

# Differentiated Case Management for the Indian Judiciary

*Working Paper 3: A Framework for Extremely Delayed Cases*

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# DCM for the Indian Judiciary

## *Working Paper 3: A Framework for Extremely Delayed Cases*

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The Vidhi Centre for Legal Policy is an independent think tank doing legal research to make better laws and improve governance for the public good. The JALDI Initiative is a multi-year initiative that aims to advocate for and implement evidence-based reforms to eliminate the existing backlog in courts and ensure that cases are disposed within reasonable timelines. This report is part of JALDI's work under the JALDI Innovation Lab which undertakes multi-disciplinary collaborative projects to translate research into actionable solutions.

The errors, if any, are the authors' alone.

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# Executive Summary

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In *Yashpal Jain vs. Sushila Devi & Ors* (2023), the Supreme Court issued directions to all the High Courts to strictly monitor cases pending for more than 5 years and take corrective measures for their speedy disposal. The present working paper seeks to assist the High Courts in their mandate to fulfil the Supreme Court's directive by presenting a Differentiated Case Management (DCM) Strategy that:

1. takes into account the differential underlying causes for delay in extremely delayed cases (cases pending for more than 5 years);
2. recognises that the court may not be in a position to intervene and expedite the progress in all extremely delayed cases;
3. enables curation of customised strategies for cases at various levels of preparedness for targeted interventions;
4. vests control in the courts to set targets, timelines and strategies that are feasible and based on a holistic understanding of case trajectories; and
5. seeks to unlock the potential of data for better case management at all levels, and particularly for extremely delayed cases.

The benefits from DCM strategy outlined in the paper are multi-fold. From the perspective of each category of stakeholders:

**For the Judges**- DCM helps identify cases ripe for intervention and segregate them from those that are outside the judge's or the court's control. This will help break the seemingly large number of extremely delayed cases into manageable components, which in turn will help judges be confident and invested in the strategy adopted to tackle such cases.

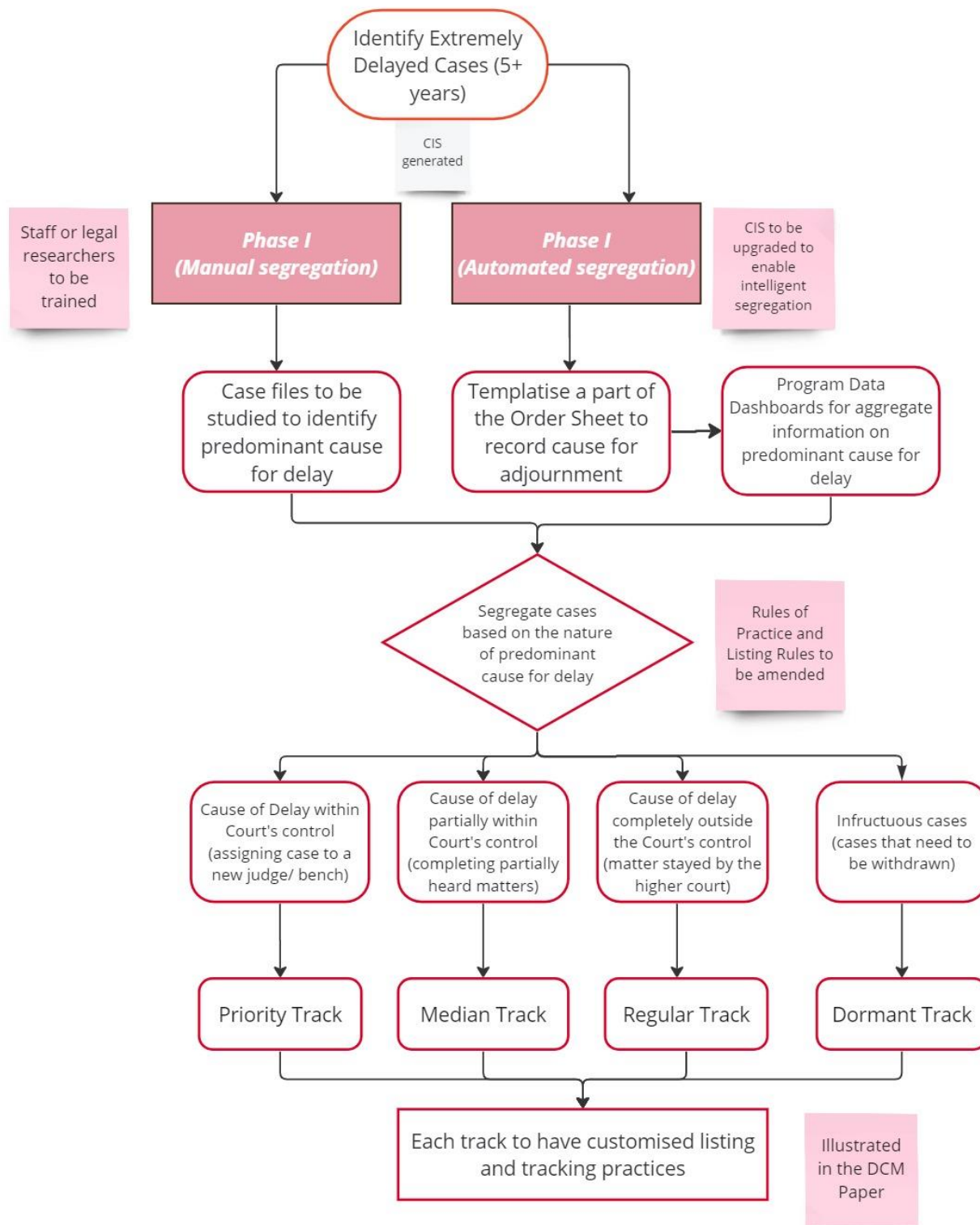
**For the judiciary**- DCM will help address the lack of accountability in various actors in ensuring timely progress in cases by doing away with the one-size-fits-all approach. With differentiated strategies for cases within the judge's control and through case scheduling hearings, the system can now afford to strictly monitor the timelines and hold any party that is causing further delay accountable.

**For the advocates/ litigants**- DCM will help provide certainty in timelines and reduce arbitrariness in listing practices. Since there is ability to provide advance causelists, the advocates will have time to prepare as opposed to the current norm. Further, the advocates can present their preferred dates and timelines in the scheduling conference. Overall, the cases stuck due to lack of preparedness or lack of effective monitoring mechanisms in court will progress, thereby benefiting the litigants.

**For the court staff**- If the data templates and dashboards proposed in the paper are effectively integrated in the current CIS, it will immensely benefit the staff by generating automated case

list segregated into tracks as per underlying causes for delay. This is a module that can potentially be developed under Phase III of eCourts project.

Below is a flowchart depicting the DCM framework for extremely delayed cases:



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# Context

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The principle of Differentiated Case Management (“DCM”) suggests that cases should be treated differently by a court based on their individual needs and complexity. The amount of time a court allocates to a case should be proportionate to the volume of work required by all key actors in a case to satisfactorily dispose of the case. This is implemented by segregating cases into tracks and affects how often a case is scheduled for hearing, the number of adjournments granted in the case, how rigorously the progress of the case is monitored, and the sanctions imposed on parties for failing to adhere to prescribed timelines.

While the DCM method may be used to great effect for fresh incoming cases,<sup>1</sup> it may also be used to tackle the ever-increasing problem of pendency which is currently throttling Indian courts. Data collected from the National Judicial Data Grid (“NJDG”) shows that nearly 4.4 crore cases are currently pending across district courts in the country, with approximately 1.1 crore of those cases (nearly 24%) having been pending for more than 5 years.<sup>2</sup>

Courts have frequently highlighted the concern of such extremely delayed cases clogging up judicial resources and leading to grave injustices due to significant delays. Some courts have attempted to solve this issue through targeted Action Plans for disposal of old cases. For instance, a 2019 notification by the High Court of Meghalaya sets disposal targets for cases pending for more than 5 years before district courts in the state.<sup>3</sup> Additionally, some High Courts such as Telangana<sup>4</sup> and Himachal Pradesh,<sup>5</sup> and recently the Supreme Court,<sup>6</sup> have prescribed specific days for such “old cases” to be listed separately before pre-identified Benches. However, the impact of these measures is not clear<sup>7</sup> and the publicly available

<sup>1</sup> For instance, District and Circuit Courts across Maryland (US) have developed DCM plans for incoming civil, criminal and family law cases, as well as for specific instances such as traffic cases, cases involving juveniles etc. An overview of these plans can be found at: <<https://mdcourts.gov/courtoperations/dcmplans>>.

<sup>2</sup> National Judicial Data Grid, <<https://njdg.ecourts.gov.in/njdgnew/index.php>>.

<sup>3</sup> “Action Plan for Reduction in Pendency of Old Cases in Subordinate Courts”, Notification dated 19.08.2019, <<https://meghalayahighcourt.nic.in/sites/default/files/n10.pdf>> [High Court of Meghalaya].

<sup>4</sup> “Best Practices of the High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh”, <<https://tshc.gov.in/2017/bestpractice18072017opcell.pdf>> [High Court of Telangana].

<sup>5</sup> Notification No. HHC/Judl./ROSTER/96-14201 dated 15.07.2023, <<https://hphighcourt.nic.in/pdf/Roaster1572023.pdf>> [High Court of Himachal Pradesh].

<sup>6</sup> Notification dated 26.09.2022, <[https://main.sci.gov.in/pdf/ListingNotice/28092022\\_130302.pdf](https://main.sci.gov.in/pdf/ListingNotice/28092022_130302.pdf)> [Supreme Court of India].

<sup>7</sup> There are no publicly available reports that indicate that any systematic evaluation has been undertaken by these courts to scientifically assess if and how these interventions may have improved the disposal of delayed cases.

aggregate statistics indicate that the number of extremely delayed cases continue to remain high.

In October 2023, the Supreme Court in *Yashpal Jain vs. Sushila Devi & Ors.* ('Yashpal Jain case') expressed its angst that *“every pending case represents a soul in limbo, waiting for closure and vindication. Every delay is an affront to the very ideals that underpin our legal system. Sadly, the concept of justice delayed is justice denied is not a mere truism, but an irrefutable truth.”* Justices Ravindra Bhat and Aravind Kumar noted that although High Courts have been directed to constitute Arrears Committees to monitor old cases, this method has not been evenly or meaningfully implemented across High Courts.<sup>8</sup> They also observed that delays would still be liable to occur at each stage of the case if adjournments are not minimised by taking the availability of parties into account for fixing hearing dates.<sup>9</sup>

Noting that *“there is an urgent need to take proactive steps to not only clear the huge backlog of cases at all levels but there should be introspection by all stakeholders to gear up to meet the aspirations of the litigant public”*, the Supreme Court has issued a slew of directions, including the following for cases pending more than 5 years:<sup>10</sup>

1. The statistics relating to the cases pending in each court beyond 5 years shall be forwarded by every presiding officer to the Principal District Judge once in a month who (Principal District Judge/District Judge) shall collate the same and forward it to the review committee constituted by the respective High Courts for enabling it to take further steps.
2. The Committee so constituted by the Hon'ble Chief Justice of the respective States shall meet at least once in two months and direct such corrective measures to be taken by the concerned court as deemed fit and shall also monitor the old cases (preferably which are pending for more than 05 years) constantly.

This third working paper on DCM seeks to aid the High Courts in implementing the above directions in a manner that is effective in meeting the objective of expeditiously disposing cases that have remained pending for more than 5 years. The effort here is to curate a case management system that goes beyond mechanical listing of delayed cases at regular intervals. For delayed cases to be tackled, there is a need to understand the case trajectory, taking into account the history of the individual case, the stage at which it has remained pending, the potential causes for delay and the manner in which it would be best suited for the court to proceed to ensure that the cases don't remain stuck within the system.

<sup>8</sup> *Yashpal Jain v. Sushila Devi & Ors.*, C.A. No. 4296 of 2023 (20 October 2023) [Supreme Court].

<sup>9</sup> *Yashpal Jain v. Sushila Devi & Ors.*, pages 49-50.

<sup>10</sup> *Yashpal Jain v. Sushila Devi & Ors.*, page 50.

# I. Introducing DCM for Extremely Delayed Cases

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In the DCM Working Papers I ([Framework for Constitution Bench cases](#)) and II ([timing oral submissions](#)), we had proposed a data-driven approach to scientifically allocate judicial time in Constitution Bench matters before the Supreme Court. In this paper, we explore a version of the DCM that could be used in the High Courts as well as the District Courts for such cases which have already remained pending in the court for a significant period of time. As a corollary, the paper will illustrate the customizable nature of the DCM framework and its suitability for multiple case management problems in the Indian court system. At its core, any DCM framework:

- i. vests significant control of case management with the court, and
- ii. seeks to enable the court to make informed decisions regarding time and resource allocation towards a case through systematic data.

Applying these core principles to extremely delayed cases, this paper will help identify customised steps for cases to ensure effective further progress, optimise judicial workload and minimise the drain on the judiciary's resources.

For the purposes of this paper, such cases which have remained **pending for more than 5** years are termed "**extremely delayed cases**" and the suggested DCM strategy is to ensure a data-driven approach to enable their incremental disposals.

Presently, very little progress is made in these cases due to the lack of systemic mechanisms to capture underlying causes for delay which could then inform targeted interventions. Therefore, the only practical measure available to the courts has been repeated listing of delayed cases with an expectation that increased frequency in listing may trigger a change in circumstances of the case. While frequent listing may indeed prompt parties or the lawyers to make progress, the outcome is still largely outside the court's control making it difficult for the court to have any set targets. As per NJDG, most of the extremely delayed cases remain pending at the stages of either appearance/summons (nearly 44% of the total pending cases) or for evidence/arguments (nearly 36.11% of the total pending cases). Since the specific

reasons leading to these cases being stuck in the system are not identified<sup>11</sup> and analysed, in the current scheme a court may adopt the same measure to tackle delay for both these categories of cases stuck although stuck at different stages of pendency. Hence the need for Differentiated Case Management strategy in Indian courts.

In order to create a data-driven approach to tackle extremely delayed cases, the DCM approach relies on four steps:

1. Ensuring that the court has accurate data required to identify cases ripe for differentiated case management;
2. Segregating these cases into specific tracks based on predetermined metrics;
3. Ensuring that each track follows specific customised strategies for steady case progress; and
4. Ensuring that case progress is monitored and the metrics and strategies are modified as necessary, within periodic intervals.

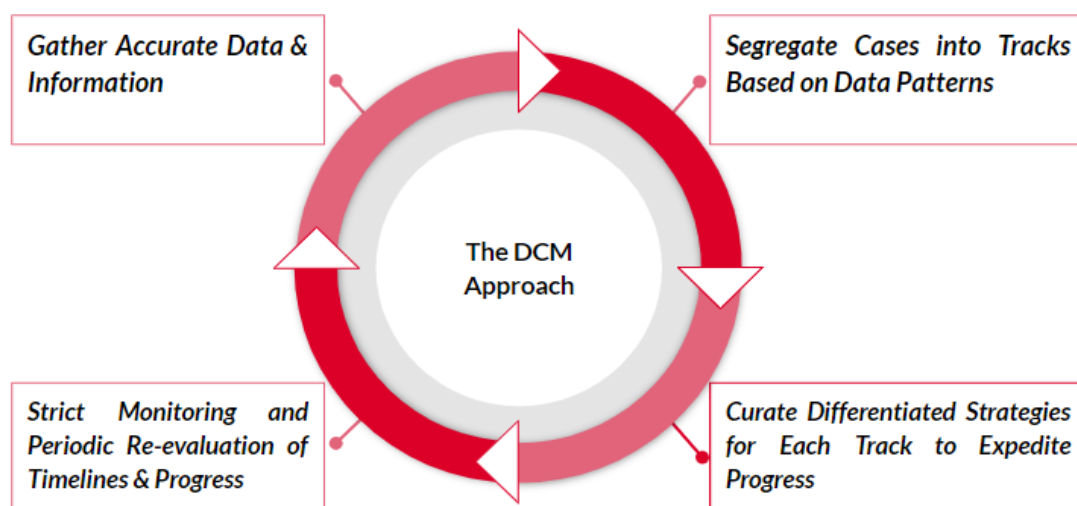


Figure 1: The DCM Approach

<sup>11</sup> The authors are aware of the practice followed in a few district courts in Karnataka to capture the reasons for delay in cases that have remained pending for more than two years in a dedicated registry where the reasons are hand-written. However, it is unclear as to whether these reasons impact the manner in which cases are subsequently listed. The High Court of Odisha, in its Annual Report had identified various reasons for docket explosion but it seems to be a one-time exercise. See 'Annual Report, 2021' available at <https://orissahighcourt.nic.in/annual-report/> at page 237.

## **A. Data Prerequisites for DCM**

Presently, data about individual cases is being collected through the Case Information System (“CIS”) portal, as part of the e-Courts project. While the CIS has transformed the manner in which data is captured and stored at all levels in the judiciary, the court as a system is yet to reap the full benefit of this exercise. There is a lack of clarity with respect to the objectives sought to be achieved from the data-gathering exercise. Apart from feeding into monthly reporting exercises, very little is being done to distil the information from this data to guide administrative or judicial decisions such as listing and scheduling strategies in the court, or resource allocation for cases. Adopting DCM would help to bring in a much-needed data-driven policy-making perspective to the Indian judiciary and put the CIS system to real use.

The CIS currently provides for **13 data fields** pertaining to case proceedings:

1. Bench ID
2. Cause List Type (drop-down menu)
3. Case Number
4. Purpose of Listing (drop-down menu)
5. Sub Purpose (drop-down menu)
6. Today’s Purpose - Proceedings / Presence
7. Business / No Business
8. Adjournment (drop-down menu)
9. Next Date for Hearing
10. Order Passed (drop-down menu)
11. Status (drop-down menu)
12. Top Priority (check-box wherever applicable)
13. Dormant / Sine Die (check-box wherever applicable)

Out of the above, only details pertaining to the case number and the causelist type are currently mandatory. Several important data fields such as the reason for adjournment, the order passed on that date, or even the purpose of listing are categorised as non-mandatory.<sup>12</sup>

<sup>12</sup> For example, an illustration of the e-filing portal for which details about the case would have to be entered can be found at: eCommittee of the Supreme Court, “Step-by-Step Guide for eFiling” (May 2020) <[https://efiling.ecourts.gov.in/assets/downloads/Step by step guide for efiling at High Courts and District Courts.pdf](https://efiling.ecourts.gov.in/assets/downloads/Step_by_step_guide_for_efiling_at_High_Courts_and_District_Courts.pdf)>.

This leeway has meant that most of such information is left out of the database **hindering useful application of even the existing data.**

With the caseload on the courts becoming unwieldy, the time is now ripe to make a maximum of these data fields mandatory to develop sound policies for case management on an urgent basis. Consistent and accurate entry of data fields has immense potential for day-to-day evidence-based decision-making on individual cases as well as long-term benefits for case-load management.

Some of the gaps that exist due to the non-mandatory nature of some of the data fields on CIS or incomplete entries of data are:

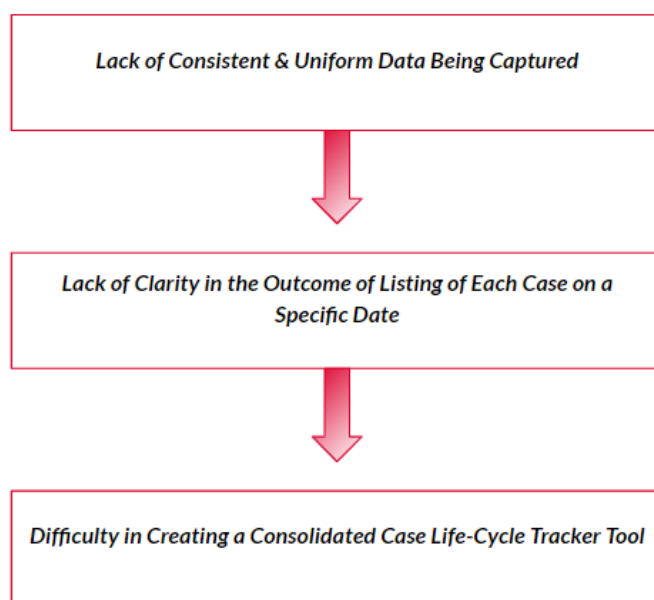


Figure 2: Gaps in the data captured.

- *Lack of consistent & uniform data being captured:*

Currently, the data points captured in CIS do not include pendency-related data, including the number of days a case remains pending at a particular stage, the historic average pendency per stage of hearing vis-a-vis the overall duration of pendency etc. This leads to a greater leeway for further delays for extremely delayed cases.

- *Lack of clarity in the outcome of listing of each case on a specific date:*

Orders often do not record the reason for adjournment or give a specific date for the next date of hearing. The timeline outlining the progress of a case from one stage to the next is therefore unclear.

- *Difficulty in creating a consolidated case life-cycle tracker tool:*

With the lack of crucial data fields, as well as inaccurate data being captured in existing fields, it is difficult to glean an accurate picture of the history of a case. Particularly in a long-pending case, especially if the case has passed through multiple judges over the years, it is difficult for a judge to understand at a glance the reason/s for delay, the party responsible for delay etc.

Therefore, additional steps must be taken by the judges and by the court staff, including clerks and Registry officials, to ensure that data is properly collected and organised. For implementing DCM in particular, judges would have to ensure that non-substantive order sheets may be templatised to effectively and efficiently capture the necessary data points.

For instance, a templatised order sheet per case must prompt a judge to capture, as far as possible, the following data points after each hearing:

<b>Party seeking adjournment</b>	<ul style="list-style-type: none"> <li>a) Respondent counsel</li> <li>b) Petitioner counsel</li> <li>c) Parties</li> <li>d) Registry</li> </ul>
<b>Reason for adjournment [check-box]</b>	<ul style="list-style-type: none"> <li>a) Non-preparation</li> <li>b) Indisposed</li> <li>c) Counsel on sanctioned leave</li> <li>d) Non-submission of necessary documents/applications</li> <li>e) Awaiting instructions from parties on how to proceed with the matter</li> <li>f) Awaiting instructions from the Government on how to proceed with the matter</li> <li>g) Otherwise unavailable</li> </ul>
<b>Whether the hearing on that particular date was:</b>	<ul style="list-style-type: none"> <li>a) <b>Substantive</b> [i.e. parties were heard; there was significant progress, potentially to the next stage in the life-cycle of the case]</li> <li>b) <b>Non-substantive</b> [i.e. parties were absent; adjournment was granted without any hearing or progress]</li> <li>c) <b>Partially substantive</b> [i.e. parties were partly heard; adjournment was granted after some progress was made]</li> </ul>

## **B. Creating Data Dashboards**

Once the prerequisite information has been collected, this may be harnessed for even greater efficiency through the curation of a data dashboard which would provide all the relevant information about a case at a glance.

This dashboard would help to address the problems identified in the previous section, by:

- Allowing for an alert and responsive system, which can identify extremely delayed cases at regular intervals and prompt further progress;
- Highlighting all prior case progress, which would aid in effective future decision-making; &
- Allowing for judges to bring in different methods for tackling pendency based on the needs of each case.

This would allow for judicial efficiency to be optimised as data will no longer be disaggregated or prone to concerns with incomplete, missing or incorrect information.

The data entered into the system would be utilised for the purpose of computing the following information and making it available for the Bench in the form of a viewable dashboard, which would be easily navigable, accessible, and present the requisite information in a clean, concise, and visually appealing manner.

The following template may be utilised for this purpose:

<b>Data Dashboard for Case No. _____ as on _____ [specific hearing date]</b>		
1.	Current Stage of Pendency	
2.	Adjourned last date due to (with a link to the order passed on the previous date)	
3.	Whether the hearing on the last date was: [check-box]	a. 'Substantive' hearing b. 'Non-substantive' hearing c. 'Partially substantive' hearing
4.	Order Remark:	a. Business as on date ___ b. Short Order ____ c. Next Purpose ___ d. Next Hearing Date ____
5.	Number of days since the previous date of hearing	
<b>Summary of case history</b>		



6.	Total number of times the case has been listed	
7.	Last 5 hearing dates	
8.	Stage at which the case was pending on each of the last 5 dates	
9.	Interlocutory applications filed in the case, in chronological order	
10.	Miscellaneous applications filed in the case, in chronological order	
11.	Tagged matters [with a link to the case history dashboard for each tagged matter]	
<b>Pendency analysis</b>		
12.	Number of days for which the case has remained pending at the current stage	
13.	Average time (number of days) spent at each of the prior stages	
14.	Historic average disposal time (calculated from the time taken for disposal of cases of that specific case type over the last 5 years, before that court)	
<b>Tally of overall adjournments sought by each party</b>		
15.	Petitioner / petitioner counsel	
16.	Respondent / respondent counsel	
<b>Primary reason for delay in the last 10 orders (to be analysed from the 'reasons for delay in latest order' section)</b>		

17.	Primary reason	
<b>Tally of Reasons for granting adjournment, classified as follows:</b>		
18.	<b>Necessary</b> (death of a party, parties referred to mediation, case pending in other courts or jurisdictions)	
19.	<b>Internal factors</b> (summons yet to be served, case reserved for judgment, absence of a judge)	
20.	<b>External factors</b> (parties not prepared, counsels not prepared, witness not present, counsel seeking additional time)	

## II. Applying DCM Strategy for Extremely Delayed Cases

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To identify DCM strategies for extremely delayed cases, a preliminary analysis of each case is necessary based on the following parameters:

- a) Historical trajectory of the case;
- b) Level of dependence on stakeholders other than the Bench;
- c) Conditions under which the case may proceed.

This analysis may be conducted by the Registry officials, using the data made available in the

In the first instance, this analysis would have to be conducted manually to ensure that the specific needs of the High Court are taken into account. However, once templatised order sheets and data dashboards have been made available and fully integrated into the court system, this process may be automated.

form of the data dashboard described above.

### *Step 1: Classifying DCM Tracks*

Based on the findings of the above analysis, extremely delayed cases may be segregated into the following 4 tracks:

- 1) *Priority track*: Cases which have already significantly progressed and whose future progress depends upon factors under the control of the Bench. External stakeholders are not involved.
- 2) *Median track*: Cases for which future progress depends upon factors that may not be fully under the control of the Bench. Some external stakeholders may be involved.
- 3) *Regular track*: Cases for which future progress depends upon factors that are almost entirely outside the Bench's control. Multiple external stakeholders are involved.
- 4) *Dormant Cases track*: Cases which have been classified as dormant/sine die cases by the system in the past. Such cases must be reopened if there is a possibility for future progress or otherwise disposed of.

### *Step 2: Segregating Cases into Tracks*

In order to segregate extremely delayed cases into the four tracks described above, the following metrics may be considered for each case:

<b>Metrics</b>	<b>Priority Track</b>	<b>Median Track</b>	<b>Regular Track</b>	<b>Dormant Cases Track</b>
<i>Stage of Pendency</i>	Hearing, Orders	Summons, Hearing	Summons, Hearing	Dormant Cases
<i>Category of Stakeholder Causing Delay</i>	Parties Counsels Listing Branch	Parties not making an appearance/substitution of parties  Listing branch staff (for cases pending before other benches)  Process Servers  ADR	Other Jurisdictions  Process servers	
<i>Primary Reason for Adjournment in the last year</i>	Parties/counsels seeking repeated adjournments without adequate reason/repeatedly using the same reason;  Delay in filing affidavits/written statements/counter-affidavits;  Seeking time extensions for instructions.	Parties/counsels seeking repeated adjournments for filing applications or revision of prayers or any other amendments to the plaint; Delay in producing records;  Pendency of connected matters before other benches of the High Court or District Courts.	Matter pending in other jurisdictions  Dependent on a law/by-law/notification/amendment to be issued by the Government  Lack of a suitable composition for a division bench in instances of conflict	Dormant case

<i>Nature of Adjournments</i>	Frequent adjournments for counsel/parties not appearing		Connected matters in other jurisdictions	
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These metrics are **illustrative**, and have been developed through case-data analysis to identify the most common outcomes that have generally occurred before courts for extremely delayed cases. However, the court may identify its own metrics based on historical data and knowledge regarding case life-cycles. In any case, the metrics would have to be periodically re-evaluated and updated.

### ***Step 3: Future Steps for Each Track***

The DCM strategy envisions two categories of measures which may be implemented for each track:

1. Changes to the manner and frequency with which cases are listed before the court, which may require a notification or circular to be passed by the Chief Justice; and
2. Changes to Civil and Criminal Rules of Procedure, to tackle specific reasons for seeking adjournments identified in the metrics for segregation.

At the outset, irrespective of the tracks assigned to each case:

- a. The Listing Branch of the court should segregate the pending cases as per the appropriate Bench;
- b. Court Masters must take note of the cases assigned to their Court;
- c. Once tracks have been assigned, the Court Masters should provide the date and causelist for the first listing a minimum of one week in advance.

### **Priority Track**

#### Procedural Changes Required:

- a. In cases where multiple adjournments are being taken by the counsels,
  - i. A scheduling conference must be held in the presence of the judge to determine the timeline for hearing/disposal for the rest of the case.
- b. In cases where a Government department is involved,
  - i. A scheduling conference must be held in the presence of the judge to determine the timeline for

1. Appointment of Government Counsel; or
2. Determining the timeline for hearing/disposal for the rest of the case.

Listing Frequency:

- a. A day of the week is to be determined for hearing extremely delayed cases after regular hearings (For example, the afternoon session on Fridays).
- b. Henceforth, causelists are to be provided on a weekly basis.

## **Median Track**

Procedural Changes Required:

- a. For cases pending because of connected matters pending before another Bench, a request may be sent to the Bench to prioritise listing of the connected matter.
- b. For cases pending because of connected matters pending before a District Court, an order may be passed directing the District Court to prioritise listing of the connected matter.
- c. For cases where a matter is pending due to respondent substitution, an order may be passed for re-issue of summons,
  - i. If the respondent is within the same District, summons may be re-issued within the next 15 days;
  - ii. If the respondent is within the same State, summons may be re-issued within the next 30 days;
  - iii. If the respondent is in a different State, summons may be re-issued within the next 60 days.

This process may be automated, to ensure that the case at this stage is not dependent on the court having to take up the case and issue these orders repeatedly.

- d. For cases where adjournments are sought for filing applications or revision of prayers or any other amendments to the plaint,
  - i. The Court may direct the parties to undertake a Scheduling Conference<sup>13</sup> with the parties and the presiding judge to agree on a timeline for the documents to be submitted and exchanged between the parties, following which the case may be listed regularly.
- e. In cases where a new counsel is appointed and has to be briefed during the proceedings,

<sup>13</sup> A Scheduling Conference is a conference where the parties are allowed to present their views about the track before either the presiding judge, or an administrative/scheduling judge specially designated for that purpose.

- i. A Scheduling Conference may be held in the presence of the judge to determine the timeline for:
  1. Briefing the counsel;
  2. Filing additional applications (if any); and
  3. Resuming the proceedings.

Listing Frequency:

- a. A day of the week, every two weeks, is to be determined for hearing extremely delayed cases after regular hearings (For example, the afternoon session on Thursdays).
- b. Henceforth, causelists are to be provided on a fortnightly basis.

## **Regular Track**

Procedural Changes Required:

- a. For cases where a related/connected matter is pending before another jurisdiction,
  - i. A request may be sent to the other jurisdiction for priority listing of the related matter;
  - ii. The petitioner may be encouraged to seek out priority listing of the connected matter in the relevant jurisdiction.
- b. For cases where the outcome of a case is dependent on a law/by-law/notification/amendment of the Government,
  - i. A conference may be held with the Government counsel to determine the reasons for delay in issuance of the said law/by-law/notification/amendment;
  - ii. The petitioner may be given leave to seek interim relief (if necessary).
- c. The Court Master should provide the date and causelist for listing a minimum of one week in advance.

Listing Frequency:

- a. A day of the week, every two weeks, is to be determined for hearing extremely delayed cases after regular hearings (For example, the afternoon session on Thursdays).
- b. Causelists to be provided on a fortnightly basis (when necessary).

## **Dormant Cases Track**

- a. A day of the week, every two weeks, to be determined for listing pending cases which have been categorised as 'Dormant' after regular hearings (For example, the afternoon session on Thursdays).
- b. Causelists to be provided on a fortnightly basis (when necessary).

- c. The case may be listed to determine if any steps may be taken to proceed on the matter:
  - i. Where it is found that no relevant steps need to be taken,
    1. The case may be disposed of in accordance to the provisions of the relevant statutes of limitations;
    2. The parties may be given leave to approach the Court for further relief if deemed fit.
  - ii. If it is found that it is necessary that further hearings be held to ensure justice for affected parties,
    1. The case may be listed on a priority basis to determine the steps that need to be taken.

### ***Step 4: Re-Evaluation of Parameters***

The Registry may re-evaluate the metrics proposed in this DCM strategy at regular intervals, preferably not less than once a year. This is necessary to ensure that any additional/redundant factors are not being used to determine the DCM strategy. Additionally, re-evaluation of the timelines will help track the efficacy of the DCM strategy being adopted.

Factors to be re-evaluated include:

- Metrics used for DCM; &
- Timeline for re-evaluation of the metrics.



# Conclusion

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Although the problem of extremely delayed cases remaining pending for years has been highlighted time and again by the judiciary, the measures taken to combat this issue have unfortunately hardly made a dent in the pendency numbers. Old cases continue to be listed without any care for their specific circumstances and previous progress, and delays continue to pile up. This leads to a vicious cycle where any potential case progress is agonisingly slow and extremely uncertain.

However, the Supreme Court's recent call for greater coordination between the Bench and the Bar to ensure that old cases do not disappear within the already overwhelming pendency numbers shows that courts are finally open to experimenting with different methods to tackle this problem. The Supreme Court has noted that delays have to be minimised by including pre-trial conferences to set up hearing dates, and other steps would have to be taken to ensure effective case management (such as, for instance, encouraging the use of Alternate Dispute Resolution (ADR) methods).

It is abundantly clear that the judiciary can no longer adopt a one-size-fits-all approach for all delayed cases. The present paper is an effort at bridging the gap between judiciary's intent and its actions. A well thought out strategy relying on data accurately generated by the system, as outlined in the DCM framework here, is likely to give our courts a fighting chance to tackle the issue of extreme delay. Else the truism of 'justice delayed is justice denied' will continue to apply to the Indian judiciary.



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