELATED VOLUNTEERING – [Nyaaya](#), an open access, digital resource incubated at the Vidhi Centre for Legal Policy, launched a primarily Whatsapp-based (+91 9650108107) Covid Legal Helpline – *Ask Nyaaya* – to provide simple, authoritative legal information on questions related to the pandemic. The helpline covers issues such as curfew rules and legal process for accessing relief from government on losing a family member, ensuring error correction related to vaccine certificates, or process of sourcing a death certificate, among others. With a volunteer cohort of 150+ experienced lawyers and law students, the helpline has answered over 300 questions received from 15 states so far. Operational in English, Hindi, Kannada, Oriya, Bengali and Gujarati at present, it aims to bridge the urban-rural digital divide by helping citizens of India navigate an often convoluted legal system.

Vidhi has also undertaken organisation-wide volunteering initiatives to support people and communities affected by the COVID-19 pandemic. For instance, to support uninterrupted education and learning of children with disabilities, Vidhi has tied up with the [Prajaahita Foundation](#), operational across states. Vidhi Fellows are assisting such children with non-academic reading and comprehension through daily interactive reading sessions.



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WHY THE SHIFTING PARADIGM?

In a world that has been permanently changed by the pandemic, policy research must address real-time needs. This includes both immediate changes to law as well as more fundamental transformations to how we think about governance problems. Over the past year, Vidhi worked on shaping a post-COVID India – be it through making courts more accessible or researching on a comprehensive public health emergency law for better preparedness. This annual impact report highlights policy solutions that focus both on strengthening systems for the future and alleviating the hardship faced by citizens in the present – in these constantly shifting times.

— **RICHA BANSAL**
Head of Communications
Vidhi Centre for Legal Policy

Better laws |
better governance



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